

**First Regular Session
Seventy-fifth General Assembly
STATE OF COLORADO**

INTRODUCED

LLS NO. 25-0063.01 Megan McCall x4215

SENATE BILL 25-077

SENATE SPONSORSHIP

Kipp and Rich,

HOUSE SPONSORSHIP

Carter and Soper,

Senate Committees

State, Veterans, & Military Affairs

House Committees

A BILL FOR AN ACT

101 **CONCERNING MODIFICATIONS TO THE "COLORADO OPEN RECORDS**
102 **ACT".**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

The bill makes the following changes to the "Colorado Open Records Act" (CORA):

- Excludes from the definition of a "public record" a written document or electronic record that is produced by a device or application that is used to assist an individual with a disability or individuals with a language barrier to facilitate

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing law.
Dashes through the words or numbers indicate deletions from existing law.

communication if the written document or electronic record has been produced to facilitate communication in lieu of verbal communication;

- Changes the reasonable time to respond to a CORA request, except for requests from a mass medium or a newsperson, from 3 working days to 5 working days and changes the extension of time for the response period if extenuating circumstances exist from not exceeding 7 additional days to not exceeding 10 additional days;
- Adds an extenuating circumstance that allows for an extension of the response period when the custodian is not scheduled to work within the response period;
- Requires public entities to post any rules or policies adopted pursuant to CORA, including, if the public entity has one, the public entity's records retention policy, and to post information for members of the public regarding how to make a public records request;
- If public records are in the sole and exclusive custody and control of someone who is not scheduled to work within the response period, requires a custodian to provide all other available responsive public records within the response period and notify the requester of the earliest date on which the person is expected to be available or that the person is not expected to return to work. The requester may make a subsequent request for additional responsive records, if any, on or after the date the custodian provides.
- Allows a custodian, subject to certain exceptions, to determine that a request is made for the direct solicitation of business for pecuniary gain, requires the custodian to provide written notice of the determination to the requester, allows the custodian a 30-day response period for such a request, permits the requester to submit a signed statement affirming that the request is not for the direct solicitation of business for pecuniary gain which the custodian must consider in making their determination, permits the requester to appeal the determination that the request is made for the direct solicitation of business for pecuniary gain to the district court, and allows a custodian to charge the requester for the reasonable cost of directly responding to the request notwithstanding the allowance for the first hour of research and retrieval to otherwise be free of charge and notwithstanding the statutory cap on fees, which otherwise would apply;
- In addition to the prohibition on disclosing public elementary or secondary school students' addresses and

telephone numbers, prohibits disclosure of any other information of such a student that could be used by a person to directly contact, address, or send a message to the student through any means or method;

- Clarifies that if a custodian imposes any requirements concerning the prepayment of fees or the payment of fees in connection with a request for inspection of public records, the requirements must be in accordance with the custodian's adopted rules or written policies and must not be inconsistent with the provisions of CORA;
- Allows a requester to ask a custodian for a reasonable break-down of costs that comprises the fee charged for the research and retrieval of the requested public records;
- Modifies the requirement that, if a custodian of records for a public entity allows members of the public to pay for any other service or product provided by the custodian with a credit card or electronic payment, then the custodian must allow a requester of a public record to pay any fee or deposit associated with the request with a credit card or electronic payment, to instead require that the custodian allow for payment in this manner if the public entity allows members of the public to pay for any other service or product provided by the public entity; and
- Allows a custodian to treat a CORA request made within 14 calendar days of another CORA request for information pertaining to facially similar content made by the same person as one request for purposes of calculating the fee that the custodian may charge the requester for research and retrieval of responsive public records.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, 24-72-202, **amend**
3 (6)(b)(XVII) and (6)(b)(XVIII); and **add** (6)(b)(XIX) as follows:

4 **24-72-202. Definitions.** As used in this part 2, unless the context
5 otherwise requires:

6 (6) (b) "Public records" does not include:

7 (XVII) A complaint of harassment or discrimination, as described
8 in section 22-1-143, that is unsubstantiated and all records related to the

1 unsubstantiated complaint, including records of an investigation into the
2 complaint; or

3 (XVIII) Jail assessments conducted pursuant to section 30-10-530
4 (5)(d) or 24-31-118; OR

5 (XIX) (A) A WRITTEN DOCUMENT OR ELECTRONIC RECORD THAT
6 IS PRODUCED BY A DEVICE OR APPLICATION THAT IS USED TO ASSIST AN
7 INDIVIDUAL WITH A DISABILITY TO FACILITATE COMMUNICATION IF THE
8 WRITTEN DOCUMENT OR ELECTRONIC RECORD HAS BEEN PRODUCED TO
9 FACILITATE COMMUNICATION FOR THE INDIVIDUAL WITH THE DISABILITY
10 IN LIEU OF VERBAL COMMUNICATION; OR

11 (B) A WRITTEN DOCUMENT OR ELECTRONIC RECORD THAT IS
12 PRODUCED BY A DEVICE OR APPLICATION THAT IS USED TO ASSIST
13 INDIVIDUALS WITH A LANGUAGE BARRIER TO FACILITATE COMMUNICATION
14 IF THE WRITTEN DOCUMENT OR ELECTRONIC RECORD HAS BEEN PRODUCED
15 TO FACILITATE COMMUNICATION BETWEEN THE INDIVIDUALS WITH A
16 LANGUAGE BARRIER IN LIEU OF VERBAL COMMUNICATION. AS USED IN THIS
17 SUBSECTION (6)(b)(XIX)(B), "LANGUAGE BARRIER" MEANS A DIFFICULTY
18 FOR INDIVIDUALS TO COMMUNICATE BECAUSE THE INDIVIDUALS SPEAK
19 DIFFERENT LANGUAGES OR DO NOT OTHERWISE SHARE A COMMON
20 LANGUAGE.

21 **SECTION 2.** In Colorado Revised Statutes, 24-72-203, **amend**
22 (3)(b) introductory portion, (3)(b)(I), (3)(b)(II) introductory portion,
23 (3)(b)(II)(B), (3)(b)(III), (3)(d)(I), and (3)(d)(II); and **add** (1)(c),
24 (3)(b)(IV), (3)(b.5), (3)(e), and (3)(f) as follows:

25 **24-72-203. Public records open to inspection - definitions.**

26 (1) (c) A PUBLIC ENTITY THAT HAS PUBLIC RECORDS THAT MAY BE
27 SUBJECT TO DISCLOSURE PURSUANT TO THIS PART 2 SHALL POST ON ITS

1 WEBSITE ANY RULES OR POLICIES ADOPTED IN ACCORDANCE WITH THIS
2 PART 2, INCLUDING RULES CONCERNING THE INSPECTION OF PUBLIC
3 RECORDS. THE PUBLIC ENTITY SHALL ALSO POST ON ITS WEBSITE ANY
4 RECORDS RETENTION POLICY THAT IT HAS AND SHALL PROVIDE ON ITS
5 WEBSITE INFORMATION TO MEMBERS OF THE PUBLIC CONCERNING HOW TO
6 REQUEST INSPECTION OF PUBLIC RECORDS FROM A CUSTODIAN OF THE
7 PUBLIC ENTITY. IF THE PUBLIC ENTITY DOES NOT HAVE A PUBLICLY
8 ACCESSIBLE WEBSITE, THEN THE INFORMATION REQUIRED TO BE POSTED
9 PURSUANT TO THIS SUBSECTION (1)(c) MUST BE PHYSICALLY POSTED IN
10 THE LOCATION DESIGNATED BY THE PUBLIC ENTITY FOR POSTING NOTICES.

11 (3) (b) The date and hour set for the inspection of records not
12 readily available at the time of the request ~~shall~~ MUST be within a
13 reasonable time after the request. As used in this subsection (3), a
14 "reasonable time" ~~shall be~~ IS presumed to be ~~three~~ FIVE working days or
15 less. Such period may be extended if extenuating circumstances exist.
16 However, such period of extension shall not exceed ~~seven~~ TEN working
17 days. A finding that extenuating circumstances exist ~~shall~~ MUST be made
18 in writing by the custodian and ~~shall~~ MUST be provided to the person
19 making the request within the ~~three-day~~ FIVE-DAY period. Extenuating
20 circumstances ~~shall~~ apply only when:

21 (I) A broadly stated request is made that encompasses all or
22 substantially all of a large category of records and the request is without
23 sufficient specificity to allow the custodian reasonably to prepare or
24 gather the records within the ~~three-day~~ FIVE-DAY period; or

25 (II) A broadly stated request is made that encompasses all or
26 substantially all of a large category of records and the agency is unable to
27 prepare or gather the records within the ~~three-day~~ FIVE-DAY period

1 because:

2 (B) In the case of the general assembly or its staff or service
3 agencies, the general assembly is in session; ~~or~~

4 (III) A request involves such a large volume of records that the
5 custodian cannot reasonably prepare or gather the records within the
6 ~~three-day~~ FIVE-DAY period without substantially interfering with the
7 custodian's obligation to perform ~~his or her~~ THE CUSTODIAN'S other public
8 service responsibilities; OR

9 (IV) THE CUSTODIAN, OR A PERSON WHO IS ESSENTIAL TO THE
10 PROCESS OF RESPONDING TO REQUESTS, IS NOT SCHEDULED TO WORK
11 WITHIN ALL OR PART OF THE FIVE-DAY PERIOD.

12 (b.5) NOTWITHSTANDING THE PERIODS SET FORTH IN SUBSECTION
13 (3)(b) OF THIS SECTION, A "REASONABLE TIME" TO RESPOND TO A REQUEST
14 MADE BY A MASS MEDIUM, AS DEFINED IN SECTION 13-90-119 (1)(a), OR
15 A NEWSPERSON, AS DEFINED IN SECTION 13-90-119 (1)(c), IS PRESUMED TO
16 BE THREE WORKING DAYS OR LESS, AND SUCH PERIOD MAY BE EXTENDED
17 UP TO AN ADDITIONAL SEVEN WORKING DAYS IF EXTENUATING
18 CIRCUMSTANCES EXIST AS SET FORTH IN SUBSECTION (3)(b) OF THIS
19 SECTION.

20 (d) Notwithstanding any other provision of this section, if the
21 public records requested are election-related and are in the custody and
22 control of a county clerk and recorder but are in active use, in storage, or
23 otherwise not readily available at the time a requester asks to examine
24 them, and the request is made during an election for which the county
25 clerk and recorder is the designated election official, the county clerk and
26 recorder may, at the county clerk and recorder's discretion, take additional
27 time to fulfill the request as specified in this subsection (3)(d); except that

1 the provisions of this subsection (3)(d) do not apply if the requester of the
2 public records is a mass medium organization as defined in section
3 13-90-119 (1)(a), or a newsperson, as defined in section 13-90-119 (1)(c).
4 The county clerk and recorder may take additional time to fulfill the
5 request as follows:

6 (I) During the period beginning on the sixtieth day before election
7 day and concluding with the date by which the county clerk and recorder
8 certifies the final official abstract of votes cast for the applicable election,
9 the county clerk and recorder may extend the period for production of
10 records up to an additional ten working days past the ~~seven-day~~ TEN-DAY
11 extension allowed under subsection (3)(b) of this section;

12 (II) The county clerk and recorder shall provide written notice of
13 the extension to the requester within ~~three~~ FIVE working days from the
14 date of the request;

15 (e) (I) (A) IF A CUSTODIAN, DESPITE EXPENDING REASONABLE
16 EFFORT, IS UNABLE TO DETERMINE OR ACCESS PUBLIC RECORDS THAT MAY
17 BE RESPONSIVE TO A REQUEST BECAUSE THE PUBLIC RECORDS MAY BE IN
18 THE SOLE AND EXCLUSIVE CUSTODY AND CONTROL OF ANOTHER
19 EMPLOYEE, VOLUNTEER, DIRECTOR, AGENT, ELECTED OFFICIAL, OR OTHER
20 PERSON AUTHORIZED TO HAVE CUSTODY AND CONTROL OF THE PUBLIC
21 RECORDS WHO IS ON LEAVE, NOT ON CONTRACT, OR OTHERWISE NOT
22 SCHEDULED TO WORK WITHIN THE APPLICABLE RESPONSE PERIOD, THE
23 CUSTODIAN SHALL PROVIDE WITHIN THE APPLICABLE RESPONSE PERIOD
24 ALL OTHER AVAILABLE RESPONSIVE PUBLIC RECORDS IN ACCORDANCE
25 WITH THIS PART 2. THE CUSTODIAN SHALL NOTIFY THE REQUESTER OF THE
26 EARLIEST DATE ON WHICH THE OTHER PERSON WHO MAY HAVE ANY
27 ADDITIONAL POTENTIALLY RESPONSIVE PUBLIC RECORDS IS EXPECTED TO

1 BE AVAILABLE AND IF THE PERSON'S RETURN DATE IS UNABLE TO BE
2 DETERMINED AT THE TIME OF THE REQUEST, THE CUSTODIAN SHALL
3 NOTIFY THE REQUESTER OF THE DATE OF THE PERSON'S RETURN AS SOON
4 AS IT IS ABLE TO BE DETERMINED OR, IF THE PERSON IS NOT EXPECTED TO
5 RETURN TO WORK, THE CUSTODIAN SHALL PROVIDE NOTICE TO THE
6 REQUESTER OF THAT. THE REQUESTER MAY SUBMIT A NEW REQUEST FOR
7 ANY ADDITIONAL POTENTIALLY RESPONSIVE PUBLIC RECORDS ON OR
8 AFTER THE DATE THAT THE CUSTODIAN PROVIDES.

9 (B) THIS SUBSECTION (3)(e) IS NOT INTENDED TO BE UTILIZED TO
10 INTENTIONALLY DELAY OR CIRCUMVENT THE RELEASE OF PUBLIC RECORDS
11 AND IT DOES NOT EXEMPT A CUSTODIAN'S RESPONSIBILITY TO MAINTAIN
12 REASONABLE ACCESS TO PUBLIC RECORDS.

13 (II) THE PROVISIONS SET FORTH IN THIS SUBSECTION (3)(e) DO NOT
14 MODIFY THE PROVISIONS SET FORTH IN SUBSECTION (2)(a) OF THIS
15 SECTION.

16 (III) AS USED IN THIS SUBSECTION (3)(e), UNLESS THE CONTEXT
17 OTHERWISE REQUIRES, "APPLICABLE RESPONSE PERIOD" MEANS:

18 (A) THE FIVE-DAY PERIOD OR THE TEN-DAY EXTENSION SET FORTH
19 IN SUBSECTION (3)(b) OF THIS SECTION;

20 (B) THE THREE-DAY PERIOD OR THE SEVEN-DAY EXTENSION SET
21 FORTH IN SUBSECTION (3)(b.5) OF THIS SECTION; OR

22 (C) THE PERIOD INCLUDING THE ADDITIONAL TEN-DAY PERIOD SET
23 FORTH IN SUBSECTION (3)(d)(I) OF THIS SECTION.

24 (f) (I) IF A CUSTODIAN DETERMINES THAT REQUESTED PUBLIC
25 RECORDS WILL BE USED FOR THE DIRECT SOLICITATION OF BUSINESS FOR
26 PECUNIARY GAIN, THE CUSTODIAN SHALL PROVIDE THE REQUESTER WITH
27 WRITTEN NOTICE OF THE DETERMINATION WITHIN THE THREE-DAY OR

1 FIVE-DAY PERIOD, AS APPLICABLE, AND, NOTWITHSTANDING ANY OTHER
2 PROVISION OF THIS SECTION, IN SETTING A DATE AND HOUR FOR RECORDS
3 TO BE AVAILABLE FOR INSPECTION, THE CUSTODIAN SHALL HAVE THIRTY
4 WORKING DAYS FROM PROVIDING THE NOTICE. A REQUESTER MAY SUBMIT
5 WITH A REQUEST A SIGNED STATEMENT AFFIRMING THAT THE REQUESTED
6 PUBLIC RECORDS WILL NOT BE USED FOR THE DIRECT SOLICITATION OF
7 BUSINESS FOR PECUNIARY GAIN, WHICH THE CUSTODIAN MUST CONSIDER
8 IN MAKING THE CUSTODIAN'S DETERMINATION PURSUANT TO THIS
9 SUBSECTION (3)(f)(I). THE CUSTODIAN SHALL NOT CONSIDER IF THE
10 REQUESTER MAY RECEIVE ANY MONETARY OR EQUITABLE AWARD
11 PURSUANT TO LITIGATION IN MAKING THE DETERMINATION OF WHETHER
12 A REQUEST IS FOR THE DIRECT SOLICITATION OF BUSINESS FOR PECUNIARY
13 GAIN.

14 (II) A REQUESTER THAT MAKES A REQUEST THAT HAS BEEN
15 DETERMINED BY A CUSTODIAN TO BE FOR THE DIRECT SOLICITATION OF
16 BUSINESS FOR PECUNIARY GAIN MAY APPLY TO THE DISTRICT COURT OF
17 THE DISTRICT IN WHICH THE REQUESTED PUBLIC RECORDS ARE LOCATED
18 FOR A DETERMINATION THAT THE REQUEST IS NOT FOR THE DIRECT
19 SOLICITATION OF BUSINESS FOR PECUNIARY GAIN. THE COURT SHALL
20 REVIEW THE MATTER AT THE EARLIEST PRACTICAL TIME AND HAS
21 DISCRETION TO LIMIT ITS REVIEW TO SUBMISSION OF PLEADINGS,
22 AFFIDAVITS, AND OTHER MATERIAL AS DEEMED APPROPRIATE BY THE
23 COURT, OR THE COURT MAY SCHEDULE A HEARING. IN ITS REVIEW, THE
24 COURT SHALL APPLY AN ABUSE OF DISCRETION STANDARD TO THE
25 CUSTODIAN'S DETERMINATION.

26 (III) NOTWITHSTANDING SECTION 24-72-205 (6)(a), A CUSTODIAN
27 IS ENTITLED TO RECOVER THE REASONABLE COST ASSOCIATED WITH

1 DIRECTLY RESPONDING TO A REQUEST FOR RECORDS THAT HAS BEEN
2 DETERMINED BY THE CUSTODIAN TO BE FOR THE DIRECT SOLICITATION OF
3 BUSINESS FOR PECUNIARY GAIN.

4 (IV) A REQUEST FOR PUBLIC RECORDS FOR PURPOSES RELATED TO
5 COLLECTIVE BARGAINING, ORGANIZING, OR OTHER RIGHTS AND ACTIVITIES
6 PROTECTED BY ARTICLE 33 OF TITLE 29 BY AN ENTITY ENGAGED IN
7 COLLECTIVE BARGAINING, ORGANIZING, OR OTHER RIGHTS AND ACTIVITIES
8 PROTECTED BY ARTICLE 33 OF TITLE 29 IS NOT A REQUEST FOR THE DIRECT
9 SOLICITATION OF BUSINESS FOR PECUNIARY GAIN.

10 (V) THIS SUBSECTION (3)(f) DOES NOT APPLY TO A CONTRACT OR
11 OTHER INFORMATION DELIVERED USING COMPUTER DATA EXTRACTION
12 METHODS THAT REQUIRE MINIMAL HUMAN INTERVENTION FOR RETRIEVAL.

13 **SECTION 3.** In Colorado Revised Statutes, 24-72-204, **amend**
14 (3)(a)(VI) as follows:

15 **24-72-204. Allowance or denial of inspection - grounds -**
16 **procedure - appeal - definitions - repeal.** (3) (a) The custodian shall
17 deny the right of inspection of the following records, unless otherwise
18 provided by law; except that the custodian shall make any of the
19 following records, other than letters of reference concerning employment,
20 licensing, or issuance of permits, available to the person in interest in
21 accordance with this subsection (3):

22 (VI) Except as provided in section 1-2-227, addresses and
23 telephone numbers of students in any public elementary or secondary
24 school AND ANY OTHER INFORMATION OF STUDENTS IN ANY PUBLIC
25 ELEMENTARY OR SECONDARY SCHOOL THAT COULD BE USED BY A PERSON
26 TO DIRECTLY CONTACT, ADDRESS, OR SEND A MESSAGE TO THE STUDENT
27 THROUGH ANY MEANS OR METHOD;

1 **SECTION 4.** In Colorado Revised Statutes, 24-72-205, **amend**
2 (6)(a) and (7); and **add** (6)(c) and (8) as follows:

3 **24-72-205. Copy, printout, or photograph of a public record**
4 **- imposition of research and retrieval fee.** (6) (a) A custodian may
5 impose a fee in response to a request for the research and retrieval of
6 public records only if the custodian has, prior to the date of receiving the
7 request, either posted on the custodian's website or otherwise published
8 a written policy that specifies the applicable conditions concerning the
9 research and retrieval of public records by the custodian, including the
10 amount of any current fee. Under any such policy, the custodian shall not
11 impose a charge for the first hour of time expended in connection with the
12 research and retrieval of public records. After the first hour of time has
13 been expended, the custodian may charge a fee for the research and
14 retrieval of public records that shall not exceed thirty dollars per hour. IF
15 REQUESTED, A CUSTODIAN SHALL PROVIDE A REASONABLE BREAK-DOWN
16 OF COSTS THAT COMPRISES THE FEE CHARGED FOR THE RESEARCH AND
17 RETRIEVAL OF PUBLIC RECORDS AUTHORIZED PURSUANT TO THIS
18 SUBSECTION (6)(a).

19 (c) FOR PURPOSES OF THE FEE CHARGED PURSUANT TO THIS
20 SUBSECTION (6), A CUSTODIAN MAY TREAT A REQUEST FOR PUBLIC
21 RECORDS MADE WITHIN FOURTEEN CALENDAR DAYS OF ANOTHER REQUEST
22 FOR INFORMATION PERTAINING TO FACIALLY SIMILAR CONTENT MADE BY
23 THE SAME PERSON AS ONE REQUEST AND NOT AS MULTIPLE INDIVIDUAL
24 REQUESTS; EXCEPT THAT THIS SUBSECTION (6)(c) DOES NOT APPLY TO
25 REQUESTS MADE BY A MASS MEDIUM, AS DEFINED IN SECTION 13-90-119
26 (1)(a), OR A NEWSPERSON, AS DEFINED IN SECTION 13-90-119 (1)(c).

27 (7) If a custodian of a public record requested pursuant to this part

1 2 PUBLIC ENTITY allows members of the public to pay for any other
2 service or product provided by the ~~custodian~~ PUBLIC ENTITY with a credit
3 card or electronic payment, ~~the~~ A custodian OF THE PUBLIC ENTITY AND OF
4 A PUBLIC RECORD REQUESTED PURSUANT TO THIS PART 2 must allow the
5 requester of the public record to pay any fee or deposit associated with the
6 request with a credit card or via an electronic payment. The custodian
7 may require a requester to pay any service charge or fee imposed by the
8 processor of a credit card or electronic payment.

9 (8) IF A CUSTODIAN IMPOSES ANY REQUIREMENTS CONCERNING
10 THE PREPAYMENT OF FEES OR THE PAYMENT OF FEES IN CONNECTION WITH
11 A REQUEST FOR INSPECTION OF PUBLIC RECORDS, THE REQUIREMENTS
12 MUST BE IN ACCORDANCE WITH THE CUSTODIAN'S ADOPTED RULES OR
13 WRITTEN POLICIES PURSUANT TO THIS PART 2 AND MUST NOT BE
14 INCONSISTENT WITH THE PROVISIONS SET FORTH IN THIS SECTION.

15 **SECTION 5. Act subject to petition - effective date -**
16 **applicability.** (1) This act takes effect at 12:01 a.m. on the day following
17 the expiration of the ninety-day period after final adjournment of the
18 general assembly; except that, if a referendum petition is filed pursuant
19 to section 1 (3) of article V of the state constitution against this act or an
20 item, section, or part of this act within such period, then the act, item,
21 section, or part will not take effect unless approved by the people at the
22 general election to be held in November 2026 and, in such case, will take
23 effect on the date of the official declaration of the vote thereon by the
24 governor.

25 (2) This act applies to requests for public records made pursuant
26 to article 72 of title 24, Colorado Revised Statutes, on or after the
27 applicable effective date of this act.