

HB1296_L.009

HOUSE COMMITTEE OF REFERENCE AMENDMENT

Committee on State, Civic, Military, & Veterans Affairs.

HB24-1296 be amended as follows:

1 Amend printed bill, page 4, line 5, strike "(3)(f)" and substitute "(5)".

2 Page 6, strike line 27.

3 Strike page 7.

4 Page 8, strike lines 1 through 8.

5 Page 9, before line 4 insert:

6 "(5) (a) A CUSTODIAN OF A PUBLIC ENTITY MAY APPLY TO THE
7 DISTRICT COURT OF THE DISTRICT THAT THE PUBLIC ENTITY IS LOCATED IN
8 FOR A DETERMINATION THAT AN INDIVIDUAL OR ENTITY IS A VEXATIOUS
9 REQUESTER. THE COURT SHALL REVIEW THE MATTER AT THE EARLIEST
10 PRACTICAL TIME AND MAY LIMIT ITS REVIEW TO SUBMISSION OF
11 PLEADINGS, AFFIDAVITS, AND OTHER MATERIAL AS DEEMED APPROPRIATE
12 BY THE COURT OR SCHEDULE A HEARING. THE INDIVIDUAL OR ENTITY THAT
13 IS THE SUBJECT OF SUCH AN APPLICATION SHALL HAVE NOTICE OF THE
14 APPLICATION AND ANY HEARING SET BY THE COURT SERVED UPON THEM
15 IN THE MANNER PROVIDED FOR SERVICE OF PROCESS BY THE COLORADO
16 RULES OF CIVIL PROCEDURE AND HAS THE RIGHT TO RESPOND OR APPEAR
17 AND BE HEARD, AS APPLICABLE. IN AN ACTION BROUGHT PURSUANT TO
18 THIS SUBSECTION (5)(a), THE BURDEN OF PROOF IS ON THE CUSTODIAN.
19 THE COURT SHALL MAKE A DETERMINATION ON THE APPLICATION BY
20 BALANCING THE FACTORS SET FORTH IN SUBSECTION (5)(b) OF THIS
21 SECTION. IF THE COURT DETERMINES THAT THE INDIVIDUAL OR ENTITY IS
22 A VEXATIOUS REQUESTER, THE COURT SHALL ISSUE AN ORDER SETTING
23 FORTH ITS DETERMINATION AND THE DETERMINATION SHALL BE EFFECTIVE
24 FOR THREE YEARS FROM THE DATE OF THE COURT'S ORDER. THE
25 CUSTODIAN WHO APPLIED TO THE DISTRICT COURT MAY RELY ON THE
26 COURT'S ORDER IN RESPONDING TO SUBSEQUENT RECORDS REQUESTS
27 SUBMITTED BY THE INDIVIDUAL OR ENTITY THAT'S BEEN DETERMINED TO
28 BE A VEXATIOUS REQUESTER AND NOTWITHSTANDING SUBSECTION (3)(b)
29 OF THIS SECTION, IN SETTING A DATE AND HOUR FOR RECORDS TO BE
30 AVAILABLE FOR INSPECTION, SHALL HAVE THIRTY WORKING DAYS FROM
31 THE DATE OF RECEIPT OF THE REQUEST IN ACCORDANCE WITH ALL OTHER
32 APPLICABLE PROVISIONS OF THIS PART 2."

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