

Second Regular Session
Seventy-fifth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 26-0014.01 Alison Killen x4350

SENATE BILL 26-107

SENATE SPONSORSHIP

Kipp and Rich,

HOUSE SPONSORSHIP

Soper and Carter,

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 language barriers 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;
- Requires a public entity to post any rules or policies adopted pursuant to CORA, including any records retention policy, and to post information for members of the public regarding how to make a public records request;
- Changes the reasonable time to respond to a CORA request from 3 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 extension of the response period when the custodian is not scheduled to work within the response period;
- If public records are in the sole and exclusive custody and control of a person 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 to 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. The requester may make a subsequent request for additional responsive records, if any, on or after the date the custodian provides.
- Allows a custodian to determine that a request, other than a request for a contract or other information delivered using computer data extraction methods that require minimal human intervention for retrieval, is made for the direct solicitation of business for pecuniary gain and provides a 30-day response period for such request; requires the custodian to provide written notice of the custodian's determination to the requester and permits the requester to appeal the determination 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 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 student information that could be used to directly contact, address, or send a message to a student through any means or method;
- Allows a requester to ask a custodian for a reasonable

breakdown of costs that comprise the fee charged for the research and retrieval of requested public records and requires a custodian to provide such a breakdown upon request;

- Clarifies that the custodian of records for a public entity must allow a requester to pay any fee or deposit associated with a request for public records with a credit card or electronic payment if the public entity allows members of the public to pay in this manner for any other service or product provided by the public entity;
- Allows a custodian to treat a CORA request received within 14 calendar days of another CORA request for information pertaining to facially similar content and 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;
- Requires a custodian who fails to respond to a request for inspection within the applicable time period to provide the requester with one additional hour of research and retrieval time without charge for each calendar day that the response is late; and
- Clarifies that if a custodian imposes any requirements concerning the prepayment or payment of a fee 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.

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.**

5 As used in this part 2, unless the context 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
9 unsubstantiated complaint, including records of an investigation into the

1 complaint; or

2 (XVIII) Jail assessments conducted pursuant to section 30-10-530

3 (5)(d) or 24-31-118; or

4 (XIX) (A) A WRITTEN DOCUMENT OR ELECTRONIC RECORD THAT

5 IS PRODUCED BY A DEVICE OR APPLICATION THAT IS USED TO ASSIST AN

6 INDIVIDUAL WITH A DISABILITY TO FACILITATE COMMUNICATION IF THE

7 WRITTEN DOCUMENT OR ELECTRONIC RECORD HAS BEEN PRODUCED TO

8 FACILITATE COMMUNICATION FOR THE INDIVIDUAL WITH THE DISABILITY

9 IN LIEU OF VERBAL COMMUNICATION; OR

10 (B) A WRITTEN DOCUMENT OR ELECTRONIC RECORD THAT IS

11 PRODUCED BY A DEVICE OR APPLICATION THAT IS USED TO ASSIST

12 INDIVIDUALS WITH A LANGUAGE BARRIER TO FACILITATE COMMUNICATION

13 IF THE WRITTEN DOCUMENT OR ELECTRONIC RECORD HAS BEEN PRODUCED

14 TO FACILITATE COMMUNICATION BETWEEN THE INDIVIDUALS WITH A

15 LANGUAGE BARRIER IN LIEU OF VERBAL COMMUNICATION. AS USED IN THIS

16 SUBSECTION (6)(b)(XIX)(B), "LANGUAGE BARRIER" MEANS A DIFFICULTY

17 FOR INDIVIDUALS TO COMMUNICATE BECAUSE THE INDIVIDUALS SPEAK

18 DIFFERENT LANGUAGES OR DO NOT OTHERWISE SHARE A COMMON

19 LANGUAGE.

20 **SECTION 2.** In Colorado Revised Statutes, 24-72-203, **amend**

21 (3)(b) introductory portion, (3)(b)(I), (3)(b)(II) introductory portion,

22 (3)(b)(II)(B), (3)(b)(III), (3)(d)(I), and (3)(d)(II); and **add** (1)(c),

23 (3)(b)(IV), (3)(e), and (3)(f) as follows:

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

25 (1) (c) A PUBLIC ENTITY THAT HAS PUBLIC RECORDS THAT MAY BE

26 SUBJECT TO DISCLOSURE PURSUANT TO THIS PART 2 SHALL POST ON ITS

27 WEBSITE ANY RULES OR POLICIES ADOPTED IN ACCORDANCE WITH THIS

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

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

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

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

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

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

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

(d) Notwithstanding any other provision of this section, if the public records requested are election-related and are in the custody and control of a county clerk and recorder but are in active use, in storage, or otherwise not readily available at the time a requester asks to examine them, and the request is made during an election for which the county clerk and recorder is the designated election official, the county clerk and recorder may, at the county clerk and recorder's discretion, take additional time to fulfill the request as specified in this subsection (3)(d); except that the provisions of this subsection (3)(d) do not apply if the requester of the public records is a mass medium organization as defined in section 13-90-119(1)(a), or a newperson, as defined in section 13-90-119(1)(c). The county clerk and recorder may take additional time to fulfill the request as follows:

(I) During the period beginning on the sixtieth day before election day and concluding with the date by which the county clerk and recorder certifies the final official abstract of votes cast for the applicable election, the county clerk and recorder may extend the period for production of

1 records up to an additional ten working days past the ~~seven-day~~ TEN-DAY
2 extension allowed under subsection (3)(b) of this section;

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

6 (e) (I) (A) IF A CUSTODIAN, DESPITE EXPENDING REASONABLE
7 EFFORT, IS UNABLE TO DETERMINE OR ACCESS PUBLIC RECORDS THAT MAY
8 BE RESPONSIVE TO A REQUEST BECAUSE THE PUBLIC RECORDS MAY BE IN
9 THE SOLE AND EXCLUSIVE CUSTODY AND CONTROL OF ANOTHER
10 EMPLOYEE, VOLUNTEER, DIRECTOR, AGENT, ELECTED OFFICIAL, OR OTHER
11 PERSON AUTHORIZED TO HAVE CUSTODY AND CONTROL OF THE PUBLIC
12 RECORDS WHO IS ON LEAVE, NOT ON CONTRACT, OR OTHERWISE NOT
13 SCHEDULED TO WORK WITHIN THE APPLICABLE RESPONSE PERIOD, THE
14 CUSTODIAN SHALL PROVIDE WITHIN THE APPLICABLE RESPONSE PERIOD
15 ALL OTHER AVAILABLE RESPONSIVE PUBLIC RECORDS IN ACCORDANCE
16 WITH THIS PART 2. THE CUSTODIAN SHALL NOTIFY THE REQUESTER OF THE
17 EARLIEST DATE ON WHICH THE OTHER PERSON WHO MAY HAVE ANY
18 ADDITIONAL POTENTIALLY RESPONSIVE PUBLIC RECORDS IS EXPECTED TO
19 BE AVAILABLE, AND, IF THE PERSON'S RETURN DATE IS UNABLE TO BE
20 DETERMINED AT THE TIME OF THE REQUEST, THE CUSTODIAN SHALL
21 NOTIFY THE REQUESTER OF THE DATE OF THE PERSON'S RETURN AS SOON
22 AS IT IS ABLE TO BE DETERMINED OR, IF THE PERSON IS NOT EXPECTED TO
23 RETURN TO WORK, THE CUSTODIAN SHALL PROVIDE NOTICE TO THE
24 REQUESTER OF THAT. THE REQUESTER MAY SUBMIT A NEW REQUEST FOR
25 ANY ADDITIONAL POTENTIALLY RESPONSIVE PUBLIC RECORDS ON OR
26 AFTER THE DATE THAT THE CUSTODIAN PROVIDES.

27 (B) THIS SUBSECTION (3)(e) IS NOT INTENDED TO BE USED TO

1 INTENTIONALLY DELAY OR CIRCUMVENT THE RELEASE OF PUBLIC RECORDS
2 AND DOES NOT EXEMPT A CUSTODIAN'S RESPONSIBILITY TO MAINTAIN
3 REASONABLE ACCESS TO PUBLIC RECORDS.

4 (II) THE PROVISIONS SET FORTH IN THIS SUBSECTION (3)(e) DO NOT
5 MODIFY THE PROVISIONS SET FORTH IN SUBSECTION (2)(a) OF THIS
6 SECTION.

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

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

11 (B) THE PERIOD INCLUDING THE ADDITIONAL TEN-DAY PERIOD SET
12 FORTH IN SUBSECTION (3)(d)(I) OF THIS SECTION.

13 (f) (I) IF A CUSTODIAN DETERMINES THAT REQUESTED PUBLIC
14 RECORDS WILL BE USED FOR THE DIRECT SOLICITATION OF BUSINESS FOR
15 PECUNIARY GAIN, THE CUSTODIAN SHALL PROVIDE THE REQUESTER WITH
16 WRITTEN NOTICE OF THE DETERMINATION WITHIN THE FIVE-DAY PERIOD,
17 AND, NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION, IN
18 SETTING A DATE AND HOUR FOR RECORDS TO BE AVAILABLE FOR
19 INSPECTION, THE CUSTODIAN SHALL HAVE THIRTY WORKING DAYS FROM
20 PROVIDING THE NOTICE. A REQUESTER MAY SUBMIT WITH A REQUEST A
21 SIGNED STATEMENT AFFIRMING THAT THE REQUESTED PUBLIC RECORDS
22 WILL NOT BE USED FOR THE DIRECT SOLICITATION OF BUSINESS FOR
23 PECUNIARY GAIN, WHICH THE CUSTODIAN MUST CONSIDER IN MAKING THE
24 CUSTODIAN'S DETERMINATION PURSUANT TO THIS SUBSECTION (3)(f)(I).
25 THE CUSTODIAN SHALL NOT CONSIDER IF THE REQUESTER MAY RECEIVE
26 ANY MONETARY OR EQUITABLE AWARD PURSUANT TO LITIGATION IN
27 MAKING THE DETERMINATION OF WHETHER A REQUEST IS FOR THE DIRECT

1 SOLICITATION OF BUSINESS FOR PECUNIARY GAIN.

2 (II) A REQUESTER THAT MAKES A REQUEST THAT HAS BEEN
3 DETERMINED BY A CUSTODIAN TO BE FOR THE DIRECT SOLICITATION OF
4 BUSINESS FOR PECUNIARY GAIN MAY APPLY TO THE DISTRICT COURT OF
5 THE DISTRICT IN WHICH THE REQUESTED PUBLIC RECORDS ARE LOCATED
6 FOR A DETERMINATION THAT THE REQUEST IS NOT FOR THE DIRECT
7 SOLICITATION OF BUSINESS FOR PECUNIARY GAIN. THE COURT SHALL
8 REVIEW THE MATTER AT THE EARLIEST PRACTICAL TIME AND HAS
9 DISCRETION TO LIMIT ITS REVIEW TO SUBMISSION OF PLEADINGS,
10 AFFIDAVITS, AND OTHER MATERIAL AS DEEMED APPROPRIATE BY THE
11 COURT, OR THE COURT MAY SCHEDULE A HEARING. IN ITS REVIEW, THE
12 COURT SHALL APPLY AN ABUSE OF DISCRETION STANDARD TO THE
13 CUSTODIAN'S DETERMINATION.

14 (III) NOTWITHSTANDING SECTION 24-72-205 (6)(a), A CUSTODIAN
15 IS ENTITLED TO RECOVER THE REASONABLE COST ASSOCIATED WITH
16 DIRECTLY RESPONDING TO A REQUEST FOR RECORDS THAT HAS BEEN
17 DETERMINED BY THE CUSTODIAN TO BE FOR THE DIRECT SOLICITATION OF
18 BUSINESS FOR PECUNIARY GAIN.

19 (IV) A REQUEST FOR PUBLIC RECORDS FOR PURPOSES RELATED TO
20 COLLECTIVE BARGAINING, ORGANIZING, OR OTHER RIGHTS AND ACTIVITIES
21 PROTECTED BY ARTICLE 33 OF TITLE 29 BY AN ENTITY ENGAGED IN
22 COLLECTIVE BARGAINING, ORGANIZING, OR OTHER RIGHTS AND ACTIVITIES
23 PROTECTED BY ARTICLE 33 OF TITLE 29 IS NOT A REQUEST FOR THE DIRECT
24 SOLICITATION OF BUSINESS FOR PECUNIARY GAIN.

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

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

3 **24-72-204. Allowance or denial of inspection - grounds -**
4 **procedure - appeal - definitions - repeal.**

5 (3) (a) The custodian shall deny the right of inspection of the
6 following records, unless otherwise provided by law; except that the
7 custodian shall make any of the following records, other than letters of
8 reference concerning employment, licensing, or issuance of permits,
9 available to the person in interest in accordance with this subsection (3):

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

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

18 **24-72-205. Copy, printout, or photograph of a public record**
19 **- imposition of research and retrieval fee.**

20 (6) (a) A custodian may impose a fee in response to a request for
21 the research and retrieval of public records only if the custodian has, prior
22 to the date of receiving the request, either posted on the custodian's
23 website or otherwise published a written policy that specifies the
24 applicable conditions concerning the research and retrieval of public
25 records by the custodian, including the amount of any current fee. Under
26 any such policy, the custodian shall not impose a charge for the first hour
27 of time expended in connection with the research and retrieval of public

1 records. After the first hour of time has been expended, the custodian may
2 charge a fee for the research and retrieval of public records that shall not
3 exceed thirty dollars per hour. IF REQUESTED, A CUSTODIAN SHALL
4 PROVIDE A REASONABLE BREAKDOWN OF COSTS THAT COMPRIZE THE FEE
5 CHARGED FOR THE RESEARCH AND RETRIEVAL OF PUBLIC RECORDS
6 AUTHORIZED PURSUANT TO THIS SUBSECTION (6)(a).

7 (c) FOR PURPOSES OF THE FEE CHARGED PURSUANT TO THIS
8 SUBSECTION (6), A CUSTODIAN MAY TREAT A REQUEST FOR PUBLIC
9 RECORDS MADE WITHIN FOURTEEN CALENDAR DAYS OF ANOTHER REQUEST
10 FOR INFORMATION PERTAINING TO FACIALLY SIMILAR CONTENT MADE BY
11 THE SAME PERSON AS ONE REQUEST AND NOT AS MULTIPLE INDIVIDUAL
12 REQUESTS.

13 (d) IN ADDITION TO THE FIRST HOUR IN WHICH A CUSTODIAN SHALL
14 NOT IMPOSE A CHARGE FOR THE TIME EXPENDED IN THE RESEARCH AND
15 RETRIEVAL OF PUBLIC RECORDS PURSUANT TO SUBSECTION (6)(a) OF THIS
16 SECTION, A CUSTODIAN WHO FAILS TO RESPOND TO A REQUEST FOR
17 INSPECTION OF PUBLIC RECORDS WITHIN THE TIME PERIOD REQUIRED BY
18 SECTION 24-72-203 (3) SHALL ALSO PROVIDE THE REQUESTER WITH ONE
19 ADDITIONAL HOUR OF RESEARCH AND RETRIEVAL TIME WITHOUT CHARGE
20 FOR EACH CALENDAR DAY, OR PORTION THEREOF, THAT THE RESPONSE IS
21 LATE.

22 (7) If a ~~custodian~~ of a public record requested pursuant to this part
23 2 PUBLIC ENTITY allows members of the public to pay for any other
24 service or product provided by the ~~custodian~~ PUBLIC ENTITY with a credit
25 card or electronic payment, the PUBLIC ENTITY AND THE ~~custodian~~ OF THE
26 PUBLIC RECORD REQUESTED PURSUANT TO THIS PART 2 must allow the
27 requester of the public record to pay any fee or deposit associated with the

1 request with a credit card or via an electronic payment. The custodian
2 may require a requester to pay any service charge or fee imposed by the
3 processor of a credit card or electronic payment.

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

10 **SECTION 5. Act subject to petition - effective date -**
11 **applicability.** (1) This act takes effect at 12:01 a.m. on the day following
12 the expiration of the ninety-day period after final adjournment of the
13 general assembly (August 12, 2026, if adjournment sine die is on May 13,
14 2026); except that, if a referendum petition is filed pursuant to section 1
15 (3) of article V of the state constitution against this act or an item, section,
16 or part of this act within such period, then the act, item, section, or part
17 will not take effect unless approved by the people at the general election
18 to be held in November 2026 and, in such case, will take effect on the
19 date of the official declaration of the vote thereon by the governor.

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