

HOUSE COMMITTEE OF REFERENCE REPORT

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Chairman of Committee

March 16, 2017  
Date

Committee on State, Veterans, & Military Affairs.

After consideration on the merits, the Committee recommends the following:

HB17-1177 be amended as follows, and as so amended, be referred to the Committee of the Whole with favorable recommendation:

1 Amend printed bill, strike everything below the enacting clause and  
2 substitute:

3 "SECTION 1. In Colorado Revised Statutes, 24-72-204, **amend**  
4 (5) as follows:

5 **24-72-204. Allowance or denial of inspection - grounds -**  
6 **procedure - appeal - definitions.** (5) (a) Except as provided in  
7 subsection (5.5) of this section, any person denied the right to inspect any  
8 record covered by this part 2 may apply to the district court of the district  
9 wherein the record is found for an order directing the custodian of such  
10 record to show cause why the custodian should not permit the inspection  
11 of such record; except that, at least ~~three business~~ FOURTEEN days prior  
12 to filing an application with the district court, the person who has been  
13 denied the right to inspect the record shall file a written notice with the  
14 custodian who has denied the right to inspect the record informing ~~said~~  
15 THE custodian that the person intends to file an application with the  
16 district court. DURING THE FOURTEEN DAY PERIOD BEFORE THE PERSON  
17 MAY FILE AN APPLICATION WITH THE DISTRICT COURT UNDER THIS  
18 SUBSECTION (5)(a), THE CUSTODIAN WHO HAS DENIED THE RIGHT TO  
19 INSPECT THE RECORD SHALL EITHER MEET IN PERSON OR COMMUNICATE  
20 ON THE TELEPHONE WITH THE PERSON WHO HAS BEEN DENIED ACCESS TO  
21 THE RECORD TO DETERMINE IF THE DISPUTE MAY BE RESOLVED WITHOUT  
22 FILING AN APPLICATION WITH THE DISTRICT COURT. THE MEETING MAY  
23 INCLUDE RECOURSE TO ANY METHOD OF DISPUTE RESOLUTION THAT IS

1 AGREEABLE TO BOTH PARTIES. ANY COMMON EXPENSE NECESSARY TO  
2 RESOLVE THE DISPUTE MUST BE APPORTIONED EQUALLY BETWEEN OR  
3 AMONG THE PARTIES UNLESS THE PARTIES HAVE AGREED TO A DIFFERENT  
4 METHOD OF ALLOCATING THE COSTS BETWEEN OR AMONG THEM. IF THE  
5 PERSON WHO HAS BEEN DENIED ACCESS TO INSPECT A RECORD STATES IN  
6 THE REQUIRED WRITTEN NOTICE TO THE CUSTODIAN THAT THE PERSON  
7 NEEDS TO PURSUE ACCESS TO THE RECORD ON AN EXPEDITED BASIS, THE  
8 PERSON MUST PROVIDE SUCH WRITTEN NOTICE, INCLUDING A FACTUAL  
9 BASIS OF THE EXPEDITED NEED FOR THE RECORD, TO THE CUSTODIAN AT  
10 LEAST THREE BUSINESS DAYS PRIOR TO THE DATE ON WHICH THE PERSON  
11 FILES THE APPLICATION WITH THE DISTRICT COURT AND, IN SUCH  
12 CIRCUMSTANCES, NO MEETING TO DETERMINE IF THE DISPUTE MAY BE  
13 RESOLVED WITHOUT FILING AN APPLICATION WITH THE DISTRICT COURT IS  
14 REQUIRED.

15 (b) Hearing on ~~such~~ THE application ~~shall~~ DESCRIBED IN  
16 SUBSECTION (5)(a) OF THIS SECTION MUST be held at the earliest practical  
17 time. Unless the court finds that the denial of the right of inspection was  
18 proper, it shall order the custodian to permit such inspection and shall  
19 award court costs and reasonable attorney fees to the prevailing applicant  
20 in an amount to be determined by the court; except that no court costs and  
21 attorney fees shall be awarded to a person who has filed a lawsuit against  
22 a state public body or local public body and who applies to the court for  
23 an order pursuant to ~~this subsection (5)~~ SUBSECTION (5)(a) OF THIS  
24 SECTION for access to records of the state public body or local public body  
25 being sued if the court finds that the records being sought are related to  
26 the pending litigation and are discoverable pursuant to chapter 4 of the  
27 Colorado rules of civil procedure. In the event the court finds that the  
28 denial of the right of inspection was proper, the court shall award court  
29 costs and reasonable attorney fees to the custodian if the court finds that  
30 the action was frivolous, vexatious, or groundless.

31 **SECTION 2. Act subject to petition - effective date -**  
32 **applicability.** (1) This act takes effect at 12:01 a.m. on the day following  
33 the expiration of the ninety-day period after final adjournment of the  
34 general assembly (August 9, 2017, if adjournment sine die is on May 10,  
35 2017); except that, if a referendum petition is filed pursuant to section 1  
36 (3) of article V of the state constitution against this act or an item, section,  
37 or part of this act within such period, then the act, item, section, or part  
38 will not take effect unless approved by the people at the general election  
39 to be held in November 2018 and, in such case, will take effect on the  
40 date of the official declaration of the vote thereon by the governor.

1           (2) This act applies to requests for inspections of public records  
2 submitted on or after the applicable effective date of this act.".

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