

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

REREVISED

*This Version Includes All Amendments
Adopted in the Second House*

LLS NO. 19-0948.02 Jerry Barry x4341

SENATE BILL 19-244

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House Committees

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HOUSE
3rd Reading Unamended
May 2, 2019

A BILL FOR AN ACT

101 **CONCERNING STATUTORY CHANGES TO IMPLEMENT CHANGES TO THE**
102 **WORKPLACE POLICIES OF THE GENERAL ASSEMBLY, AND, IN**
103 **CONNECTION THEREWITH, MAKING AN APPROPRIATION.**

HOUSE
2nd Reading Unamended
May 1, 2019

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>.)

SENATE
3rd Reading Unamended
April 29, 2019

Section 1 creates the office of legislative workplace relations (office) within the office of legislative legal services and makes the records of that office exempt from public inspection. The office is charged with handling employee relations, including the handling of complaints under the workplace expectations and workplace harassment

SENATE
Amended 2nd Reading
April 27, 2019

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

policies. Records of the office related to complaints, investigations, and other inquiries are exempted from the definition of public records and are not subject to public inspection; except that the office is required to release an annual statistical report of the numbers of complaints received and their resolution. In addition, if a workplace harassment committee finds that it is more likely than not that a legislator violated the policy, the committee must release the report unless it decides by a two-thirds vote not to do so.

Section 2 allows a state public body to meet in executive session to consider a matter related to the workplace harassment or workplace expectations policies of the general assembly.

Section 3 makes a conforming amendment in the Colorado Open Records Act (CORA), clarifying that all custodians are required to deny a request to inspect records that are created or provided by the general assembly's office of legislative workplace relations and that relate to complaints, investigations, or inquiries or requests related to workplace harassment or conduct under the general assembly's policies.

Section 4 provides that a disclosure of an intimate relationship filed in accordance with a policy of the general assembly is part of an individual's personnel file, and therefore not subject to public inspection under CORA.

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

2 **SECTION 1.** In Colorado Revised Statutes, **add 2-3-511** as
3 follows:

4 **2-3-511. Office of legislative workplace relations - creation -**
5 **duties - records - definitions.** (1) THE OFFICE OF LEGISLATIVE
6 WORKPLACE RELATIONS IS CREATED IN THE OFFICE OF LEGISLATIVE LEGAL
7 SERVICES. THE HEAD OF THE OFFICE IS THE DIRECTOR OF THE OFFICE OF
8 LEGISLATIVE WORKPLACE RELATIONS. THE DIRECTOR OF THE OFFICE OF
9 LEGISLATIVE LEGAL SERVICES SHALL APPOINT THE DIRECTOR OF THE
10 OFFICE OF LEGISLATIVE WORKPLACE RELATIONS AND MAY APPOINT SUCH
11 ADDITIONAL STAFF AS MAY BE NECESSARY FOR THE EFFICIENT OPERATION
12 OF THE OFFICE, IN ACCORDANCE WITH SECTION 2-3-503 (1).

13 (2) THE OFFICE OF LEGISLATIVE WORKPLACE RELATIONS SHALL

1 PROVIDE SERVICES TO THE GENERAL ASSEMBLY, ITS MEMBERS AND
2 EMPLOYEES, AND THE LEGISLATIVE STAFF AGENCIES RELATED TO
3 EMPLOYEE RELATIONS; TRAINING; COMPLIANCE; WORKPLACE CULTURE,
4 INCLUDING THE INVESTIGATION OF COMPLAINTS UNDER THE WORKPLACE
5 EXPECTATIONS POLICY; AND WORKPLACE HARASSMENT, INCLUDING THE
6 INVESTIGATION OF COMPLAINTS UNDER THE WORKPLACE HARASSMENT
7 POLICY.

8 (3) RECORDS CREATED AND MAINTAINED BY THE OFFICE OF
9 LEGISLATIVE WORKPLACE RELATIONS THAT ARE RELATED TO A
10 WORKPLACE HARASSMENT COMPLAINT OR INVESTIGATION, A COMPLAINT
11 UNDER THE WORKPLACE EXPECTATIONS POLICY, OR AN INQUIRY OR
12 REQUEST CONCERNING WORKPLACE HARASSMENT OR CONDUCT, WHETHER
13 OR NOT THE INQUIRY OR REQUEST LEADS TO A FORMAL OR INFORMAL
14 COMPLAINT OR RESOLUTION PROCESS, ARE NOT PUBLIC RECORDS AS
15 DEFINED IN SECTION 24-72-202 (6) AND SHALL NOT BE MADE AVAILABLE
16 FOR PUBLIC INSPECTION; EXCEPT THAT, NOTWITHSTANDING THE
17 PROVISIONS OF SECTION 24-72-204 (3)(a)(X):

18 (a) THE DIRECTOR OF THE OFFICE OF LEGISLATIVE WORKPLACE
19 RELATIONS SHALL PUBLISH AND MAKE AVAILABLE TO THE PUBLIC AN
20 ANNUAL STATISTICAL REPORT SHOWING THE TOTAL NUMBER OF
21 COMPLAINTS RECEIVED UNDER THE WORKPLACE HARASSMENT POLICY AND
22 THE WORKPLACE EXPECTATIONS POLICY AND THEIR RESOLUTION. THE
23 DIRECTOR SHALL ENSURE THAT THE REPORT DOES NOT CONTAIN
24 INFORMATION THAT WOULD DISCLOSE THE IDENTITY OF A COMPLAINANT,
25 RESPONDENT, OR WITNESS.

26 (b) (I) EXCEPT AS PROVIDED IN SUBSECTION (3)(b)(II) OF THIS
27 SECTION, IF, AFTER AN INVESTIGATION IN ACCORDANCE WITH THE

1 WORKPLACE HARASSMENT POLICY, A WORKPLACE HARASSMENT
2 COMMITTEE OF THE SENATE OR HOUSE OF REPRESENTATIVES FINDS THAT
3 THE FACTS FOUND MORE LIKELY THAN NOT IN THE INVESTIGATION
4 ESTABLISH A VIOLATION OF THE POLICY BY A MEMBER OF THE GENERAL
5 ASSEMBLY, THE DIRECTOR OF THE OFFICE OF LEGISLATIVE WORKPLACE
6 RELATIONS SHALL MAKE AVAILABLE TO THE PUBLIC THE EXECUTIVE
7 SUMMARY OF THE REPORT OF THE INVESTIGATION AND THE NAME OF THE
8 MEMBER. THE DIRECTOR SHALL ENSURE THAT THE EXECUTIVE SUMMARY
9 DOES NOT CONTAIN INFORMATION THAT WOULD DISCLOSE THE IDENTITY
10 OF THE COMPLAINANT OR ANY WITNESS.

11 (II) THE COMMITTEE MAY DECIDE BY A TWO-THIRDS VOTE TO NOT
12 RELEASE THE EXECUTIVE SUMMARY AS REQUIRED BY SUBSECTION (3)(b)(I)
13 OF THIS SECTION. THE COMMITTEE SHALL MEET IN EXECUTIVE SESSION TO
14 DETERMINE WHETHER TO RELEASE THE EXECUTIVE SUMMARY OR ANY
15 PORTION THEREOF AND SHALL TAKE INTO CONSIDERATION THE SEVERITY
16 OF THE CONDUCT ALLEGED, ANY PATTERNS OF HARASSING BEHAVIOR BY
17 THE MEMBER, AND THE PUBLIC'S INTEREST IN BEING INFORMED OF THE
18 CONDUCT OF ELECTED OFFICIALS.

19 (c) RECORDS OF THE EXPENDITURE OF PUBLIC MONEY ON
20 COMPLAINTS, INVESTIGATIONS, OR OTHER FUNCTIONS OF THE OFFICE OF
21 LEGISLATIVE WORKPLACE RELATIONS ARE PUBLIC RECORDS SUBJECT TO
22 INSPECTION IN ACCORDANCE WITH PART 2 OF ARTICLE 72 OF TITLE 24,
23 EXCEPT TO THE EXTENT THAT THEY CONTAIN INFORMATION THAT WOULD
24 DISCLOSE THE DETAILS OF, OR THE IDENTITY OF AN INDIVIDUAL INVOLVED
25 IN, A COMPLAINT, INVESTIGATION, OR INQUIRY OR REQUEST CONCERNING
26 WORKPLACE HARASSMENT OR CONDUCT.

27 (4) THE OFFICE OF LEGISLATIVE WORKPLACE RELATIONS SHALL BE

1 PROVIDED WITH SUITABLE OFFICE SPACE IN THE STATE CAPITOL OR IN A
2 NEARBY BUILDING. THE OFFICE SPACE MUST BE SITUATED SO AS TO
3 PROVIDE CONFIDENTIALITY AND CONVENIENT ACCESS FOR INDIVIDUALS
4 COVERED BY THE WORKPLACE HARASSMENT POLICY AND THE WORKPLACE
5 EXPECTATIONS POLICY.

6 (5) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE
7 REQUIRES:

8 (a) "WORKPLACE EXPECTATIONS POLICY" MEANS THE WORKPLACE
9 EXPECTATIONS POLICY ADOPTED BY THE EXECUTIVE COMMITTEE OF THE
10 LEGISLATIVE COUNCIL PURSUANT TO THE JOINT RULES.

11 (b) "WORKPLACE HARASSMENT POLICY" MEANS THE WORKPLACE
12 HARASSMENT POLICY ADOPTED BY THE EXECUTIVE COMMITTEE OF THE
13 LEGISLATIVE COUNCIL PURSUANT TO THE JOINT RULES.

14 **SECTION 2.** In Colorado Revised Statutes, 24-6-402, **amend**
15 (3)(a) introductory portion and (3)(a)(III) as follows:

16 **24-6-402. Meetings - open to public - definitions.** (3) (a) The
17 members of a state public body subject to this part 4, upon the
18 announcement by the state public body to the public of the topic for
19 discussion in the executive session, including specific citation to the
20 provision of this subsection (3) authorizing the body to meet in an
21 executive session and identification of the particular matter to be
22 discussed in as much detail as possible without compromising the purpose
23 for which the executive session is authorized, and the affirmative vote of
24 two-thirds of the entire membership of the body after such announcement,
25 may hold an executive session only at a regular or special meeting and for
26 the sole purpose of considering any of the matters enumerated in
27 ~~paragraph (b) of this subsection (3)~~ SUBSECTION (3)(b) OF THIS SECTION

1 or the following matters; except that no adoption of any proposed policy,
2 position, resolution, rule, regulation, or formal action, except the review,
3 approval, and amendment of the minutes of an executive session recorded
4 pursuant to ~~subparagraph (I) of paragraph (d.5) of subsection (2)~~
5 SUBSECTION (2)(d.5)(I) of this section, shall occur at any executive
6 session that is not open to the public:

7 (III) Matters required to be kept confidential by federal law or
8 rules, state statutes, or in accordance with the requirements of any joint
9 rule of the senate and the house of representatives pertaining to lobbying
10 practices OR WORKPLACE HARASSMENT OR WORKPLACE EXPECTATIONS
11 POLICIES;

12 **SECTION 3.** In Colorado Revised Statutes, 24-72-204, **add**
13 (3)(a)(X.5) as follows:

14 **24-72-204. Allowance or denial of inspection - grounds -**
15 **procedure - appeal - definitions - repeal.** (3) (a) The custodian shall
16 deny the right of inspection of the following records, unless otherwise
17 provided by law; except that any of the following records, other than
18 letters of reference concerning employment, licensing, or issuance of
19 permits, shall be available to the person in interest pursuant to this
20 subsection (3):

21 (X.5) RECORDS CREATED, MAINTAINED, OR PROVIDED TO A
22 CUSTODIAN BY THE OFFICE OF LEGISLATIVE WORKPLACE RELATIONS
23 CREATED IN SECTION 2-3-511 THAT ARE RELATED TO A WORKPLACE
24 HARASSMENT COMPLAINT OR INVESTIGATION, A COMPLAINT UNDER THE
25 WORKPLACE EXPECTATIONS POLICY, OR AN INQUIRY OR REQUEST
26 CONCERNING WORKPLACE HARASSMENT OR CONDUCT, WHETHER OR NOT
27 THE RECORDS ARE PART OF A FORMAL OR INFORMAL COMPLAINT OR

1 RESOLUTION PROCESS.

2 **SECTION 4.** In Colorado Revised Statutes, 24-72-202, **amend**
3 (4.5) as follows:

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

6 (4.5) "Personnel files" means and includes home addresses,
7 telephone numbers, financial information, ~~and~~ A DISCLOSURE OF AN
8 INTIMATE RELATIONSHIP FILED IN ACCORDANCE WITH THE POLICIES OF THE
9 GENERAL ASSEMBLY, other information maintained because of the
10 employer-employee relationship, and other documents specifically
11 exempt from disclosure under this part 2 or any other provision of law.

12 "Personnel files" does not include applications of past or current
13 employees, employment agreements, any amount paid or benefit provided
14 incident to termination of employment, performance ratings, final
15 sabbatical reports required under section 23-5-123, ~~C.R.S.~~, or any
16 compensation, including expense allowances and benefits, paid to
17 employees by the state, its agencies, institutions, or political subdivisions.

18 **SECTION 5. Appropriation.** For the 2019-20 state fiscal year,
19 \$221,925 is appropriated to the legislative department for use by the
20 committee on legal services. This appropriation is from the general fund
21 and is based on an assumption that the committee on legal services will
22 require an additional 1.8 FTE. To implement this act, the committee on
23 legal services may use this appropriation for the office of legislative
24 workplace relations.

25 **SECTION 6. Safety clause.** The general assembly hereby finds,
26 determines, and declares that this act is necessary for the immediate
27 preservation of the public peace, health, and safety.