

CHAPTER 243

GENERAL ASSEMBLY

SENATE BILL 19-244

BY SENATOR(S) Winter and Gardner, Moreno, Bridges, Cooke, Coram, Court, Danielson, Donovan, Fields, Ginal, Hisey, Holbert, Lee, Lundeen, Marble, Pettersen, Priola, Rankin, Scott, Smallwood, Sonnenberg, Story, Tate, Todd, Williams A., Woodward, Zenzinger, Garcia;
also REPRESENTATIVE(S) Lontine, Bird, Buckner, Buentello, Coleman, Cutter, Duran, Esgar, Froelich, Gonzales-Gutierrez, Gray, Hansen, Herod, Hooton, Humphrey, Jackson, Jaquez Lewis, Kipp, McCluskie, Melton, Michaelson Jenet, Mullica, Roberts, Singer, Sirota, Snyder, Tipper, Titone, Valdez D., Weissman.

AN ACT

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

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

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

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

(2) THE OFFICE OF LEGISLATIVE WORKPLACE RELATIONS SHALL PROVIDE SERVICES TO THE GENERAL ASSEMBLY, ITS MEMBERS AND EMPLOYEES, AND THE LEGISLATIVE STAFF AGENCIES RELATED TO EMPLOYEE RELATIONS; TRAINING; COMPLIANCE; WORKPLACE CULTURE, INCLUDING THE INVESTIGATION OF COMPLAINTS UNDER THE WORKPLACE EXPECTATIONS POLICY; AND WORKPLACE HARASSMENT, INCLUDING THE INVESTIGATION OF COMPLAINTS UNDER THE WORKPLACE HARASSMENT POLICY.

(3) RECORDS CREATED AND MAINTAINED BY THE OFFICE OF LEGISLATIVE WORKPLACE RELATIONS THAT ARE RELATED TO A WORKPLACE HARASSMENT

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

COMPLAINT OR INVESTIGATION, A COMPLAINT UNDER THE WORKPLACE EXPECTATIONS POLICY, OR AN INQUIRY OR REQUEST CONCERNING WORKPLACE HARASSMENT OR CONDUCT, WHETHER OR NOT THE INQUIRY OR REQUEST LEADS TO A FORMAL OR INFORMAL COMPLAINT OR RESOLUTION PROCESS, ARE NOT PUBLIC RECORDS AS DEFINED IN SECTION 24-72-202 (6) AND SHALL NOT BE MADE AVAILABLE FOR PUBLIC INSPECTION; EXCEPT THAT, NOTWITHSTANDING THE PROVISIONS OF SECTION 24-72-204 (3)(a)(X):

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

(b) (I) EXCEPT AS PROVIDED IN SUBSECTION (3)(b)(II) OF THIS SECTION, IF, AFTER AN INVESTIGATION IN ACCORDANCE WITH THE WORKPLACE HARASSMENT POLICY, A WORKPLACE HARASSMENT COMMITTEE OF THE SENATE OR HOUSE OF REPRESENTATIVES FINDS THAT THE FACTS FOUND MORE LIKELY THAN NOT IN THE INVESTIGATION ESTABLISH A VIOLATION OF THE POLICY BY A MEMBER OF THE GENERAL ASSEMBLY, THE DIRECTOR OF THE OFFICE OF LEGISLATIVE WORKPLACE RELATIONS SHALL MAKE AVAILABLE TO THE PUBLIC THE EXECUTIVE SUMMARY OF THE REPORT OF THE INVESTIGATION AND THE NAME OF THE MEMBER. THE DIRECTOR SHALL ENSURE THAT THE EXECUTIVE SUMMARY DOES NOT CONTAIN INFORMATION THAT WOULD DISCLOSE THE IDENTITY OF THE COMPLAINANT OR ANY WITNESS.

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

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

(4) THE OFFICE OF LEGISLATIVE WORKPLACE RELATIONS SHALL BE PROVIDED WITH SUITABLE OFFICE SPACE IN THE STATE CAPITOL OR IN A NEARBY BUILDING. THE OFFICE SPACE MUST BE SITUATED SO AS TO PROVIDE CONFIDENTIALITY AND CONVENIENT ACCESS FOR INDIVIDUALS COVERED BY THE WORKPLACE HARASSMENT POLICY AND THE WORKPLACE EXPECTATIONS POLICY.

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

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

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

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

24-6-402. Meetings - open to public - definitions. (3) (a) The members of a state public body subject to this part 4, upon the announcement by the state public body to the public of the topic for discussion in the executive session, including specific citation to the provision of this subsection (3) authorizing the body to meet in an executive session and identification of the particular matter to be discussed in as much detail as possible without compromising the purpose for which the executive session is authorized, and the affirmative vote of two-thirds of the entire membership of the body after such announcement, may hold an executive session only at a regular or special meeting and for the sole purpose of considering any of the matters enumerated in ~~paragraph (b) of this subsection (3)~~ SUBSECTION (3)(b) OF THIS SECTION or the following matters; except that no adoption of any proposed policy, position, resolution, rule, regulation, or formal action, except the review, approval, and amendment of the minutes of an executive session recorded pursuant to ~~subparagraph (1) of paragraph (d.5) of subsection (2)~~ SUBSECTION (2)(d.5)(I) of this section, shall occur at any executive session that is not open to the public:

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

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

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

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

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

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

(4.5) "Personnel files" means and includes home addresses, telephone numbers, financial information, ~~and~~ A DISCLOSURE OF AN INTIMATE RELATIONSHIP FILED IN ACCORDANCE WITH THE POLICIES OF THE GENERAL ASSEMBLY, other information maintained because of the employer-employee relationship, and other documents specifically exempt from disclosure under this part 2 or any other provision of law. "Personnel files" does not include applications of past or current employees, employment agreements, any amount paid or benefit provided incident to termination of employment, performance ratings, final sabbatical reports required under section 23-5-123, ~~C.R.S.~~, or any compensation, including expense allowances and benefits, paid to employees by the state, its agencies, institutions, or political subdivisions.

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

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

Approved: May 20, 2019