

CHAPTER 168

GOVERNMENT - STATE

HOUSE BILL 94-1234

BY REPRESENTATIVES Reeser, Lawrence, Adkins, Agler, Ratterree, and Schauer;
also SENATORS Bishop, Blickensderfer, Johnson, and Norton.

AN ACT

CONCERNING THE CONFIDENTIALITY OF RECORDS OF PERSONS COMPETING FOR CERTAIN EXECUTIVE POSITIONS WITH GOVERNMENTAL ENTITIES.

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

SECTION 1. 24-72-202, Colorado Revised Statutes, 1988 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

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

(1.3) "EXECUTIVE POSITION" MEANS ANY NONELECTIVE EMPLOYMENT POSITION WITH A STATE AGENCY, INSTITUTION, OR POLITICAL SUBDIVISION, EXCEPT EMPLOYMENT POSITIONS IN THE STATE PERSONNEL SYSTEM OR EMPLOYMENT POSITIONS IN A CLASSIFIED SYSTEM OR CIVIL SERVICE SYSTEM OF AN INSTITUTION OR POLITICAL SUBDIVISION.

SECTION 2. 24-72-204 (3) (a) (I), Colorado Revised Statutes, 1988 Repl. Vol., is amended, and the said 24-72-204 (3) (a), as amended, is further amended BY THE ADDITION OF A NEW SUBPARAGRAPH, to read:

24-72-204. Allowance or denial of inspection - grounds - procedure - appeal.
(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 under this subsection (3):

(I) Medical, psychological, sociological, and scholastic achievement data on

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

individual persons, OTHER THAN SCHOLASTIC ACHIEVEMENT DATA SUBMITTED AS PART OF FINALISTS' RECORDS AS SET FORTH IN SUBPARAGRAPH (XI) OF THIS PARAGRAPH (a) AND exclusive of coroners' autopsy reports and group scholastic achievement data from which ~~the individual~~ INDIVIDUALS cannot be identified; but either the custodian or the person in interest may request a professionally qualified person, who shall be furnished by the said custodian, to be present to interpret the records;

(XI) (A) RECORDS SUBMITTED BY OR ON BEHALF OF AN APPLICANT OR CANDIDATE FOR AN EXECUTIVE POSITION AS DEFINED IN SECTION 24-72-202 (1.3) WHO IS NOT A FINALIST IF THE APPLICANT OR CANDIDATE MAKES A WRITTEN REQUEST THAT THE RECORDS BE KEPT CONFIDENTIAL AT THE TIME OF SUBMISSION OF THE RECORDS. FOR PURPOSES OF THIS SUBPARAGRAPH (XI), "FINALIST" MEANS AN APPLICANT OR CANDIDATE FOR AN EXECUTIVE POSITION WHO IS CHOSEN FOR AN INTERVIEW OR WHO IS STILL BEING CONSIDERED FOR THE POSITION TWENTY-ONE DAYS PRIOR TO MAKING THE APPOINTMENT, WHICHEVER COMES FIRST; EXCEPT THAT, IF SIX OR FEWER APPLICANTS OR CANDIDATES ARE COMPETING FOR THE EXECUTIVE POSITION, "FINALIST" MEANS ALL APPLICANTS OR CANDIDATES.

(B) THE PROVISIONS OF THIS SUBPARAGRAPH (XI) SHALL NOT BE CONSTRUED TO PROHIBIT THE PUBLIC INSPECTION OR COPYING OF ANY RECORDS SUBMITTED BY OR ON BEHALF OF A FINALIST; EXCEPT THAT LETTERS OF REFERENCE OR MEDICAL, PSYCHOLOGICAL, AND SOCIOLOGICAL DATA CONCERNING FINALISTS SHALL NOT BE MADE AVAILABLE FOR PUBLIC INSPECTION OR COPYING.

(C) THE PROVISIONS OF THIS SUBPARAGRAPH (XI) SHALL APPLY TO EMPLOYMENT SELECTION PROCESSES FOR ALL EXECUTIVE POSITIONS, INCLUDING, BUT NOT LIMITED TO, SELECTION PROCESSES CONDUCTED OR ASSISTED BY PRIVATE PERSONS OR FIRMS AT THE REQUEST OF A STATE AGENCY, INSTITUTION, OR POLITICAL SUBDIVISION.

SECTION 3. 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: April 28, 1994