

CHAPTER 187

GOVERNMENT - STATE

HOUSE BILL 02-1342

BY REPRESENTATIVE(S) Mitchell, Groff, Grossman, Harvey, Weddig, White, Boyd, and Romanoff;
also SENATOR(S) Fitz-Gerald, Andrews, Perlmutter, Pascoe, and Tupa.

AN ACT

CONCERNING PUBLIC ACCESS TO INFORMATION RELATING TO PUBLIC BODIES, AND, IN CONNECTION THEREWITH, CLARIFYING THAT PUBLIC OFFICIALS AND EMPLOYEES ARE PERSONS FOR PURPOSES OF THE PUBLIC RECORDS ACT, ARTICLE 72 OF TITLE 24, COLORADO REVISED STATUTES, AND SPECIFYING THE MANNER IN WHICH PUBLIC BODIES ARE TO RECORD THEIR MEETINGS.

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

SECTION 1. Legislative declaration. (1) The general assembly hereby finds and declares that:

(a) The intent of the public records act, article 72 of title 24, Colorado Revised Statutes, is to allow access to all public records by any person at reasonable times.

(b) The public records act has a broad scope, allowing any person to inspect the records of public bodies and public officials, with certain limited exceptions.

(c) As defined in the public records act, a person entitled to inspect public records includes any natural person as well as entities like corporations, partnerships, associations, and other similar entities.

(d) While it is evident from the definition in the act that "person" is intended to have a broad, unrestrictive meaning, the term as it is presently defined has been erroneously interpreted to exclude public officials.

(e) It is the declared policy of the state that for purposes of the public records act, the term "person" includes any individual, whether that individual is a private citizen or a public official or employee, and to further this policy, the general assembly intends to clarify existing law by specifying that public officials and public employees are persons who, for purposes of the public records act, are entitled to inspect public

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

records.

SECTION 2. 24-72-202 (3), Colorado Revised Statutes, is amended to read:

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

(3) "Person" means and includes any natural person, INCLUDING ANY PUBLIC EMPLOYEE AND ANY ELECTED OR APPOINTED PUBLIC OFFICIAL ACTING IN AN OFFICIAL OR PERSONAL CAPACITY, AND ANY corporation, limited liability company, partnership, firm, or association.

SECTION 3. 24-6-402 (2) (d.5) (I) (A) and (2) (d.5) (II) (A), Colorado Revised Statutes, are amended to read:

24-6-402. Meetings - open to public. (2) (d.5) (I) (A) Discussions that occur in an executive session of a state public body shall be recorded in the same manner and media that the state public body uses to record the minutes of open meetings. IF A STATE PUBLIC BODY ELECTRONICALLY RECORDED THE MINUTES OF ITS OPEN MEETINGS ON OR AFTER AUGUST 8, 2001, THE STATE PUBLIC BODY SHALL CONTINUE TO ELECTRONICALLY RECORD THE MINUTES OF ITS OPEN MEETINGS THAT OCCUR ON OR AFTER AUGUST 8, 2001; EXCEPT THAT ELECTRONIC RECORDING SHALL NOT BE REQUIRED FOR TWO SUCCESSIVE MEETINGS OF THE STATE PUBLIC BODY WHILE THE REGULARLY USED ELECTRONIC EQUIPMENT IS INOPERABLE. A state public body may satisfy the recording requirements of this sub-subparagraph (A) by making any form of electronic recording of the discussions in an executive session of the state public body. Except as provided in sub-subparagraph (B) of this subparagraph (I), the record of an executive session shall reflect the specific citation to the provision in subsection (3) of this section that authorizes the state public body to meet in an executive session, the actual contents of the discussion during the session, and a signed statement from the chair of the executive session attesting that any written minutes substantially reflect the substance of the discussions during the executive session. For purposes of this sub-subparagraph (A), "actual contents of the discussion" shall not be construed to require the minutes of an executive session to contain a verbatim transcript of the discussion during said executive session. The provisions of this sub-subparagraph (A) shall not apply to discussions of individual students by a state public body pursuant to paragraph (b) of subsection (3) of this section.

(II) (A) Discussions that occur in an executive session of a local public body shall be recorded in the same manner and media that the local public body uses to record the minutes of open meetings. IF A LOCAL PUBLIC BODY ELECTRONICALLY RECORDED THE MINUTES OF ITS OPEN MEETINGS ON OR AFTER AUGUST 8, 2001, THE LOCAL PUBLIC BODY SHALL CONTINUE TO ELECTRONICALLY RECORD THE MINUTES OF ITS OPEN MEETINGS THAT OCCUR ON OR AFTER AUGUST 8, 2001; EXCEPT THAT ELECTRONIC RECORDING SHALL NOT BE REQUIRED FOR TWO SUCCESSIVE MEETINGS OF THE LOCAL PUBLIC BODY WHILE THE REGULARLY USED ELECTRONIC EQUIPMENT IS INOPERABLE. A local public body may satisfy the recording requirements of this sub-subparagraph (A) by making any form of electronic recording of the discussions in an executive session of the local public body. Except as provided in sub-subparagraph (B) of this subparagraph (II), the record of an executive session

shall reflect the specific citation to the provision in subsection (4) of this section that authorizes the local public body to meet in an executive session, the actual contents of the discussion during the session, and a signed statement from the chair of the executive session attesting that any written minutes substantially reflect the substance of the discussions during the executive session. For purposes of this sub-subparagraph (A), "actual contents of the discussion" shall not be construed to require the minutes of an executive session to contain a verbatim transcript of the discussion during said executive session. The provisions of this sub-subparagraph (A) shall not apply to discussions of individual students by a local public body pursuant to paragraph (h) of subsection (4) of this section.

SECTION 4. 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 24, 2002