

CHAPTER 11

COURTS

HOUSE BILL 07-1147

BY REPRESENTATIVE(S) Garcia, Todd, Carroll T., Benefield, Borodkin, Buescher, Carroll M., Casso, Frangas, Gibbs, Hicks, Hodge, Jahn, Kerr A., King, Labuda, Madden, Primavera, Romanoff, Solano, Stafford, and Stephens;
also SENATOR(S) Spence, Bacon, Boyd, Fitz-Gerald, Gordon, Groff, Harvey, Keller, Kopp, May R., Morse, Penry, Renfroe, Sandoval, Schultheis, Tochtrop, Veiga, Ward, Wiens, and Williams.

AN ACT**CONCERNING THE CONFIDENTIALITY OF WITNESS PROTECTION MATERIALS.**

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

SECTION 1. Part 1 of article 33.5 of title 24, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

24-33.5-106.5. Confidentiality of materials - definitions. (1) FOR PURPOSES OF THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(a) "IN CAMERA REVIEW" MEANS AN INSPECTION OF MATERIALS BY THE COURT, IN CHAMBERS, TO DETERMINE WHAT, IF ANY, MATERIALS ARE DISCOVERABLE. ANY MATERIALS EXCISED PURSUANT TO A JUDICIAL ORDER FOLLOWING THE IN CAMERA REVIEW SHALL BE SEALED AND PRESERVED IN THE RECORDS OF THE COURT, TO BE MADE AVAILABLE TO THE APPELLATE COURT IN THE EVENT OF AN APPEAL.

(b) "MATERIALS" MEANS ANY RECORDS, CLAIMS, WRITINGS, DOCUMENTS, OR INFORMATION.

(2) (a) ANY MATERIALS RECEIVED, MADE, OR KEPT BY A WITNESS PROTECTION BOARD, THE DEPARTMENT, OR A PROSECUTING ATTORNEY CONCERNING A WITNESS PROTECTION MATTER SHALL BE CONFIDENTIAL. THE MATERIALS SHALL NOT BE DISCOVERABLE UNLESS THE COURT CONDUCTS AN IN CAMERA REVIEW OF THE MATERIALS SOUGHT TO BE DISCOVERED AND DETERMINES THAT THE MATERIALS ARE NECESSARY FOR THE RESOLUTION OF AN ISSUE THEN PENDING BEFORE THE COURT. THE ATTORNEY GENERAL ACTING ON BEHALF OF THE WITNESS PROTECTION BOARD SHALL HAVE STANDING IN ANY ACTION TO OPPOSE THE DISCLOSURE OF MATERIALS

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

IN THE CUSTODY OF THE WITNESS PROTECTION BOARD.

(b) A PERSON WHO KNOWINGLY OR INTENTIONALLY DISCLOSES CONFIDENTIAL MATERIALS IN VIOLATION OF THE PROVISIONS OF THIS SUBSECTION (2) COMMITS A CLASS 1 MISDEMEANOR AND SHALL BE PUNISHED AS PROVIDED IN SECTION 18-1.3-501, C.R.S. NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY, A CRIMINAL PROSECUTION BROUGHT PURSUANT TO THE PROVISIONS OF THIS SUBSECTION (2) SHALL BE BROUGHT WITHIN FIVE YEARS AFTER THE DATE UPON WHICH THE VIOLATION OCCURRED.

SECTION 2. 24-72-204 (2), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

24-72-204. Allowance or denial of inspection - grounds - procedure - appeal - definitions. (2) (d) NOTWITHSTANDING ANY PROVISION TO THE CONTRARY IN SUBPARAGRAPH (1) OF PARAGRAPH (a) OF THIS SUBSECTION (2), THE CUSTODIAN SHALL DENY THE RIGHT OF INSPECTION OF ANY MATERIALS RECEIVED, MADE, OR KEPT BY A WITNESS PROTECTION BOARD, THE DEPARTMENT OF PUBLIC SAFETY, OR A PROSECUTING ATTORNEY THAT ARE CONFIDENTIAL PURSUANT TO SECTION 24-33.5-106.5.

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: March 5, 2007