

CHAPTER 122

COURTS

HOUSE BILL 10-1132

BY REPRESENTATIVE(S) Gardner B., McNulty, Nikkel, Waller, Kerr J., Labuda, Looper, Priola, Stephens, Gerou, King S.;
also SENATOR(S) Hodge, Newell, Steadman.

AN ACT**CONCERNING THE PRODUCTION OF RECORDS BY A BUSINESS IN A CRIMINAL MATTER.**

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

SECTION 1. 16-3-301.1 (4) (c) (I), (5) (c),(6) (a), and (11) (c), Colorado Revised Statutes, are amended to read:

16-3-301.1. Court orders for the production of records - definitions.

(4) (c) Unless the court otherwise directs, every court order for the production of records shall authorize a Colorado criminal investigator or peace officer:

(I) To serve the order during normal business hours of the business entity OR AT ANY OTHER CONVENIENT TIME FOR THE BUSINESS ENTITY that is in actual or constructive control of the records; and

(5) (c) A court order for production of records may be served in the same manner as a summons in a civil action or by personal service on a manager or supervisor of the business entity that is in actual or constructive control of the records OR THROUGH ANY ELECTRONIC OR OTHER MEANS ESTABLISHED AND UTILIZED BY THE BUSINESS TO RECEIVE SERVICE OF PROCESS.

(6) (a) A business entity that is properly served with a court order for the production of records shall deliver the records, or copies of the records, identified in the court order to the officer who is designated in the court order within thirty days after the date the court order is served. The business entity shall also provide a notarized ~~statement~~ ATTESTATION OF ACCURACY that the records produced represent complete and accurate copies of all records identified in the court order that are in the actual or constructive control of the business entity. If the business

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

entity does not produce all records identified in the court order for production of records, the records not produced shall be identified. The ~~statement~~ ATTESTATION OF ACCURACY shall be signed by the records custodian, or an officer or director of the business entity, who shall attest to the truth of the ~~statement~~ ATTESTATION to the best of the person's knowledge, information and belief. THE ATTESTATION MAY ALSO ATTEST TO ANY ONE OR ALL OF THE FOLLOWING: THAT THE RECORDS WERE MADE AT OR NEAR THE TIME BY, OR FROM INFORMATION TRANSMITTED BY, A PERSON WITH KNOWLEDGE; THAT THE RECORDS WERE KEPT IN THE COURSE OF A REGULAR BUSINESS ACTIVITY; AND THAT IT WAS THE REGULAR PRACTICE OF THE BUSINESS TO RECORD THE INFORMATION CONTAINED IN THE RECORDS. THE BUSINESS ENTITY NEED ONLY PROVIDE A COPY OF THE ATTESTATION AT THE TIME OF PROVIDING THE RECORDS TO THE OFFICER AND MAY PROVIDE THE ORIGINAL OF THE ATTESTATION TO THE OFFICER WITHIN TEN DAYS AFTER PROVIDING THE RECORDS. The records and attestation of accuracy shall be sufficient to establish the authenticity of the records produced, without further necessity of extrinsic evidence.

(11) As used in this section, unless the context otherwise requires:

(c) "Colorado criminal investigator" means an employee of the Colorado department of regulatory agencies, THE COLORADO DEPARTMENT OF LABOR AND EMPLOYMENT, or the Colorado department of revenue who has been classified as a criminal investigator by the director of the employing department.

SECTION 2. Act subject to petition - effective date. This act shall take effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly (August 11, 2010, if adjournment sine die is on May 12, 2010); except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part shall not take effect unless approved by the people at the general election to be held in November 2010 and shall take effect on the date of the official declaration of the vote thereon by the governor.

Approved: April 15, 2010