

SB037 L.001

SENATE COMMITTEE OF REFERENCE AMENDMENT

Committee on State, Veterans, & Military Affairs.SB16-037 be amended as follows:

1 Amend printed bill, strike everything below the enacting clause and
2 substitute:

3 "SECTION 1. **Legislative declaration.** (1) The general
4 assembly finds, determines, and declares that:

5 (a) Information contained in public records provides vital insights
6 into the operations of government, including all entities subject to the
7 "Colorado Open Records Act", referred to as "CORA".

8 (b) The public must have access to the such records in order to
9 hold their governments accountable.

10 (c) With the development of new technologies and an increasingly
11 connected and engaged population, growing pressure has been placed on
12 public bodies to adopt open government practices that promote
13 transparency, citizen participation, and collaboration.

14 (d) As more records are kept digitally, it is imperative that
15 members of the public have access to government records in the format
16 in which they are made and maintained in order to monitor full details of
17 government operations that are contained in such records. Further, the
18 data in such records is more usable by the public when it is provided in
19 a machine-readable format that allows for reference across data sets.

20 (2) The general assembly further finds, determines, and declares
21 that:

22 (a) Records custodians assume a responsibility to make public
23 records that are subject to CORA available to the public and should not
24 release any information that is confidential regardless of how the public
25 records containing such information are maintained or released.

26 (b) To facilitate access to public records, it is helpful to the public
27 when such records are made available by means of direct online access.
28 Accordingly, the general assembly encourages the custodians of such
29 records to expand current efforts to make these records available by
30 means of direct online access.

31 **SECTION 2.** In Colorado Revised Statutes, 24-72-202, **amend**
32 (2); and **add** (2.5) as follows:

33 **24-72-202. Definitions.** As used in this part 2, unless the context
34 otherwise requires:

35 (2) ~~"Official custodian" means and includes any officer or~~
36 ~~employee of the state, of any agency, institution, or political subdivision~~
37 ~~of the state, of any institutionally related foundation, of any institutionally~~

1 ~~related health care foundation, of any institutionally related real estate~~
2 ~~foundation, or of any local government-financed entity, who is~~
3 ~~responsible for the maintenance, care, and keeping of public records,~~
4 ~~regardless of whether the records are in his or her actual personal custody~~
5 ~~and control "MACHINE-READABLE" MEANS DATA THAT CAN BE READ,~~
6 ~~WRITTEN, PARSED, AND DISPLAYED BY A COMPUTER PROGRAM WITHOUT~~
7 ~~THE NEED FOR MANUAL HUMAN INTERVENTION.~~

8 (2.5) "OFFICIAL CUSTODIAN" MEANS AND INCLUDES ANY OFFICER
9 OR EMPLOYEE OF THE STATE, OF ANY AGENCY, INSTITUTION, OR POLITICAL
10 SUBDIVISION OF THE STATE, OF ANY INSTITUTIONALLY RELATED
11 FOUNDATION, OF ANY INSTITUTIONALLY RELATED HEALTH CARE
12 FOUNDATION, OF ANY INSTITUTIONALLY RELATED REAL ESTATE
13 FOUNDATION, OR OF ANY LOCAL GOVERNMENT-FINANCED ENTITY, WHO IS
14 RESPONSIBLE FOR THE MAINTENANCE, CARE, AND KEEPING OF PUBLIC
15 RECORDS, REGARDLESS OF WHETHER THE RECORDS ARE IN HIS OR HER
16 ACTUAL PERSONAL CUSTODY AND CONTROL.

17 **SECTION 3.** In Colorado Revised Statutes, 24-72-203, **amend**
18 (1) (b) (I) and (1) (b) (II); and **add** (1) (b) (III) as follows:

19 **24-72-203. Public records open to inspection.** (1) (b) Where
20 public records are kept ~~only~~ in miniaturized or digital form, whether on
21 magnetic or optical disks, tapes, microfilm, microfiche, or otherwise, the
22 official custodian shall:

23 (I) Adopt a policy regarding the retention, archiving, and
24 destruction of such records; and

25 (II) Take such measures as are necessary to assist the public in
26 locating any specific public records sought and to ensure public access to
27 the public records without unreasonable delay or unreasonable cost. Such
28 measures may include, without limitation, the availability of viewing
29 stations for public records kept on microfiche; the provision of portable
30 disk copies of computer files; or direct electronic access via online
31 bulletin boards or other means; AND

32 (III) PRODUCE RECORDS MAINTAINED AS DIGITALLY STORED DATA
33 IN A MACHINE-READABLE STANDARD FORMAT ROUTINELY USED BY THE
34 OFFICIAL CUSTODIAN. IN ORDER TO SATISFY THE REQUIREMENTS OF THIS
35 SUBPARAGRAPH (III), AN OFFICIAL CUSTODIAN IS NOT REQUIRED TO
36 PRODUCE RECORDS IN A FORMAT THAT THE OFFICIAL CUSTODIAN DOES NOT
37 REGULARLY USE AS OF THE TIME THE RECORDS REQUEST IS SUBMITTED. AN
38 OFFICIAL CUSTODIAN SHALL REMOVE CONFIDENTIAL INFORMATION FROM
39 THE RECORDS PRIOR TO PRODUCING THE SAME. THE REMOVAL OF
40 CONFIDENTIAL INFORMATION OR DATA FROM AN ELECTRONIC DATABASE
41 PRIOR TO RELEASE OF THE ELECTRONIC DATABASE DOES NOT TRIGGER THE

7

1 FEE REQUIREMENTS SPECIFIED IN SECTION 24-72-205 (3) OR (4), BUT THE
2 OFFICIAL CUSTODIAN MAY CHARGE THE ACTUAL COST OF A DIGITAL
3 STORAGE MEDIUM USED TO FULFILL A REQUEST AND IMPOSE THE FEE
4 SPECIFIED IN SECTION 24-72-205 (6) FOR THE TIME SPENT REMOVING
5 CONFIDENTIAL INFORMATION.

6 **SECTION 4. Act subject to petition - effective date.** This act
7 takes effect at 12:01 a.m. on the day following the expiration of the
8 ninety-day period after final adjournment of the general assembly (August
9 10, 2016, if adjournment sine die is on May 11, 2016); except that, if a
10 referendum petition is filed pursuant to section 1 (3) of article V of the
11 state constitution against this act or an item, section, or part of this act
12 within such period, then the act, item, section, or part will not take effect
13 unless approved by the people at the general election to be held in
14 November 2016 and, in such case, will take effect on the date of the
15 official declaration of the vote thereon by the governor."

** *** ** *** **

