

HOUSE COMMITTEE OF REFERENCE AMENDMENT

Committee on State, Veterans, & Military Affairs.

HB17-1177 be amended as follows:

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

3 "SECTION 1. In Colorado Revised Statutes, 24-72-204, **amend**
4 (5) as follows:

5 **24-72-204. Allowance or denial of inspection - grounds -**
6 **procedure - appeal - definitions.** (5) (a) Except as provided in
7 subsection (5.5) of this section, any person denied the right to inspect any
8 record covered by this part 2 may apply to the district court of the district
9 wherein the record is found for an order directing the custodian of such
10 record to show cause why the custodian should not permit the inspection
11 of such record; except that, at least ~~three business~~ FOURTEEN days prior
12 to filing an application with the district court, the person who has been
13 denied the right to inspect the record shall file a written notice with the
14 custodian who has denied the right to inspect the record informing ~~said~~
15 THE custodian that the person intends to file an application with the
16 district court. DURING THE FOURTEEN DAY PERIOD BEFORE THE PERSON
17 MAY FILE AN APPLICATION WITH THE DISTRICT COURT UNDER THIS
18 SUBSECTION (5)(a), THE CUSTODIAN WHO HAS DENIED THE RIGHT TO
19 INSPECT THE RECORD SHALL EITHER MEET IN PERSON OR COMMUNICATE
20 ON THE TELEPHONE WITH THE PERSON WHO HAS BEEN DENIED ACCESS TO
21 THE RECORD TO DETERMINE IF THE DISPUTE MAY BE RESOLVED WITHOUT
22 FILING AN APPLICATION WITH THE DISTRICT COURT. THE MEETING MAY
23 INCLUDE RECOURSE TO ANY METHOD OF DISPUTE RESOLUTION THAT IS
24 AGREEABLE TO BOTH PARTIES. ANY COMMON EXPENSE NECESSARY TO
25 RESOLVE THE DISPUTE MUST BE APPORTIONED EQUALLY BETWEEN OR
26 AMONG THE PARTIES UNLESS THE PARTIES HAVE AGREED TO A DIFFERENT
27 METHOD OF ALLOCATING THE COSTS BETWEEN OR AMONG THEM. IF THE
28 PERSON WHO HAS BEEN DENIED ACCESS TO INSPECT A RECORD STATES IN
29 THE REQUIRED WRITTEN NOTICE TO THE CUSTODIAN THAT THE PERSON
30 NEEDS TO PURSUE ACCESS TO THE RECORD ON AN EXPEDITED BASIS, THE
31 PERSON MUST PROVIDE SUCH WRITTEN NOTICE, INCLUDING A FACTUAL
32 BASIS OF THE EXPEDITED NEED FOR THE RECORD, TO THE CUSTODIAN AT
33 LEAST THREE BUSINESS DAYS PRIOR TO THE DATE ON WHICH THE PERSON
34 FILES THE APPLICATION WITH THE DISTRICT COURT AND, IN SUCH
35 CIRCUMSTANCES, NO MEETING TO DETERMINE IF THE DISPUTE MAY BE
36 RESOLVED WITHOUT FILING AN APPLICATION WITH THE DISTRICT COURT IS
37 REQUIRED.

1 (b) Hearing on ~~such~~ THE application ~~shall~~ DESCRIBED IN
2 SUBSECTION (5)(a) OF THIS SECTION MUST be held at the earliest practical
3 time. Unless the court finds that the denial of the right of inspection was
4 proper, it shall order the custodian to permit such inspection and shall
5 award court costs and reasonable attorney fees to the prevailing applicant
6 in an amount to be determined by the court; except that no court costs and
7 attorney fees shall be awarded to a person who has filed a lawsuit against
8 a state public body or local public body and who applies to the court for
9 an order pursuant to ~~this subsection (5)~~ SUBSECTION (5)(a) OF THIS
10 SECTION for access to records of the state public body or local public body
11 being sued if the court finds that the records being sought are related to
12 the pending litigation and are discoverable pursuant to chapter 4 of the
13 Colorado rules of civil procedure. In the event the court finds that the
14 denial of the right of inspection was proper, the court shall award court
15 costs and reasonable attorney fees to the custodian if the court finds that
16 the action was frivolous, vexatious, or groundless.

17 **SECTION 2. Act subject to petition - effective date -**
18 **applicability.** (1) This act takes effect at 12:01 a.m. on the day following
19 the expiration of the ninety-day period after final adjournment of the
20 general assembly (August 9, 2017, if adjournment sine die is on May 10,
21 2017); except that, if a referendum petition is filed pursuant to section 1
22 (3) of article V of the state constitution against this act or an item, section,
23 or part of this act within such period, then the act, item, section, or part
24 will not take effect unless approved by the people at the general election
25 to be held in November 2018 and, in such case, will take effect on the
26 date of the official declaration of the vote thereon by the governor.

27 (2) This act applies to requests for inspections of public records
28 submitted on or after the applicable effective date of this act."

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