

**First Regular Session
Seventieth General Assembly
STATE OF COLORADO**

INTRODUCED

LLS NO. 15-1118.01 Bart Miller

SENATE BILL 15-275

SENATE SPONSORSHIP

Lambert and Carroll, Cadman, Scheffel, Steadman

HOUSE SPONSORSHIP

Hullinghorst and Young, DelGrosso

Senate Committees

Local Government

House Committees

A BILL FOR AN ACT

101 **CONCERNING PROTECTIONS FOR INFORMATION GIVEN TO MEMBERS OF**
102 **THE GENERAL ASSEMBLY IN THE COURSE OF OFFICIAL DUTIES.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

The bill recognizes that members of the general assembly may need to receive confidential information during the course of their official duties in making decisions and voting on legislation with respect to all areas of state government. The bill encourages members of the general assembly to use this confidential information when it is necessary for carrying out official duties. Because of the general assembly's oversight

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

over the health care system in Colorado, the bill specifically directs the governor and state agencies to consider the general assembly and its members a health oversight agency under federal law when any member of the general assembly receives individually identifiable health information. The bill requires members of the general assembly that receive confidential information, including individually identifiable health information, to keep the information confidential and only use it as necessary for the consideration of official actions of the general assembly.

The bill changes the Colorado whistleblower protection law to protect state employees from retaliatory disciplinary action when they give information to members of the general assembly. The bill specifies that if a state employee gives confidential information to a member of the general assembly, the member of the general assembly shall keep that information confidential and not make it available for public inspection.

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

2 **SECTION 1.** In Colorado Revised Statutes, **add** 2-2-315.5 as
3 follows:

4 **2-2-315.5. Receipt of confidential information by members of**
5 **the general assembly.** THE GENERAL ASSEMBLY FINDS AND DETERMINES
6 THAT, IN THE COURSE OF THE LEGISLATIVE PROCESS AND THE MEMBERS'
7 OFFICIAL DUTIES, IT MAY BE NECESSARY FOR MEMBERS OF THE GENERAL
8 ASSEMBLY TO BE GIVEN INFORMATION THAT IS CONFIDENTIAL UNDER
9 STATE STATUTE, FEDERAL STATUTE, STATE OR FEDERAL ADMINISTRATIVE
10 RULE, OR A RULE OF THE STATE OR FEDERAL COURTS. BECAUSE THIS
11 INFORMATION IS BENEFICIAL TO MEMBERS OF THE GENERAL ASSEMBLY IN
12 MAKING LEGISLATIVE DECISIONS AND VOTING ON LEGISLATION WITH
13 RESPECT TO ALL AREAS OF STATE GOVERNMENT, MEMBERS OF THE
14 GENERAL ASSEMBLY ARE ENCOURAGED TO USE CONFIDENTIAL
15 INFORMATION WHEN IT IS NECESSARY FOR CARRYING OUT OFFICIAL
16 DUTIES. BECAUSE THE GENERAL ASSEMBLY HAS GENERAL OVERSIGHT

1 OVER THE HEALTH CARE SYSTEM IN COLORADO, THE GENERAL ASSEMBLY
2 DECLARES THAT THE GOVERNOR AND ALL STATE AGENCIES SHALL
3 CONSIDER THE GENERAL ASSEMBLY AND ITS MEMBERS A HEALTH
4 OVERSIGHT AGENCY UNDER THE FEDERAL "HEALTH INSURANCE
5 PORTABILITY AND ACCOUNTABILITY ACT OF 1996", PUB. L. 104-191, 42
6 U.S.C. SEC. 1320 (d) to 1320 (d) (8), WHEN ANY MEMBER OF THE GENERAL
7 ASSEMBLY RECEIVES ANY INDIVIDUALLY IDENTIFIABLE HEALTH
8 INFORMATION. WHEN ANY MEMBER OF THE GENERAL ASSEMBLY RECEIVES
9 ANY CONFIDENTIAL INFORMATION, INCLUDING INDIVIDUALLY
10 IDENTIFIABLE HEALTH INFORMATION, THIS INFORMATION WILL BE KEPT
11 CONFIDENTIAL AND USED ONLY FOR OFFICIAL LEGISLATIVE PURPOSES
12 CONNECTED TO THE CONSIDERATION OF OFFICIAL ACTIONS OF THE
13 GENERAL ASSEMBLY.

14 **SECTION 2.** In Colorado Revised Statutes, 24-50.5-102, **amend**
15 (2) as follows:

16 **24-50.5-102. Definitions.** As used in this article, unless the
17 context otherwise requires:

18 (2) "Disclosure of information", EXCEPT AS AUTHORIZED UNDER
19 SECTION 24-50.5-103 (3), means the written provision of evidence to any
20 person, or the testimony before any committee of the general assembly,
21 regarding any action, policy, regulation, practice, or procedure, including
22 ~~but not limited to~~, the waste of public funds, abuse of authority, or
23 mismanagement of any state agency. "DISCLOSURE OF INFORMATION"
24 DOES NOT INCLUDE GIVING INFORMATION TO A MEMBER OF THE GENERAL
25 ASSEMBLY AS AUTHORIZED UNDER SECTION 24-50.5-103 (3).

26 **SECTION 3.** In Colorado Revised Statutes, 24-50.5-103, **amend**
27 (1) and **add** (3) as follows:

1 **24-50.5-103. Retaliation prohibited.** (1) Except as provided in
2 subsection (2) of this section, no appointing authority or supervisor shall
3 initiate or administer any disciplinary action against an employee on
4 account of the employee's disclosure of information. ~~This section shall~~
5 ~~not apply to:~~

6 ~~(a) An employee who discloses information that he knows to be~~
7 ~~false or who discloses information with disregard for the truth or falsity~~
8 ~~thereof;~~

9 ~~(b) An employee who discloses information from public records~~
10 ~~which are closed to public inspection pursuant to section 24-72-204;~~

11 ~~(c) An employee who discloses information which is confidential~~
12 ~~under any other provision of law.~~

13 (3) NOTWITHSTANDING SUBSECTIONS (1) AND (2) OF THIS SECTION,
14 AN EMPLOYEE MAY GIVE ANY INFORMATION TO A MEMBER OF THE
15 GENERAL ASSEMBLY. IF AN EMPLOYEE GIVES ANY INFORMATION TO A
16 MEMBER OF THE GENERAL ASSEMBLY THAT IS CONFIDENTIAL AND NOT
17 SUBJECT TO INSPECTION UNDER THE "COLORADO OPEN RECORDS ACT",
18 PART 2 OF ARTICLE 72 OF TITLE 24, C.R.S., THE MEMBER OF THE GENERAL
19 ASSEMBLY SHALL, IF REQUESTED TO PERMIT PUBLIC INSPECTION, DENY
20 PUBLIC INSPECTION OF THAT INFORMATION. IF AN EMPLOYEE GIVES
21 INFORMATION TO A MEMBER OF THE GENERAL ASSEMBLY, NO APPOINTING
22 AUTHORITY OR SUPERVISOR SHALL INITIATE OR ADMINISTER ANY
23 DISCIPLINARY ACTION AGAINST THE EMPLOYEE ON ACCOUNT OF THE
24 EMPLOYEE'S GIVING THAT INFORMATION TO A MEMBER OF THE GENERAL
25 ASSEMBLY. AN EMPLOYEE'S GIVING INFORMATION TO A MEMBER OF THE
26 GENERAL ASSEMBLY DOES NOT CONSTITUTE THE "DISCLOSURE OF
27 INFORMATION", AS DEFINED IN SECTION 24-50.5-102.

1 **SECTION 4. Effective date - applicability.** This act takes effect
2 upon passage and applies to any information given and to any state
3 employee that has given or gives information to a member of the general
4 assembly before or on or after said date.

5 **SECTION 5. Safety clause.** The general assembly hereby finds,
6 determines, and declares that this act is necessary for the immediate
7 preservation of the public peace, health, and safety.