



Mayor
John Gates

Councilmembers

Jonathan Smail
Ward I

Brett Payton
Ward II

Michael Fitzsimmons
Ward III

Dale Hall
Ward IV

Stacy Suniga
At-Large

Robb Casseday
At-Large

A City Achieving
Community Excellence

Greeley promotes a healthy, diverse economy and high quality of life responsive to all its residents and neighborhoods, thoughtfully managing its human and natural resources in a manner that creates and sustains a safe, unique, vibrant and rewarding community in which to live, work, and play.

City Council Worksession Agenda

June 25, 2019 at 5:00 PM

1001 11th Avenue, City Center South, Greeley, CO 80631

1. Call to Order
2. Pledge of Allegiance
3. Roll Call
4. Water & Sewer Board Interviews (5:00 – 5:30 p.m.)
Betsy Holder, City Clerk
5. Fee waivers related to Open Records Requests and Criminal Justice Records Requests (5:30 – 6:00 p.m.)
Betsy Holder, City Clerk
Mark Jones, Police Chief
6. 2019 Legislative Update (6:00 – 6:30 p.m.)
Doug Marek, City Attorney
7. Scheduling of Meetings, Other Events
Roy Otto, City Manager
8. Adjournment

Worksession Agenda Summary

June 25, 2019

Agenda Item Number 1

Title:

Call to Order

Worksession Agenda Summary

June 25, 2019

Agenda Item Number 2

Title:

Pledge of Allegiance

Worksession Agenda Summary

June 25, 2019

Agenda Item Number 3

Title:

Roll Call:

1. Mayor Gates
2. Councilmember Smail
3. Councilmember Payton
4. Councilmember Casseday
5. Councilmember Fitzsimmons
6. Councilmember Suniga
7. Councilmember Hall

Worksession Agenda Summary

June 25, 2019 (5:00 – 5:30 p.m.)

Agenda Item Number 4

Betsy Holder, City Clerk, 970-350-9742

Title:

Water & Sewer Board Interviews

Background:

Water & Sewer Board members Fred Otis and Manuel Sisneros both have terms that are set to expire at the end of June 2019. Applications for these two positions were accepted through June 16, 2019. Council will vote to appoint these two positions along with other Boards & Commissions positions at the July 2, 2019, Council meeting.

Decision Options:

To conduct interviews

Attachments:

Water & Sewer Board Applications

Jerry Harvey

From: [REDACTED]
Sent: Wednesday, May 29, 2019 5:08 PM
To: Aubrey Roark; Jerry Harvey
Subject: [EXTERNAL] B&C Application | Fred Otis

Name

Fred Otis

Phone

[REDACTED]

Email

[REDACTED]

Address

[REDACTED]
[REDACTED]
[REDACTED]

[Map It](#)

Occupation

Lawyer

Employer

Otis & Bedingfield, LLC

How did you hear about Greeley Boards and Commissions?

I have served on the Water and Sewer Board since 2005.

Board or Commission Information

Select a choice. If you would like to apply for more than one commission, you will have to submit additional applications.

Water and Sewer Board

Previous Service

If you have previously served on a board or commission, please select it below

Water and Sewer Board

If you are currently serving, do you plan to

Continue to serve on my current board or commission

Applicant Information

Please explain why you are seeking appointment to the board or commission you have applied for

I have been a Water and Sewer Board Member since 2005 and am applying for reappointment. Serving on the Board for the past fourteen (14) years has been both educational and challenging. Even with experience in water law as a part of my real estate law practice, learning the various facets of the job has taken some time—we learn something new every month in our efforts to meet the challenges of meeting the needs of Greeley. The current citizens of Greeley have a great inheritance in the form of our water assets and distribution system as well as our state-of-the-art sewer system.

The Board is currently in the process of making some critical decision that effect Greeley's water future and I would like to be involved in making those decisions and making sure Greeley is as well served with its water and sewer needs in the next 50 years as it has been over the past 120 years. The Board has embarked on many projects that I would like to help conclude including the Bellvue Pipeline Project and enhancing the water portfolio. Protection of our assets, continued acquisition of water, and conservation of existing resources are important to preserving our legacy.

I feel my experience as an existing member of the Water & Sewer Board, being a real estate lawyer with 43 years of experience, being a former Greeley Municipal Judge and an interested participant in the community, including the Poudre Trail Corridor Board, Rotary, United Way and the Community Foundation, have uniquely qualified me to serve on the Board. Having benefitted by the legacy handed to us by growing up in Greeley and living here most of my adult life motivates me to want to continue to serve and make sure that our future is protected.

Please list any training, experience, education, skills that you believe would enhance your ability to serve on the board or commission you are interested in.

I will email a resume to Jerry Harvey that i would like to have included with this application.

Demographics

Race or Ethnicity

White

Gender

Male

Submission

Full Name

Fred L. Otis

Date

05/29/2019

CAUTION: This email is from an external source. Ensure you trust this sender before clicking on any links or attachments.

Jerry Harvey

From: [REDACTED]
Sent: Wednesday, June 12, 2019 7:37 AM
To: Aubrey Roark; Jerry Harvey
Subject: [EXTERNAL] B&C Application | William (Jack) Schneider

Name

William (Jack) Schneider

Phone

[REDACTED]

Email

[REDACTED]

Address

[REDACTED]
[REDACTED]
[REDACTED]

[Map It](#)

Occupation

Indépendant Real Estate Broker, Land Development Consultant

Employer

self

How did you hear about Greeley Boards and Commissions?

on line

Board or Commission Information

Select a choice. If you would like to apply for more than one commission, you will have to submit additional applications.

Water and Sewer Board

Previous Service

If you have previously served on a board or commission, please select it below

Stormwater Board

Applicant Information

Please explain why you are seeking appointment to the board or commission you have applied for

I am seeking this appointment to the Water and Sewer Board because I would like to assist the Board and the City of Greeley improve the water conservation program and to help them develop a practical model to encourage subdivision development utilizing all of the Board's past water acquisitions. My lifetime of involvement in the application and use of raw water rights for irrigation to dedication to cities for municipal uses could be very useful. I am at a point in my career that I have time to dedicate to such an adventure and would find it very gratifying to be part of such a team.

Please list any training, experience, education, skills that you believe would enhance your ability to serve on the board or commission you are interested in.

Have attended Water and Sewer Board meetings off and on over the past several years and understand the responsibilities and duties of the board members. Have been on many public tours of the water and sewer facilities. My education includes establishing water requirements for most of the locally grown crops that was used in making accurate irrigation scheduling programs. Used that knowledge managing irrigation projects worldwide. Because of my education and experience it is possible be a contributing board member from day one.

Demographics

Race or Ethnicity

White

Gender

Male

Submission

Full Name

William John Schneider

Date

06/12/2019

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Jerry Harvey

From: [REDACTED]
Sent: Wednesday, May 29, 2019 4:08 PM
To: Aubrey Roark; Jerry Harvey
Subject: [EXTERNAL] B&C Application | Manuel Sisneros

Name

Manuel Sisneros

Phone

[REDACTED]

Email

[REDACTED]

Address

[REDACTED]
[REDACTED]

[Map It](#)

Occupation

Retired

Employer

Retired

How did you hear about Greeley Boards and Commissions?

Currently serve on Greeley Water and Sewer Board

Board or Commission Information

Select a choice. If you would like to apply for more than one commission, you will have to submit additional applications.

Water and Sewer Board

Previous Service

If you have previously served on a board or commission, please select it below

Water and Sewer Board

If you are currently serving, do you plan to

Continue to serve on my current board or commission

Applicant Information

Please explain why you are seeking appointment to the board or commission you have applied for

To continue working on current Water and Sewer Board projects.

Please list any training, experience, education, skills that you believe would enhance your ability to serve on the board or commission you are interested in.

5 years experience serving on the current Greeley Water and Sewer Board. Successfully completed nine month Water Literate Leaders of Northern Colorado program in 2019.

Demographics
Race or Ethnicity
Hispanic or Latino
Gender
Male
Submission
Full Name
Manuel John Sisneros
Date
05/29/2019

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Worksession Agenda Summary

June 25, 2019 (5:30 – 6:00 p.m.)

Agenda Item Number 5

Betsy Holder, City Clerk 970-350-9742 and Mark Jones, Police Chief, 970-350-9665

Title:

Fee waivers related to Open Records Requests and Criminal Justice Records Requests

Background:

At the June 4th Council Meeting under Citizen Input, a member of the community asked that City Council consider waiving fees for City records requested if the records were in the public's interest to disclose. Although this request specifically involved criminal justice records, information is being provided about the process and fees involved in requesting records according to CORA and CCJRA (the Colorado Open Records Act and the Colorado Criminal Justice Records Act).

CORA and CCJRA are two distinct parts of the Colorado Statutes although both relate to the procedural details of providing City records. There are differences in the types of records each regulates and differences in the authority for a fee structure.

CORA is often referenced as the umbrella law for all records “open to the public.” But, in fact, it does not regulate the release of criminal justice records – which can be broadly described as police incident reports and court case files. CORA generally covers all other records.

The City complies with these two State laws. With regard to CORA, an administrative policy was adopted to explain the provisions of CORA, standardize procedures for City departments, and include a fee schedule. With regard to CCJRA, the State law is followed and City Council adopted a Resolution to approve a fee schedule.

The fees help recover the actual costs of the specific service. A benefit of charging fees for services is to lessen the burden on the general taxpayer by assigning the cost of the service to the actual user.

With regard to fees, CORA requires that the first hour of research and retrieval for records is free of charge and cannot exceed \$30.00 per hour for subsequent staff time. Paper copies are capped at \$.25 per standard page. The CORA policy and fee schedule are approved administratively by

the City Manager.

CCJRA caps paper copies to \$.25 per standard page, allows reasonable fees not to exceed actual costs of search, retrieval, and redaction of criminal justice records. The CCJRA fee schedule is required to be adopted by Council.

Most requests for CORA-related records are routine and fall within the first, free hour of staff investment to research and retrieve. Requests with a higher volume of records and involve multiple locations, can take as little as a couple hours to fulfill and as much as 25 hours or more.

CCJRA-related records most often have a high level of complexity with mixed confidentiality elements requiring staff review and redaction. Certain items must be redacted prior to the release of official police records. These include the names of juveniles, the names of sexual assault victims, and medical information. Staff in the Greeley-Weld Records Division regularly receive training on best practices with regard to the retention and regulation of criminal justice records. This includes trainings regarding redaction and the collection of fees.

Both CORA and CCJRA provide that fees may be waived at the discretion of the City. Greeley's practice is to not waive fees and apply the fees consistently to all. Some cities list scenarios in which fee waivers are granted and include reasons such as information exchange with peer agencies or academic research, which makes a decision about granting a waiver objective. "In the public's interest," could be more difficult to delineate and apply.

In reviewing the CORA-related records requests for the past two years, all those requesting a fee waiver cited "in the public's interest" as the purpose. These were from media sources, advocacy groups, and public information clearinghouses. Fee waivers for CCJRA-related records requests are most often from media sources, advocacy groups and researchers. Greeley-Weld Records has a general policy of waiving fees for crime victims.

Decision Options:

For discussion and any desired changes related to fee waivers.

Attachments:

CORA

CCJRA

Greeley's CORA Policy and fee schedule

CCJRA fee schedule

Colorado Revised Statutes 2018

TITLE 24

GOVERNMENT - STATE

ARTICLE 72

Public Records

PART 2

INSPECTION, COPYING, OR PHOTOGRAPHING

Cross references: For provisions concerning the distribution of reports of agencies pursuant to the "Information Coordination Act", see § 24-1-136; for provisions concerning access to records pursuant to federal law, see the "Freedom of Information Act", 5 U.S.C. § 552.

Law reviews: For article, "'Columbine' and Colorado's Records Acts", see 45 Colo. Law. 45 (Sept. 2016).

24-72-200.1. Short title. Part 2 of this article shall be known and may be cited as the "Colorado Open Records Act" or "CORA".

Source: L. 2009: Entire section added, (SB 09-292), ch. 369, p. 1969, § 79, effective August 5.

24-72-201. Legislative declaration. It is declared to be the public policy of this state that all public records shall be open for inspection by any person at reasonable times, except as provided in this part 2 or as otherwise specifically provided by law.

Source: L. 68: p. 201, § 1. **C.R.S. 1963:** § 113-2-1.

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

(1) "Correspondence" means a communication that is sent to or received by one or more specifically identified individuals and that is or can be produced in written form, including, without limitation:

- (a) Communications sent via U.S. mail;
- (b) Communications sent via private courier;
- (c) Communications sent via electronic mail.

(1.1) "Custodian" means and includes the official custodian or any authorized person having personal custody and control of the public records in question.

(1.2) "Electronic mail" means an electronic message that is transmitted between two or more computers or electronic terminals, whether or not the message is converted to hard copy format after receipt and whether or not the message is viewed upon transmission or stored for later retrieval. "Electronic mail" includes electronic messages that are transmitted through a local, regional, or global computer network.

(1.3) "Executive position" means any nonelective employment position with a state agency, institution, or political subdivision, except employment positions in the state personnel system or employment positions in a classified system or civil service system of an institution or political subdivision.

(1.5) "Institution" includes but is not limited to every state institution of higher education, whether established by the state constitution or by law, and every governing board thereof. In particular, the term includes the university of Colorado, the regents thereof, and any other state institution of higher education or governing board referred to by the provisions of section 5 of article VIII of the state constitution.

(1.6) "Institutionally related foundation" means a nonprofit corporation, foundation, institute, or similar entity that is organized for the benefit of one or more institutions and that has as its principal purpose receiving or using private donations to be held or used for the benefit of an institution. An institutionally related foundation shall be deemed not to be a governmental body, agency, or other public body for any purpose.

(1.7) "Institutionally related health care foundation" means a nonprofit corporation, foundation, institute, or similar entity that is organized for the benefit of one or more institutions and that has as its principal purpose receiving or using private donations to be held or used for medical or health care related programs or services at an institution. An institutionally related health care foundation shall be deemed not to be a governmental body, agency, or other public body for any purpose.

(1.8) "Institutionally related real estate foundation" means a nonprofit corporation, foundation, institute, or similar entity that is organized for the benefit of one or more institutions and that has as its principal purpose receiving or using private donations to be held or used for the acquisition, development, financing, leasing, or disposition of real property for the benefit of an institution. An institutionally related real estate foundation shall be deemed not to be a governmental body, agency, or other public body for any purpose.

(1.9) "Local government-financed entity" shall have the same meaning as provided in section 29-1-901 (1), C.R.S.

(2) "Official custodian" means and includes any officer or employee of the state, of any agency, institution, or political subdivision of the state, of any institutionally related foundation, of any institutionally related health care foundation, of any institutionally related real estate foundation, or of any local government-financed entity, who is responsible for the maintenance, care, and keeping of public records, regardless of whether the records are in his or her actual personal custody and control.

(3) "Person" means and includes any natural person, including any public employee and any elected or appointed public official acting in an official or personal capacity, and any corporation, limited liability company, partnership, firm, or association.

(4) "Person in interest" means and includes the person who is the subject of a record or any representative designated by said person; except that, if the subject of the record is under

legal disability, "person in interest" means and includes his parent or duly appointed legal representative.

(4.5) "Personnel files" means and includes home addresses, telephone numbers, financial information, and other information maintained because of the employer-employee relationship, and other documents specifically exempt from disclosure under this part 2 or any other provision of law. "Personnel files" does not include applications of past or current employees, employment agreements, any amount paid or benefit provided incident to termination of employment, performance ratings, final sabbatical reports required under section 23-5-123, C.R.S., or any compensation, including expense allowances and benefits, paid to employees by the state, its agencies, institutions, or political subdivisions.

(5) "Political subdivision" means and includes every county, city and county, city, town, school district, special district, public highway authority, regional transportation authority, and housing authority within this state.

(6) (a) (I) "Public records" means and includes all writings made, maintained, or kept by the state, any agency, institution, a nonprofit corporation incorporated pursuant to section 23-5-121 (2), C.R.S., or political subdivision of the state, or that are described in section 29-1-902, C.R.S., and held by any local-government-financed entity for use in the exercise of functions required or authorized by law or administrative rule or involving the receipt or expenditure of public funds.

(II) "Public records" includes the correspondence of elected officials, except to the extent that such correspondence is:

(A) Work product;

(B) Without a demonstrable connection to the exercise of functions required or authorized by law or administrative rule and does not involve the receipt or expenditure of public funds;

(C) A communication from a constituent to an elected official that clearly implies by its nature or content that the constituent expects that it is confidential or that is communicated for the purpose of requesting that the elected official render assistance or information relating to a personal and private matter that is not publicly known affecting the constituent or a communication from the elected official in response to such a communication from a constituent; or

(D) Subject to nondisclosure as required in section 24-72-204 (1).

(III) The acceptance by a public official or employee of compensation for services rendered, or the use by such official or employee of publicly owned equipment or supplies, shall not be construed to convert a writing that is not otherwise a "public record" into a "public record".

(IV) "Public records" means, except as provided in subparagraphs (VIII) and (IX) of paragraph (b) of this subsection (6), for an institutionally related foundation, an institutionally related health care foundation, or an institutionally related real estate foundation, all writings relating to the requests for disbursement or expenditure of funds, the approval or denial of requests for disbursement or expenditure of funds, or the disbursement or expenditure of funds, by the institutionally related foundation, the institutionally related health care foundation, or the institutionally related real estate foundation, to, on behalf of, or for the benefit of the institution or any employee of the institution. For purposes of this subparagraph (IV), "expenditure" shall be defined in accordance with generally accepted accounting principles.

- (b) "Public records" does not include:
- (I) Criminal justice records that are subject to the provisions of part 3 of this article;
 - (II) Work product prepared for elected officials. However, elected officials may release, or authorize the release of, all or any part of work product prepared for them.
 - (III) Data, information, and records relating to collegeinvest programs pursuant to sections 23-3.1-225 and 23-3.1-307.5, C.R.S., as follows:
 - (A) Data, information, and records relating to individual purchasers and qualified beneficiaries of advance payment contracts under the prepaid expense trust fund and the prepaid expense program, including any records that reveal personally identifiable information about such individuals;
 - (B) Data, information, and records, including medical records, relating to designated beneficiaries of and individual contributors to an individual trust account or savings account under the savings programs established pursuant to part 3 of article 3.1 of title 23, C.R.S., including any records that reveal personally identifiable information about such individuals;
 - (C) Trade secrets and proprietary information regarding software, including programs and source codes, utilized or owned by collegeinvest; and
 - (D) Marketing plans and the results of market surveys conducted by collegeinvest.
 - (IV) Materials received, made, or kept by a crime victim compensation board or a district attorney that are confidential pursuant to the provisions of section 24-4.1-107.5.
 - (V) Notification of a possible nonaccidental fire loss or fraudulent insurance act given to an authorized agency pursuant to section 10-4-1003 (1), C.R.S.
 - (VI) For purposes of an institutionally related foundation, any documents, agreements, or other records or information other than the writings relating to the financial expenditure records specified in subparagraph (IV) of paragraph (a) of this subsection (6).
 - (VII) For purposes of an institution or an institutionally related foundation:
 - (A) The identity of, or records or information identifying or leading to the identification of, any donor or prospective donor to an institution or an institutionally related foundation;
 - (B) The amount of any actual or prospective gift or donation from a donor or prospective donor to an institutionally related foundation;
 - (C) Proprietary fundraising information of an institution or an institutionally related foundation; or
 - (D) Agreements or other documents relating to gifts or donations or prospective gifts or donations to an institution or an institutionally related foundation from a donor or prospective donor.
 - (VIII) For purposes of an institutionally related health care foundation, expenditures by an institutionally related health care foundation to an institution for medical or health care related programs or services;
 - (IX) For purposes of an institutionally related real estate foundation, prior to the completion of any transaction for the acquisition, development, financing, leasing, or disposition of real property, all writings relating to such transaction;
 - (X) The information security plan of a public agency developed pursuant to section 24-37.5-404 or of an institution of higher education developed pursuant to section 24-37.5-404.5;
 - (XI) Information security incident reports prepared pursuant to section 24-37.5-404 (2)(e) or 24-37.5-404.5 (2)(e);

(XII) Information security audit and assessment reports prepared pursuant to section 24-37.5-403 (2)(d) or 24-37.5-404.5 (2)(d); or

(XIII) The information provided to the state medical marijuana licensing authority pursuant to section 25-1.5-106 (7)(e), C.R.S.

(6.5) (a) "Work product" means and includes all intra- or inter-agency advisory or deliberative materials assembled for the benefit of elected officials, which materials express an opinion or are deliberative in nature and are communicated for the purpose of assisting such elected officials in reaching a decision within the scope of their authority. Such materials include, but are not limited to:

(I) Notes and memoranda that relate to or serve as background information for such decisions;

(II) Preliminary drafts and discussion copies of documents that express a decision by an elected official.

(b) "Work product" also includes:

(I) All documents relating to the drafting of bills or amendments, pursuant to section 2-3-304 (1) or 2-3-505 (2)(b), C.R.S., but it does not include the final version of documents prepared or assembled pursuant to section 2-3-505 (2)(c), C.R.S.;

(II) All documents prepared or assembled by a member of the general assembly relating to the drafting of bills or amendments;

(III) All documents prepared by or submitted to any legislative staff in connection with assisting a member of the general assembly in responding to the correspondence from a constituent when such correspondence is not a public record of an elected official as provided for in subsection (6) of this section;

(IV) All documents and all research projects conducted by staff of legislative council pursuant to section 2-3-304 (1), C.R.S., if the research is requested by a member of the general assembly and identified by the member as being in connection with pending or proposed legislation or amendments thereto. However, the final product of any such research project shall become a public record unless the member specifically requests that it remain work product. In addition, if such a research project is requested by a member of the general assembly and the project is not identified as being in connection with pending or proposed legislation or amendments thereto, the final product shall become a public record.

(c) "Work product" does not include:

(I) Any final version of a document that expresses a final decision by an elected official;

(II) Any final version of a fiscal or performance audit report or similar document the purpose of which is to investigate, track, or account for the operation or management of a public entity or the expenditure of public money, together with the final version of any supporting material attached to such final report or document;

(III) Any final accounting or final financial record or report;

(IV) Any materials that would otherwise constitute work product if such materials are produced and distributed to the members of a public body for their use or consideration in a public meeting or cited and identified in the text of the final version of a document that expresses a decision by an elected official.

(d) (I) In addition, "work product" does not include any final version of a document prepared or assembled for an elected official that consists solely of factual information compiled

from public sources. The final version of such a document shall be a public record. These documents include, but are not limited to:

(A) Comparisons of existing laws, ordinances, rules, or regulations with the provisions of any bill, amendment, or proposed law, ordinance, rule, or regulation; comparisons of any bills, amendments, or proposed laws, ordinances, rules, or regulations with other bills, amendments, or proposed laws, ordinances, rules, or regulations; comparisons of different versions of bills, amendments, or proposed laws, ordinances, rules, or regulations; and comparisons of the laws, ordinances, rules, or regulations of the jurisdiction of the elected official with the laws, ordinances, rules, or regulations of other jurisdictions;

(B) Compilations of existing public information, statistics, or data;

(C) Compilations or explanations of general areas or bodies of law, ordinances, rules, or regulations, legislative history, or legislative policy.

(II) This paragraph (d) shall not apply to documents prepared or assembled for members of the general assembly pursuant to paragraph (b) of this subsection (6.5).

(7) "Writings" means and includes all books, papers, maps, photographs, cards, tapes, recordings, or other documentary materials, regardless of physical form or characteristics. "Writings" includes digitally stored data, including without limitation electronic mail messages, but does not include computer software.

(8) For purposes of subsections (6) and (6.5) of this section and sections 24-72-203 (2)(b) and 24-6-402 (2)(d)(III), the members of the Colorado reapportionment commission shall be considered elected officials.

Source: **L. 68:** p. 201, § 2. **C.R.S. 1963:** § 113-2-2. **L. 77:** (6) amended, p. 1250, § 2, effective December 31. **L. 85:** (1.5) added, p. 867, § 1, effective June 6. **L. 90:** (3) amended, p. 449, § 21, effective April 18. **L. 91:** (5) amended, p. 726, § 3, effective April 20. **L. 92:** (4.5) added and (7) amended, p. 1103, § 2, effective July 1. **L. 94:** (1.3) added, p. 936, § 1, effective April 28; (4.5) amended, p. 832, § 2, effective April 28. **L. 96:** (1.7) added and (2) and (6) amended, p. 141, § 2, effective April 8; (1), (6), and (7) amended and (1.1), (1.2), and (6.5) added, p. 1480, § 4, effective June 1. **L. 97:** (6)(b)(II) and (6.5)(b) amended and (6.5)(d) added, p. 1104, §§ 2, 3, effective August 6. **L. 98:** (6)(b)(III) added, p. 213, § 3, effective August 5. **L. 99:** (6.5)(c)(IV) amended, p. 205, § 2, effective March 31. **L. 2000:** (6)(b)(III) amended, p. 223, § 4, effective March 29; (6)(b)(IV) added, p. 243, § 8, effective March 29; (6)(a)(I) amended, p. 415, § 6, effective April 13; (6)(b)(V) added, p. 1736, § 4, effective June 1. **L. 2001:** (8) added, p. 1075, § 4, effective August 8. **L. 2002:** (3) amended, p. 643, § 2, effective May 24; (5) amended, p. 402, § 3, effective August 7. **L. 2004:** (6)(b)(III) amended, p. 575, § 33, effective July 1. **L. 2005:** (1.6), (1.8), (1.9), (6)(a)(IV), (6)(b)(VI), (6)(b)(VII), (6)(b)(VIII), and (6)(b)(IX) added and (2) amended, pp. 530, 531, §§ 1, 2, 3, effective May 24; (5) amended, p. 1068, § 15, effective January 1, 2006. **L. 2006:** (1.7), (1.8), and (1.9) amended, p. 1503, § 43, effective June 1; (6)(b)(X), (6)(b)(XI), and (6)(b)(XII) added, p. 1719, § 2, effective June 6. **L. 2007:** (6)(b)(X), (6)(b)(XI), and (6)(b)(XII) amended, p. 917, § 16, effective May 17. **L. 2009:** (6)(a)(II)(C) and (6.5)(b) amended, (HB 09-1348), ch. 358, p. 1864, § 3, effective June 1. **L. 2010:** (6)(b)(XI) and (6)(b)(XII) amended and (6)(b)(XIII) added, (HB 10-1284), ch. 355, p. 1687, § 13, effective July 1. **L. 2011:** (6)(b)(X) amended, (SB 11-062), ch. 128, p. 435, § 18, effective April 22; (6)(b)(XIII) amended, (HB 11-1043), ch. 266, p. 1211, § 18, effective July 1. **L. 2015:** (6)(b)(III)(B) amended, (HB 15-1359), ch. 269, p. 1055, § 15, effective June 3.

Editor's note: Amendments to subsection (6) by House Bill 96-1029 and Senate Bill 96-212 were harmonized.

Cross references: (1) For the legislative declaration contained in the 1996 act amending subsections (1), (6), and (7) and enacting subsections (1.1), (1.2), and (6.5), see section 1 of chapter 271, Session Laws of Colorado 1996.

(2) For the legislative declaration contained in the 2002 act amending subsection (3), see section 1 of chapter 187, Session Laws of Colorado 2002.

(3) For the legislative declaration contained in the 2005 act amending subsection (5), see section 1 of chapter 269, Session Laws of Colorado 2005.

24-72-203. Public records open to inspection. (1) (a) All public records shall be open for inspection by any person at reasonable times, except as provided in this part 2 or as otherwise provided by law, but the official custodian of any public records may make such rules with reference to the inspection of such records as are reasonably necessary for the protection of such records and the prevention of unnecessary interference with the regular discharge of the duties of the custodian or the custodian's office.

(b) Where public records are kept only in miniaturized or digital form, whether on magnetic or optical disks, tapes, microfilm, microfiche, or otherwise, the official custodian shall:

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

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

(2) (a) If the public records requested are not in the custody or control of the person to whom application is made, such person shall forthwith notify the applicant of this fact, in writing if requested by the applicant. In such notification, the person shall state in detail to the best of the person's knowledge and belief the reason for the absence of the records from the person's custody or control, the location of the records, and what person then has custody or control of the records.

(b) If an official custodian has custody of correspondence sent by or received by an elected official, the official custodian shall consult with the elected official prior to allowing inspection of the correspondence for the purpose of determining whether the correspondence is a public record.

(3) (a) If the public records requested are in the custody and control of the person to whom application is made but are in active use, in storage, or otherwise not readily available at the time an applicant asks to examine them, the custodian shall forthwith notify the applicant of this fact, in writing if requested by the applicant. If requested by the applicant, the custodian shall set a date and hour at which time the records will be available for inspection.

(b) The date and hour set for the inspection of records not readily available at the time of the request shall be within a reasonable time after the request. As used in this subsection (3), a "reasonable time" shall be presumed to be three working days or less. Such period may be extended if extenuating circumstances exist. However, such period of extension shall not exceed

seven working days. A finding that extenuating circumstances exist shall be made in writing by the custodian and shall be provided to the person making the request within the three-day period. Extenuating circumstances shall apply only when:

(I) A broadly stated request is made that encompasses all or substantially all of a large category of records and the request is without sufficient specificity to allow the custodian reasonably to prepare or gather the records within the three-day period; or

(II) A broadly stated request is made that encompasses all or substantially all of a large category of records and the agency is unable to prepare or gather the records within the three-day period because:

(A) The agency needs to devote all or substantially all of its resources to meeting an impending deadline or period of peak demand that is either unique or not predicted to recur more frequently than once a month; or

(B) In the case of the general assembly or its staff or service agencies, the general assembly is in session; or

(III) A request involves such a large volume of records that the custodian cannot reasonably prepare or gather the records within the three-day period without substantially interfering with the custodian's obligation to perform his or her other public service responsibilities.

(c) In no event can extenuating circumstances apply to a request that relates to a single, specifically identified document.

(3.5) (a) Except as otherwise required by subsection (3.5)(b) of this section:

(I) If a public record is stored in a digital format that is neither searchable nor sortable, the custodian shall provide a copy of the public record in a digital format.

(II) If a public record is stored in a digital format that is searchable but not sortable, the custodian shall provide a copy of the public record in a searchable format.

(III) If a public record is stored in a digital format that is sortable, the custodian shall provide a copy of the public record in a sortable format.

(b) A custodian is not required to produce a public record in a searchable or sortable format in accordance with subsection (3.5)(a) of this section if:

(I) Producing the record in the requested format would violate the terms of any copyright or licensing agreement between the custodian and a third party or result in the release of a third party's proprietary information; or

(II) After making reasonable inquiries, it is not technologically or practically feasible to permanently remove information that the custodian is required or allowed to withhold within the requested format, it is not technologically or practically feasible to provide a copy of the record in a searchable or sortable format, or if the custodian would be required to purchase software or create additional programming or functionality in its existing software to remove the information.

(c) If a custodian is not able to comply with a request to produce a public record that is subject to disclosure in a requested format specified in subsection (3.5)(a) of this section, the custodian shall produce the record in an alternate format or issue a denial under section 24-72-204 and shall provide a written declaration attesting to the reasons the custodian is not able to produce the record in the requested format. If a court subsequently rules the custodian should have provided the record in the requested format, attorney fees may be awarded only if the custodian's action was arbitrary or capricious.

(d) Altering an existing public record, or excising fields of information pursuant to this subsection (3.5) to remove information that the custodian is either required or permitted to withhold, does not constitute the creation of a new public record.

(e) Nothing in this subsection (3.5) relieves or mitigates the obligations of a custodian to produce a public record in a format accessible to individuals with disabilities in accordance with Title II of the federal "Americans with Disabilities Act of 1990", 42 U.S.C. sec. 12131 et. seq., and other federal or state laws.

(4) Nothing in this article shall preclude the state or any of its agencies, institutions, or political subdivisions from obtaining and enforcing trademark or copyright protection for any public record, and the state and its agencies, institutions, and political subdivisions are hereby specifically authorized to obtain and enforce such protection in accordance with the applicable federal law; except that this authorization shall not restrict public access to or fair use of copyrighted materials and shall not apply to writings which are merely lists or other compilations.

Source: L. 68: p. 202, § 3. C.R.S. 1963: § 113-2-3. L. 92: (4) added, p. 1104, § 3, effective July 1. L. 96: (1) to (3) amended, p. 1483, § 5, effective June 1. L. 99: IP(3)(b) amended and (3)(b)(III) added, p. 207, § 1, effective March 31. L. 2017: (3.5) added, (SB 17-040), ch. 286, p. 1582, § 1, effective August 9. L. 2018: IP(3.5)(b) and (3.5)(c) amended, (HB 18-1375), ch. 274, p. 1711, § 53, effective May 29.

Cross references: For the legislative declaration contained in the 1996 act amending subsections (1) to (3), see section 1 of chapter 271, Session Laws of Colorado 1996.

24-72-204. Allowance or denial of inspection - grounds - procedure - appeal - definitions - repeal. (1) The custodian of any public records shall allow any person the right of inspection of such records or any portion thereof except on one or more of the following grounds or as provided in subsection (2) or (3) of this section:

(a) Such inspection would be contrary to any state statute.

(b) Such inspection would be contrary to any federal statute or regulation issued thereunder having the force and effect of law.

(c) Such inspection is prohibited by rules promulgated by the supreme court or by the order of any court.

(d) Such inspection would be contrary to the requirements of any joint rule of the senate and the house of representatives pertaining to lobbying practices.

(2) (a) The custodian may deny the right of inspection of the following records, unless otherwise provided by law, on the ground that disclosure to the applicant would be contrary to the public interest:

(I) Any records of the investigations conducted by any sheriff, prosecuting attorney, or police department, any records of the intelligence information or security procedures of any sheriff, prosecuting attorney, or police department, or any investigatory files compiled for any other law enforcement purpose;

(II) Test questions, scoring keys, and other examination data pertaining to administration of a licensing examination, examination for employment, or academic examination; except that written promotional examinations and the scores or results thereof conducted pursuant to the

state personnel system or any similar system shall be available for inspection, but not copying or reproduction, by the person in interest after the conducting and grading of any such examination;

(III) The specific details of bona fide research projects being conducted by a state institution, including, without limitation, research projects undertaken by staff or service agencies of the general assembly or the office of the governor in connection with pending or anticipated legislation;

(IV) The contents of real estate appraisals made for the state or a political subdivision thereof relative to the acquisition of property or any interest in property for public use, until such time as title to the property or property interest has passed to the state or political subdivision; except that the contents of such appraisal shall be available to the owner of the property, if a condemning authority determines that it intends to acquire said property as provided in section 38-1-121, C.R.S., relating to eminent domain proceedings, but, in any case, the contents of such appraisal shall be available to the owner under this section no later than one year after the condemning authority receives said appraisal; and except as provided by the Colorado rules of civil procedure. If condemnation proceedings are instituted to acquire any such property, any owner of such property who has received the contents of any appraisal pursuant to this section shall, upon receipt thereof, make available to said state or political subdivision a copy of the contents of any appraisal which the owner has obtained relative to the proposed acquisition of the property.

(V) Any market analysis data generated by the department of transportation's bid analysis and management system for the confidential use of the department of transportation in awarding contracts for construction or for the purchase of goods or services and any records, documents, and automated systems prepared for the bid analysis and management system;

(VI) Records and information relating to the identification of persons filed with, maintained by, or prepared by the department of revenue pursuant to section 42-2-121, C.R.S.;

(VII) Electronic mail addresses provided by a person to an agency, institution, or political subdivision of the state for the purposes of future electronic communications to the person from the agency, institution, or political subdivision; and

(VIII) (A) Specialized details of either security arrangements or investigations or the physical and cyber assets of critical infrastructure, including the specific engineering, vulnerability, detailed design information, protective measures, emergency response plans, or system operational data of such assets that would be useful to a person in planning an attack on critical infrastructure but that does not simply provide the general location of such infrastructure. Nothing in this subsection (2)(a)(VIII) prohibits the custodian from transferring records containing specialized details of either security arrangements or investigations or the physical and cyber assets of critical infrastructure to the division of homeland security and emergency management in the department of public safety, the governing body of any city, county, city and county, or other political subdivision of the state, or any federal, state, or local law enforcement agency; except that the custodian shall not transfer any record received from a nongovernmental entity without the prior written consent of the entity unless such information is already publicly available.

(B) Records of the expenditure of public moneys on security arrangements or investigations, including contracts for security arrangements and records related to the procurement of, budgeting for, or expenditures on security systems, shall be open for inspection, except to the extent that they contain specialized details of security arrangements or

investigations. A custodian may deny the right of inspection of only the portions of a record described in this sub-subparagraph (B) that contain specialized details of security arrangements or investigations and shall allow inspection of the remaining portions of the record.

(C) If an official custodian has custody of a public record provided by another public entity, including the state or a political subdivision, that contains specialized details of security arrangements or investigations, the official custodian shall refer a request to inspect that public record to the official custodian of the public entity that provided the record and shall disclose to the person making the request the names of the public entity and its official custodian to which the request is referred.

(IX) (A) Any records of ongoing civil or administrative investigations conducted by the state or an agency of the state in furtherance of their statutory authority to protect the public health, welfare, or safety unless the investigation focuses on a person or persons inside of the investigative agency.

(B) Upon conclusion of a civil or administrative investigation that is closed because no further investigation, discipline, or other agency response is warranted, all records not exempt pursuant to any other law are open to inspection; except that the custodian may remove the name or other personal identifying or financial information of witnesses or targets of such closed investigations from investigative records prior to inspection.

(C) Notwithstanding any other provision of this subparagraph (IX), a record is not subject to withholding on the grounds that it is maintained or kept in a civil or administrative investigative file except pursuant to paragraph (a) of subsection (6) of this section if the record was publicly disclosed; was filed with an agency of the state by a regulated entity under a statutory, regulatory, or permit requirement; or was received from a governmental entity and would be available if requested directly from the transmitting entity.

(D) Nothing in this subparagraph (IX) prohibits an agency from disclosing information or materials during an open investigation if it is in the interest of public health, welfare, or safety.

(b) If the right of inspection of any record falling within any of the classifications listed in this subsection (2) is allowed to any officer or employee of any newspaper, radio station, television station, or other person or agency in the business of public dissemination of news or current events, it shall be allowed to all such news media.

(c) Notwithstanding any provision to the contrary in subparagraph (I) of paragraph (a) of this subsection (2), the custodian shall deny the right of inspection of any materials received, made, or kept by a crime victim compensation board or a district attorney that are confidential pursuant to the provisions of section 24-4.1-107.5.

(d) Notwithstanding any provision to the contrary in subparagraph (I) 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.

(e) Notwithstanding any provision to the contrary in subparagraph (I) of paragraph (a) of this subsection (2), the custodian shall deny the right of inspection of any materials received, made, or kept by the safe2tell program, as described in section 24-31-606.

(3) (a) The custodian shall deny the right of inspection of the following records, unless otherwise provided by law; except that any of the following records, other than letters of

reference concerning employment, licensing, or issuance of permits, shall be available to the person in interest pursuant to this subsection (3):

(I) Medical, mental health, sociological, and scholastic achievement data, and electronic health records, on individual persons, other than scholastic achievement data submitted as part of finalists' records as set forth in subsection (3)(a)(XI) of this section and exclusive of coroners' autopsy reports and group scholastic achievement data from which individuals cannot be identified; but either the custodian or the person in interest may request a professionally qualified person, who shall be furnished by the said custodian, to be present to interpret the records;

(II) (A) Personnel files; but such files shall be available to the person in interest and to the duly elected and appointed public officials who supervise such person's work.

(B) The provisions of this subparagraph (II) shall not be interpreted to prevent the public inspection or copying of any employment contract or any information regarding amounts paid or benefits provided under any settlement agreement pursuant to the provisions of article 19 of this title.

(III) Letters of reference;

(IV) Trade secrets, privileged information, and confidential commercial, financial, geological, or geophysical data, including a social security number unless disclosure of the number is required, permitted, or authorized by state or federal law, furnished by or obtained from any person;

(V) Library and museum material contributed by private persons, to the extent of any limitations placed thereon as conditions of such contributions;

(VI) Addresses and telephone numbers of students in any public elementary or secondary school;

(VII) Library records disclosing the identity of a user as prohibited by section 24-90-119;

(VIII) Repealed.

(IX) Names, addresses, telephone numbers, and personal financial information of past or present users of public utilities, public facilities, or recreational or cultural services that are owned and operated by the state, its agencies, institutions, or political subdivisions; except that nothing in this subparagraph (IX) shall prohibit the custodian of records from transmitting such data to any agent of an investigative branch of a federal agency or any criminal justice agency as defined in section 24-72-302 (3) that makes a request to the custodian to inspect such records and who asserts that the request for information is reasonably related to an investigation within the scope of the agency's authority and duties. Nothing in this subparagraph (IX) shall be construed to prohibit the publication of such information in an aggregate or statistical form so classified as to prevent the identification, location, or habits of individuals.

(X) (A) Any records of sexual harassment complaints and investigations, whether or not such records are maintained as part of a personnel file; except that, an administrative agency investigating the complaint may, upon a showing of necessity to the custodian of records, gain access to information necessary to the investigation of such a complaint. This sub-subparagraph (A) shall not apply to records of sexual harassment complaints and investigations that are included in court files and records of court proceedings. Disclosure of all or a part of any records of sexual harassment complaints and investigations to the person in interest is permissible to the extent that the disclosure can be made without permitting the identification, as a result of the

disclosure, of any individual involved. This sub-subparagraph (A) shall not preclude disclosure of all or part of the results of an investigation of the general employment policies and procedures of an agency, office, department, or division, to the extent that the disclosure can be made without permitting the identification, as a result of the disclosure, of any individual involved.

(B) A person in interest under this subparagraph (X) includes the person making a complaint and the person whose conduct is the subject of such a complaint.

(C) A person in interest may make a record maintained pursuant to this subparagraph (X) available for public inspection when such record supports the contention that a publicly reported, written, printed, or spoken allegation of sexual harassment against such person is false.

(D) This subsection (3)(a)(X) applies to the judicial department of state government. This subsection (3)(a)(X)(D) is repealed, effective May 1, 2021.

(XI) (A) Records submitted by or on behalf of an applicant or candidate for an executive position as defined in section 24-72-202 (1.3) who is not a finalist. For purposes of this subparagraph (XI), "finalist" means an applicant or candidate for an executive position as the chief executive officer of a state agency, institution, or political subdivision or agency thereof who is a member of the final group of applicants or candidates made public pursuant to section 24-6-402 (3.5), and if only three or fewer applicants or candidates for the chief executive officer position possess the minimum qualifications for the position, said applicants or candidates shall be considered finalists.

(B) The provisions of this subparagraph (XI) shall not be construed to prohibit the public inspection or copying of any records submitted by or on behalf of a finalist; except that letters of reference or medical, psychological, and sociological data concerning finalists shall not be made available for public inspection or copying.

(C) The provisions of this subparagraph (XI) shall apply to employment selection processes for all executive positions, including, but not limited to, selection processes conducted or assisted by private persons or firms at the request of a state agency, institution, or political subdivision.

(XII) Any record indicating that a person has obtained an identifying license plate or placard for persons with disabilities under section 42-3-204, C.R.S., or any other motor vehicle record that would reveal the presence of a disability;

(XIII) Records protected under the common law governmental or "deliberative process" privilege, if the material is so candid or personal that public disclosure is likely to stifle honest and frank discussion within the government, unless the privilege has been waived. The general assembly hereby finds and declares that in some circumstances, public disclosure of such records may cause substantial injury to the public interest. If any public record is withheld pursuant to this subparagraph (XIII), the custodian shall provide the applicant with a sworn statement specifically describing each document withheld, explaining why each such document is privileged, and why disclosure would cause substantial injury to the public interest. If the applicant so requests, the custodian shall apply to the district court for an order permitting him or her to restrict disclosure. The application shall be subject to the procedures and burden of proof provided for in subsection (6) of this section. All persons entitled to claim the privilege with respect to the records in issue shall be given notice of the proceedings and shall have the right to appear and be heard. In determining whether disclosure of the records would cause substantial injury to the public interest, the court shall weigh, based on the circumstances presented in the particular case, the public interest in honest and frank discussion within government and the

beneficial effects of public scrutiny upon the quality of governmental decision-making and public confidence therein.

(XIV) Veterinary medical data, information, and records on individual animals that are owned by private individuals or business entities, but are in the custody of a veterinary medical practice or hospital, including the veterinary teaching hospital at Colorado state university, that provides veterinary medical care and treatment to animals. A veterinary-patient-client privilege exists with respect to such data, information, and records only when a person in interest and a veterinarian enter into a mutual agreement to provide medical treatment for an individual animal and such person in interest maintains an ownership interest in such animal undergoing treatment. For purposes of this subparagraph (XIV), "person in interest" means the owner of an animal undergoing veterinary medical treatment or such owner's designated representative. Nothing in this subparagraph (XIV) shall prevent the state agricultural commission, the state agricultural commissioner, or the state board of veterinary medicine from exercising their investigatory and enforcement powers and duties granted pursuant to section 35-1-106 (1)(h), article 50 of title 35, and section 12-64-105 (9)(e), C.R.S., respectively. The veterinary-patient-client privilege described in this subparagraph (XIV), pursuant to section 12-64-121 (5), C.R.S., may not be asserted for the purpose of excluding or refusing evidence or testimony in a prosecution for an act of animal cruelty under section 18-9-202, C.R.S., or for an act of animal fighting under section 18-9-204, C.R.S.

(XV) Nominations submitted to a state institution of higher education for the awarding of honorary degrees, medals, and other honorary awards by the institution, proposals submitted to a state institution of higher education for the naming of a building or a portion of a building for a person or persons, and records submitted to a state institution of higher education in support of such nominations and proposals;

(XVI) (Deleted by amendment, L. 2003, p. 1636, § 1, effective May 2, 2003.)

(XVII) Repealed.

(XVIII) (A) Military records filed with a county clerk and recorder's office concerning a member of the military's separation from military service, including the form DD214 issued to a member of the military upon separation from service, that are restricted from public access pursuant to 5 U.S.C. sec. 552 (b)(6) and the requirements established by the national archives and records administration. Notwithstanding any other provision of this section, if the member of the military about whom the record concerns is deceased, the custodian shall allow the right of inspection to the member's parents, siblings, widow or widower, and children.

(B) On and after July 1, 2002, any county clerk and recorder that accepts for filing any military records described in sub-subparagraph (A) of this subparagraph (XVIII) shall maintain such military records in a manner that ensures that such records will not be available to the public for inspection except as provided in sub-subparagraph (A) of this subparagraph (XVIII).

(C) Nothing in this subparagraph (XVIII) shall prohibit a county clerk and recorder from taking appropriate protective actions with regard to records that were filed with or placed in storage by the county clerk and recorder prior to July 1, 2002, in accordance with any limitations determined necessary by the county clerk and recorder.

(D) The county clerk and recorder and any individual employed by the county clerk and recorder shall not be liable for any damages that may result from good faith compliance with the provisions of this part 2.

(XIX) (A) Except as provided in sub-subparagraph (C) of this subparagraph (XIX), applications for a marriage license submitted pursuant to section 14-2-106, C.R.S., and, except as provided in sub-subparagraph (C) of this subparagraph (XIX), applications for a civil union license submitted pursuant to section 14-15-110, C.R.S. A person in interest under this subparagraph (XIX) includes an immediate family member of either party to the marriage application. As used in this subparagraph (XIX), "immediate family member" means a person who is related by blood, marriage, or adoption. Nothing in this subparagraph (XIX) shall be construed to prohibit the inspection of marriage licenses or marriage certificates or of civil union certificates or to otherwise change the status of those licenses or certificates as public records.

(B) Repealed.

(C) Upon application by any person to the district court in the district wherein a record of an application for a marriage license or a civil union license is found, the district court may, in its discretion and upon good cause shown, order the custodian to permit the inspection of such record.

(XX) Repealed.

(XXI) All records, including, but not limited to, analyses and maps, compiled or maintained pursuant to statute or rule by the department of natural resources or its divisions that are based on information related to private lands and identify or allow to be identified any specific Colorado landowners or lands; except that summary or aggregated data that do not specifically identify individual landowners or specific parcels of land shall not be subject to this subparagraph (XXI).

(b) Nothing in this subsection (3) shall prohibit the custodian of records from transmitting data concerning the scholastic achievement of any student to any prospective employer of such student, nor shall anything in this subsection (3) prohibit the custodian of records from making available for inspection, from making copies, print-outs, or photographs of, or from transmitting data concerning the scholastic achievement or medical, psychological, or sociological information of any student to any law enforcement agency of this state, of any other state, or of the United States where such student is under investigation by such agency and the agency shows that such data is necessary for the investigation.

(c) Nothing in this subsection (3) shall prohibit the custodian of the records of a school, including any institution of higher education, or a school district from transmitting data concerning standardized tests, scholastic achievement, disciplinary information involving a student, or medical, psychological, or sociological information of any student to the custodian of such records in any other such school or school district to which such student moves, transfers, or makes application for transfer, and the written permission of such student or his or her parent or guardian shall not be required therefor. No state educational institution shall be prohibited from transmitting data concerning standardized tests or scholastic achievement of any student to the custodian of such records in the school, including any state educational institution, or school district in which such student was previously enrolled, and the written permission of such student or his or her parent or guardian shall not be required therefor.

(d) This subsection (3)(d) applies to all public schools and school districts that receive funding under article 54 of title 22. Notwithstanding subsection (3)(a)(VI) of this section, under policies adopted by the local board of education, the names, addresses, and home telephone numbers of students in any secondary school must be released to a recruiting officer for any

branch of the United States armed forces who requests such information, subject to the following:

(I) Each local board of education shall adopt a policy to govern the release of the names, addresses, and home telephone numbers of secondary school students to military recruiting officers that provides that such information shall be released to recruiting officers unless a student submits a request, in writing, that such information not be released.

(II) The directory information requested by a recruiting officer shall be released by the local board of education within ninety days of the date of the request.

(III) The local board of education shall comply with any applicable provisions of the federal "Family Educational Rights and Privacy Act of 1974" (FERPA), 20 U.S.C. sec. 1232g, and the federal regulations cited thereunder relating to the release of student information by educational institutions that receive federal funds.

(IV) Actual direct expenses incurred in furnishing this information shall be paid for by the requesting service and shall be reasonable and customary.

(V) The recruiting officer shall use the data released for the purpose of providing information to students regarding military service and shall not use it for any other purpose or release such data to any person or organization other than individuals within the recruiting services of the armed forces.

(e) (I) This subsection (3)(e) applies to all public schools and school districts. Notwithstanding subsection (3)(a)(I) of this section, under policies adopted by each local board of education, consistent with applicable provisions of the federal "Family Educational Rights and Privacy Act of 1974" (FERPA), 20 U.S.C. sec. 1232g, and all federal regulations and applicable guidelines adopted thereto, information directly related to a student and maintained by a public school or by a person acting for the public school must be available for release if the disclosure meets one or more of the following conditions:

(A) The disclosure is to other school officials, including teachers, working in the school at which the student is enrolled who have specific and legitimate educational interests in the information for use in furthering the student's academic achievement or maintaining a safe and orderly learning environment;

(B) The disclosure is to officials of a school at which the student seeks or intends to enroll or the disclosure is to officials at a school at which the student is currently enrolled or receiving services, after making a reasonable attempt to notify the student's parent or legal guardian or the student if he or she is at least eighteen years of age or attending an institution of postsecondary education, as prescribed by federal regulation;

(C) The disclosure is to state or local officials or authorities if the disclosure concerns the juvenile justice system and the system's ability to serve effectively, prior to adjudication, the student whose records are disclosed and if the officials and authorities to whom the records are disclosed certify in writing that the information shall not be disclosed to any other party, except as otherwise provided by law, without the prior written consent of the student's parent or legal guardian or of the student if he or she is at least eighteen years of age or is attending an institution of postsecondary education;

(D) The disclosure is to comply with a judicial order or a lawfully issued subpoena, if a reasonable effort is made to notify the student's parent or legal guardian or the student if he or she is at least eighteen years of age or is attending a postsecondary institution about the order or subpoena in advance of compliance, so that such parent, legal guardian, or student is provided an

opportunity to seek protective action, unless the disclosure is in compliance with a federal grand jury subpoena or any other subpoena issued for a law enforcement purpose and the court or the issuing agency has ordered that the existence or contents of the subpoena or the information furnished in response to the subpoena not be disclosed;

(E) The disclosure is in connection with an emergency if knowledge of the information is necessary to protect the health or safety of the student or other individuals, as specifically prescribed by federal regulation.

(II) Nothing in this paragraph (e) shall prevent public school administrators, teachers, or staff from disclosing information derived from personal knowledge or observation and not derived from a student's record maintained by a public school or a person acting for the public school.

(3.5) (a) Effective January 1, 1992, any individual who meets the requirements of this subsection (3.5) may request that the address of such individual included in any public records concerning that individual which are required to be made, maintained, or kept pursuant to the following sections be kept confidential:

(I) Sections 1-2-227 and 1-2-301, C.R.S.;

(II) (Deleted by amendment, L. 2000, p. 1337, § 1, effective May 30, 2000.)

(III) Section 24-6-202.

(b) (I) An individual may make the request of confidentiality allowed by this subsection (3.5) if such individual has reason to believe that such individual, or any member of such individual's immediate family who resides in the same household as such individual, will be exposed to criminal harassment as prohibited in section 18-9-111, C.R.S., or otherwise be in danger of bodily harm, if such individual's address is not kept confidential in accordance with this subsection (3.5).

(II) A request of confidentiality with respect to records described in subparagraph (I) of paragraph (a) of this subsection (3.5) shall be made in person in the office of the county clerk and recorder of the county where the individual making the request resides. Requests shall be made on application forms approved by the secretary of state, after consultation with county clerk and recorders. The application form shall provide space for the applicant to provide his or her name and address, date of birth, and any other identifying information determined by the secretary of state to be necessary to carry out the provisions of this subsection (3.5). In addition, an affirmation shall be printed on the form, in the area immediately above a line for the applicant's signature and the date, stating the following: "I swear or affirm, under penalty of perjury, that I have reason to believe that I, or a member of my immediate family who resides in my household, will be exposed to criminal harassment, or otherwise be in danger of bodily harm, if my address is not kept confidential." Immediately below the signature line, there shall be printed a notice, in a type that is larger than the other information contained on the form, that the applicant may be prosecuted for perjury in the second degree under section 18-8-503, C.R.S., if the applicant signs such affirmation and does not believe such affirmation to be true.

(III) The county clerk and recorder of each county shall provide an opportunity for any individual to make the request of confidentiality allowed by this subsection (3.5) in person at the time such individual makes application to the county clerk and recorder to register to vote or to make any change in such individual's registration, and at any other time during normal business hours of the office of the county clerk and recorder. The county clerk and recorder shall forward a copy of each completed application to the secretary of state for purposes of the records

maintained by him or her pursuant to subparagraph (I) of paragraph (a) of this subsection (3.5). The county clerk and recorder shall collect a processing fee in the amount of five dollars of which amount two dollars and fifty cents shall be transmitted to the secretary of state for the purpose of offsetting the secretary of state's costs of processing applications forwarded to the secretary of state pursuant to this subparagraph (III). All processing fees received by the secretary of state pursuant to this subparagraph (III) shall be transmitted to the state treasurer, who shall credit the same to the department of state cash fund.

(IV) The secretary of state shall provide an opportunity for any individual to make the request of confidentiality allowed by paragraph (a) of this subsection (3.5), with respect to the records described in subparagraph (III) of paragraph (a) of this subsection (3.5). The secretary of state may charge a processing fee, not to exceed five dollars, for each such request. All processing fees collected by the secretary of state pursuant to this subparagraph (IV) or subparagraph (III) of this paragraph (b) shall be transmitted to the state treasurer, who shall credit the same to the department of state cash fund.

(V) Notwithstanding the amount specified for any fee in subparagraph (III) or (IV) of this paragraph (b), the secretary of state by rule or as otherwise provided by law may reduce the amount of one or more of the fees credited to the department of state cash fund if necessary pursuant to section 24-75-402 (3), to reduce the uncommitted reserves of the fund to which all or any portion of one or more of the fees is credited. After the uncommitted reserves of the fund are sufficiently reduced, the secretary of state by rule or as otherwise provided by law may increase the amount of one or more of the fees as provided in section 24-75-402 (4).

(c) The custodian of any records described in subsection (3.5)(a) of this section that concern an individual who has made a request of confidentiality pursuant to this subsection (3.5) and paid any required processing fee shall deny the right of inspection of the individual's address contained in such records on the ground that disclosure would be contrary to the public interest; except that the custodian shall allow the inspection of the records by the individual, by any person authorized in writing by that individual, and by any individual employed by one of the following entities who makes a request to the custodian to inspect the records and who provides evidence satisfactory to the custodian that the inspection is reasonably related to the authorized purpose of the employing entity:

(I) A criminal justice agency, as defined by section 24-72-302 (3);

(II) An agency of the United States, the state of Colorado, or of any political subdivision or authority thereof;

(III) A person required to obtain such individual's address in order to comply with federal or state law or regulations adopted pursuant thereto;

(IV) An insurance company which has a valid certificate of authority to transact insurance business in Colorado as required in section 10-3-105 (1), C.R.S.;

(V) A collection agency which has a valid license as required by section 5-16-115 (1);

(VI) A supervised lender licensed pursuant to section 5-1-301 (46), C.R.S.;

(VII) A bank as defined in section 11-101-401 (5), C.R.S., a trust company as defined in section 11-109-101 (11), C.R.S., a credit union as defined in section 11-30-101 (1), C.R.S., a domestic savings and loan association as defined in section 11-40-102 (5), C.R.S., a foreign savings and loan association as defined in section 11-40-102 (8), C.R.S., or a broker-dealer as defined in section 11-51-201 (2), C.R.S.;

(VIII) An attorney licensed to practice law in Colorado or his representative authorized in writing to inspect such records on behalf of the attorney;

(IX) A manufacturer of any vehicle required to be registered pursuant to the provisions of article 3 of title 42, C.R.S., or a designated agent of such manufacturer. Such inspection shall be allowed only for the purpose of identifying, locating, and notifying the registered owners of such vehicles in the event of a product recall or product advisory and may also be allowed for statistical purposes where such address is not disclosed by such manufacturer or designated agent. No person who obtains the address of an individual pursuant to this subparagraph (IX) shall disclose such information, except as necessary to accomplish said purposes.

(d) Notwithstanding any provisions of this subsection (3.5) to the contrary, any person who appears in person in the office of any custodian of records described in paragraph (a) of this subsection (3.5) and who presents documentary evidence satisfactory to the custodian that such person is a duly accredited representative of the news media may verify the address of an individual whose address is otherwise protected from inspection in accordance with this subsection (3.5). Such verification shall be limited to the custodian confirming or denying that the address of an individual as known to the representative of the news media is the address of the individual as shown by the records of the custodian.

(e) No person shall make any false statement in requesting any information pursuant to paragraph (a) or (b) of this subsection (3.5).

(f) Any request of confidentiality made pursuant to this subsection (3.5) shall be kept confidential and shall not be open to inspection as a public record unless a written release is executed by the person who made the request.

(g) Prior to the release of any information required to be kept confidential pursuant to this subsection (3.5), the custodian shall require the person requesting the information to produce a valid Colorado driver's license or identification card and written authorization from any entity authorized to receive information under this subsection (3.5). The custodian shall keep a record of the requesting person's name, address, and date of birth and shall make such information available to the individual requesting confidentiality under this subsection (3.5) or any person authorized by such individual.

(4) If the custodian denies access to any public record, the applicant may request a written statement of the grounds for the denial, which statement shall cite the law or regulation under which access is denied and shall be furnished forthwith to the applicant.

(5) (a) Except as provided in subsection (5.5) of this section, any person denied the right to inspect any record covered by this part 2 or who alleges a violation of section 24-72-203 (3.5) may apply to the district court of the district wherein the record is found for an order directing the custodian of such record to show cause why the custodian should not permit the inspection of such record; except that, at least fourteen days prior to filing an application with the district court, the person who has been denied the right to inspect the record shall file a written notice with the custodian who has denied the right to inspect the record informing the custodian that the person intends to file an application with the district court. During the fourteen-day period before the person may file an application with the district court under this subsection (5)(a), the custodian who has denied the right to inspect the record shall either meet in person or communicate on the telephone with the person who has been denied access to the record to determine if the dispute may be resolved without filing an application with the district court. The meeting may include recourse to any method of dispute resolution that is agreeable to both

parties. Any common expense necessary to resolve the dispute must be apportioned equally between or among the parties unless the parties have agreed to a different method of allocating the costs between or among them. If the person who has been denied access to inspect a record states in the required written notice to the custodian that the person needs to pursue access to the record on an expedited basis, the person must provide such written notice, including a factual basis of the expedited need for the record, to the custodian at least three business days prior to the date on which the person files the application with the district court and, in such circumstances, no meeting to determine if the dispute may be resolved without filing an application with the district court is required.

(b) Hearing on the application described in subsection (5)(a) of this section must be held at the earliest practical time. Unless the court finds that the denial of the right of inspection was proper, it shall order the custodian to permit such inspection and shall award court costs and reasonable attorney fees to the prevailing applicant in an amount to be determined by the court; except that no court costs and attorney fees shall be awarded to a person who has filed a lawsuit against a state public body or local public body and who applies to the court for an order pursuant to subsection (5)(a) of this section for access to records of the state public body or local public body being sued if the court finds that the records being sought are related to the pending litigation and are discoverable pursuant to chapter 4 of the Colorado rules of civil procedure. In the event the court finds that the denial of the right of inspection was proper, the court shall award court costs and reasonable attorney fees to the custodian if the court finds that the action was frivolous, vexatious, or groundless.

(5.5) (a) Any person seeking access to the record of an executive session meeting of a state public body or a local public body recorded pursuant to section 24-6-402 (2)(d.5) shall, upon application to the district court for the district wherein the records are found, show grounds sufficient to support a reasonable belief that the state public body or local public body engaged in substantial discussion of any matters not enumerated in section 24-6-402 (3) or (4) or that the state public body or local public body adopted a proposed policy, position, resolution, rule, regulation, or formal action in the executive session in contravention of section 24-6-402 (3)(a) or (4). If the applicant fails to show grounds sufficient to support such reasonable belief, the court shall deny the application and, if the court finds that the application was frivolous, vexatious, or groundless, the court shall award court costs and attorney fees to the prevailing party. If an applicant shows grounds sufficient to support such reasonable belief, the applicant cannot be found to have brought a frivolous, vexatious, or groundless action, regardless of the outcome of the in camera review.

(b) (I) Upon finding that sufficient grounds exist to support a reasonable belief that the state public body or local public body engaged in substantial discussion of any matters not enumerated in section 24-6-402 (3) or (4) or that the state public body or local public body adopted a proposed policy, position, resolution, rule, regulation, or formal action in the executive session in contravention of section 24-6-402 (3)(a) or (4), the court shall conduct an in camera review of the record of the executive session to determine whether the state public body or local public body engaged in substantial discussion of any matters not enumerated in section 24-6-402 (3) or (4) or adopted a proposed policy, position, resolution, rule, regulation, or formal action in the executive session in contravention of section 24-6-402 (3)(a) or (4).

(II) If the court determines, based on the in camera review, that violations of the open meetings law occurred, the portion of the record of the executive session that reflects the

substantial discussion of matters not enumerated in section 24-6-402 (3) or (4) or the adoption of a proposed policy, position, resolution, rule, regulation, or formal action shall be open to public inspection.

(6) (a) If, in the opinion of the official custodian of any public record, disclosure of the contents of said record would do substantial injury to the public interest, notwithstanding the fact that said record might otherwise be available to public inspection or if the official custodian is unable, in good faith, after exercising reasonable diligence, and after reasonable inquiry, to determine if disclosure of the public record is prohibited pursuant to this part 2, the official custodian may apply to the district court of the district in which such record is located for an order permitting him or her to restrict such disclosure or for the court to determine if disclosure is prohibited. Hearing on such application shall be held at the earliest practical time. In the case of a record that is otherwise available to public inspection pursuant to this part 2, after a hearing, the court may, upon a finding that disclosure would cause substantial injury to the public interest, issue an order authorizing the official custodian to restrict disclosure. In the case of a record that may be prohibited from disclosure pursuant to this part 2, after a hearing, the court may, upon a finding that disclosure of the record is prohibited, issue an order directing the official custodian not to disclose the record to the public. In an action brought pursuant to this paragraph (a), the burden of proof shall be upon the custodian. The person seeking permission to examine the record shall have notice of said hearing served upon him or her in the manner provided for service of process by the Colorado rules of civil procedure and shall have the right to appear and be heard. The attorney fees provision of subsection (5) of this section shall not apply in cases brought pursuant to this paragraph (a) by an official custodian who is unable to determine if disclosure of a public record is prohibited under this part 2 if the official custodian proves and the court finds that the custodian, in good faith, after exercising reasonable diligence, and after making reasonable inquiry, was unable to determine if disclosure of the public record was prohibited without a ruling by the court.

(b) In defense against an application for an order under subsection (5) of this section, the custodian may raise any issue that could have been raised by the custodian in an application under paragraph (a) of this subsection (6).

(7) (a) Except as permitted in paragraph (b) of this subsection (7), the department of revenue or an authorized agent of the department shall not allow a person, other than the person in interest, to inspect information contained in a driver's license application under section 42-2-107, C.R.S., a driver's license renewal application under section 42-2-118, C.R.S., a duplicate driver's license application under section 42-2-117, C.R.S., a commercial driver's license application under section 42-2-403, C.R.S., an identification card application under section 42-2-302, C.R.S., a motor vehicle title application under section 42-6-116, C.R.S., a motor vehicle registration application under section 42-3-113, C.R.S., or other official record or document maintained by the department under section 42-2-121, C.R.S.

(b) Notwithstanding subsection (7)(a) of this section, only upon obtaining a completed requester release form under section 42-1-206 (1)(b), the department may allow inspection of the information referred to in subsection (7)(a) of this section for the following uses:

(I) For use by any government agency, including any court or law enforcement agency, in carrying out its functions, or any private person or entity acting on behalf of a federal, state, or local agency in carrying out its functions;

(II) For use in connection with matters of motor vehicle or driver safety and theft; motor vehicle emissions; motor vehicle product alterations, recalls, or advisories; performance monitoring of motor vehicles, motor vehicle parts and dealers; motor vehicle market research activities, including survey research; and removal of non-owner records from the original owner records of motor vehicle manufacturers;

(III) For use in the normal course of business by a legitimate business or its agents, employees, or contractors, but only:

(A) To verify the accuracy of personal information submitted by the individual to the business or its agents, employees, or contractors; and

(B) If such information as so submitted is not correct or is no longer correct, to obtain the correct information, but only for the purposes of preventing fraud by, pursuing legal remedies against, or recovering on a debt or security interest against, the individual;

(IV) For use in connection with any civil, criminal, administrative, or arbitral proceeding in any federal, state, or local court or agency or before any self-regulatory body, including the service of process, investigation in anticipation of litigation, and the execution or enforcement of judgments and orders, or pursuant to an order of a federal, state, or local court;

(V) For use in research activities, and for use in producing statistical reports, so long as the personal information is not published, redisclosed, or used to contact the parties in interest;

(VI) For use by any insurer or insurance support organization, or by a self-insured entity, or its agents, employees, or contractors, in connection with claims investigation activities, antifraud activities, rating or underwriting;

(VII) For use in providing notice to the owners of towed or impounded vehicles;

(VIII) For use by any private investigator licensed pursuant to section 12-58.5-106, C.R.S., licensed private investigative agency, or licensed security service for any purpose permitted under this paragraph (b);

(IX) For use by an employer or its agent or insurer to obtain or verify information relating to a party in interest who is a holder of a commercial driver's license;

(X) For use in connection with the operation of private toll transportation facilities;

(XI) For any other use in response to requests for individual motor vehicle records if the department has obtained the express consent of the party in interest pursuant to section 42-2-121 (4), C.R.S.;

(XII) For bulk distribution for surveys, marketing or solicitations if the department has obtained the express consent of the party in interest pursuant to section 42-2-121 (4), C.R.S.;

(XIII) For use by any requester, if the requester demonstrates he or she has obtained the written consent of the party in interest;

(XIV) For any other use specifically authorized under the laws of the state, if such use is related to the operation of a motor vehicle or public safety; or

(XV) For use by the federally designated organ procurement organization for the purposes of creating and maintaining the organ and tissue donor registry authorized in section 15-19-220.

(c) (I) For purposes of this paragraph (c), "law" shall mean the federal "Driver's Privacy Protection Act of 1994", 18 U.S.C. sec. 2721 et seq., the federal "Fair Credit Reporting Act", 15 U.S.C. sec. 1681 et seq., section 42-1-206, C.R.S., and this part 2.

(II) If the requester release form indicates that the requester will, in any manner, use, obtain, resell, or transfer the information contained in records, requested individually or in bulk,

for any purpose prohibited by law, the department or agent shall deny inspection of any motor vehicle or driver record.

(III) In addition to completing the requester release form under section 42-1-206 (1)(b), C.R.S., and subject to the provisions of section 42-1-206 (3.7), C.R.S., the requester shall sign an affidavit of intended use under penalty of perjury that states that the requester shall not obtain, resell, transfer, or use the information in any manner prohibited by law. The department or the department's authorized agent shall deny inspection of any motor vehicle or driver record to any person, other than a person in interest as defined in section 24-72-202 (4), or a federal, state, or local government agency carrying out its official functions, who has not signed and returned the affidavit of intended use.

(d) Notwithstanding paragraph (b) of this subsection (7), the department of revenue or an authorized agent of the department shall allow inspection of records maintained by the department pursuant to section 42-2-121.5, C.R.S., only by the person in interest or by an officer of a law enforcement or public safety agency in accordance with section 42-2-121.5 (3), C.R.S.

(8) (a) A designated election official shall not allow a person, other than the person in interest, to inspect the election records of any person that contain the original signature, social security number, month of birth, day of the month of birth, or identification of that person, including electronic, digital, or scanned images of a person's original signature, social security number, month of birth, day of the month of birth, or identification.

(b) Nothing in paragraph (a) of this subsection (8) shall be construed to prohibit a designated election official from:

(I) Making such election records available to any law enforcement agency or district attorney of this state in connection with the investigation or prosecution of an election offense specified in article 13 of title 1, C.R.S.;

(II) Making such election records available to employees of or election judges appointed by the designated election official as necessary for those employees or election judges to carry out the duties and responsibilities connected with the conduct of any election; and

(III) Preparing a registration list and making the list available for distribution or sale to or inspection by any person.

(c) For purposes of this subsection (8):

(I) "Designated election official" shall have the same meaning as set forth in section 1-1-104 (8), C.R.S.

(II) "Election records" shall have the same meaning as set forth in section 1-1-104 (11), C.R.S., and shall include a voter registration application.

(III) "Identification" shall have the same meaning as set forth in section 1-1-104 (19.5), C.R.S.

(IV) "Registration list" shall have the same meaning as set forth in section 1-1-104 (37), C.R.S.

Source: L. 68: p. 202, § 4. L. 69: pp. 925, 926, §§ 1, 1. C.R.S. 1963: § 113-2-4. L. 77: (2)(a)(I) repealed, p. 1250, § 4, effective December 31. L. 81: (3)(d) added, p. 1237, § 1, effective May 18; (3)(a)(I) amended, p. 1236, § 1, effective May 26. L. 83: (3)(a)(V) and (3)(a)(VI) amended and (3)(a)(VII) added, p. 1023, § 2, effective March 22. L. 85: (3)(a)(VI) and (3)(a)(VII) amended and (3)(a)(VIII) added, p. 933, § 3, effective July 1. L. 88: (2)(a)(I) RC&RE, p. 979, § 1, effective April 20. L. 91: (3.5) added, p. 828, § 1, effective July 1. L. 92:

(2)(a)(IV) and (3)(a)(II) amended and (3)(a)(IX) added, p. 1104, § 4, effective July 1. **L. 93:** (3)(d) amended, p. 64, § 1, effective March 22; (3)(a)(IX) amended, p. 293, § 1, effective April 7; (2)(a)(III) and (2)(a)(IV) amended and (2)(a)(V) added, p. 1763, § 1, effective June 6; (3)(a)(II) amended, p. 667, § 2, effective July 1. **L. 94:** (3)(a)(I) amended and (3)(a)(XI) added, p. 936, § 2, effective April 28; (3.5)(a)(I) amended, p. 1638, § 53, effective May 31; (3)(a)(X) added, p. 680, § 1, effective July 1; (2)(a)(IV), (2)(a)(V), (3.5)(a)(II), and (3.5)(b)(II) amended and (2)(a)(VI) added, pp. 2557, 2558, § 59, 60, effective January 1, 1995. **L. 96:** (3)(c) amended, p. 431, § 1, effective April 22; (2)(a)(II) and (6) amended and (3)(a)(VIII) repealed, pp. 1484, 1470, §§ 16, 6, effective June 1. **L. 97:** (3)(a)(I) amended, p. 350, § 5, effective April 19; (2)(a)(VI) amended, p. 1178, § 1, effective July 1; (3)(a)(XII) added, p. 354, § 1, effective August 6; (7) added, p. 1050, § 2, effective September 1. **L. 98:** (3)(d) amended, p. 974, § 21, effective May 27; (3.5)(b)(V) added, p. 1332, § 43, effective June 1. **L. 99:** (3)(a)(X)(A) amended and (3)(a)(XIII) added, p. 207, § 2, effective March 31; (2)(a)(VI) amended and (3.5)(g) added, p. 344, §§ 1, 2, effective April 16; (2)(a)(VI) amended, p. 1241, § 3, effective August 4; (3)(a)(XIV) added, p. 370, § 1, effective August 4. **L. 2000:** (2)(c) added, p. 243, § 9, effective March 29; (2)(a)(VI), (3.5)(a)(II), (3.5)(b)(II), (3.5)(b)(III), (3.5)(b)(V), and (7) amended, p. 1337, § 1, effective May 30; (3)(e) added, p. 1963, § 5, effective June 2; (7)(b)(XV) added, p. 732, § 13, effective July 1; (3.5)(c)(VI) amended, p. 1873, § 111, effective August 2. **L. 2001:** (7)(a) amended, p. 1274, § 35, effective June 5; (1)(d) added, p. 151, § 6, effective July 1; (3)(a)(XI)(A), (5), and (6)(a) amended and (5.5) added, p. 1073, § 3, effective August 8; (7)(a) and (7)(c) amended, p. 586, § 1, effective August 8. **L. 2002:** (3.5)(c)(VII) amended, p. 113, § 7, effective March 26; (3)(a)(XVI) added, p. 239, § 8, effective April 12; (3)(a)(XVII) added, p. 1213, § 10, effective June 3; (3)(a)(XVIII) added, p. 935, § 1, effective July 1; (3)(a)(XV) added, p. 86, § 2, effective August 7. **L. 2003:** (3)(a)(XVI) and (3)(a)(XVII) amended, p. 1636, § 1, effective May 2; (3.5)(c)(VII) amended, p. 1211, § 23, effective July 1; (3)(a)(IX) amended, p. 1619, § 30, effective August 6. **L. 2004:** (2)(a)(VII) added, p. 1959, § 3, effective August 4. **L. 2005:** (2)(a)(VIII) added, (3)(a)(IX) amended, and (3)(a)(XVII) repealed, pp. 502, 503, 504, §§ 1, 2, 5, effective July 1; (3)(a)(XII) and (7)(a) amended, p. 1182, § 29, effective August 8; (3)(a)(XIV) amended, p. 462, § 3, effective December 1. **L. 2006:** (8) added, p. 44, § 1, effective March 17; (3)(a)(XIX) added, p. 564, § 1, effective April 24; (3)(a)(IV) amended, p. 276, § 2, effective January 1, 2007. **L. 2007:** (2)(d) added, p. 34, § 2, effective March 5; (3)(a)(XIV) amended, p. 1590, § 7, effective July 1; (7)(b)(XV) amended, p. 798, § 8, effective July 1. **L. 2008:** (7)(a) amended and (7)(d) added, p. 1520, § 2, effective May 28; (3)(a)(XX) added, p. 1703, § 2, effective June 2. **L. 2009:** (3)(a)(XXI) added, (SB 09-158), ch. 387, p. 2094, § 3, effective August 5. **L. 2010:** (3)(a)(XII) amended, (HB 10-1019), ch. 400, p. 1930, § 6, effective January 1, 2011. **L. 2012:** (2)(e) added, (SB 12-079), ch. 58, p. 214, § 7, effective March 24; (2)(a)(IX) added, (HB 12-1036), ch. 269, p. 1419, § 1, effective June 7; (2)(a)(VIII)(A) amended, (HB12- 1283), ch. 240, p. 1134, § 48, effective July 1; IP(7)(b) and (7)(b)(VIII) amended, (HB12-1231), ch. 22, p. 58, § 1, effective August 8. **L. 2013:** (3)(a)(XIX)(A) and (3)(a)(XIX)(B) amended, (SB 13-011), ch. 49, p. 168, § 28, effective May 1; IP(3.5)(c) and (3.5)(c)(VII) amended, (SB 13-154), ch. 282, p. 1487, § 67, effective July 1; (3)(a)(XX) repealed, (HB 13-1300), ch. 316, p. 1685, § 64, effective August 7. **L. 2014:** (7)(b)(VIII) amended, (SB 14-133), ch. 389, p. 1957, § 3, effective June 6; (3)(a)(XIX)(A) amended and (3)(a)(XIX)(B) repealed, (HB 14-1073), ch. 30, p. 175, § 2, effective July 1; (2)(e) amended, (SB 14-002), ch. 241, p. 893, § 5, effective August 6. **L. 2016:** (3)(a)(XIX)(C) amended, (SB 16-

189), ch. 210, p. 769, § 56, June 6. **L. 2017:** IP(3)(d), (3)(d)(III), and IP(3)(e)(I) amended, (SB 17-294), ch. 264, p. 1405, § 76, effective May 25; (2)(a)(VII)(A), (3)(a)(I), and (5) amended, (SB17-040), ch. 286, p. 1583, § 2, effective August 9; IP(3.5)(c) and (3.5)(c)(V) amended, (HB 17-1238), ch. 260, p. 1175, § 22, effective August 9; (5) amended, (HB 17-1177), ch. 197, p. 718, § 1, effective August 9; IP(7)(b) and (7)(b)(XV) amended, (SB 17-223), ch. 158, p. 563, § 17, effective August 9. **L. 2018:** IP(3)(a) amended and (3)(a)(X)(D) added, (HB 18-1152), ch. 281, p. 1759, § 2, effective August 8.

Editor's note: (1) Subsection (3)(a)(IX) was numbered as (3)(a)(X) in House Bill 92-1195 but has been renumbered on revision for ease of location.

(2) Amendments to subsection (2)(a)(VI) by House Bill 99-1293 and Senate Bill 99-174 were harmonized.

(3) Amendments to subsection (7)(a) by House Bill 01-1025 and Senate Bill 01-138 were harmonized.

(4) Subparagraph (3)(a)(XVIII) was originally numbered as (3)(a)(XV) in House Bill 02-1395 but has been renumbered on revision for ease of location.

(5) Amendments to subsection (5) by SB 17-040 and HB 17-1177 were harmonized.

Cross references: (1) For the legislative declaration contained in the 1996 act amending subsections (2)(a)(II) and (6), see section 1 of chapter 271, Session Laws of Colorado 1996; for service of process, see C.R.C.P. 4.

(2) For the legislative declaration in HB 18-1152, see section 1 of chapter 281, Session Laws of Colorado 2018.

24-72-204.5. Adoption of electronic mail policy. (1) On or before July 1, 1997, the state or any agency, institution, or political subdivision thereof that operates or maintains an electronic mail communications system shall adopt a written policy on any monitoring of electronic mail communications and the circumstances under which it will be conducted.

(2) The policy shall include a statement that correspondence of the employee in the form of electronic mail may be a public record under the public records law and may be subject to public inspection under section 24-72-203.

Source: **L. 96:** Entire section added, p. 1485, § 7, effective June 1.

24-72-205. Copy, printout, or photograph of a public record - imposition of research and retrieval fee. (1) (a) In all cases in which a person has the right to inspect a public record, the person may request a copy, printout, or photograph of the record. The custodian shall furnish a copy, printout, or photograph and may charge a fee determined in accordance with subsection (5) of this section; except that, when the custodian is the secretary of state, fees shall be determined and collected pursuant to section 24-21-104 (3), and when the custodian is the executive director of the department of personnel, fees shall be determined and collected pursuant to section 24-80-102 (10). Where the fee for a certified copy or other copy, printout, or photograph of a record is specifically prescribed by law, the specific fee shall apply.

(b) Upon request for records transmission by a person seeking a copy of any public record, the custodian shall transmit a copy of the record by United States mail, other delivery

service, facsimile, or electronic mail. No transmission fees may be charged to the record requester for transmitting public records via electronic mail. Within the period specified in section 24-72-203 (3)(a), the custodian shall notify the record requester that a copy of the record is available but will only be sent to the requester once the custodian either receives payment or makes arrangements for receiving payment for all costs associated with records transmission and for all other fees lawfully allowed, unless recovery of all or any portion of such costs or fees has been waived by the custodian. Upon either receiving such payment or making arrangements to receive such payment at a later date, the custodian shall send the record to the requester as soon as practicable but no more than three business days after receipt of, or making arrangements to receive, such payment.

(2) If the custodian does not have facilities for making a copy, printout, or photograph of a record that a person has the right to inspect, the person shall be granted access to the record for the purpose of making a copy, printout, or photograph. The copy, printout, or photograph shall be made while the record is in the possession, custody, and control of the custodian thereof and shall be subject to the supervision of the custodian. When practical, the copy, printout, or photograph shall be made in the place where the record is kept, but if it is impractical to do so, the custodian may allow arrangements to be made for the copy, printout, or photograph to be made at other facilities. If other facilities are necessary, the cost of providing them shall be paid by the person desiring a copy, printout, or photograph of the record. The custodian may establish a reasonable schedule of times for making a copy, printout, or photograph and may charge the same fee for the services rendered in supervising the copying, printing out, or photographing as the custodian may charge for furnishing a copy, printout, or photograph under subsection (5) of this section.

(3) If, in response to a specific request, the state or any of its agencies, institutions, or political subdivisions has performed a manipulation of data so as to generate a record in a form not used by the state or by said agency, institution, or political subdivision, a reasonable fee may be charged to the person making the request. Such fee shall not exceed the actual cost of manipulating the said data and generating the said record in accordance with the request. Persons making subsequent requests for the same or similar records may be charged a fee not in excess of the original fee.

(4) If the public record is a result of computer output other than word processing, the fee for a copy, printout, or photograph thereof may be based on recovery of the actual incremental costs of providing the electronic services and products together with a reasonable portion of the costs associated with building and maintaining the information system. Such fee may be reduced or waived by the custodian if the electronic services and products are to be used for a public purpose, including public agency program support, nonprofit activities, journalism, and academic research. Fee reductions and waivers shall be uniformly applied among persons who are similarly situated.

(5) (a) A custodian may charge a fee not to exceed twenty-five cents per standard page for a copy of a public record or a fee not to exceed the actual cost of providing a copy, printout, or photograph of a public record in a format other than a standard page.

(b) Notwithstanding paragraph (a) of this subsection (5), an institution, as defined in section 24-72-202 (1.5), that is the custodian of scholastic achievement data on an individual person may charge a reasonable fee for a certified transcript of the data.

(6) (a) A custodian may impose a fee in response to a request for the research and retrieval of public records only if the custodian has, prior to the date of receiving the request, either posted on the custodian's website or otherwise published a written policy that specifies the applicable conditions concerning the research and retrieval of public records by the custodian, including the amount of any current fee. Under any such policy, the custodian shall not impose a charge for the first hour of time expended in connection with the research and retrieval of public records. After the first hour of time has been expended, the custodian may charge a fee for the research and retrieval of public records that shall not exceed thirty dollars per hour.

(b) On July 1, 2019, and by July 1 of every five-year period thereafter, the director of research of the legislative council appointed pursuant to section 2-3-304 (1) shall adjust the maximum hourly fee specified in subsection (6)(a) of this section in accordance with the percentage change over the period in the United States department of labor, bureau of labor statistics, consumer price index for Denver-Aurora-Lakewood for all items and all urban consumers, or its successor index. The director of research shall post the adjusted maximum hourly fee on the website of the general assembly.

Source: L. 68: p. 204, § 5. C.R.S. 1963: § 113-2-5. L. 83: (1) amended, p. 863, § 4, effective July 1. L. 92: (3) and (4) added, p. 1105, § 5, effective July 1. L. 2007: (1) and (2) amended and (5) added, p. 578, § 1, effective August 3. L. 2013: (1) amended, (HB 13-1041), ch. 9, p. 23, § 1, effective March 8. L. 2014: (6) added, (HB 14-1193), ch. 142, p. 487, § 1, effective July 1. L. 2018: (6)(b) amended, (HB 18-1375), ch. 274, p. 1712, § 54, effective May 29.

Cross references: For distribution of copies of reports made to the general assembly, see § 24-1-136 (9).

24-72-205.5. Public inspection of ballots - stay period - recounts - rules governing public inspection of ballots - legislative declaration - definitions. (1) (a) By enacting this section, the general assembly intends to permit the inspection of ballots under the conditions specified in this section and to protect the integrity of the election process while protecting voter privacy and preserving secrecy in voting in accordance with the provisions of section 8 of article VII of the state constitution.

(b) In order to facilitate and ensure a consistent application of the provisions of this section across the state, the matters addressed in this section are matters of statewide concern.

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

(a) "Ballot" means a ballot voted by any acceptable, applicable, or legal method that is in the custody of an election official. "Ballot" includes any digital image or electronic representation of votes cast.

(b) "Designated election official" has the same meaning as set forth in section 1-1-104 (8), C.R.S.

(c) "Interested party" means:

(I) Any candidate who was in an election contest that is the subject of a recount or the political party or political organization as defined in section 1-1-104 (24), C.R.S., of such candidate;

(II) Any petition representative identified pursuant to section 1-40-113 or 31-11-106 (2), C.R.S., as applicable, in connection with a ballot issue or ballot question that is the subject of the recount;

(III) The governing body that referred a ballot question or ballot issue to the electorate that is the subject of the recount; or

(IV) The agent of an issue committee that is required to report contributions pursuant to the "Fair Campaign Practices Act", article 45 of title 1, C.R.S., that either supported or opposed a ballot question or ballot issue that is the subject of the recount.

(3) (a) Except as otherwise provided in paragraph (b) of this subsection (3), the designated election official shall not fulfill a request under this part 2 for the public inspection of ballots during the period commencing with the forty-fifth day preceding election day and concluding with the date either by which the designated election official is required to certify an official abstract of votes cast for the applicable candidate contest or ballot issue or ballot question pursuant to section 1-10-102 or 31-10-1205 (1), C.R.S., as applicable, or by which any recount conducted in accordance with article 10.5 of title 1, C.R.S., or section 31-10-1207, C.R.S., is completed, as applicable, whichever date is later. The denial of public inspection of ballots authorized pursuant to this paragraph (a) shall also apply to any internal batch reports generated by a designated election official for the specific purpose of auditing ballots received in the course of conducting an election.

(b) Notwithstanding any other provision of this section, the denial of public inspection of ballots authorized pursuant to paragraph (a) of this subsection (3) shall apply to a recount that is conducted in accordance with the provisions of article 10.5 of title 1, C.R.S., or section 31-10-1207, C.R.S., as applicable; except that, during the period described in paragraph (a) of this subsection (3), an interested party may inspect and request copies of ballots in connection with such recount without having to obtain a court order granting such inspection. In connection with an inspection by an interested party as authorized by this paragraph (b), an interested party may witness the handling of ballots involved in the recount to verify that the recount is being conducted in a fair, impartial, and uniform manner so as to determine that all ballots that have been cast are accurately interpreted and counted; except that an interested party is not permitted to handle the original ballots. Except as specified in this paragraph (b), nothing in this section shall be construed to prohibit an interested party from requesting copies of ballots in connection with a recount, to affect the conduct of a recount, or to affect the rights of an interested party in connection with a recount.

(c) Notwithstanding any other provision of this section, nothing in this section shall be construed to restrict the public inspection of election records as defined in section 1-1-104 (11), C.R.S.; except that, for purposes of this section, election records shall not include ballots.

(4) (a) In accordance with the provisions of section 24-72-203 (1)(a) and in addition to any other requirements that are applicable to a person requesting the inspection of public records under this part 2, prior to and later than the stay period described in paragraph (a) of subsection (3) of this section, ballots shall be available for inspection by the public in accordance with the requirements of this part 2.

(b) In connection with the public inspection of the ballots to which this section pertains:

(I) The original ballots shall at all times remain in the custody of the designated election official or his or her designee. In the discretion of the designated election official or his or her designee, and subject to the provisions of paragraph (a) of this subsection (4) and this part 2, the

designated election official or his or her designee shall determine the manner in which such ballots may be viewed by the public.

(II) The designated election official or his or her designee shall cover or redact, based upon the most practical means available, any markings or message on a ballot that may identify the particular elector who cast the ballot before the ballot may be made available for public inspection;

(III) To protect the privacy of particular electors, any ballots cast by electors within groups of discrete individuals who are more susceptible of being personally identified, such as military and overseas electors, shall be made available for public inspection only to the extent such ballots may be duplicated without identifying elector information. Insofar as such ballots are not able to be duplicated without identifying elector information, they are not available for public inspection. Notwithstanding any other provision of this section, no ballot, or any portion thereof, may be made available for inspection where the ballot, or any requested portion thereof, is identical in printed form, considering a combination of the election contests at issue and precinct coding, to only nine or fewer ballots, or comparable portions thereof, among all ballots used in the same election. However, any such ballot, or any requested portion thereof, that is identical in printed form to ten or more ballots, or comparable portions thereof, used in the same election may be inspected.

(IV) To protect the privacy of particular electors, ballots made available for inspection may be presented in random order selected by the designated election official or his or her designee;

(V) For the purpose of minimizing the costs of making ballots available for public inspection, the person seeking the inspection may indicate the candidate contest, ballot issue, or ballot question for which the person seeks to inspect the ballots; and

(VI) Any actual costs incurred by the office of the designated election official in making the ballots available for inspection in accordance with the requirements of this section may be charged to the person requesting inspection of the ballots. If the designated election official selects a person other than an employee of his or her office to conduct the duties required by this section, the actual costs to be charged the person seeking inspection shall not exceed the actual costs that would have been incurred if the work involved in complying with the requirements of this section was completed by an employee of the designated election official.

(5) Notwithstanding any other provision of this section, nothing in this section affects either the rights of a watcher set forth in the provisions of titles 1 and 31, C.R.S., or the operation of a canvass board in accordance with the provisions of articles 1 to 13 of title 1, C.R.S.

Source: L. 2012: Entire section added, (HB 12-1036), ch. 269, p. 1420, § 2, effective June 7.

24-72-206. Violation - penalty. (Repealed)

Source: L. 68: p. 204, § 6. **C.R.S. 1963:** § 113-2-6. **L. 2017:** Entire section repealed, (SB 17-040), ch. 286, p. 1584, § 3, effective August 9.

PART 3

CRIMINAL JUSTICE RECORDS

Law reviews: For article, "Procedures and Ethical Questions Under the Colorado Criminal Justice Records Act", see 14 Colo. Law. 2193 (1985); for article, "'Columbine' and Colorado's Records Acts", see 45 Colo. Law. 45 (Sept. 2016).

24-72-301. Legislative declaration. (1) The general assembly hereby finds and declares that the maintenance, access and dissemination, completeness, accuracy, and sealing of criminal justice records are matters of statewide concern and that, in defining and regulating those areas, only statewide standards in a state statute are workable.

(2) It is further declared to be the public policy of this state that criminal justice agencies shall maintain records of official actions, as defined in this part 3, and that such records shall be open to inspection by any person and to challenge by any person in interest, as provided in this part 3, and that all other records of criminal justice agencies in this state may be open for inspection as provided in this part 3 or as otherwise specifically provided by law.

Source: L. 77: Entire part added, p. 1244, § 1, effective December 31.

24-72-302. Definitions. As used in this part 3, unless the context otherwise requires:

(1) "Arrest and criminal records information" means information reporting the arrest, indictment, or other formal filing of criminal charges against a person; the identity of the criminal justice agency taking such official action relative to an accused person; the date and place that such official action was taken relative to an accused person; the name, birth date, last-known address, and sex of an accused person; the nature of the charges brought or the offenses alleged against an accused person; and one or more dispositions relating to the charges brought against an accused person.

(2) "Basic identification information" means the name, place and date of birth, last-known address, social security number, occupation and address of employment, physical description, photograph, handwritten signature, sex, fingerprints, and any known aliases of any person.

(3) "Criminal justice agency" means any court with criminal jurisdiction and any agency of the state, including but not limited to the department of education, or any agency of any county, city and county, home rule city and county, home rule city or county, city, town, territorial charter city, governing boards of institutions of higher education, school district, special district, judicial district, or law enforcement authority that performs any activity directly relating to the detection or investigation of crime; the apprehension, pretrial release, posttrial release, prosecution, correctional supervision, rehabilitation, evaluation, or treatment of accused persons or criminal offenders; or criminal identification activities or the collection, storage, or dissemination of arrest and criminal records information.

(4) "Criminal justice records" means all books, papers, cards, photographs, tapes, recordings, or other documentary materials, regardless of form or characteristics, that are made, maintained, or kept by any criminal justice agency in the state for use in the exercise of functions required or authorized by law or administrative rule, including but not limited to the results of chemical biological substance testing to determine genetic markers conducted pursuant to sections 16-11-102.4 and 16-23-104, C.R.S.

(5) "Custodian" means the official custodian or any authorized person having personal custody and control of the criminal justice records in question.

(6) "Disposition" means a decision not to file criminal charges after arrest; the conclusion of criminal proceedings, including conviction, acquittal, or acquittal by reason of insanity; the dismissal, abandonment, or indefinite postponement of criminal proceedings; formal diversion from prosecution; sentencing, correctional supervision, and release from correctional supervision, including terms and conditions thereof; outcome of appellate review of criminal proceedings; or executive clemency.

(7) "Official action" means an arrest; indictment; charging by information; disposition; pretrial or posttrial release from custody; judicial determination of mental or physical condition; decision to grant, order, or terminate probation, parole, or participation in correctional or rehabilitative programs; and any decision to formally discipline, reclassify, or relocate any person under criminal sentence.

(8) "Official custodian" means any officer or employee of the state or any agency, institution, or political subdivision thereof who is responsible for the maintenance, care, and keeping of criminal justice records, regardless of whether such records are in his actual personal custody and control.

(9) "Person" means any natural person, corporation, limited liability company, partnership, firm, or association.

(10) "Person in interest" means the person who is the primary subject of a criminal justice record or any representative designated by said person by power of attorney or notarized authorization; except that, if the subject of the record is under legal disability, "person in interest" means and includes his parents or duly appointed legal representative.

(11) "Private custodian" means a private entity that has custody of the criminal justice records in question and is in the business of providing the information to others.

Source: L. 77: Entire part added, p. 1244, § 1, effective December 31. L. 81: (3) amended, p. 1238, § 1, effective June 4. L. 88: (2) amended, p. 979, § 2, effective April 20. L. 89: (2) amended, p. 845, § 114, effective July 1. L. 90: (9) amended, p. 449, § 22, effective April 18. L. 98: (2) amended, p. 947, § 6, effective May 27. L. 99: (4) amended, p. 1170, § 5, effective July 1. L. 2000: (4) amended, p. 1266, § 5, effective May 26; (4) amended, p. 1027, § 7, effective July 1. L. 2002: (4) amended, p. 1023, § 43, effective June 1; (4) amended, p. 1155, § 15, effective July 1. L. 2006: (4) amended, p. 1692, § 15, effective July 1, 2007. L. 2007: (4) amended, p. 2040, § 60, effective June 1. L. 2008: (3) amended, p. 1668, § 13, effective May 29. L. 2009: (4) amended, (SB 09-241), ch. 295, p. 1577, § 2, effective September 30, 2010. L. 2010: (4) amended, (HB 10-1422), ch. 419, p. 2087, § 76, effective August 11. L. 2011: (11) added, (HB 11-1203), ch. 72, p. 199, § 1, effective August 10.

Editor's note: (1) Amendments to subsection (4) by House Bill 00-1166 and Senate Bill 00-121 were harmonized.

(2) Amendments to subsection (4) by Senate Bill 02-159 and Senate Bill 02-019 were harmonized.

24-72-303. Records of official actions required - open to inspection. (1) Each official action as defined in this part 3 shall be recorded by the particular criminal justice agency taking

the official action. Such records of official actions shall be maintained by the particular criminal justice agency which took the action and shall be open for inspection by any person at reasonable times, except as provided in this part 3 or as otherwise provided by law. The official custodian of any records of official actions may make such rules and regulations with reference to the inspection of such records as are reasonably necessary for the protection of such records and the prevention of unnecessary interference with the regular discharge of the duties of the custodian or his office.

(2) If the requested record of official action of a criminal justice agency is not in the custody or control of the person to whom application is made, such person shall forthwith notify the applicant of this fact in writing, if requested by the applicant. In such notification, he shall state, in detail to the best of his knowledge and belief, the agency which has custody or control of the record in question.

(3) If the requested record of official action of a criminal justice agency is in the custody and control of the person to whom application is made but is in active use or in storage and therefore not available at the time an applicant asks to examine it, the custodian shall forthwith notify the applicant of this fact in writing, if requested by the applicant. If requested by the applicant, the custodian shall set a date and hour within three working days at which time the record will be available for inspection.

Source: L. 77: Entire part added, p. 1246, § 1, effective December 31.

24-72-304. Inspection of criminal justice records. (1) Except for records of official actions which must be maintained and released pursuant to this part 3, all criminal justice records, at the discretion of the official custodian, may be open for inspection by any person at reasonable times, except as otherwise provided by law, and the official custodian of any such records may make such rules and regulations with reference to the inspection of such records as are reasonably necessary for the protection of such records and the prevention of unnecessary interference with the regular discharge of the duties of the custodian or his office.

(2) If the requested criminal justice records are not in the custody or control of the person to whom application is made, such person shall forthwith notify the applicant of this fact in writing, if requested by the applicant. In such notification, he shall state, in detail to the best of his knowledge and belief, the reason for the absence of the records from his custody or control, their location, and what person then has custody or control of the records.

(3) If the requested records are not in the custody and control of the criminal justice agency to which the request is directed but are in the custody and control of a central repository for criminal justice records pursuant to law, the criminal justice agency to which the request is directed shall forward the request to the central repository. If such a request is to be forwarded to the central repository, the criminal justice agency receiving the request shall do so forthwith and shall so advise the applicant forthwith. The central repository shall forthwith reply directly to the applicant.

(4) (a) The name and any other information that would identify any victim of sexual assault or of alleged sexual assault or attempted sexual assault or alleged attempted sexual assault shall be deleted from any criminal justice record prior to the release of such record to any individual or agency other than a criminal justice agency when such record bears the notation "SEXUAL ASSAULT" prescribed by this subsection (4).

(b) (I) A criminal justice agency or custodian of criminal justice records shall make the notation "SEXUAL ASSAULT" on any record of official action and on the file containing such record when the official action is related to the commission or the alleged commission of any of the following offenses:

(A) Sexual assault under section 18-3-402, C.R.S., or sexual assault in the first degree under section 18-3-402, C.R.S., as it existed prior to July 1, 2000;

(B) Sexual assault in the second degree under section 18-3-403, C.R.S., as it existed prior to July 1, 2000;

(C) Unlawful sexual contact under section 18-3-404, C.R.S., or sexual assault in the third degree under section 18-3-404, C.R.S., as it existed prior to July 1, 2000;

(D) Sexual assault on a child under section 18-3-405, C.R.S.;

(E) Sexual assault on a child by one in a position of trust under section 18-3-405.3, C.R.S.;

(F) Sexual assault on a client by a psychotherapist under section 18-3-405.5, C.R.S.;

(G) Incest under section 18-6-301, C.R.S.;

(H) Aggravated incest under section 18-6-302, C.R.S.; or

(I) An attempt to commit any of the offenses listed in sub-subparagraphs (A) to (H) of this subparagraph (I).

(II) The notation required pursuant to subparagraph (I) of this paragraph (b) shall be made when:

(A) Any record or file or both of official action is prepared relating to the commission or alleged commission of an offense enumerated in subparagraph (I) of this paragraph (b); or

(B) The name of any victim of the commission or alleged commission of any offense enumerated in subparagraph (I) of this paragraph (b) for which official action was taken appears on the criminal information or indictment.

(c) A criminal justice agency or custodian of criminal justice records shall make the notation "SEXUAL ASSAULT" on any record of official action and on the file containing such record when:

(I) Any employee of the court, officer of the court, or judicial officer notifies such agency or custodian of the name of any victim of the commission or alleged commission of any offense enumerated in subparagraph (I) of paragraph (b) of this subsection (4) when such victim's name is disclosed to or obtained by such employee or officer during the course of proceedings related to such official action; or

(II) Such record or file contains the name of a victim of the commission or alleged commission of any such offense and the victim requests the custodian of criminal justice records to make such a notation.

(d) The provisions of this subsection (4) shall not apply to the sharing of information by a state institution of higher education police department to authorized university administrators pursuant to section 23-5-141, C.R.S.

(4.5) (a) The name and any other information that would identify any child victim of offenses, alleged offenses, attempted offenses, or allegedly attempted offenses identified in paragraph (b) of this subsection (4.5) or under paragraph (c) of this subsection (4.5) shall be deleted from any criminal justice record prior to the release of such record to any individual or agency other than a criminal justice agency or the named victim or victim's designee, when such record bears the notation "CHILD VICTIM" required by this subsection (4.5).

(b) A criminal justice agency or custodian of criminal justice records shall make the notation "CHILD VICTIM" on any record of official action and on the file containing such record when the official action is related to the commission or the alleged commission of any of the offenses in the following statutes:

- (I) Part 4 of article 6 of title 18, C.R.S.;
- (II) Internet sexual exploitation of a child under section 18-3-405.4, C.R.S.;
- (III) Enticement of a child under section 18-3-305, C.R.S.;
- (IV) Internet luring of a child under section 18-3-306, C.R.S.;
- (V) Soliciting for child prostitution under section 18-7-402, C.R.S.;
- (VI) Pandering of a child under section 18-7-403, C.R.S.;
- (VII) Procurement of a child under section 18-7-403.5, C.R.S.;
- (VIII) Keeping a place of child prostitution under section 18-7-404, C.R.S.;
- (IX) Pimping of a child under section 18-7-405, C.R.S.;
- (X) Inducement of child prostitution under section 18-7-405.5, C.R.S.;
- (XI) Patronizing a prostituted child under section 18-7-406, C.R.S.;
- (XII) Human trafficking of a minor for involuntary servitude under section 18-3-503, C.R.S.;
- (XIII) Human trafficking of a minor for sexual servitude under section 18-3-504 (2), C.R.S.; and
- (XIV) An attempt to commit any of the offenses listed in subparagraphs (I) to (XIII) of this paragraph (b).

(c) A criminal justice agency or custodian of criminal justice records shall make the notation "CHILD VICTIM" on any record of official action and on the file containing such record when the official action involves a child victim when:

- (I) Any employee of the court, officer of the court, or judicial officer notifies such agency or custodian of the name of a child victim when such a name is disclosed to or obtained by such employee or officer during the course of proceedings related to such official action; or
- (II) The record or file contains the name of a child victim and the child victim or the child's legal guardian requests the custodian of the criminal justice record to make such a notation.

(d) The provisions of this subsection (4.5) shall not apply to the sharing of information between:

(I) Criminal justice agencies, school districts, state institution of higher education police departments and authorized university administrators pursuant to section 23-5-141, C.R.S., assessment centers for children as defined in section 19-1-103 (10.5), C.R.S., or social services agencies as authorized by section 22-32-109.1 (3), C.R.S.;

(II) Public schools and school districts for the purposes of suspension, expulsion, and reenrollment determinations pursuant to sections 22-33-105 (5)(a), 22-33-106 (1.2) and (4)(a), and 19-1-303, C.R.S.; and

(III) The office of the child protection ombudsman, the office of the child's representative, the office of the respondent parents' counsel, child fatality review teams as defined in sections 25-20.5-404, 25-20.5-406, and 26-1-139, C.R.S., and state or county departments of human or social services in the exercise of their duties.

(5) Nothing in this section shall be construed to limit the discretion of the district attorney to authorize a crime victim, as defined in section 24-4.1-302 (5), or a member of the

victim's immediate family, as defined in section 24-4.1-302 (6), to view all or a portion of the presentence report of the probation department.

Source: **L. 77:** Entire part added, p. 1246, § 1, effective December 31. **L. 92:** (4) added, p. 1106, § 6, effective July 1. **L. 93:** (4) amended, p. 1863, § 1, effective June 6. **L. 96:** (4)(a) amended, p. 1587, § 14, effective July 1. **L. 97:** (5) added, p. 1551, § 2, effective July 1. **L. 2000:** (4)(b)(I)(A), (4)(b)(I)(B), and (4)(b)(I)(C) amended, p. 707, § 36, effective July 1. **L. 2006:** (4)(a) and (4)(b)(I) amended, p. 421, § 3, effective April 13. **L. 2011:** (4)(d) added, (HB 11-1169), ch. 119, p. 374, § 2, effective April 20. **L. 2016:** (4.5) amended, (SB 16-110), ch. 90, p. 252, § 1, effective September 1.

Editor's note: Section 2 of chapter 90 (SB 16-110), Session Laws of Colorado 2016, provides that the notation requirement in subsection (4.5) applies to offenses committed on or after September 1, 2016. Section 2 further provides that criminal justice agencies and custodians of criminal justice records shall make reasonable efforts to comply with subsection (4.5) for offenses committed prior to September 1, 2016.

24-72-305. Allowance or denial of inspection - grounds - procedure - appeal. (1) The custodian of criminal justice records may allow any person to inspect such records or any portion thereof except on the basis of any one of the following grounds or as provided in subsection (5) of this section:

- (a) Such inspection would be contrary to any state statute;
- (b) Such inspection is prohibited by rules promulgated by the supreme court or by the order of any court.

(1.5) On the ground that disclosure would be contrary to the public interest, the custodian of criminal justice records shall deny access to the results of chemical biological substance testing to determine the genetic markers conducted pursuant to sections 16-11-102.4 and 16-23-104, C.R.S.

(2) to (4) Repealed.

(5) On the ground that disclosure would be contrary to the public interest, and unless otherwise provided by law, the custodian may deny access to records of investigations conducted by or of intelligence information or security procedures of any sheriff, district attorney, or police department or any criminal justice investigatory files compiled for any other law enforcement purpose.

(6) If the custodian denies access to any criminal justice record, the applicant may request a written statement of the grounds for the denial, which statement shall be provided to the applicant within seventy-two hours, shall cite the law or regulation under which access is denied or the general nature of the public interest to be protected by the denial, and shall be furnished forthwith to the applicant.

(7) Any person denied access to inspect any criminal justice record covered by this part 3 may apply to the district court of the district wherein the record is found for an order directing the custodian of such record to show cause why said custodian should not permit the inspection of such record. A hearing on such application shall be held at the earliest practical time. Unless the court finds that the denial of inspection was proper, it shall order the custodian to permit such inspection and, upon a finding that the denial was arbitrary or capricious, it may order the

custodian to pay the applicant's court costs and attorney fees in an amount to be determined by the court. Upon a finding that the denial of inspection of a record of an official action was arbitrary or capricious, the court may also order the custodian personally to pay to the applicant a penalty in an amount not to exceed twenty-five dollars for each day that access was improperly denied.

(8) The allowance or denial of the right to inspect criminal justice records that contain specialized details of security arrangements or investigations shall be governed by section 24-72-204 (2)(a)(VIII).

Source: L. 77: Entire part added, p. 1246, § 1, effective December 31. L. 78: IP(1) amended and (2) to (4) repealed, pp. 403, 407, §§ 1, 4, effective May 5. L. 99: (1.5) added, p. 1170, § 6, effective July 1. L. 2000: (1.5) amended, p. 1266, § 6, effective May 26; (1.5) amended, p. 1028, § 8, effective July 1. L. 2002: (1.5) amended, p. 1024, § 44, effective June 1; (1.5) amended, p. 1155, § 16, effective July 1. L. 2005: (8) added, p. 503, § 3, effective July 1. L. 2006: (1.5) amended, p. 1692, § 16, effective July 1, 2007. L. 2007: (1.5) amended, p. 2040, § 61, effective June 1. L. 2009: (1.5) amended, (SB 09-241), ch. 295, p. 1577, § 3, effective September 30, 2010. L. 2010: (1.5) amended, (HB 10-1422), ch. 419, p. 2087, § 77, effective August 11.

Editor's note: (1) Amendments to subsection (1.5) by House Bill 00-1166 and Senate Bill 00-121 were harmonized.

(2) Amendments to subsection (1.5) by Senate Bill 02-159 and Senate Bill 02-019 were harmonized.

24-72-305.3. Private access to criminal history records of volunteers and employees of charitable organizations.

(1) (Deleted by amendment, L. 2001, p. 1233, § 1, effective June 5, 2001.)

(2) (a) As used in this subsection (2):

(I) "Authorized agency" means a division or office of a state designated by a state to report, receive, or disseminate information under the "Volunteers for Children Act", contained in Public Law 105-251, as amended.

(II) "Bureau" means the Colorado bureau of investigation created in section 24-33.5-401.

(III) "Care" means the provision of care, treatment, education, training, instruction, supervision, or recreation to children, the elderly, or individuals with disabilities.

(IV) "Convicted" means a conviction by a jury or by a court and shall also include a deferred judgment and sentence agreement, a deferred prosecution agreement, a deferred adjudication agreement, an adjudication, and a plea of guilty or nolo contendere.

(V) (Deleted by amendment, L. 2001, p. 1233, § 1, effective June 5, 2001.)

(V.2) "The elderly" means persons sixty years of age or older receiving care.

(V.5) "Individuals with disabilities" means persons with a mental or physical impairment who require assistance to perform one or more daily living tasks.

(VI) "Provider" shall have the same meaning as set forth in 42 U.S.C. sec. 5119c and includes an owner of, an employee of, an applicant seeking employment with, or a volunteer with a qualified entity.

(VII) "Qualified entity" means a business or organization, whether public, private, for-profit, not-for-profit, or voluntary, that provides care or care placement services, including a business or organization that licenses or certifies others to provide care or care placement services.

(b) For the purpose of implementing the provisions of the "Volunteers for Children Act", contained in Public Law 105-251, as amended, on and after July 1, 2000, each qualified entity in the state may contact an authorized agency for the purpose of determining whether a provider has been convicted of, or is under pending indictment for, a crime that bears upon the provider's fitness to have responsibility for the safety and well-being of children, the elderly, or individuals with disabilities. Such crimes shall include, but need not be limited to:

(I) Felony child abuse, as specified in section 18-6-401, C.R.S.;

(II) A crime of violence, as defined in section 18-1.3-406, C.R.S.;

(III) Any felony offenses involving unlawful sexual behavior, as defined in section 16-22-102 (9), C.R.S.;

(IV) Any felony, the underlying factual basis of which has been found by the court on the record to include an act of domestic violence, as defined in section 18-6-800.3, C.R.S.;

(V) Any felony offense in any other state, the elements of which are substantially similar to the elements of any one of the offenses described in subparagraphs (I) to (IV) of this paragraph (b).

(c) (I) For purposes of this subsection (2), the bureau shall be designated an authorized agency. The executive director of the department of public safety shall identify by rule, consistent with applicable federal and state law, those entities that may serve as qualified entities. In addition, the director of the department of public safety may promulgate all reasonable and necessary rules to implement this subsection (2).

(II) For purposes of this subsection (2):

(A) The department of human services, created in section 24-1-120, may serve as an authorized agency for those qualified entities that are regulated by the said department. The state board of human services shall identify by rule, consistent with applicable federal and state law, those entities that may serve as qualified entities. In addition, the state board of human services may promulgate all reasonable and necessary rules to implement this subsection (2).

(B) The department of public health and environment, created in section 24-1-119, may serve as an authorized agency for those qualified entities that are regulated by said department. The state board of health shall identify by rule, consistent with applicable federal and state law, those entities that may serve as qualified entities. In addition, the state board of health may promulgate all reasonable and necessary rules to implement this subsection (2).

(C) The department of education, created in section 24-1-115, may serve as an authorized agency for those qualified entities that are regulated by said department. The state board of education shall identify by rule, consistent with applicable federal and state law, those entities that may serve as qualified entities. In addition, the state board of education may promulgate all reasonable and necessary rules to implement this subsection (2).

(d) Any authorized agency reporting, receiving, or disseminating criminal history record information pursuant to this subsection (2) shall request such information only through the bureau. The bureau, in responding to such request, shall access records that are maintained by or within this state and any other state or territory of the United States, any other nation, or any

agency or subdivision of the United States including, but not limited to, the federal bureau of investigation in the United States department of justice.

Source: **L. 95:** Entire section added, p. 111, § 1, effective March 30. **L. 2000:** Entire section amended, p. 1701, § 1, effective July 1. **L. 2001:** Entire section amended, p. 1233, § 1, effective June 5. **L. 2002:** (2)(b)(III) amended, p. 1189, § 32, effective July 1; (2)(b)(II) amended, p. 1535, § 258, effective October 1.

Cross references: For the legislative declaration contained in the 2002 act amending subsection (2)(b)(II), see section 1 of chapter 318, Session Laws of Colorado 2002.

24-72-305.4. Governmental access to criminal history records of applicants in regulated professions or occupations. (1) Any division, board, commission, or person responsible for the licensing, certification, or registration functions for any governmental entity, in addition to any other authority conferred by law, may use fingerprints to access, for comparison purposes, arrest history records of:

(a) Any applicant for licensure, registration, or certification to practice a profession or occupation;

(b) Any licensee, registrant, or person certified to practice a profession or occupation;

(c) Any prospective employee or any employee of a licensee, registrant, or person certified to practice an occupation or profession.

(2) The persons or entities authorized to access arrest history records pursuant to subsection (1) of this section may access records that are maintained by or within this state through the Colorado bureau of investigation.

(3) For the purposes of this section, "governmental entity" means the state and any of its political subdivisions, including entities governed by home rule charters, and any agency or institution of the state or any of its political subdivisions.

Source: **L. 94:** Entire section added, p. 1048, § 1, effective July 1. **L. 2002:** IP(1) and (2) amended, p. 977, § 14, effective June 1.

24-72-305.5. Access to records - denial by custodian - use of records to obtain information for solicitation - definitions. (1) Records of official actions and criminal justice records and the names, addresses, telephone numbers, and other information in such records shall not be used by any person for the purpose of soliciting business for pecuniary gain. The official custodian shall deny any person access to records of official actions and criminal justice records unless such person signs a statement which affirms that such records shall not be used for the direct solicitation of business for pecuniary gain.

(2) (a) It is unlawful for a person to obtain a copy of a booking photograph in any format knowing:

(I) The booking photograph will be placed in a publication or posted to a website; and

(II) Removal of the booking photograph from the publication or website requires the payment of a fee or other exchange for pecuniary gain.

(b) A person who requests a copy of one or more booking photographs from an official custodian shall, at the time of making the request, submit the statement required by subsection

(1) of this section; except that a custodian may allow a person who anticipates making multiple requests for booking photographs to submit the required statement once for all booking photographs requested during a specified period of time not to exceed one year. By signing the statement, the person is affirming that any booking photograph obtained from the custodian will not be placed in a publication or posted to a website that requires the payment of a fee or other exchange for pecuniary gain in order to remove or delete the booking photograph from the publication or website.

(c) Notwithstanding the provisions of section 24-72-309, a person who violates a provision of paragraph (a) of this subsection (2) or who submits a false statement pursuant to paragraph (b) of this subsection (2) commits an unclassified misdemeanor and shall be punished by a fine of up to one thousand dollars.

(d) As used in this subsection (2), unless the context otherwise requires, "booking photograph" means a photograph or other image of a person taken by a criminal justice agency at the time that a person is arrested or detained by a criminal justice agency and prior to conviction.

Source: L. 92: Entire section added, p. 406, § 23, effective June 3. L. 2014: Entire section amended, (HB 14-1047), ch. 115, p. 414, § 1, effective September 1. L. 2015: (2)(b) amended, (HB 15-1137), ch. 46, p. 114, § 1, effective March 26.

24-72-305.6. County clerk and recorder access to criminal history records of election judges and employees - rules. (1) A county clerk and recorder shall request the criminal history records from the public website maintained by the Colorado bureau of investigation for all full-time, part-time, permanent, and contract employees of the county who staff a counting center and who have any access to electromechanical voting systems or electronic vote tabulating equipment. The county clerk and recorder shall request the records not less than once each calendar year prior to the first election of the year.

(2) A county clerk and recorder may request, in his or her discretion, the criminal history records from the public website maintained by the Colorado bureau of investigation for an election judge serving in the county. The secretary of state may, by rule promulgated in accordance with article 4 of this title, require that certain duties may be performed only by those election judges for whom a county clerk and recorder has requested criminal history records pursuant to this subsection (2). Such duties may include accessing the statewide voter registration system established pursuant to section 1-2-301, C.R.S.

(3) A county clerk and recorder authorized to access criminal history records pursuant to this section may access records that are maintained by or within this state directly through the public website maintained by the Colorado bureau of investigation. A county clerk and recorder that does not have access or authorization to use a credit card for conducting business on behalf of the county in which the clerk and recorder serves may request that the county sheriff for the county access the criminal records from the public website maintained by the Colorado bureau of investigation. Criminal records shall not be accessed pursuant to this section directly from the Colorado criminal justice computer system or the national criminal justice computer system.

Source: L. 2006: Entire section added, p. 120, § 1, effective March 27. L. 2016: (2) amended, (SB 16-142), ch. 173, p. 590, § 74, effective May 18.

24-72-306. Copies, printouts, or photographs of criminal justice records - fees authorized. (1) Criminal justice agencies may assess reasonable fees, not to exceed actual costs, including but not limited to personnel and equipment, for the search, retrieval, and redaction of criminal justice records requested pursuant to this part 3 and may waive fees at their discretion. In addition, criminal justice agencies may charge a fee not to exceed twenty-five cents per standard page for a copy of a criminal justice record or a fee not to exceed the actual cost of providing a copy, printout, or photograph of a criminal justice record in a format other than a standard page. Where fees for certified copies or other copies, printouts, or photographs of criminal justice records are specifically prescribed by law, such specific fees shall apply. Where the criminal justice agency is an agency or department of any county or municipality, the amount of such fees shall be established by the governing body of the county or municipality in accordance with this subsection (1).

(2) If the custodian does not have facilities for making copies, printouts, or photographs of records which the applicant has the right to inspect, the applicant shall be granted access to the records for the purpose of making copies, printouts, or photographs. The copies, printouts, or photographs shall be made while the records are in the possession, custody, and control of the custodian thereof and shall be subject to the supervision of such custodian. When practical, they shall be made in the place where the records are kept, but, if it is impractical to do so, the custodian may allow other arrangements to be made for this purpose. If other facilities are necessary, the cost of providing them shall be paid by the person desiring a copy, printout, or photograph of the records. The official custodian may establish a reasonable schedule of times for making copies, printouts, or photographs and may charge the same fee for the services rendered by him or his deputy in supervising the copying, printing out, or photographing as he may charge for furnishing copies under subsection (1) of this section.

(3) The provisions of this section shall not apply to discovery materials that a criminal justice agency is required to provide in a criminal case pursuant to rule 16 of the Colorado rules of criminal procedure.

Source: L. 77: Entire part added, p. 1248, § 1, effective December 31. L. 2008: (1) amended and (3) added, p. 428, § 1, effective August 5.

24-72-307. Challenge to accuracy and completeness - appeals. (1) Any person in interest who is provided access to any criminal justice records pursuant to this part 3 shall have the right to challenge the accuracy and completeness of records to which he has been given access, insofar as they pertain to him, and to request that said records be corrected.

(2) If the custodian refuses to make the requested correction, the person in interest may request a written statement of the grounds for the refusal, which statement shall be furnished forthwith.

(3) In the event that the custodian requires additional time to evaluate the merit of the request for correction, he shall so notify the applicant in writing forthwith. The custodian shall then have thirty days from the date of his receipt of the request for correction to evaluate the request and to make a determination of whether to grant or refuse the request, in whole or in part, which determination shall be forthwith communicated to the applicant in writing.

(4) Any person in interest whose request for correction of records is refused may apply to the district court of the district wherein the record is found for an order directing the custodian

of such record to show cause why he should not permit the correction of such record. A hearing on such application shall be held at the earliest practical time. Unless the court finds that the refusal of correction was proper, it shall order the custodian to make such correction, and, upon a finding that the refusal was arbitrary or capricious, it may order the criminal justice agency for which the custodian was acting to pay the applicant's court costs and attorney fees in an amount to be determined by the court.

Source: L. 77: Entire part added, p. 1248, § 1, effective December 31.

**24-72-308. Sealing of arrest and criminal records other than convictions.
(Repealed)**

Source: L. 77: Entire part added, p. 1249, § 1, effective December 31. L. 78: (1) and (2) amended, (1.1) to (1.3) and (9) added, and (3)(b) repealed, pp. 403, 406, §§ 2, 3, effective May 5. L. 79: (1)(a), (1.1)(c) to (1.1)(f), and (9) amended and (10) added, p. 975, § 1, effective March 13. L. 81: Entire section R&RE, p. 1238, § 2, effective June 4. L. 82: (2)(b)(I), (2)(b)(II), and (5)(a) amended, p. 655, § 8, effective January 1, 1983. L. 83: (1)(a) amended, p. 680, § 4, effective July 1; (2)(i) and (3)(c)(II) amended, p. 963, § 11, effective July 1, 1984. L. 87: (5)(a) amended, p. 1498, § 8, effective July 1. L. 88: Entire section R&RE, p. 979, § 3, effective April 20. L. 92: (1.5) added, p. 281, § 1, effective July 1; (3) amended, p. 1106, § 7, effective July 1. L. 95: (3)(a) amended, p. 314, § 1, effective July 1. L. 96: (1)(a) amended, p. 736, § 5, effective July 1; (3)(c) amended and (3)(d) added, p. 1587, § 13, effective July 1. L. 2002: (3)(c) amended, p. 1190, § 33, effective July 1. L. 2003: (1)(b)(II) amended, p. 634, § 1, effective March 18. L. 2004: (1)(a) amended, p. 1375, § 1, effective August 4. L. 2006: (1)(a)(II) amended, p. 422, § 4, effective April 13. L. 2008: (1)(f)(III) added, p. 1668, § 14, effective May 29; (1)(a)(III), (2), and (3)(a) amended, p. 1937, § 1, effective July 1; (3)(e) added, p. 473, § 1, effective July 1. L. 2011: (1)(c) amended, (HB 11-1203), ch. 72, p. 199, § 2, effective August 10. L. 2013: (1)(a)(I), IP(1)(a)(III), (1)(b)(II), and (2)(b) amended and (3)(f) and (4) added, (SB 13-123), ch. 289, pp. 1542, 1555, §§ 7, 14, effective May 24; (1)(b)(II) amended and (4) added, (SB 13-229), ch. 272, p. 1432, § 16, effective July 1; (1)(a)(I) and (1)(c) amended, (HB 13-1156), ch. 336, p. 1959, §§ 9, 10, effective August 7. L. 2014: Entire section repealed, (SB 14-206), ch. 317, p. 1377, § 2, effective August 1.

Editor's note: This section was relocated to § 24-72-702 in 2014.

24-72-308.5. Sealing of criminal conviction records information for offenses involving controlled substances for convictions entered on or after July 1, 2008, and prior to July 1, 2011. (Repealed)

Source: L. 2008: Entire section added, p. 1938, § 2, effective July 1. L. 2010: (4)(c) amended, (HB 10-1422), ch. 419, p. 2088, § 78, effective August 11. L. 2011: (2)(a)(II), (2)(c), (2)(d), and IP(4)(a) amended, (HB 11-1167), ch. 69, p. 181, § 1, effective March 29; (2)(c) amended, (HB 11-1203), ch. 72, p. 200, § 3, effective August 10. L. 2013: (2)(f)(I) amended and (6) added, (SB 13-123), ch. 289, p. 1543, § 8, effective May 24; (6) added, (SB 13-229), ch. 272,

p. 1433, § 17, effective July 1. **L. 2014:** Entire section repealed, (SB 14-206), ch. 317, p. 1377, § 2, effective August 1.

Editor's note: This section was relocated to several sections in part 7 of this article. Former subsections of this section are shown in editor's notes following those sections where they were relocated. For a detailed comparison, see the comparative tables located in the back of the index.

24-72-308.6. Sealing of criminal conviction records information for offenses involving controlled substances for convictions entered on or after July 1, 2011. (Repealed)

Source: **L. 2011:** Entire section added, (HB 11-1167), ch. 69, p. 182, § 2, effective March 29. **L. 2013:** (6) added, (SB 13-123), ch. 289, p. 1543, § 9, effective May 24; (6) added, (SB 13-229), ch. 272, p. 1433, § 18, effective July 1; (2)(a)(II)(C) and (2)(a)(III)(C) amended and (2)(a)(II.5) and (2)(a)(III.5) added, (SB 13-250), ch. 333, pp. 1940, 1936, §§ 63, 57, effective October 1. **L. 2014:** Entire section repealed, (SB 14-206), ch. 317, p. 1377, § 2, effective August 1.

Editor's note: This section was relocated to several sections in part 7 of this article. Former subsections of this section are shown in editor's notes following those sections where they were relocated. For a detailed comparison, see the comparative tables located in the back of the index.

24-72-308.7. Sealing of criminal conviction records information for offenses committed by victims of human trafficking. (Repealed)

Source: **L. 2012:** Entire section added, (HB 12-1151), ch. 174, p. 623, § 7, effective August 8. **L. 2014:** Entire section repealed, (SB 14-206), ch. 317, p. 1377, § 2, effective August 1.

Editor's note: This section was relocated to several sections in part 7 of this article. Former subsections of this section are shown in editor's notes following those sections where they were relocated. For a detailed comparison, see the comparative tables located in the back of the index.

24-72-308.8. Sealing of criminal conviction records information for offenses involving theft of public transportation services. (Repealed)

Source: **L. 2012:** Entire section added, (SB 12-044), ch. 274, p. 1449, § 6, effective June 8. **L. 2014:** Entire section repealed, (SB 14-206), ch. 317, p. 1377, § 2, effective August 1.

Editor's note: This section was relocated to several sections in part 7 of this article. Former subsections of this section are shown in editor's notes following those sections where they were relocated. For a detailed comparison, see the comparative tables located in the back of the index.

24-72-308.9. Sealing of criminal conviction records information for petty offenses and municipal offenses for convictions. (Repealed)

Source: L. 2013: Entire section added, (SB 13-123), ch. 289, p. 1544, § 10, effective May 24. **L. 2014:** Entire section repealed, (SB 14-206), ch. 317, p. 1377, § 2, effective August 1.

Editor's note: This section was relocated to several sections in part 7 of this article. Former subsections of this section are shown in editor's notes following those sections where they were relocated. For a detailed comparison, see the comparative tables located in the back of the index.

24-72-309. Violation - penalty. Any person who willfully and knowingly violates the provisions of this part 3 is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than one hundred dollars, or by imprisonment in the county jail for not more than ninety days, or by both such fine and imprisonment.

Source: L. 77: Entire part added, p. 1250, § 1, effective December 31.

CITY OF GREELEY

Initiating Department: City Clerk's Office

Number: 2014-4

Effective Date: September 1, 2014

Review and Revision History: Supersedes Administrative Rule 2005-01, Revised 2009.

Revisions reviewed and approved by Records Management Policy Team 07-17-14 and approved by City Manager 08-07-14.

ADMINISTRATIVE DIRECTIVE

CATEGORY: REC - Records and Information Management

SUBJECT: ACCESS TO PUBLIC RECORDS

PURPOSE: The primary purposes for this revision to the administrative directive are:

- 1) To set forth a general policy and procedures for providing access to public records maintained by the City to assure prompt and equitable service to customers requesting access to public records in compliance with the standards and requirements of the Colorado Open Records Act (the Act), C.R.S. 24-72-101, *et seq.*
- 2) To provide a framework for establishment by the City Manager of reasonable and standardized fees for searching, retrieving, producing, reproducing, and transmitting public records maintained by the City, as authorized by the Act.
- 3) To incorporate recent changes to the Act.

SCOPE: The administrative directive shall apply to all public records maintained by the City with the exception of those records listed below, regardless of the physical format of the record (i.e. paper, microfilm, and electronic). This administrative directive shall not apply to the following:

- 1) Criminal justice records.
- 2) Records maintained by the Fire Department.
- 3) Work product prepared for elected officials unless disclosure is authorized by the elected officials.
- 4) Records requested or subpoenaed during any formal discovery process. All such requests and subpoenas are to be referred to the City Attorney's Office for coordination and handling.

DISCUSSION: An organization as large and multi-faceted as the City of Greeley requires a certain set of rules and guidelines in order to most effectively conduct its business. The main discussion with regard to revising administrative rule 2005-01 (as revised 2009) was to update the copying fee schedule and to make it consistent with current statutory requirements.

AUTHORITY: Colorado Open Records Act (The Act), C.R.S. 24-72-101, *et seq.*

DEFINITIONS: *Custodian* is defined as the official custodian or any authorized person having personal custody and control of the public records in question.

Legal size page is defined as one side of one page that is 8½" x 14" in size.

Oversize document is defined as one that is larger than 11" x 14" in size.

Public records is defined as all writings, regardless of form, made, maintained, or kept by the City for use in the exercise of functions required or authorized by law or administrative rule or involving the receipt or expenditure of public funds.

Standard GIS product is defined as one that was produced within the previous 12 months.

Standard letter size page is defined as one side of one page no larger than 8½" x 11" in size.

Work product is defined as all intra- or inter-agency advisory or deliberative materials assembled for the benefit of elected officials, which materials express an opinion or are deliberative in nature and are communicated for the purpose of assisting such elected officials in reaching a decision within the scope of their authority.

DIRECTIVE:

1.0 No Waiver of Privilege.

- 1.1 Privilege not waived. Nothing in this administrative directive is deemed to be a waiver by the City of Greeley of any privilege, attorney-client or otherwise, concerning its official records.

2.0 Policy.

- 2.1 General policy statement. It is the policy of the City to make public records available for public inspection at reasonable times unless such records are protected from disclosure by law.

3.0 Roles and Responsibilities.

- 3.1 Custodians. Department Heads are “custodians” of all records maintained within their departments and are responsible for the implementation of this administrative directive.
- 3.2 Official Custodian. The City Clerk is the City’s “official custodian” and is responsible for coordinating the maintenance, care, and keeping of public records. The City Clerk is also responsible for providing certified copies of City public records as requested.

4.0 Procedures and Policies for Inspection of Records.

- 4.1 On-Site. All public records as defined in the Act are to be open for inspection in the office of the records custodian where the records physically reside during normal office hours.
- 4.2 Requests Involving Multiple Departments. For the convenience of the requestor and the City, nothing in this administrative directive would prevent coordination between departments when a records request involves multiple departments.
- 4.3 Security Precautions. Except as ordered by any court of competent jurisdiction, the original public records to be inspected shall not be removed from the office of the custodian without advance permission from the custodian, and the custodian shall take precautions to ensure the security of public records made available for inspection and copying.
- 4.4 Inspection of Non-Paper Records. Where public records are kept only in miniaturized or digital form, the custodian shall take necessary measures to ensure public access to the public records without unreasonable delay or unreasonable cost. Such measures may include, without limitation, the availability of viewing stations, the provision of portable disk copies of computer files, or direct electronic access via on-line bulletin boards or other means.
- 4.5 Records Not Open to Inspection and Copying. Inspection and copying of the following public records shall not be permitted:
 - 4.5.1 Contrary to Law, Regulation, or Court Order. If upon consultation with the City Attorney, it is determined that inspection and copying would be contrary to any state statute, federal statute, or regulation issued thereunder, or is prohibited by rules promulgated by the order of any court.
 - 4.5.2 Communications with Legal Counsel. If the record is a communication from attorneys in the City Attorney’s Office or other special counsel of the City, until there has been consultation between the recipient of the

communication and the attorney or special counsel who wrote the communication, or the City Attorney.

4.5.3 Contrary to Public Interest. If, in the opinion of the records custodian, disclosure of the contents of any public record would be contrary to the public interest in accordance with the guidelines set forth in the Act. Notwithstanding the fact that said record might otherwise be available for public inspection under the provisions of this administrative directive, the records custodian may deny access to such public record, and at the direction of the City Council, the City Attorney's Office may apply to the Weld County District Court for an order permitting the records custodian to restrict such disclosure.

4.6 Explanation of Absent Records. If the public records requested are not in the custody or control of the records custodian, the requestor may request a written statement explaining the reason for the absence of the records from such custodian's custody or control, their location and what person or entity has custody or control of the records.

4.7 Extenuating Circumstances. If the public records requested are in the custody and control of the records custodian, but are in active use or in storage and are, therefore, not immediately available at the time a requestor asks to examine them, the requestor may request a written statement to that effect. Upon written request of the requestor specifying exactly which documents are being requested, the custodian shall set a date and hour, within the following three full working days, at which time the records will be available for inspection. In the event extenuating circumstances exist as defined in the Act, the custodian shall have an additional seven full working days to make the requested records available for inspection. Extenuating circumstances do not apply to any request that relates to a single, specifically identified document. Extenuating circumstances may include the following circumstances:

4.7.1 Insufficient Specificity. A broadly stated request is made that encompasses all or substantially all of a large category of records and the request is without sufficient specificity to allow the preparation or gathering of the records within the three-day period; or

4.7.2 Unique Circumstances. A broadly stated request is made that encompasses all or substantially all of a large category of records and staff is unable to prepare or gather the records within the three-day period because the staff needs to devote all or substantially all of its resources to meeting an impending deadline or period of peak demand that is either unique or not predicted to recur more frequently than once a month; or

4.7.3 Interference with Other Obligations. A request involves such a large volume of records that staff cannot reasonably prepare or gather the records within the three-day period without substantially interfering with its obligation to perform other public service responsibilities.

- 4.8 No Duty to Create New Record. The records custodian is not under a duty to create any new public record in response to a request. Data and/or records need to be provided only in the format in which they currently exist. Requests in advance for "future" records i.e. requests for information on a subsequent continuing or periodic basis are not allowed. A separate request must be made each time existing data and/or records are requested. Data will not be manipulated and provided in custom formats.
- 4.9 Questions Referred to City Attorney. Questions concerning requests for information should be directed immediately to the Office of the City Attorney.
- 4.10 Copying Fees and Charges.
- 4.10.1 Payment of Fees and Charges Required. In all cases in which a person has the right to inspect any public record pursuant to this administrative directive, such person has a right to request copies, printouts, or photographs of such records upon payment of the fees and charges established by this administrative directive.
- 4.10.2 Advance Payment. Advance payment is due for the estimated cost of searching, retrieving, producing and reproducing such record(s) if the estimated total cost exceeds \$50.00. Prior to release of the requested information, the requestor shall pay the difference, if any, between the estimate and actual cost. The requestor shall be refunded any excess amount collected.
- 4.10.3 Determination of Costs. The costs of reproduction as stated in this section have been determined to be the cost of the City in producing such documents. Charges for inspection and copying of records shall be set annually by the City Manager.
- 4.10.4 Departmental Discretion. Periodically situations will arise concerning the charging of fees that will require flexibility and common sense. To provide that flexibility, Department Heads are authorized to make decisions on situations not specifically covered by this administrative directive. All decisions must be made within the general intent of this administrative directive and in the best interest of the City. At the Department Head's discretion and after prior consultation with the City Attorney and City Clerk, courtesy copies may be provided free of charge for infrequent requests with an insignificant impact on resources i.e. if fulfilling the request does not require more than one hour of cumulative staff time.
- 4.10.5 Brochures and Pamphlets. Brochures and pamphlets produced specifically for assistance and convenience of residents and businesses in complying with municipal regulations are not affected by this administrative directive and may be distributed free of charge.

- 4.10.6 Books. Copies of any books the City has printed, i.e. the budget book, are available at the City's cost to have them printed. Copies of the code of ordinances and code supplement subscriptions are to be purchased through the City's code publisher, Colorado Code Company, Inc.
- 4.10.7 On-Site Inspection. There shall be no charge to inspect public records on-site, unless the nature of a request makes it necessary to expend one hour or more of staff time. Independent research by the requester is allowed provided that the records to be researched do not include privileged documents or documents not otherwise subject to public disclosure, that the research is supervised by City staff to avoid loss or damage to records, and that the research does not unduly disrupt the day-to-day activities of the organization.
- 4.10.8 Staff Time in Excess of One Hour. A fee shall be established by the City Manager to be charged on cumulative staff time required in excess of one hour to search, retrieve, produce, reproduce and distribute the requested information. As provided by the Act, such fee shall not exceed \$30.00 per hour after the first hour.
- 4.10.9 Transmission by E-mail. As provided by the Act, there shall be no fee for transmitting requested records by e-mail.
- 4.10.10 Mailing Charge. The charge for mailing information to the requestor shall be the actual cost of postage and packaging.
- 4.10.11 Copies on Electronic Media. Copies of electronic records available and provided on computer media in native format, such as databases, spreadsheets, or word processing documents, will be produced by the custodian for a fee established annually by the City Manager.

5.0 Advisement.

- 5.1 Exceptions. The City of Greeley organization strives to make government as open as possible including its process for access to open records. While this administrative directive covers most open record situations, exceptions may exist for large or complicated requests. Additionally please note that the law mandates certain information be protected by the City and grants discretion for the City to protect other information under certain circumstances. Some requested information may not be available due to those legal restrictions.

6.0 Privacy Policy.

- 6.1 Appropriate Restrictions for Personal Information. The policy of the City of Greeley is to place appropriate restrictions on the collection, use, dissemination, disclosure, and retention of personal information.

6.2 Use and Handling of Personal Information. No unauthorized use shall be made of such personal information in any way that conflicts with this administrative directive. Any breach of the City's privacy policies shall be a disciplinary offense. Deliberate breaches shall be considered to be gross misconduct, with appropriate remedies. All records containing personal identifying information shall be properly destroyed in accordance with the City's policy and State law regarding such destruction.

7.0 Violations and Discipline.

7.1 Disciplinary Action/Penalties. Employment with the City requires compliance with all City rules, regulations and policies. Violations of this administrative directive may result in a reprimand or disciplinary action pursuant to the City's personnel rules and regulations, up to and including termination from employment, a police investigation, and/or legal action in the form of criminal or civil penalties.

7.2 Compliance with Other City Policies. City employees shall comply with all other City policies that may apply to the use of City records and information or recordkeeping systems, including but not limited to the City's internet and information security policies, the City's policies regarding protected records, and the City's personnel policies.

City Manager

Date

8-8-14

Request for Public Records



Our goal is to assure prompt and equitable service to customers requesting access to public records. It is our policy to make public records available for public inspection at reasonable times unless such records are protected from disclosure by law. There are fees associated with requests for copies or requests that require significant resources.

Requester Name:	Date:
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Mailing Address:

Signature:

Phone:

Detailed description of records requested:

Fee Schedule:

Black & white printed copy (per standard 8 1/2" x 11" page)	\$.10 each						
Color copy (per standard 8 1/2" x 11" page)	\$.40 each						
Black and white or color printed copy (per legal size 8 1/2" x 14" page)	\$.40 each						
Black and white or color printed copy (per standard legal size 11" x 17" page)	\$.40 each						
Black and white or color printed copy (per oversized page larger than 11" x 17" not including GIS products)	Actual City cost						
Cumulative staff time to search, retrieve, produce, reproduce and distribute records	First cumulative one hour: no charge After first cumulative one hour, \$30.00 per hour or portion thereof in 15-minute increments						
Information provided on electronic media	CD, DVD, audiotape, videotape or other electronic media - actual City cost						
Mailing	Actual City cost						
E-mail transmission	No charge						
Budget book or other large publication	Actual City cost to produce the publication						
Greeley Charter, Code of Ordinances and periodic supplementation	Available through publisher, Colorado Code Company, Inc.						
Postage and packaging	Actual City cost						
Standard GIS products	<table> <tr> <td>11" x 17" or less - \$6.00</td><td>18" x 24" - \$12.00</td></tr> <tr> <td>24" x 36" - \$14.00</td><td>36" x 48" - \$16.00</td></tr> <tr> <td>36" x 60" - \$18.00</td><td>42" x 84" - \$20.00</td></tr> </table>	11" x 17" or less - \$6.00	18" x 24" - \$12.00	24" x 36" - \$14.00	36" x 48" - \$16.00	36" x 60" - \$18.00	42" x 84" - \$20.00
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24" x 36" - \$14.00	36" x 48" - \$16.00						
36" x 60" - \$18.00	42" x 84" - \$20.00						

For Internal Office Use:

Date request completed:	Amount prepaid: \$ _____
Approved: _____ Denied: _____	Balance due before release: \$ _____
If denied, provide reason(s):	Total Amount paid: \$ _____

2019 Fee Schedule for Criminal Justice Records Retrieval

- Fees are non-refundable.
- Victims of crimes have a right to receive the initial police report(s) but are subject to fees for any subsequent police reports resulting from further investigation after the initial report(s). This does not include evidence, body worn camera footage, and 911 recordings. All parties are subject to fees for these items.
- Fees are due at the time the request is made; additional fees may apply on extensive requests.
- Acceptable methods of payment: Cash (no bills larger than \$20), Money Order, or Check, Credit/Debit Card at Customer Service Window.
- All records requests must be accompanied by a signed Application for Release of Criminal Justice Records form.
- If submitting your request by mail, please enclose a self-addressed, stamped envelope with your request with the appropriate amount of actual postage. Submit requests to Greeley/Weld County Criminal Justice Records, 1551 N 17th Avenue Suite 3, Greeley, CO 80631.
- To obtain the cost of your mailed request, please contact Records at 970-350-9627.
- Requests may also be submitted via email at WebRequests@greeleygov.com. Acceptable methods of payment: Money Order or Check mailed to the above address.

Item	Cost	Information
Search & Retrieval Fee	\$4.00	
Redaction/Extended Research/Retrieval	\$9.00 per 15 minutes/\$36.00 per hour	Cumulative staff time to retrieve, redact, reproduce, and mail or fax records, exceeding 10 minutes.
Copies	25¢ per page	Black and white printed copy (per standard 8½" x 11" page)
Location Search	\$9.00	Per location searched. Extended searches will be billed at the broad statistical request rate.
Clearance Letters/Records Checks	\$10.00 in person \$10.50 by mail	Per letter.
Notary or Authentication Fee	\$3.00	Per notarized document or authentication.
Broad Statistical Requests	\$36.00 per hour (one hour minimum)/\$9.00 per subsequent 15 minutes	Per request requiring programming for completion.
Document Viewing	\$18.00 per 15 minutes/\$72.00 per hour	Per 15 minutes. Cumulative staff time x2.
E911/Dispatch Recordings	\$50.00/\$45.00 per subsequent hour	Per recording. Recordings are released on CD. Files are kept for 180 days before they are deleted.
Fax Fee	30¢ per page	Fee includes any long distance fees incurred.

Evidence Fees	Cost
Evidence Viewing	\$40.00 per hour / ½ hour minimum x2
Copies	25¢ per page
Digital Photo CD	\$15.00 per disc
CD/DVD/Cassette	\$15.00 per disc/tape
35mm Photo Prints	Actual cost, paid at contracted photo processor in Greeley.

Body Worn Camera Footage Fees	Cost
Initial Research Fee	\$67.00 per hour, one hour minimum
Redaction Fee	\$67.00 per hour, per recording (not per incident)
8GB Thumb Drive	\$5.00 per thumb drive (only if NO access to email)
Mailing Fee	Actual Cost

Worksession Agenda Summary

June 25, 2019 (6:00 – 6:30 p.m.)

Agenda Item Number 6

Doug Marek, City Attorney, 970-350-9755

Title:

2019 Legislative Update

Background:

In 2019 the Colorado General Assembly enacted significant new legislation affecting Colorado municipalities. This overview highlights those acts of the General Assembly that will have the greatest impact on the operations of the City of Greeley.

Decision Options:

The legislative update is for Council's information. No action or direction is requested.

Attachments:

Colorado Laws Enacted 2019 Bill Summaries
PowerPoint

HB 19-1106 AFFORDABLE HOUSING
Rental Application Fees

The act prohibits a landlord from charging a rental application fee unless the entire amount of the fee is used to cover the landlord's cost to process a rental application, such as the cost to conduct a personal reference check or to obtain a consumer credit report. Landlords may not charge two or more prospective renters different amounts for applications to rent the same property. Landlords must provide each prospective tenant with a receipt. The act sets limitations on what landlords may consider in evaluating an application and allows for damages when a landlord violates the act. The legislation applies to all dwelling units, including those that are operated by housing authorities. Effective: Aug. 2, 2019.

HB 19-1118 AFFORDABLE HOUSING
Time Period to Cure Lease Violation

This act increases from three to 10 days the amount of advance notice a landlord must normally give before terminating a residential lease or filing an eviction action for failure to pay rent. The act creates an exception to this requirement for a nonresidential agreement or an employer-provided housing agreement, in which case, three days' notice is required. Effective: May 20, 2019.

HB 19-1170 AFFORDABLE HOUSING
Residential Tenants Health and Safety Act

The act revises the current definition of warranty of habitability and shortens the required response time frame. It includes electronic notification to the list of acceptable forms of tenant notification to landlord that there is a breach. The act allows a tenant who satisfies certain conditions to deduct from one or more rent payments the cost to repair or remedy a breach of the warranty. Rental housing funded with federal, state, regional, or local grant or loan programs is exempt from the rent deduction for repairs. The act prohibits a landlord from retaliating against a tenant in response to a good-faith complaint. The act contains numerous other provisions. Effective: May 20, 2019.

HB 19-1228 AFFORDABLE HOUSING
Increase Tax Credit Allocation
Affordable Housing

For tax years 2020 through 2024, this act increases the amount of state affordable housing tax credits that the Colorado Housing and Finance Authority may allocate from \$5 million to \$10 million each year. This results in a total of \$150 million in additional tax credits that can be allocated by CHFA over five years. Effective: September 1, 2019.

HB 19-1245 AFFORDABLE HOUSING
Housing Funding from Vendor Fee Changes

HB 19-1245 increases the state vendor fee allowance on sales tax accounts from the current rate of 3.33 percent to 4.0 percent starting on Jan. 1, 2020, but caps the vendor fee allowance at \$1,000 per month per retailer, thus causing additional sales tax revenue to flow to the state. A retailer with multiple locations in the state is counted as one retailer for purposes of the vendor fee allowance cap. A portion of the net revenue increase from the vendor fee change is allocated to the Housing Development Grant Fund. In the first year, \$8 million will be transferred, with \$9 million in the second year. Following those years, the entirety of the revenue is dedicated to affordable housing and could be up to \$50 million annually. At least one-third of this revenue will be awarded to affordable housing projects directed towards households with incomes less than or equal to 30 percent of the area median household income. Effective: Aug. 2, 2019.

HB 19-1272 AFFORDABLE HOUSING
Housing Authority Property in
New Energy Improvement District

The act allows a government housing authority to voluntarily participate in the Colorado New Energy Improvement District (NEID) program. NEID allows property owners to finance up to 100 percent of up-front energy efficiency, renewable energy, and water conservation improvements through a voluntary special assessment on their property tax bill. Effective: Aug. 2, 2019.

HB 19-1309 AFFORDABLE HOUSING
Mobile Home Park Act Oversight

HB 19-1309 gives counties and municipalities authority to enact ordinances addressing the "safe and equitable operation" of mobile home parks, consistent with the state's Mobile Home Park Act. The act gives mobile home owners additional time between the notice of nonpayment of rent and eviction, and additional time to vacate a mobile home park after a court ordered eviction. The act also creates the Mobile Home Park Dispute Resolution and Enforcement Program in the Department of Local Affairs. Effective: May 23, 2019.

HB 19-1319 AFFORDABLE HOUSING
Incentive for Developers to Facilitate
Affordable Housing

For purposes of identifying state-owned "nondeveloped real property" that may be suitable for conversion to low- and moderate-income housing projects, this act requires state agencies to report a list of such properties to the Capital Development Committee by October 15 of each year. The act then requires the list of such state-owned properties to be posted on the webpage of the Division of

Housing and updated annually. HB 19-1319 also revises the administration of a property tax exemption for low-income housing beginning for property tax year 2019. Effective: Sept. 1, 2019.

HB 19-1322 AFFORDABLE HOUSING

Expand Affordable Housing Supply

HB 19-1322 requires that up to \$30 million from the Unclaimed Property Trust Fund be transferred to the Housing Development Grant Fund each June for three years starting in FY 2020–2021 through FY 2022–2023. Transfers are limited to three fiscal years. The amount transferred will be based on the balance in the Unclaimed Property Trust Fund as of June 1 each fiscal year, as well as the Legislative Council Staff June revenue forecast. If the amount of revenue forecast exceeds the Referendum C cap for the current year minus \$30 million, the transfer will be made. The funding can be used in a variety of ways in order to expand the supply of affordable housing in communities in Colorado. Requires the Department of Local Affairs to consult with stakeholders from urban and rural communities to determine how to meet the needs of local communities, serve populations with the greatest unmet need, and optimize the funds allocated. Effective: Aug. 2, 2019.

HB 19-1328 AFFORDABLE HOUSING

Landlord and Tenant Duties Regarding Bed Bugs

HB 19-1328 provides additional measures for abating bed bug infestations in residential rental property. It includes various ways in which “qualified inspectors” are involved in the process, and defines the term “qualified inspectors” to include a “local health department official.” The act requires tenants to promptly notify a landlord when a lessee knows or reasonably suspects that a rented residential unit contains bed bugs. Not more than 96 hours after receiving notice, a landlord must inspect the dwelling unit and any contiguous dwelling units. A landlord is responsible for all costs associated with mitigating bed bugs, and must provide a tenant reasonable notice of the need to inspect a unit. Tenants must comply with reasonable measures to mitigate bed bugs, and must pay any cost associated with preparing the dwelling unit for inspection and treatment. A tenant who knowingly and unreasonably fails to comply with inspection and treatment requirements is liable for the cost of subsequent bed bug treatments. Effective: Aug. 2, 2019.

SB 19-028 BEER & LIQUOR

Allow On and Off Premises Beer Licenses in Rural and “Underserved” Areas

The act changes a provision of 2018 legislation related to retail sale of beer for consumption both on and off a licensed premise. On/off licensees were required by the original legislation to select either an on or off premise license at the time of renewal and on/off licenses were

to be completely eliminated. This year’s act now allows existing on/off beer licenses to be renewed and new licenses to be issued in the following circumstances only: anywhere in a county with a population of less than 35,000; anywhere in the unincorporated portions of a county with a population of more than 35,000; or in any municipality with a population of less than 7,500. Effective: Feb. 20, 2019 for all license applications filed on or after June 4, 2018.

SB 19-141 BEER & LIQUOR

Entertainment Districts in Counties

SB 19-141 allows counties to create entertainment districts and associated common consumption areas in the same manner that municipalities currently may do so. The act specifies that entertainment districts in counties may only exist in the unincorporated area of the county. For both counties and municipalities, the act expands the list of the types of licenses that may be included in an entertainment district to include optional premises licenses. Effective: Aug. 2, 2019.

SB 19-156 BUILDING REGULATIONS

Sunset State Electrical Board

The act continues the State Electrical Board and its regulatory oversight of electricians. The sunset also reflects changes made to decouple local and state electrical inspections as well as the requirement to conduct contemporaneous reviews. If contemporaneous reviews are not conducted, the board may issue a cease-and-desist order to the local government but only after a show cause has been issued to the local government. Contains numerous other provisions. Effective: July 1, 2019.

HB 19-1035 BUILDING REGULATIONS

Decoupling Electrical Inspection Fees

HB 19-1035 decouples municipal and county electrical inspection fees from state inspection fees and caps local fees at \$120 (adjusted annually for inflation) as well as sets the multiplier at 8 percent based on size or valuation of the improvement (i.e., larger residential and commercial improvements). Effective: Aug. 2, 2019.

HB 19-1086 BUILDING REGULATIONS

Plumbing Inspections Ensure Compliance

The act requires plumbing inspectors employed by a municipality or county to conduct a contemporaneous review of each plumbing project as well as develop standard procedures on how to conduct a contemporaneous review. Procedures must be posted on the municipalities’ website and shared with the director of the Division of Professions and Occupations. Effective: Jan. 1, 2020.

HB 19-1260 BUILDING REGULATIONS

Building Energy Codes

HB 19-1260 requires local governments to adopt and enforce one of the three most recent versions of the (International Code Council) energy code when updating and adopting new building codes. By Jan. 1, 2020, municipalities must report their current energy and building code to the Colorado Energy Office. Effective: Aug. 2, 2019.

SB 19-103 BUSINESS LICENSING

Exempting Minors from Local Business Licensing

The act prohibits municipalities and counties from requiring a business license or permit for businesses operated by any person under the age of 18 and located at a distance determined by the municipality or county as to not directly compete with other businesses. The prohibition applies to any minor's business that operates no more than 84 days per year. Municipalities and counties are not prohibited from enforcing local laws on the manner in which the business is conducted. Effective: April 1, 2019.

HB 19-1246 BUSINESS LICENSING

Local Regulation of Food Trucks

The act allows "state and regional organizations representing local governments" to study the safety and health code regulation of local food trucks to determine possible areas of duplicate or conflicting regulation. Any findings, recommendations, or legislative solutions may be presented to the Business Affairs and Labor Committee of the House and Senate of the Colorado General Assembly by Nov. 1, 2019. Effective: Aug. 2, 2019.

HB 19-1239 CENSUS

Census Outreach Grant Program

HB 19-1239 creates the 2020 census outreach grant program within the Department of Local Affairs and appropriates \$6 million to provide grants to local governments, intergovernmental agencies, councils of government, housing authorities, school districts, and nonprofit organizations to support the accurate counting of the population of the state for the 2020 census. The grants will be awarded by a five-member commission and local governments with hard-to-count populations are encouraged to apply. Effective: May 23, 2019.

SB 19-008 CRIMINAL JUSTICE & COURTS

Substance Use Treatment in the Criminal Justice System

The act creates a process for sealing drug-related criminal records. It also expands the use of medication-assisted treatment in county jails and the Department of Corrections. SB 19-008 creates the Harm-Reduction

Grant Program where a number of entities, including local law enforcement agencies, may apply for grants to expand addiction services and diversion programs in local communities. Effective: Aug. 2, 2019.

SB 19-030 CRIMINAL JUSTICE & COURTS

Remedying Improper Guilty Pleas

The act allows a defendant to petition the court and challenge a guilty plea in a deferred judgement on the grounds that they were not properly advised of the immigration consequences associated with the guilty plea. This motion can be filed at any time and must allege in good faith that the defendant has suffered, is suffering, or will suffer an adverse immigration consequence. The act also specifies that the defendant must allege in good faith that the guilty plea was obtained in violation of state or federal law regarding proper advisement. The act specifies a process for the prosecution to weigh-in and timelines the court must meet. This act applies to deferred judgements accepted in municipal court. Effective: May 28, 2019.

SB 19-185 CRIMINAL JUSTICE & COURTS

Protections for Minor Human Trafficking Victims

The act provides immunity to a minor charged with prostitution if probable cause exists to believe he or she was a victim of human trafficking or sexual servitude. This applies to prostitution related municipal offenses. Lastly, this act requires a post-enactment review five years after its passage. Effective: May 6, 2019.

HB 19-1148 CRIMINAL JUSTICE & COURTS

Change Maximum Penalty from One Year to 364 days

This act reduces the maximum jail sentence for municipal ordinance violations (along with Class 2 state misdemeanors) from one year to 364 days. According to federal immigration laws, foreign nationals who are lawfully in the United States are subject to removal if convicted of a state or local crime that carries the potential for a one-year jail sentence. Thus, the act is designed to eliminate the risk of deportation and removal for those convicted of lower level state and municipal crimes. Effective: Aug. 2, 2019.

HB 19-1177 PUBLIC SAFETY

Extreme Risk Protection Orders

This act creates procedures for local law enforcement agencies to request and for courts to issue an extreme risk protection order (ERPO). When a local law enforcement officer or agency petitions for an ERPO, the act provides that the officer or agency shall be represented by a city or county attorney upon request. An ERPO requires an individual to surrender all firearms if the person is to pose a significant risk of causing personal in-

themselves or others. The firearms may be returned if the order expires or is terminated. A family or household member may also petition the court to issue an ERPO. An ERPO has a 364 day duration and can be renewed within 63 days of the expiration of the order. When a petition is filed, the respondent shall receive an attorney to represent him or her at the cost of the court unless the respondent elects to select and pay for their own the attorney. Law enforcement must file for a search warrant to find any firearms that may be in possession of the individual but were not surrendered. During the 364 day duration of the ERPO, a respondent may file a one-time written request with the court to terminate the order if he or she shows that they do not pose a significant risk of causing injury. The act contains numerous other provisions. Effective: April 12, 2019; however the act specifies that courts will not begin to accept petitions for ERPOs until Jan. 1, 2020.

HB 19-1224 CRIMINAL JUSTICE & COURTS

Free Menstrual Hygiene Products in Custody

HB 19-1224 requires holding and correctional facilities, including county and municipal jails, to provide menstrual hygiene products at no cost to the person in custody. This requirement applies regardless of whether the facility is operated by a governmental or private entity. Effective: April 25, 2019.

HB 19-1225 CRIMINAL JUSTICE & COURTS

No Monetary Bail for Certain Low-level Offenses

The act prohibits the use of monetary bonds for any defendant charged with a petty offense, traffic offense, or a municipal offense. The act does not apply to municipal offenses that have a comparable state misdemeanor. The use of monetary bond as part of a local pretrial release is allowed, if the defendant is informed that they are entitled to release on a personal recognizance bond if he or she waits for the required bond hearing. Monetary bond conditions may be used for a defendant who fails to appear in court or violates a condition of their release on bond. Effective: April 25, 2019.

HB 19-1250 CRIMINAL JUSTICE & COURTS

Sexual Offenses Committed by a Peace Officer

The act creates the crime of unlawful sexual conduct by a peace officer, which is classified as a class 3 felony when a peace officer knowingly engages in sexual intrusion or penetration is inflicted on the victim and a class 4 felony when the victim is subject to unlawful sexual contact. The act adds that the encounter is under circumstances where a peace officer contacts a victim for law enforcement purposes and the peace officer knows that the victim is, or causes the victim to believe, he or she is the subject of an investigation. Victim consent is not a defense to sexual contact by a peace officer. An offender convicted of unlawful sexual contact must register as a sex offender and an offender convicted of class 3 felony unlawful sexual

conduct is subject to lifetime supervision. The act applies to all peace officers in Article 2.5 of Title 16. Effective: May 28, 2019.

HB 19-1263 CRIMINAL JUSTICE & COURTS

Offense Level for Controlled Substance Possession

HB 19-1263 reduces the criminal penalties that state courts may impose for various drug offenses. The act contains one provision that will affect police operations: It prohibits the arrest of persons charged with the possession of less than two ounces of marijuana, and instead requires that such defendants be cited and released. The act changes the classification and sentencing of various drug-related offenses. Possession of any quantity of a schedule I, II, III, IV, or V controlled substance is changed from a level 4 drug felony to a level 1 drug misdemeanor unless this is the fourth offense. Possession of more than six ounces of marijuana or more than three ounces of marijuana concentrate is changed from a level 4 drug felony to a level 1 drug misdemeanor, and less than three ounces of marijuana concentrate is changed from a level 1 drug misdemeanor to a level 2 drug misdemeanor. The act changes sentencing ranges for all the above offenses, and allows a court to issue failure to appear warrants. Creates a grant program within the Department of Local Affairs to provide assistance to counties to provide substance use treatment and other mental health services, and facilitate diversion programs. Sections 1-8 of HB 19-1263 take effect on March 1, 2020 and the grant program is effective Aug. 2, 2019. Effective: Aug. 2, 2019.

HB 19-1275 CRIMINAL JUSTICE & COURTS

Increased Eligibility for Criminal Record Sealing

The act repeals and reenacts statutes related to sealing criminal records. This act creates a simplified record sealing process by allowing a defendant to request to seal criminal records as part of a criminal case when there is a criminal conviction and without requiring the defendant to file a separate civil action. The act retains the current record sealing provisions for municipal offenses. Effective: Aug. 2, 2019.

HB 19-1297 CRIMINAL JUSTICE & COURTS

County Jail Data Collection

The act requires county jail facilities to keep and maintain daily records regarding inmate population, capacity, inmate holds, inmates awaiting competency evaluation, inmates with substance addiction, and average lengths of stay. The data also includes which inmates are in jail solely on a municipal offense. By Jan. 17, 2020, and each quarter thereafter, each county jail facility must submit a report containing this data to the Division of Criminal Justice in the Department of Public Safety (DPS). A jail is deemed noncompliant for failure to submit this report. DPS is required to collect and publish this data, and issue a letter to any noncompliant jail. This data collection requirement is repealed on Jan. 31, 2023. Effective: Au

HB 19-1335 CRIMINAL JUSTICE & COURTS**Juvenile Record Expungement Clean-up**

The act cleans up HB 17-1204, which created an expungement process in municipal and county courts. HB 19-1335 clarifies when juvenile delinquent records are automatically expunged; when a juvenile delinquent is eligible for expungement; and that juvenile record expungement applies in municipal court by establishing guidelines for municipal courts. The act also streamlines who is notified when a record is expunged in municipal court, and when municipal courts must look back at previous cases to identify any that should be automatically expunged. Effective: May 28, 2019.

SB 19-232**ELECTIONS,****Campaign Finance Enforcement**

SB 19-232 amends the state's Fair Campaign Practices Act (FCPA) by codifying rules of the Secretary of State related to specific campaign finance provisions. The amended FCPA includes procedures related to complaint filing and initial review and the manner in which violations may be cured, among other provisions. The act provides: "Any complaint arising out of a municipal campaign finance matter must be exclusively filed with the clerk of the municipality." However, the act does not further define what the Secretary of State will consider to be a "municipal campaign finance matter" as distinguished from campaign finance matters arising under state law over with the secretary exercises exclusive authority. Effective: July 1, 2019.

HB 19-1278**ELECTIONS****Uniform Election Code**

Statewide and coordinated elections conducted under Title 1 of the Colorado Revised Statutes are significantly amended by HB 19-1278. Elections conducted by municipalities subject to Title 31 are not impacted. Specific to municipal interests, the act creates new requirements on county clerks for the selection and use of voter service and polling centers, including public buildings. While the act contains no ability for a county clerk to compel the use of a municipally-owned public building, it does require that approved use of a public building for a voter service and polling center be given priority over other uses if the building. Reasonable rental fees may be charged but must not exceed the usual rental rate for the building. The act applies to elections conducted after the effective date. Effective: Aug. 2, 2019.

SB 19-085**EMPLOYMENT****Equal Pay**

SB 19-085 allows an employee to bring a civil action against an employer, including municipal employers, for wage discrimination based on the sex of the employee. Relieves complainants from any requirement to exhaust administrative remedies through the Colorado Department of Labor and Employment (CDLE) before filing a lawsuit. A mediation process may be established by CDLE, but there is no requirement for an employee to utilize mediation prior to filing a lawsuit. The act establishes exceptions to disparity of wages based on sex if the employer demonstrates several factors specified including geographic location, education and training, seniority, and merit. The act also prohibits employers from seeking the prior wage or salary of job applicants and additional, related actions. Employers must make all advancement opportunities, job openings, and related pay range known to all employees. CDLE is authorized to enforce violations of transparency provisions and fine employers. Contains other provisions. Effective: Jan. 1, 2021.

SB 19-188**EMPLOYMENT****Family Medical Leave Insurance**

SB 19-188 establishes a study of a uniform paid family and medical leave program applicable to all employers and employees in the state. The act specifies the members of a task force to study the actuarial soundness of a mandated, uniform program and recommend a plan for implementation. Effective: May 30, 2019.

HB 19-1210**EMPLOYMENT****Local Minimum Wage Laws**

HB 19-1210 repeals various statutes that formerly prohibited counties and municipalities from enacting and enforcing local minimum wage laws. The act now enables counties and municipalities to adopt such laws subject to certain restrictions, and to exceed the minimum wage requirement set forth in article XVIII, section 15 of the Colorado Constitution. Counties may adopt a minimum wage law that applies only in the unincorporated parts of the county. The act allows municipalities and counties to enter into intergovernmental agreements to uniformly apply an established minimum wage across multiple jurisdictions. Local wage laws must include a tipped wage credit that equals the tip credit set forth in the constitution. Local governments may enforce a local wage law by means specified in the act. The act also limits the total number of local governments that may exceed the state minimum wage, unless further legislative authority is granted. The act contains other provisions. Effective: Jan. 1, 2020.

HB 19-1124**IMMIGRATION****Enforcement of Federal Immigration Detainers**

The act prohibits state and local law enforcement officials from arresting or detaining an individual on the basis of civil immigration detainer request. HB 19-1124 clarifies that law enforcement may assist federal authorities in the execution of a federal warrant or other federal criminal investigations. In addition, the act prohibits a probation department officer or employee from providing personal information to federal immigration authorities. HB 19-1124 requires that persons in custody receive certain information in writing when being interviewed and again when are released. Effective: May 28, 2019.

SB 19-220**INDUSTRIAL HEMP****Hemp Cultivation**

With the adoption at the federal level of the 2018 Farm Bill that removes hemp from the Controlled Substances Act, SB 19-220 starts the process for Colorado to seek approval from the USDA for primary authority over hemp cultivation. The act aligns Colorado law with federal law and requires the Colorado Department of Agriculture to work with stakeholders on development of Colorado's plan. Effective: May 29, 2019.

SB 19-240**INDUSTRIAL HEMP****Industrial Hemp Products Regulation**

The act allows additional regulation at the state and local level for processing industrial hemp. The act creates clear authority for municipalities and counties to adopt local business licensing and regulation laws related to storage, extraction, processing and manufacturing of industrial hemp and industrial hemp products. Local laws and regulations may not conflict with any state regulations, otherwise the state regulation controls. The act also establishes a state registration fee. Effective: May 29, 2019.

HB 19-1191**LAND USE****Regulation of Farm Stands**

HB 19-1191 allows a farm stand to operate regardless of whether or not the land on which the stand is located has been zoned for agriculture. Municipalities may still require appropriate licensing and/or permitting prior to operation. Effective: April 12, 2019.

HB 19-1324**LAND USE****Strategic Lawsuits Against Public Participation**

HB 19-1324 allows an expedited civil court process in which a defendant files a motion to dismiss based upon the defendant exercising his or her constitutional right to free speech or to petition the government. Traditionally, controversy over "SLAPP" suits has arisen in relation to

disputes over land use and environmental protection. The act specifies that this defense is unavailable under certain circumstances, including an action brought by or on behalf of the state or any subdivision of the state enforcing a law or seeking to protect against an imminent threat to public health and safety. HB 19-1324 grants the court of appeals initial jurisdiction over appeals in these cases and authorizes an interlocutory appeal to review decisions or motions to dismiss under the provisions of the act. Effective: July 1, 2019.

HB 19-1327**LIMITED GAMING****Authorize and Tax Sports Better Refer Under Taxpayers' Bill of Rights**

The act decriminalizes both in-person and online sports betting and creates a regulatory framework within the Department of Revenue and the Limited Gaming Commission. If approved by local voters, in-person sports betting will be restricted to the three constitutionally approved gaming towns, (Black Hawk, Central City, and Cripple Creek) and the 17 companies in these towns currently established with gaming licenses. These companies may apply to the Gaming Commission for a master license, allowing a sports book and ability to contract with online operators. The act also establishes a tax question and upon voter approval, a 10 percent tax will be levied on net sports betting proceeds. This measure will appear on the November 2019 statewide ballot as Proposition DD. The revenue generated from taxing will be directed toward repayment of the General Fund for startup costs for the Division of Gaming, payment of ongoing Division of Gaming administrative expenses for sports betting, an annual 6 percent transfer to the Hold Harmless Fund that includes the cities of Black Hawk, Central City, and Cripple Creek, and a transfer of \$130,000 to the Department of Human Services for gambling addiction. Any remaining funds will be transferred to the State Water Plan Implementation Cash Fund. Effective: May 20, 2020.

SB 19-218**MARIJUANA****Medical Marijuana Sunset**

SB 19-218 extends the medical marijuana program until Sept. 1, 2028 and requires a sunset review prior to the repeal. The act adds provisions related to physician-patient relationship when the patient is a minor, updates primary caregiver provisions, and allows medical professionals with ability to prescribe medications to make medical marijuana recommendations for individuals with disabling conditions. The act clarifies that patients may have their medical marijuana card revoked if convicted of a drug crime. The act makes other technical changes and repeals obsolete provisions. Effective: Aug. 2, 2019.

SB 19-224**MARIJUANA****Regulated Marijuana Sunset**

SB 19-224 combines the retail and medical marijuana codes into one article in Title 44 of the Colorado Revised Statutes and contains numerous additions. The act creates a definition of open and public consumption in state law, but allows local governments to adopt exceptions to the newly defined state definition of open and public consumption. Prior statutory direction on the timelines for local licensing are repealed and local ordinances may determine application timelines. The act repeals language requiring the order that state and local licenses are processed, and licensees that apply for renewal may continue to operate until the renewal applications is acted upon. For marijuana businesses that have applied for a change of location, the act allows the business to operate in both the old location and the new location for a period of 180 days. The act contains new restrictions to prevent “looping” or repeatedly selling to the same customer in the same day. Conflicting provisions defining unlawful acts of licensees are harmonized. The act updates and revises ownership requirements, including reducing the timeline for prohibitions on ownership for any person convicted of a felony. The act creates a whole new category of “accelerator licenses” to encourage inclusion of persons from disadvantaged communities in the marijuana business. Numerous other provisions apply and should be thoroughly reviewed by municipalities that license medical or retail marijuana establishments. Effective: Aug. 2, 2019.

HB 19-1090**MARIJUANA****Public Ownership and Investment**

HB 19-1090 repeals the prohibition on publicly traded corporations from holding a marijuana license. The act creates numerous provisions related to ownership, financial interests, and beneficial ownership and establishes parameters for state rule making authority over further parameters of ownership. Effective: Nov. 1, 2019.

HB 19-1230**MARIJUANA****Onsite Consumption Establishments**

HB 19-1230 creates two types of licensed establishments for onsite consumption of marijuana or marijuana products. In jurisdictions where retail marijuana sales are already authorized – and subsequent to additional local approval by the local governing body or by initiative with specific requirements – the act authorizes two distinct classes of licensing: marijuana hospitality establishment licenses and retail marijuana hospitality and sales establishment licenses. A marijuana hospitality establishment license allows consumption of marijuana onsite but includes no onsite sales. A retail marijuana hospitality and sales establishment license allows onsite sales of retail marijuana, retail marijuana concentrate, and retail marijuana products for onsite consumption. In contrast to similar bills in prior years, SB 19-1230

does not require a sales establishment to be co-located with or co-owned by a retail marijuana store or any other type of retail marijuana license, and nowhere does the act refer to these establishments as “tasting rooms.” Each of the two new classes of licenses is subject to numerous specific provisions and local approval may specify additional approval requirements and limitations. The act expressly authorizes local governments to grant marijuana consumption businesses an exemption from the Colorado Clean Indoor Air Act and allow marijuana smoking or vaping within a licensed premises if the local government so chooses. Licenses may begin to be issued on Jan. 1, 2020. Effective: Aug. 2, 2019.

HB 19-1234**MARIJUANA****Delivery**

HB 19-1234 allows municipalities and counties to permit delivery of either medical or retail medical marijuana, medical marijuana-infused products, retail marijuana, and retail marijuana products to customers from medical marijuana centers and transporters and licensed retail marijuana stores and transporters where such establishments are allowed. Adoption of an ordinance by the local governing body or approval by voters through initiative or referendum is required to approve delivery permits, and such approval may include additional requirements or restrictions. Subject to state and local approval, delivery permits may be issued for one year. Marijuana products may be delivered only to customers in jurisdictions that have authorized the sale of the product being delivery (medical or retail). Municipalities and counties that have authorized sales may prohibit delivery from other jurisdictions. Additional state requirements and provisions apply. Medical marijuana delivery permitting for medical marijuana centers may begin on Jan. 2, 2020, and medical marijuana delivery permitting for medical marijuana transporters, and all retail marijuana delivery permitting may begin on Jan. 2, 2021. Effective: Aug. 2, 2019.

HB 19-1179 MUNICIPAL DEBT & FINANCE**Public Fund Investments**

The act defines nationally recognized statistical rating organizations and negotiable certificate of deposit. The act also modifies statutes governing the legal investments of public funds and standardizes the credit rating requirements for securities invested in by public entities. The act allows public entities to invest in local government investment pools. Effective: Aug. 2, 2019.

SB 19-181**OIL & GAS****Protect Public Welfare Oil and Gas Operations**

SB 19-181 clarifies the authority of counties and municipalities to regulate the surface impacts of oil and gas development under their land use powers by ad

express enabling authority in state land use statutes, including authority over matters such as air quality, water quality, and noise. The act grants new authority for local governments to adopt stricter regulations than the state, and requires local approval to precede state approval for new drilling sites in those local jurisdictions that have chosen to regulate well siting. Within their own jurisdictions, municipalities have the option to impose fees to cover the costs of regulating, monitoring, and permitting sites. The act also reforms the makeup and scope of the Colorado Oil and Gas Conservation Commission (COGCC), directing the COGCC to regulate the development of oil and gas in a manner that protects public health, safety, and welfare, including protection of wildlife resources. Finally, the act makes changes to the forced pooling statute, changing the royalty rate for nonconsenting owners from 12.5 percent to 13 percent for a gas well and 16 percent for an oil well. Applicants must now also get the consent of more than 45 percent of the mineral interests that will be pooled. Effective: April 16, 2019.

HB 19-1087 **OPEN MEETINGS** **Posting Meeting Notices Online**

HB 19-1087 allows local governments to be exempt from physically posting meeting notices required under the Colorado Open Meetings Act if meetings notices are posted on the local government's website. Contains other provisions. Effective: Aug. 2, 2019.

SB 19-106 **PENSIONS & RETIREMENT** **Local Plans – Withdrawal of Peace Officers**

SB 19-106 amends existing statute that allows local governments or groups of local governments to have retirement plans for employees and elected officials. The act applies specifically to counties and allows a board of county commissioners to authorize its county's peace officers to leave the local plan under specified circumstances. Current county peace officers may elect to stay with the local plan, but new hires are required to be enrolled in a plan offered by the Fire and Police Pension Association (FPPA). Effective: Aug. 2, 2019.

SB 19-260 **PENSIONS & RETIREMENT** **FPPA – Social Security Employer Affiliation**

SB 19-260 amends existing law that allows social security employers with employees directly involved law enforcement or fire protection to be covered under a supplemental plan offered by the Fire and Police Pension Association (FPPA). Contributions and benefits are reduced under the existing plan. The act allows the FPPA board to allow social security employers to participate in any of the defined benefit plans FPPA administers without reduced contributions or benefits. Requirements for local approval of affiliation are specified, and existing employees must be allowed to remain with their current plan if they choose.

All other current and future employees must be enrolled in the new plan and the election is irrevocable. Effective: Aug. 2, 2019.

HB 19-1217 **PENSIONS AND RETIREMENT** **PERA – Local Government Division Employee Contribution Rate**

The act reduces an increase in the employee contribution scheduled for the Local Government Division of the Public Employees Retirement Association (PERA). The inadvertent increase included in prior legislation is repealed and will ensure the employee contributions remain at current levels. Effective: May 20, 2019.

HB 19-1299 **PENSIONS & RETIREMENT** **Local Plans – Contributions**

HB 19-1299 amends existing statute that allows local governments or groups of local governments to have a retirement plans for employees and elected officials. The minimum contribution rate is changed to 3 percent and no longer requires the contributions of employees and the employer to be identical, so long as the contribution rate for each is 3 percent or higher. Effective: Aug. 2, 2019.

HB 19-1033 **PUBLIC HEALTH** **Local Governments May Regulate Nicotine Products**

The act explicitly authorizes statutory and home rule municipalities to enact ordinances regulating the sales of tobacco or nicotine products to minors. Municipalities will be able to enact fees and licenses on cigarettes without forfeiting their shares of cigarette taxes from the state. The act authorizes municipalities and counties to adopt additional sales taxes on tobacco or nicotine products; however, any such local tax as applied to cigarettes would still result in a loss of state cigarette tax revenue currently shared with local governments. Further authority is granted to establish multijurisdictional intergovernmental agreements for the collection and enforcement of local sales taxes. Effective: July 1, 2019.

HB 19-1076 **PUBLIC HEALTH** **Clean Indoor Air Act – Add E-cigarettes, Remove Exceptions**

The act adds a definition of electronic smoking devices (ESDs) to include e-cigarettes and similar devices with the exception of FDA-approved nebulizers, inhalers, vaporizers, and humidifiers that emit only water vapor. The act also establishes a 25-foot radius from entryways with the exception of existing municipal regulations established on or before July 1, 2019 that permit a smaller radius. Finally, the act amends signage requirements for tobacco and vape shops notifying customers that only those 18 or older may enter the business. Effective: July 1, 2019.

SB 19-001 **PUBLIC SAFETY**
Expand Medication-assisted Treatment Pilot Program

The act extends the Medication-assisted Treatment Pilot Program administered within the University of Colorado for two years and increases its appropriation from \$500,000 to \$2.5 million. The program currently operates in Pueblo and Routt counties, but the act expands the program and adds to the number of eligible areas to include counties in the San Luis Valley — Alamosa, Conejos, Costilla, Custer, Huerfano, Mineral, Rio Grande, and Saguache — and up to an additional two counties where a need is demonstrated. Effective: May 23, 2019.

SB 19-019 **PUBLIC SAFETY**
County July 4th Fireworks Restrictions

SB 19-019 allows a county to adopt a resolution that includes an express finding of high fire danger based on competent evidence to prohibit the sale and use of fireworks from May 31 through July 5. Competent evidence of high fire danger may include predictions of future fire danger such as those issued by the National Interagency Coordination Center and localized evidence of low-fuel moisture. If a resolution is adopted and a change in weather occurs that diminishes the high fire danger, the county must promptly consider rescinding the fireworks restrictions. The act applies to unincorporated areas of the county. Effective: March 21, 2019.

SB 19-020 **PUBLIC SAFETY**
Wildland Airspace Patrol System

The act requires the Center of Excellence for Advanced Technology Aerial Firefighting in the Department of Public Safety to study and, if feasible, implement a system to patrol the airspace above a wildland fire. The patrol system must be capable of determining whether the airspace above wildland fires is clear of obstacles such as private unmanned aircraft system that might interfere with aerial firefighting activities. Effective: Aug. 2, 2019.

SB 19-040 **PUBLIC SAFETY**
Establish Colorado Fire Commission

The act establishes the Colorado Fire Commission within the Department of Public Safety. The commission is tasked to develop and coordinate a statewide integrated process for fire suppression and protection in Colorado. There are 24 voting members of the commission, and two of the voting members will represent municipalities. Effective: Aug. 2, 2019.

SB 19-065 **PUBLIC SAFETY**
Peer Assistance for EMS Provider

The act directs the Colorado Department of Public Health and Environment to designate a peer assistance

program to provide emergency medical service providers with resources dealing with physical, emotional, or psychological conditions that are affecting their ability to work. The program will be financed by a fee collected upon initial certification and certification renewal of EMS providers beginning Aug. 2, 2019. The initial fee of \$2.55 is set in statute and can be adjusted annually by the board beginning Jan. 1, 2021, to reflect utilization of the program and inflation. Effective: Aug. 2, 2019.

SB 19-091 **PUBLIC SAFETY**
Support Peace Officers Involved in Use of Force

The act requires state and local law enforcement agencies to develop and maintain a policy for supporting a peace officer who is involved in a shooting or fatal use of force. The act applies to all law enforcement agencies including a municipal police and towns marshal offices. The act prescribes what must be included in the use of force policies, and that they must be evaluated every other year and updated to reflect current best practices and available resources. Effective: Aug. 2, 2019.

SB 19-166 **PUBLIC SAFETY**
Revoke POST Certification for Untruthful Statement

This act requires the revocation of a peace officer standards and training (POST) certification when the POST Board receives notice from a law enforcement agency that a peace officer knowingly made an untruthful statement or knowingly omitted a material fact on a criminal justice record while testifying under oath or during an internal affairs investigation or comparable administrative investigation. The law enforcement agency must certify that it has completed a process to review, and determined through clear and convincing evidence, that the officer knowingly made an untruthful statement or omitted a material fact. The act requires the law enforcement agency official submitting the notification to the POST Board to attest, under penalty of perjury or revocation of the official's POST Board certification, that the statements on the submitted notification form are true, correct, and complete. The act allows a person whose POST certification is revoked to appeal the revocation in accordance with rules of the POST Board and may seek judicial review pursuant to the State Administrative Procedure Act. Effective: Aug. 2, 2019.

SB 19-227 **PUBLIC SAFETY**
Harm Reduction Substance Abuse Disorders

SB 19-227 expands the medication take-back program to include syringes as well as creates a Naloxone bulk purchasing program. The program will be run by the Colorado Department of Public Health and Environment and allows local governments more access to Naloxone which reverses opiate overdoses. The entire

purchase the Naloxone from the bulk purchasing program. HB 19-227 allows certified hospitals to be clean syringe exchange sites. Finally, the act allows schools to develop policies related to providing opioid antagonists. Effective: May 23, 2019.

SB 19-228 PUBLIC SAFETY

Substance Abuse Disorders Prevention Measures

SB 19-228 provides funding for the implementation of several programs for the prevention of opioid and other substance use disorders. It establishes programs that will provide resources to local governments for substance abuse prevention. The pertinent programs to municipalities provide funding to get resources to at-risk youth, increase opioid prevention funding to local public health agencies, and assist local communities with grant writing. The act also continues public education on the proper use and disposal of opioid prescriptions to prevent misuse. Effective: May 23, 2019.

SB 19-242 PUBLIC SAFETY

EMS Providers Licensing

The act creates an Emergency Medical Services (EMS) license as a professional credential that is available to EMS providers who hold four-year bachelor's degrees. An EMS provider may apply to the Colorado Department of Public Health and Environment. for licensure on or after Jan. 1, 2021. The state Board of Health will adopt rules concerning implementation of the licensure program. The act updates the background check process for EMS providers. Effective: May 31, 2019.

HB 19-1006 PUBLIC SAFETY

Wildfire Mitigation Funding

The act appropriates \$1 million in funding to support the maximum number of effective forest management fuels reduction projects to reduce the impacts to life, property, and critical infrastructure caused by wildfire. Municipalities may apply for this funding for wildfire mitigation projects in their jurisdictions. Effective: May 22, 2019.

HB 19-1009 PUBLIC SAFETY

Substance Abuse Disorders Recovery – Regulation of Recovery Residences

The act appropriates \$1 million to the Department of Local Affairs to expand the Housing Voucher Program and allows individuals with substance abuse disorders to apply for housing vouchers. The act adopts new regulations for recovery residences and sets forth new standards and procedures for certification before any entity can hold itself out to the public as a recovery residence. The act also creates a grant program in the Department of Human Services to defray recovery residences' certification costs. Finally, HB 19-1009 creates an advisory committee to advise the Department of Law on uses of any custodial

funds received by the state as a result of opioid-related litigation. A municipal official may be appointed to the advisory committee. Effective: May 23, 2019.

HB 19-1051 PUBLIC SAFETY

Human Trafficking-related Training

HB 19-1051 requires the Division of Criminal Justice in the Department of Public Safety to provide human trafficking training to law enforcement agencies, and other organizations that provide services to human trafficking victims. The training can be done through direct training session or online. The curriculum will be developed in collaboration with the Colorado Human Trafficking Council, which has law enforcement membership. Priority will be given to areas of the state with limited training opportunities. Effective: Aug. 2, 2019.

HB 19-1073 PUBLIC SAFETY

Law Enforcement Information Sharing Grant Program

This act creates the Law Enforcement, Public Safety, and Criminal Justice Information Sharing Grant Program in the Division of Homeland Security and Emergency Management in the Department of Public Safety. The purpose is to provide grants to assist local law enforcement agencies with gaining access to the Colorado Information Sharing Consortium, which was created through an official intergovernmental agreement between more than 40 Colorado law enforcement agencies to pursue an efficient data-sharing system. Effective: May 28, 2019.

HB 19-1180 PUBLIC SAFETY

Correct Definition of Police Horse

The act removes the word "certified" from the definition of police horse for purposes of animal cruelty cases. The act specifies that a police working horse is a full-time or part-time part of a law enforcement team and that the horse meets the standards of the law enforcement team. Effective: April 4, 2019.

HB 19-1183 PUBLIC SAFETY

Automated External Defibrillators in Public Places

This act encourages public schools and public places, including those run by municipalities, to have sufficient quantities of functional automated external defibrillators (AEDs). All public places are required to accept any gifts, grants, or donations of an AED that meets federal standards. If a public place does not want to accept responsibility for AED training or installation, it is not required to accept the AED unless the donating party agrees to be responsible for training, installation, and maintenance. HB 19-1183 extends Good Samaritan protections to certain persons and entities, includi

those who provide teaching or training on CPR, persons whose primary duties do not include the provision of health care, and any person or entity that provides medical oversight services to a location where an AED is located. Effective: Aug. 2, 2019.

HB 19-1244 **PUBLIC SAFETY**
Expand Peace Officer Mental Health Program

The Peace Officer Mental Health Grant Program was created through HB 17-1215. Municipal law enforcement agencies are eligible entities to apply for the program, which increases funding for peace officer mental health training and resources. HB 19-1244 expands the entities that may apply to include town marshal offices and additional state entities. It also expands the allowable uses for the funding. Effective: Aug. 2, 2019.

HB 19-1279 **PUBLIC SAFETY**
Regulation PFAs Polyfluoroalkyl Substances

HB 19-1279 creates the Firefighting Foams Control Act, which prohibits the use of class B firefighting foam that contains intentionally added perfluoroalkyl and polyfluoroalkyl substances (PFAS foam) for training purposes. The act includes various exceptions, including circumstances where the use of foam containing PFAS as required by federal laws or rules, use at certain types of fuel storage facilities, and use at the Eisenhower-Johnson tunnels on I-70. A person or fire department that administers a training program that violates this prohibition is subject to a civil penalty of up to \$5,000, for a first offense and up to \$10,000 for each repeat offense. Penalties are deposited into the Local Firefighter Safety and Disease Prevention Fund. The act requires the Department of Public Health and Environment to survey fire departments every three years about issues related to PFAS foam and to compile and present the survey results to the General Assembly by January 1, 2020. Beginning Aug. 2, 2019, purchasers of firefighting personal protective equipment that contains intentionally added PFAS chemicals must be notified in writing by the manufacturer or distributor about the chemical additive and the reason for the addition. Effective: Aug. 2, 2019.

HB 19-1287 **PUBLIC SAFETY**
Treatment for Opioids and Substance Use Disorders

The act contains numerous provisions. For municipal purposes, it creates the capacity-building grant program. The Department of Human Services must make one-time grants to support substance use disorder treatment capacity-building in rural and frontier communities. The grants may be used to support building a continuum of services, including, but not limited to, medical detoxification, residential treatment, and intensive outpatient treatment. Managed service organizations, local primary care or substance

use disorder treatment providers, local governments, counties, schools, and law enforcement agencies may apply for a grant. The grant program is repealed on July 1, 2024. Effective: May 23, 2019.

HB 19-1292 **PUBLIC SAFETY**
Colorado Resiliency Office Reauthorization and Funding

HB 19-1292 repeals the requirement that the Colorado Resiliency Office in the Department of Local Affairs be grant funded and provides a General Fund appropriation in FY 2019–20. This office administers programs as part of the state's disaster recovery and response functions. The Colorado Resiliency Office is now scheduled to sunset Sept. 1, 2022, following a sunset review conducted by the Department of Regulatory Agencies. Effective: May 17, 2019.

SB 19-138 **PUBLIC WORKS**
Bonding Requirements for Public Projects

Under current law, when a person, company, firm, corporation, or contractor enters into a contract with a county, municipality, or school district to perform work in connection with a project that has specified characteristics, the contractor is required to execute performance bonds and payment bonds. The act specifies that some of these bonding requirements apply to certain construction contracts situated or located on publicly owned property using public or private money or public or private financing. Effective: Aug. 2, 2019.

HB 19-1119 **RECORDS**
Peace Officer Internal Investigation Open Records

HB 19-1119 amends the Colorado Criminal Justice Records Act and allows the public to inspect investigation files upon the completion, which includes any appeals process, of an internal investigation. The act applies in cases where the investigation examines the in-uniform or on-duty conduct of a peace officer related to a specific, identifiable incident of alleged misconduct involving a member of the public. The custodian of the records may first provide a summary of the investigation file and must only provide the entire file upon subsequent request. Witness interviews, video and audio recordings, transcripts, documentary evidence, investigative notes, and final departmental decisions are subject to inspection. The custodian is required to redact certain information from the records prior to releasing them. If a record contains certain redacted information, the applicant may request a written explanation of the reasons for the redaction. The custodian may deny inspection of the file if there is an ongoing related criminal case until the case is dismissed or upon sentence for a conviction. The act applies to internal investigations initiated after the effective date. Effective: April 12, 2019.

HB 19-1052**SPECIAL DISTRICTS****Early Childhood Development Districts**

HB 19-1052 authorizes the creation of early childhood development service districts to provide services for children from birth through 8 years of age. Contains provisions defining scope and authority of early childhood development services and related districts, which must be organized pursuant to the Special District Act, including the manner in which service plans and proposed revenue questions are approved. Effective: Aug. 2, 2019.

SB 19-096**SUSTAINABILITY****Collect Long-term Climate Change Data**

The act requires the Air Quality Control Commission in the Colorado Department of Public Health and Environment (CDPHE) to collect greenhouse gas emissions data from greenhouse gas-emitting entities, report on the data (including a forecast of future emissions), and propose a draft rule to address the emissions by July 1, 2020. The act appropriates \$1,680,600 to the CDPHE from the General Fund to implement the act. Effective: May 30, 2019.

SB 19-192**SUSTAINABILITY****Front Range Waste Diversion Enterprise Grant Program**

The act increases the tipping fees for Front Range counties (Adams, Arapahoe, Boulder, Douglas, Elbert, El Paso, Jefferson, Larimer, Pueblo, Teller, and Weld, as well as the cities and counties of Broomfield and Denver) by 15 cents per cubic yard per load starting Jan. 1, 2020, through Dec. 31 2020; 15 cents annually through Jan. 1, 2023; and then adjusted annually for inflation following Jan. 1, 2024. A Front Range waste diversion enterprise grant program also will be established allowing local governments, nonprofits, for-profits, schools, and other entities to apply for grant dollars to establish and supply local waste diversion programs. Effective: Aug. 2, 2019.

HB 19-1231**SUSTAINABILITY****New Appliance Energy Efficiency Standards**

The act updates and adopts standards for water and energy efficiency that apply to a list of consumer and commercial appliances and other products. The standards are based on state standards, federal Energy Star and WaterSense specifications, and industry standards in most cases or, where a standard is not incorporated by reference, the standard is specified by statute. The standards apply to new products sold in Colorado and are phased in over a period of three years. The act expressly preserves the authority for local governments to adopt additional or more restrictive water conservation or energy efficiency requirements. Effective: Aug. 2, 2019.

HB 19-1261**SUSTAINABILITY****Climate Action Plan to Reduce Pollution**

HB 19-1261 sets statewide goals to reduce 2025 greenhouse gas emissions by at least 26 percent, 2030 greenhouse gas emissions by at least 50 percent, and 2050 greenhouse gas emissions by at least 90 percent of the levels of greenhouse gas emissions that existed in 2005. It specifies considerations that the air quality control commission is to take into account in implementing policies and promulgating rules to reduce greenhouse gas pollution. Effective: May 30, 2019.

SB 19-016**SEVERANCE TAX****Severance Tax Operational Fund Distribution Methodology**

The act changes the timing and distribution of money in the severance tax operational fund by separating the reserves into the core reserve and the grant program reserve (formally known as Tier One and Tier Two). The state treasurer will make transfers to the energy grant programs on August 15 after each fiscal year and must base the transfers on actual revenue as opposed to estimated revenue. Effective: April 1, 2019.

HB 19-1257**TABOR****Statewide Debrucing**

HB 19-1257 places Proposition CC on the November 2019 ballot to ask voters to allow the State of Colorado to retain revenue over the state's fiscal year limit, beginning with fiscal year 2019–2020 and continuing in perpetuity. The approval limits retained revenue to be distributed to fund public schools, higher education, and transportation and transit. Effective: June 3, 2019.

HB 19-1258**TABOR****Distribution of Debruced Revenue**

HB 19-1258 is companion legislation to HB 19-1257 that specifies the distribution of revenue retained in excess of the state's annual fiscal year limit. The act states that retained revenue shall be divided equally between public school funding, higher education fund, and funding for roads, bridges, and transit. The act specifies the manner in which the revenue must be allocated, including requiring the transportation allocation be distributed using the existing Highway Users Tax Fund (HUTF) formula, which specifies 18 percent for municipalities. Effective: Only upon passage of Proposition CC on the November 2019 ballot.

SB 19-006**TAXATION****Sales – Electronic Sales & Use Tax System**

SB 19-006 implements legislation recommended by the interim Sales and Use Tax Simplification Committee. T

act requires the Department of Revenue and the state Office of Information Technology to issue an RFP for the development of a system allowing a single point of electronic remittance for all sales taxes collected in the state. Subsequent to the development of the system, the act requires that all sales taxes collected by the state be processed through the system. The act does not attempt to require that self-collecting home rule municipalities participate in the system, but it does declare legislative intent for at least three to voluntarily use the system at first and for all to use the system within three years. Effective: April 12, 2019.

SB 19-255

TAXATION

Property – Residential Assessment Rate

SB 19-255 lowers the residential assessment rate for residential property taxation from 7.2 percent to 7.15 percent beginning on Jan. 1, 2019 and for each subsequent property tax year until the next adjustment by the state. Effective: June 3, 2019.

HB 19-1240

TAXATION

Sales – Sales and Use Tax Administration

The act codifies sales tax rules adopted by the Department of Revenue with certain modifications. It establishes economic nexus for remote sales without a retailer's physical presence in Colorado for sales made beginning June 1, 2019, and requires the collection and remittance of all sales taxes collected by the state based on the destination of the item sold. The act creates an exception to the destination sourcing rule for retailers with less than \$100,000 in retail sales, as well as until the state develops a GIS-based address locator for accurate determination of proper taxing jurisdiction. The act also requires sales taxes collected by the state to be collected and remitted by marketplace facilitators beginning on Oct. 1, 2019, for sales made by marketplace sellers, and the act contains other marketplace sales provisions. Existing provisions in statute related to the implementation of the failed federal Marketplace Fairness Act (MFA) are repealed. With the exception of the repeal of MFA language and future availability of the address locator, the act does not implicate home rule municipalities that self-collect sales tax. Effective: June 1, 2019, except marketplace facilitator requirements, which are effective Oct. 1, 2019.

SB 19-107

TELECOMMUNICATION

Broadband Infrastructure Installation

SB 19-107 allows rural electric cooperatives to lease existing dark fiber on their electrical utility easements to broadband providers without renegotiation of the underlying easement. Additionally, the act provides landowners with a remedy process if damages occur. Effective: Aug. 2, 2019.

SB 19-032

TRANSPORTATION

Hazardous Materials Routing

The act requires the Colorado Department of Transportation (CDOT) to conduct a study to assess the feasibility of allowing the transportation of hazardous materials through the Eisenhower–Johnson Memorial Tunnels and prepare a report that includes findings and recommendations as to whether and under what conditions the transportation of hazardous materials through the tunnel should be allowed. Local governments and public safety personnel from impacted communities will be invited to participate in the feasibility study. The act also authorizes a public highway authority or a governmental partner in a public–private partnership to apply to the Colorado State Patrol for a new or modified hazardous materials route designation for a road or highway that it directly or indirectly maintains. Effective: April 8, 2019.

SB 19-054

TRANSPORTATION

Military Vehicle Regulation

SB 19-054 defines surplus military vehicles as off-highway vehicles for the purposes of titling these vehicles and of using them off road. These changes in the definition allow a surplus military vehicle to be titled as an off-highway vehicle and treats it as an off-highway vehicle for the purposes of on-road and off-road use; it also means a surplus military vehicle is not registered as a motor vehicle. These changes do not apply to military vehicles that are valued for historical purposes. Effective: July 1, 2019.

SB 19-144

TRANSPORTATION

Motorcycles and Malfunctioning Traffic Signals

Under current law, a driver of a motor vehicle is allowed to cautiously proceed through an intersection after he or she has determined that a traffic signal is not operating properly. The act extends this same discretion to a driver of a motorcycle if a traffic signal is malfunctioning or fails to recognize the presence of a motorcycle. Effective: Aug. 2, 2019.

SB 19-175

TRANSPORTATION

Serious Bodily Injury Vulnerable Road User

This act creates a new class 1 traffic misdemeanor of causing serious bodily injury to a vulnerable person while carelessly driving. A violation results in 12 points issued to the driver's license, which results in a license being suspended. If guilty of the violation, the driver may be subject to a restitution order, be required to attend a driver improvement course, or be ordered to perform useful public service for no more than 320 hours. The act defines vulnerable road user to include pedestrians, bicycles, peace officers, and others. Effective: May 29, 2019.

SB 19-239 **TRANSPORTATION**
Address Impacts of Transportation Changes

The act requires the Colorado Department of Transportation (CDOT) to convene and engage in robust consultation with a stakeholder group composed of representatives of specified industries, workers, governmental entities (including local governments), planning organizations, and interest groups that will potentially be affected by the adoption of new and emerging transportation technologies and business models. The act requires CDOT to develop a report of policy recommendations to address these challenges and present them during their 2019 annual presentation to the legislative oversight committees of the Colorado General Assembly. Effective: May 31, 2019.

SB 19-262 **TRANSPORTATION**
General Fund Transfer to HUTF

This act requires the state treasurer to transfer \$100 million from the General Fund to the Highway Users Tax Fund on July 1, 2019, for allocation to the state highway fund, counties, and municipalities in accordance with the existing “second stream” allocation formula, (60 percent to the state highway fund, 22 percent to counties, and 18 percent to municipalities). This means an additional \$18 million in municipal transportation revenue for 2019. Effective: June 3, 2019.

SB 19-263 **TRANSPORTATION**
Delay Referred Transportation Bonding Measure to 2020

SB 18-001 authorized a referred \$2.34 billion transportation bonding measure for voter consideration in the 2019 election. This legislation delays that referred measure for voter consideration until the 2020 election cycle. The act also reduces the amount of notes authorized to be issued to offset the additional transportation funding that will result from the repeal of only two, rather than three, tranches of lease-purchase agreements authorized by SB 17-267. Effective: June 3, 2019.

HB 19-1221 **TRANSPORTATION**
Regulation of Electric Scooters

This act excludes electric scooters from the definition of “toy vehicle” and includes electric scooters in the definition of “vehicle,” thus authorizing the use of electric scooters on roadways. The act affords riders of electric scooters the same rights and responsibilities that riders of electric-assisted bicycles have under the laws of the state. The act preserves the authority of municipalities to determine whether or when to allow electric scooters on sidewalks. Effective: May 23, 2019.

HB 19-1265 **TRANSPORTATION**
Right-of-Way for Snowplows

This act creates a class A traffic offense for a driver who passes a snowplow that is operated by a state, county, or municipality while it is displaying its lights and performing its service function in echelon formation with one or more other such snowplows. Effective: Aug. 2, 2019.

HB 19-1298 **TRANSPORTATION**
Electric Vehicle Charging Stations

The act authorizes the owner of a plug-in electric motor vehicle charging station to install a sign that identifies the station. If the sign is installed, a person is prohibited from parking in the space if the vehicle is not an electric vehicle or is using the dedicated charging station for parking if the electric vehicle is not charging. Effective: Aug. 2, 2019.

SB 19-088 **UNCLAIMED PROPERTY**
Revised Uniform Unclaimed Property Act

SB 19-088 enacts a version of the Revised Uniform Unclaimed Property Act as drafted by the Colorado Commission on Uniform State Laws and contains numerous revisions to the state’s administration of unclaimed property. The act retains the ability of municipalities and counties to opt-out of the state system and locally administer a program, particularly in relation to unclaimed or uncashed checks issued by the municipality, but new provisions and restrictions apply. Intangible property must be retained for five years before it can be determined to be abandoned under the definition in state law. Local governments must report specified information on intangible property being held at the local level to the administrator of the state’s unclaimed property system. Other related provisions apply. Effective: Aug. 2, 2019.

HB 19-1084 **URBAN RENEWAL**
Notification of Blight Designation

HB 19-1084 updates Colorado’s urban renewal statute, requiring property owners be notified of a blight designation by a municipality so that they have an opportunity to seek a review and contest the decision. The act is in response to a ruling by the 10th Circuit Court of Appeals in May 2018 in *M.A.K Investment Group v. City of Glendale* that the plaintiff’s due process had been violated because they were not properly notified about a blight resolution the city had adopted. Effective: Sept. 1, 2019.

SB 19-236 **UTILITIES**
Sunset Public Utilities Commission

The act reauthorizes the continuation of the Public Utilities Commission (PUC) and implements the recommendation contained in the 2018 sunset report by the Department

of Regulatory Agencies. Among many other things, the act directs the PUC to begin regulating businesses that offer “vehicle immobilization services” (a.k.a. “booting”) on public or private property. The act makes a number of substantial changes to the criteria the PUC evaluates in its approval process associated with energy utilities, including factoring in the social cost of carbon in utility resource decisions; giving the PUC explicit review of Tri-State Generation & Transmission decisions; and setting long-term renewable energy goals for investor owned utilities with more than 500,000 customers. The latter resulted from the grafting of two separate bills into the PUC sunset bill during the final days of the session. Those two bills were HB 19-1313, which was designed to bolster renewable energy standards for Xcel and other regulated utilities and allow for the recovery of associated costs through customer billing, and HB 19-1067, which authorized a new kind of bonding utility companies may use to decommission power plants that burn fossil fuels and mitigate some of the community impacts associated with closing the plants. Effective: May 30, 2019.

SB 19-212 WATER AND WASTEWATER
Appropriation General Fund to Implement
State Water Plan

SB 19-212 codifies the Water Plan Implementation Grant Program and provides a total of \$10 million in funding from General Fund appropriations. The grant program is administered through the Colorado Water Conservation Board. Grants may be awarded to local governments, state agencies, mutual ditch companies, and nonprofit corporations that have clearly identified one of the following types of projects: water storage and supply projects water conservation, land use and drought planning projects environmental and recreational projects that promote watershed health, or agriculture projects that provide technical assistance or improve agriculture all water efficiency. Grant money awarded may not exceed more than 50 percent of the total cost of the projects. Effective: April 17, 2019.

SB 19-221 WATER AND WASTEWATER
Colorado Water Conservation Board
Construction Fund Project

SB 19-221 appropriates funds from the Colorado Water Conservation Board (CWCB) Construction Fund to the Colorado Water Conservation Board and the Division of Water Resources for water-related projects including the Walker Recharge Project and Republican River, and repeals an annual transfer from the Severance Tax Perpetual Base fund to the CWCB Construction Fund. Effective: June 3, 2019.

HB 19-1015 WATER AND WASTEWATER
Recreation of the Colorado Water Institute

The act recreates the Colorado Water Institute in state law until July 1, 2029. In addition, the institute should consult with state and local governments, water managers and user associations, drought and climate change planning organizations, and water quality planning organizations to identify, develop, and implement water research information and education for water resources, quality, and related policy issues. Effective: February 20, 2019.

HB 19-1071 WATER AND WASTEWATER
Colorado Department of Public Health and
Environment Water Quality Control

HB 19-1071 removes requirement that the Board of Health approve operating agreements that municipalities enter into for sewer construction, and clarifies that the board of directors of a water conservancy district must comply with the rules of the water quality control commission. Effective: March 7, 2019.

HB 19-1113 WATER AND WASTEWATER
Protect Water Quality from
Adverse Mining Impacts

The act requires that a reclamation plan for a new or amended permit for a mining operator demonstrate a reasonable end date for water quality treatment to ensure compliance with current water quality standards. It also eliminates the self-bonding option for mining operations. Effective: Aug. 2, 2019.

2019 COLORADO LEGISLATIVE UPDATE

Acts of Interest to the City of Greeley

Doug Marek, City Attorney



Issues of Interest to City of Greeley

- Oil and Gas Regulation
- Criminal Justice and Courts
- Open Records
- Affordable Housing
- Public Health
- Employment
- Tax and Finance

SB 19-181 – Public Welfare: Oil & Gas Operations

- Sweeping changes to the make-up, functions, and responsibilities of COGCC
- Local governments have jurisdiction to regulate surface impacts of oil and gas
- Local governments have authority within their own jurisdiction
- Local governments may have more stringent regulations than the state

HB 19-1225 – No Monetary Bail

- Prohibits use of monetary bonds for any defendant charged with a petty offense, traffic offense, or a municipal offense unless equivalent to state misdemeanor
- Use of a monetary bond as part of a local pretrial release is allowed if defendants are informed they are entitled to release on a personal recognizance bond
- Monetary bond conditions may be used for a defendant who fails to appear in court or violates a condition of the defendant's release on bond

HB 19-1119 – Peace Officer Internal Investigation Open Records

- Allows the public to inspect internal investigation files upon the completion of investigations and any appeals process
- Applicable only when the conduct of a peace officer is related to a specific, identifiable incident of alleged misconduct involving a member of the public

Supporting Affordable Housing

- HB 19-1322: \$30 million from unclaimed property fund over three years
- HB 19-1245: Vendor fee cap for affordable housing
- HB 19-1228: expands the affordable housing tax credit program in the Colorado Housing and Finance Authority
- HB19-1309: gives counties and statutory municipalities authority to enact ordinances to protect mobile homeowners' safe use and enjoyment of their homes

HB19-1033: Authorizes Municipal Regulation of Nicotine

- Optional increase of the minimum age for possessing tobacco products to 21
- Regulate the possession, purchase, or sale of products
- Seek voter approval for a special sales tax on products

Employment: Minimum Wage

- HB19-1210: Authorizes local governments to establish a higher minimum wage
- Limits number of jurisdictions enacting higher limits

Marijuana: Local Government Authority

- HB19-1230: Marijuana hospitality establishments – permits local governments to enact more restrictive standards than the state
- HB19-1234: Regulated marijuana delivery – local opt-in

Tax and Finance

- **Sales Tax**
 - SB19-006: Interim Sales & Use Tax Task Force – RFP for single point of remittance system
 - HB19-1240: State rules. De minimis. Sourcing rules.
- **Property Tax**
 - SB 19-255 was passed to keep Residential Assessment Rate at 7.2%.
 - New RAR was expected to be 6.95% - down from 7.2%.

What's Ahead?

- Rule-Making
- Court Challenges
- “Clean Up” Legislation in 2020

Worksession Agenda Summary

June 25, 2019

Agenda Item Number 7

Roy Otto, City Manager, 970-350-9750

Title:

Scheduling of Meetings, Other Events

Summary:

During this portion of the meeting the City Manager or City Council may review the attached Council Calendar or Meeting Schedule regarding any upcoming meetings or events.

Attachments:

Council Meetings/Other Events Calendar

Council Meeting/Worksession Schedule

Status Report of Council Petitions and Related Information

June 24, 2019 - June 30, 2019

June 2019							July 2019						
Su	Mo	Tu	We	Th	Fr	Sa	Su	Mo	Tu	We	Th	Fr	Sa
						1		1	2	3	4	5	6
2	3	4	5	6	7	8	7	8	9	10	11	12	13
9	10	11	12	13	14	15	14	15	16	17	18	19	20
16	17	18	19	20	21	22	21	22	23	24	25	26	27
23	24	25	26	27	28	29	28	29	30	31			
30													

Monday, June 24

11:30am - 12:30pm Greeley Chamber of Commerce (Gates)

6:00pm - 7:00pm Youth Commission (Smail)

Tuesday, June 25

5:00pm - 6:00pm City Council Worksession (1001 11th Avenue)

5:30pm - 7:00pm RSVP Required: Western Art Show Gala Opening Night (Events Center - Island Grove Regional Park) - Council Master Calendar

Wednesday, June 26

7:00am - 8:00am Upstate Colorado Economic Development (Gates/Hall) (Upstate Colorado Conference Room) - Council Master Calendar

Thursday, June 27

Friday, June 28

Saturday, June 29

6:00pm - 8:00pm Dancing with the Stars (Embassy Suites, Loveland) - Council Master Calendar

Sunday, June 30

July 1, 2019 - July 7, 2019

July 2019							August 2019						
Su	Mo	Tu	We	Th	Fr	Sa	Su	Mo	Tu	We	Th	Fr	Sa
		1	2	3	4	5	6				1	2	3
7	8	9	10	11	12	13		4	5	6	7	8	9
14	15	16	17	18	19	20		11	12	13	14	15	16
21	22	23	24	25	26	27		18	19	20	21	22	23
28	29	30	31					25	26	27	28	29	30

Monday, July 1

Tuesday, July 2

6:30pm - 7:30pm City Council Meeting (1001 11th Avenue)

Wednesday, July 3

Thursday, July 4

7:00am - Poudre River Trail (Hall)

8:30am - 10:00am Greeley Stampede Parade (TBD) - Council Master Calendar

3:30pm - IG Adv. Board (Smail)

6:00pm - MPO (Gates/Casseday)

Friday, July 5

Saturday, July 6

Sunday, July 7

July 8, 2019 - July 14, 2019

July 2019							August 2019						
Su	Mo	Tu	We	Th	Fr	Sa	Su	Mo	Tu	We	Th	Fr	Sa
	1	2	3	4	5	6					1	2	3
7	8	9	10	11	12	13	4	5	6	7	8	9	10
14	15	16	17	18	19	20	11	12	13	14	15	16	17
21	22	23	24	25	26	27	18	19	20	21	22	23	24
28	29	30	31				25	26	27	28	29	30	31

Monday, July 8

Tuesday, July 9

5:00pm - 6:00pm City Council Worksession (1001 11th Avenue) 

Wednesday, July 10

Thursday, July 11

Friday, July 12

Saturday, July 13

Sunday, July 14

July 15, 2019 - July 21, 2019

July 2019						
Su	Mo	Tu	We	Th	Fr	Sa
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30	31			

August 2019						
Su	Mo	Tu	We	Th	Fr	Sa
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11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	31

Monday, July 15

Tuesday, July 16

6:30pm - 7:30pm City Council Meeting (1001 11th Avenue)

Wednesday, July 17

7:30am - 8:30am Visit Greeley (Fitzsimmons)

2:00pm - 5:00pm Water & Sewer Board (Gates)

Thursday, July 18

7:30am - 8:30am DDA (Casseday/Smail)

3:30pm - 4:30pm Airport Authority (Casseday/Payton)

Friday, July 19

Saturday, July 20

10:00am - 11:00am City Chat with Councilmember Suniga (TBD)

Sunday, July 21

July 22, 2019 - July 28, 2019

July 2019						
Su	Mo	Tu	We	Th	Fr	Sa
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30	31			

August 2019						
Su	Mo	Tu	We	Th	Fr	Sa
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	31

Monday, July 22

11:30am - 12:30pm Greeley Chamber of Commerce (Gates)

6:00pm - 7:00pm Youth Commission (Smail)

Tuesday, July 23

5:00pm - 6:00pm City Council Worksession (1001 11th Avenue)

Wednesday, July 24

Thursday, July 25

Friday, July 26

Saturday, July 27

Sunday, July 28

July 29, 2019 - August 4, 2019

July 2019						
Su	Mo	Tu	We	Th	Fr	Sa
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30	31			

August 2019						
Su	Mo	Tu	We	Th	Fr	Sa
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	31

Monday, July 29

Tuesday, July 30

Wednesday, July 31

7:00am - 8:00am Upstate Colorado Economic Development (Gates/Hall) (Upstate Colorado Conference Room) - Council Master Calendar

Thursday, August 1

7:00am - Poudre River Trail (Hall)
3:30pm - IG Adv. Board (Smail)
6:00pm - MPO (Gates/Casseday)

Friday, August 2

Saturday, August 3

Sunday, August 4

City Council Meeting Schedule

<u>Date</u>	<u>Description</u>	<u>Staff Contact</u>	
July 2, 2019 Council Meeting	Ordinance - Intro - Zoning Map Updates to the Development Code	Brad Mueller	Consent
	Ordinance - Final - Contract Provisions Code Changes	Renee Wheeler	Regular
	Ordinance - Final - Third Additional Appropriation	Renee Wheeler	Regular
	Ordinance - Final - Water and Sewer Budget Setting	Sean Chambers	Regular
	Ordinance - Final - Amendments to Chapter 18.04 of the Greeley Municipal Code	Brad Mueller	Regular
	Ordinance - Final - Amendments to the Greeley Municipal Code regarding Mandatory Trash Pick-up	Brad Mueller	Regular
	Ordinance - Final - Amendments to Chapters 9.18, 14.15 and 14.16 of the Greeley Municipal Code	Joel Hemesath	Regular
	Board & Commission Appointments	Betsy Holder	Regular
July 9, 2019 Worksession Meeting	Andy Feinstein - University of Northern Colorado Presentation	Roy Otto	0.25
	Greeley Retail Market Assessment	Ben Snow	0.25
	Comprehensive Annual Financial Report and Audit Report	Renee Wheeler	0.50
July 16, 2019 Council Meeting	Resolution - IGA with CDOT for Congestion Mitigation and Air Quality Grant Funding	Joel Hemesath	Consent
	Ordinance - Final - Zoning Map Updates to the Development Code	Brad Mueller	Regular
July 23, 2019 Worksession Meeting	Quarterly Financial Report	Renee Wheeler	0.50
	Revenue Assumptions	Renee Wheeler	0.50
August 6, 2019 Council Meeting	Ordinance - Intro - Building Code Amendments to the Greeley Municipal Code	Brad Mueller	Consent
August 13, 2019 Worksession Meeting	CIP, Water & Sewer & Stormwater Budget Presentation	Renee Wheeler	1.00
August 20, 2019 Council Meeting	Ordinance - Final - Building Code Amendments to the Greeley Municipal Code	Brad Mueller	Regular
	Board & Commission Appointments	Betsy Holder	Regular
August 27, 2019 Worksession Meeting	2020 Operating Budget Presentation	Renee Wheeler	1.00
September 3, 2019 Council Meeting	Ordinance - Intro - Fourth Additional Appropriation	Renee Wheeler	Consent
September 10, 2019 Worksession Meeting	2020 Operating Budget Presentation	Renee Wheeler	1.00
September 17, 2019 Council Meeting	Ordinance - Final - Fourth Additional Appropriation	Renee Wheeler	Regular
	Board & Commission Appointments	Betsy Holder	Regular
September 24, 2019 Worksession	2020 Operating Budget Presentation	Renee Wheeler	1.00
	CDBG Presentation	Ben Snow	0.50
October 1, 2019 Council Meeting	Public Hearing to approve 2020 budget and 2020-2024 Consolidated Plan	Ben Snow	Regular
	Ordinance - Intro & Public Hearing- 2020 Budget Adoption	Renee Wheeler	Regular
October 8, 2019 Worksession Meeting	Operating Budget Follow-up (if necessary)	Renee Wheeler	0.50
October 15, 2019 Council Meeting	Ordinance - Final - 2020 Budget Adoption	Renee Wheeler	Regular
	Board & Commission Appointments	Betsy Holder	Regular
October 22, 2019 Worksession Meeting			
	Quarterly Financial Report	Renee Wheeler	0.50
November 5, 2019 Council Meeting	Ordinance - Intro - Dissolution of GGID	Renee Wheeler	Consent
November 12, 2019 Worksession Meeting			
November 19, 2019 Council Meeting	Ordinance - Final - Dissolution of GGID	Renee Wheeler	Regular
	Board & Commission Appointments	Betsy Holder	Regular
November 26, 2019 Worksession Meeting			
December 3, 2019 Council Meeting	Ordinance - Intro - Fifth Additional Appropriation	Renee Wheeler	Consent
December 10, 2019 Worksession Meeting			

Greeley City Council

Status Report of Council Petitions

Council Request		Council Meeting, Worksession, or Committee Meeting Date Requested	Status or Disposition (After completion, item is shown one time as completed and then removed.)	Assigned to:
	None pending.			

Worksession Agenda Summary

June 25, 2019

Agenda Item Number 8

Title:

Adjournment