

Second Regular Session
Sixty-eighth General Assembly
STATE OF COLORADO

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 12-0464.01 Chuck Brackney x2295

HOUSE BILL 12-1036

HOUSE SPONSORSHIP

Kerr J.,

SENATE SPONSORSHIP

Boyd,

House Committees
Judiciary

Senate Committees
Judiciary

A BILL FOR AN ACT

101 **CONCERNING CLARIFICATION OF THE EXEMPTION FROM THE**
102 **"COLORADO OPEN RECORDS ACT" FOR INVESTIGATIVE FILES.**

Bill Summary

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

The bill clarifies that the current exemption from the "Colorado Open Records Act" for investigative files applies to those files compiled for any civil, administrative, or criminal law enforcement purpose.

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

HOUSE
3rd Reading Unamended
March 5, 2012

HOUSE
Amended 2nd Reading
March 2, 2012

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

2 **SECTION 1.** In Colorado Revised Statutes, 24-72-204, **add** (2)

3 (a) (IX) as follows:

4 **24-72-204. Allowance or denial of inspection - grounds -**
5 **procedure - appeal - definitions.** (2) (a) The custodian may deny the
6 right of inspection of the following records, unless otherwise provided by
7 law, on the ground that disclosure to the applicant would be contrary to
8 the public interest:

9 (IX) (A) ANY RECORDS OF ONGOING CIVIL OR ADMINISTRATIVE
10 INVESTIGATIONS CONDUCTED BY THE STATE OR AN AGENCY OF THE STATE
11 IN FURTHERANCE OF THEIR STATUTORY AUTHORITY TO PROTECT THE
12 PUBLIC HEALTH, WELFARE, OR SAFETY UNLESS THE INVESTIGATION
13 FOCUSES ON A PERSON OR PERSONS INSIDE OF THE INVESTIGATIVE AGENCY.

14 (B) UPON CONCLUSION OF A CIVIL OR ADMINISTRATIVE
15 INVESTIGATION THAT IS CLOSED BECAUSE NO FURTHER INVESTIGATION,
16 DISCIPLINE, OR OTHER AGENCY RESPONSE IS WARRANTED, ALL RECORDS
17 NOT EXEMPT PURSUANT TO ANY OTHER LAW ARE OPEN TO INSPECTION;
18 EXCEPT THAT THE CUSTODIAN MAY REMOVE THE NAME OR OTHER
19 PERSONAL IDENTIFYING OR FINANCIAL INFORMATION OF WITNESSES OR
20 TARGETS OF SUCH CLOSED INVESTIGATIONS FROM INVESTIGATIVE
21 RECORDS PRIOR TO INSPECTION.

22 (C) NOTWITHSTANDING ANY OTHER PROVISION OF THIS
23 SUBPARAGRAPH (IX), A RECORD IS NOT SUBJECT TO WITHHOLDING ON THE
24 GROUND THAT IT IS MAINTAINED OR KEPT IN A CIVIL OR ADMINISTRATIVE
25 INVESTIGATIVE FILE EXCEPT PURSUANT TO PARAGRAPH (a) OF SUBSECTION
26 (6) OF THIS SECTION IF THE RECORD WAS PUBLICLY DISCLOSED; WAS FILED
27 WITH AN AGENCY OF THE STATE BY A REGULATED ENTITY UNDER A

1 STATUTORY, REGULATORY, OR PERMIT REQUIREMENT; OR WAS RECEIVED
2 FROM A GOVERNMENTAL ENTITY AND WOULD BE AVAILABLE IF REQUESTED
3 DIRECTLY FROM THE TRANSMITTING ENTITY.

4 (D) NOTHING IN THIS SUBPARAGRAPH (IX) PROHIBITS AN AGENCY
5 FROM DISCLOSING INFORMATION OR MATERIALS DURING AN OPEN
6 INVESTIGATION IF IT IS IN THE INTEREST OF PUBLIC HEALTH, WELFARE, OR
7 SAFETY.

8 **SECTION 2. Applicability.** The provisions of this act apply to
9 cases arising on or after August 19, 2011, and nothing in this act shall be
10 interpreted in any way as evidence of legislative intent in cases arising
11 prior to said date.

12 **SECTION 3. Safety clause.** The general assembly hereby finds,
13 determines, and declares that this act is necessary for the immediate
14 preservation of the public peace, health, and safety.