

Second Regular Session
Seventieth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 16-1221.01 Bart Miller x2173

HOUSE BILL 16-1432

HOUSE SPONSORSHIP

Winter,

SENATE SPONSORSHIP

(None),

House Committees
Judiciary

Senate Committees

A BILL FOR AN ACT

101 CONCERNING THE RIGHTS OF EMPLOYEES TO INSPECT THEIR
102 PERSONNEL 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 allows an employee or former employee at least annually to request that his or her employer permit the employee or former employee to inspect or request copies of the employee's or former employee's personnel file at the employer's office and at a time convenient to both the employer and the employee or former employee. Employees or former employees are required to pay reasonable costs of

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.

duplication of documents.

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

2 **SECTION 1. Legislative declaration.** The general assembly
3 finds, determines, and declares that it is the public policy of this state that
4 an employee have access to his or her personnel files maintained by a
5 current or former employer. The general assembly intends this policy to
6 foster an environment of open communication between employers and
7 employees regarding the employment status of employees and to deter
8 frivolous lawsuits against employers.

9 **SECTION 2.** In Colorado Revised Statutes, **add 8-2-129** as
10 follows:

11 **8-2-129. Access to personnel files and records - definition.**

12 (1) EVERY EMPLOYER SHALL, AT LEAST ANNUALLY, UPON THE REQUEST
13 OF AN EMPLOYEE OR FORMER EMPLOYEE, PERMIT THAT EMPLOYEE OR
14 FORMER EMPLOYEE TO INSPECT AND OBTAIN A COPY OF ANY PART OF HIS
15 OR HER OWN PERSONNEL FILE OR FILES AT THE EMPLOYER'S OFFICE AND AT
16 A TIME CONVENIENT TO BOTH THE EMPLOYER AND THE EMPLOYEE OR
17 FORMER EMPLOYEE. AN EMPLOYER MAY RESTRICT THE EMPLOYEE'S OR
18 FORMER EMPLOYEE'S ACCESS TO HIS OR HER FILES TO BE ONLY IN THE
19 PRESENCE OF A PERSON RESPONSIBLE FOR MANAGING PERSONNEL DATA ON
20 BEHALF OF THE EMPLOYER OR ANOTHER EMPLOYEE DESIGNATED BY THE
21 EMPLOYER. THE EMPLOYER MAY REQUIRE THE EMPLOYEE OR FORMER
22 EMPLOYEE TO PAY THE REASONABLE COST OF DUPLICATION OF
23 DOCUMENTS.

24 (2) "PERSONNEL FILE" MEANS THE PERSONNEL RECORDS OF AN
25 EMPLOYEE, IN THE MANNER MAINTAINED BY THE EMPLOYER AND USING

1 REASONABLE EFFORTS BY THE EMPLOYER TO COLLECT, THAT ARE USED OR
2 HAVE BEEN USED TO DETERMINE THE EMPLOYEE'S QUALIFICATIONS FOR
3 EMPLOYMENT, PROMOTION, ADDITIONAL COMPENSATION, OR
4 EMPLOYMENT TERMINATION OR OTHER DISCIPLINARY ACTION.
5 "PERSONNEL FILE" DOES NOT INCLUDE DOCUMENTS OR RECORDS
6 REQUIRED TO BE PLACED OR MAINTAINED IN A SEPARATE FILE FROM THE
7 REGULAR PERSONNEL FILE BY FEDERAL OR STATE LAW OR RULE;
8 DOCUMENTS OR RECORDS PERTAINING TO CONFIDENTIAL REPORTS FROM
9 PREVIOUS EMPLOYERS OF THE EMPLOYEE; OR AN ACTIVE CRIMINAL
10 INVESTIGATION, AN ACTIVE DISCIPLINARY INVESTIGATION BY THE
11 EMPLOYER, OR AN ACTIVE INVESTIGATION BY A REGULATORY AGENCY.
12 "PERSONNEL FILE" ALSO DOES NOT INCLUDE ANY INFORMATION IN A
13 DOCUMENT OR RECORD THAT IDENTIFIES ANY PERSON WHO MADE A
14 CONFIDENTIAL ACCUSATION AGAINST THE EMPLOYEE WHO MAKES A
15 REQUEST UNDER SUBSECTION (1) OF THIS SECTION, WHERE BOTH
16 EMPLOYEES CONTINUE TO WORK FOR THE SAME EMPLOYER.

17 (3) THIS SECTION DOES NOT CREATE OR AUTHORIZE A PRIVATE
18 CAUSE OF ACTION BY A PERSON AGGRIEVED BY A VIOLATION OF THIS
19 SECTION.

20 **SECTION 3. Act subject to petition - effective date.** This act
21 takes effect January 1, 2017; except that, if a referendum petition is filed
22 pursuant to section 1 (3) of article V of the state constitution against this
23 act or an item, section, or part of this act within the ninety-day period
24 after final adjournment of the general assembly, then the act, item,
25 section, or part will not take effect unless approved by the people at the
26 general election to be held in November 2016 and, in such case, will take

- 1 effect on January 1, 2017, or on the date of the official declaration of the
- 2 vote thereon by the governor, whichever is later.