

INTRODUCTORY NOTE

This Legislative Drafting Manual is designed primarily for legislative drafters in the Colorado General Assembly's Office of Legislative Legal Services. It replaces the 1999, 1994, and 1991 Legislative Drafting Manuals and the predecessor Drafting Manual that was prepared in 1977 by the Legislative Drafting Office. It is anticipated that this manual will be updated from time to time through the issuance of replacement pages.

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PREFACE

"Poorly drafted statutes are a burden upon the entire state. Judges struggle to interpret and apply them, attorneys find it difficult to base any sure advice upon them, the citizen with an earnest desire to conform is confused. Often, lack of artful draftsmanship results in failure of the statute to achieve its desired result. At times, totally unforeseen results follow. On other occasions, defects lead directly to litigation. Failure to comply with certain constitutional requisites may produce total invalidity."¹

Interpretation of statutes is fraught with possibilities for interpretations not necessarily intended by the sponsor. Professor George Gopen of Duke University, who teaches about writing in the legislative environment, reminds us of two fundamental truths about writing laws. First, he notes that "any unit of discourse is subject to infinite interpretation." By this he means that, however many reasonable interpretations there might be for legal language, there always seems to be at least one more. Second, he says that releasing a written product is inherently dangerous. When a written product is released, it becomes the sole property of the readers. Particularly in the case of laws, the readers are not so much interested in the true intent of the writer as they are how the law affects them. The result is that those who write laws should not be surprised that the readers of law tend to read law as the readers deem necessary to serve their own purposes.

In Colorado, the Office of Legislative Legal Services, under authority of the law establishing the Office (part 5 of article 3 of title 2, C.R.S.), furnishes bill drafting services to members of the General Assembly and the Governor. A request for bill drafting services from any state department or agency or from any other public or private agency or individual may not be accepted by the Office of Legislative Legal Services unless such a request is submitted through a member of the General Assembly.

The policy of the Office of Legislative Legal Services is to serve all members of the General Assembly equally, without regard to party affiliation, political view, seniority, or any other characteristic. Highest priority is given to maintaining a nonpartisan staff committed to honoring the confidentiality of the subject matter of each member's drafting requests.

This Legislative Drafting Manual is primarily designed to provide training material for beginning drafters in the Office of Legislative Legal Services. However, its purpose is also to provide a reference source to all drafters as to the requirements of the Senate, House, and Joint rules, the statutes, the state constitution, and case law, as well as to give suggestions on the mechanics, techniques, and styles of legislative drafting, with special emphasis on practices and procedures used by the Colorado General Assembly. This manual is intended

¹ This paragraph is quoted from Legislative Bill Drafting, by Albert R. Menard, Jr., 26 Rocky Mt. L. Rev. 368 (1954).

to promote uniformity and standardization in the form, style, and language of legislation.

In the preparation of this manual, we have drawn from manuals of other states and from textbooks on legislative drafting, and we gratefully acknowledge the assistance we have received from these sources.