

**First Regular Session
Seventy-third General Assembly
STATE OF COLORADO**

REVISED

*This Version Includes All Amendments Adopted
on Second Reading in the Second House*

LLS NO. 21-0775.01 Michael Dohr x4347

HOUSE BILL 21-1250

HOUSE SPONSORSHIP

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SENATE SPONSORSHIP

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A BILL FOR AN ACT

101 **CONCERNING MEASURES TO ADDRESS LAW ENFORCEMENT**
102 **ACCOUNTABILITY, AND, IN CONNECTION THEREWITH, MAKING**
103 **AN APPROPRIATION.**

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://leg.colorado.gov>.)

The bill makes changes to the provisions of Senate Bill 20-217, enacted in 2020, (SB 217) to provide clarity and address issues discovered since the passage of the bill. SB 217 used the term "exonerated", but never defined it; the bill defines "exonerated". The bill clarifies some of the circumstances when a body-worn camera must be

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

SENATE
Amended 2nd Reading
June 3, 2021

HOUSE
3rd Reading Unamended
May 19, 2021

HOUSE
Amended 2nd Reading
May 17, 2021

operating and provisions related to the release of the footage. The bill requires an officer to comply with the body-worn camera requirements if the officer is wearing a body camera, even though the requirement for all officers to wear a body camera does not take effect until July 1, 2023.

SB 217 required law enforcement to report certain information related to each contact an officer has with a person beginning January 1, 2023. The bill changes the start date of the reporting requirement to January 1, 2022. The bill expands the definition of "contact" to include welfare checks. The bill clarifies and adds to some of the information that must be reported.

SB 217 required the peace officers standards and training (P.O.S.T.) board to permanently decertify a peace officer if the officer failed to intervene and serious bodily injury or death occurred. The bill changes the penalty to a suspension of the officer's certification for one year.

Under current law, there is a civil action that permits suit against employers of local law enforcement officers for misconduct. The bill permits the Colorado state patrol to also be sued via that civil action. The bill also requires the employer to conduct an investigation of an officer prior to determining if the officer acted in good faith.

If a person believes that a law enforcement agency has violated the investigation requirement, the person must submit a complaint to the P.O.S.T. board, which shall refer the complaint to an administrative law judge to determine whether a violation occurred. The administrative law judge shall notify the P.O.S.T. board chair of a finding that a violation occurred. If a violation is found, the P.O.S.T. board shall not provide P.O.S.T. cash fund money to the employer for one full year from the date of the finding.

The bill requires a peace officer to use de-escalation techniques prior to the use of physical force and requires the use of physical force to be objectively reasonable.

The bill requires that prior to hiring a new employee, appointing a new employee, or transferring an existing employee to a position requiring P.O.S.T. certification, a law enforcement agency shall determine if the person has a record contained in the P.O.S.T. misconduct database. If the person is listed in the database and the law enforcement agency proceeds to employ the person in a position requiring P.O.S.T. certification, the agency shall notify the P.O.S.T. board of the hire, appointment, or transfer.

The bill clarifies and adds to some of the information required to be included in the P.O.S.T. board database related to peace officer misconduct.

1 **SECTION 1.** In Colorado Revised Statutes, 24-31-901, **amend**
2 (1); and **add** (2.5), (4.5), and (7) as follows:

3 **24-31-901. Definitions.** As used in this part 9, unless the context
4 otherwise requires:

5 (1) ~~"Contacts"~~ "CONTACT" means an IN-PERSON interaction with
6 an individual, whether or not the person is in a motor vehicle, initiated by
7 a peace officer, whether consensual or nonconsensual, for the purpose of
8 enforcing the law or investigating possible violations of the law.
9 ~~"Contacts" do~~ "CONTACT" DOES not include routine interactions with
10 the public at the point of entry or exit from a controlled area; A
11 NON-INVESTIGATORY AND CONSENSUAL INTERACTION WITH A MEMBER OF
12 THE PUBLIC, INITIATED BY A MEMBER OF THE PUBLIC, UNLESS AND UNTIL
13 THE INTERACTION PROGRESSES INTO AN INVESTIGATION OF A POSSIBLE
14 VIOLATION OF THE LAW; A MOTORIST ASSIST; UNDERCOVER INTERACTIONS;
15 OR ROUTINE INTERACTIONS WITH PERSONS DETAINED IN A JAIL OR
16 DETENTION FACILITY.

17 (2.5) "EXONERATED" MEANS DISMISSAL OF CHARGES BY THE
18 COURT OR APPROPRIATE PROSECUTOR OR A NOT GUILTY VERDICT IN A
19 CRIMINAL PROSECUTION, A FINDING OF NO LIABILITY IN A CIVIL ACTION, A
20 FINDING OF NO CULPABILITY OR NO LIABILITY OR SIMILAR DETERMINATION
21 IN AN ADMINISTRATIVE PROCEEDING, OR A FINDING OF NOT SUSTAINED IN
22 AN INTERNAL INVESTIGATION; EXCEPT THAT A FINDING OF NO CULPABILITY
23 OR NO LIABILITY IN AN ADMINISTRATIVE PROCEEDING OR A FINDING OF
24 NOT SUSTAINED IN AN INTERNAL INVESTIGATION DOES NOT MEAN
25 "EXONERATED" IF THE OFFICER IS FOUND GUILTY IN A SUBSEQUENT
26 CRIMINAL PROSECUTION FOR THE SAME CONDUCT OR FOUND LIABLE FOR
27 THE SAME CONDUCT IN A CIVIL ACTION.

1 (4.5) "P.O.S.T. BOARD" MEANS THE PEACE OFFICERS STANDARDS
2 AND TRAINING BOARD CREATED IN SECTION 24-31-302.

3 (7) "WEAPON" MEANS A FIREARM, LONG GUN, TASER, BATON, NUN
4 CHUCKS, OR PROJECTILE.

5 **SECTION 2.** In Colorado Revised Statutes, 24-31-902, **amend**
6 **as they will become effective July 1, 2023,** (1)(a)(I), (1)(a)(II)(A),
7 (1)(a)(II)(B), (1)(a)(II)(D), (1)(a)(III), (1)(a)(IV)(B), (1)(a)(IV)(C), (2)(a),
8 (2)(b)(II)(A), (2)(b)(II)(B), (2)(b)(II)(C), (2)(b)(III), and (2)(c); and **add**
9 (3) as follows:

10 **24-31-902. Incident recordings - release - tampering - fine.**

11 (1) (a) (I) By July 1, 2023, all local law enforcement agencies in the state
12 and the Colorado state patrol shall provide body-worn cameras for each
13 peace officer of the law enforcement agency who interacts with members
14 of the public. Law enforcement agencies may seek funding pursuant to
15 section 24-33.5-519.

16 (II) (A) Except as provided in subsection (1)(a)(II)(B) or
17 (1)(a)(II)(C) of this section, a peace officer shall wear and activate a
18 body-worn camera or dash camera, if the peace officer's vehicle is
19 equipped with a dash camera, when responding to a call for service,
20 ENTERING INTO A PREMISES FOR THE PURPOSES OF ENFORCING THE LAW OR
21 IN RESPONSE TO A CALL FOR SERVICE, DURING A WELFARE CHECK EXCEPT
22 FOR A MOTORIST ASSIST, or during any interaction with the public initiated
23 by the peace officer, whether consensual or nonconsensual, for the
24 purpose of enforcing the law or investigating possible violations of the
25 law. THE BODY-WORN CAMERA OR DASH CAMERA DOES NOT NEED TO BE
26 ON WHEN EN ROUTE TO A CALL FOR SERVICE, BUT SHOULD BE TURNED ON
27 SHORTLY BEFORE THE VEHICLE APPROACHES THE SCENE.

1 (B) A peace officer may turn off a body-worn camera to avoid
2 recording personal information that is not case related; when working on
3 an unrelated assignment; when there is a long break in the incident; ~~or~~
4 ~~contact that is not related to the initial incident;~~ and in administrative,
5 tactical, and management discussions WHEN CIVILIANS ARE NOT PRESENT.

6 (D) The provisions of this subsection (1)(a)(II) do not apply to jail
7 peace officers or staff of a local law enforcement agency ~~if the~~ WORKING
8 IN ANY PLACE IN THE jail THAT has FUNCTIONING video cameras; except
9 that this subsection (1)(a)(II) applies to jail peace officers when
10 performing a task that requires an anticipated use of force, including cell
11 extractions and restraint chairs. The provisions of this subsection
12 (1)(a)(II) also do not apply to the civilian or administrative staff of the
13 Colorado state patrol or a local law enforcement agency, the executive
14 detail of the Colorado state patrol, and peace officers working in a
15 courtroom.

16 (III) If a peace officer fails to activate a body-worn camera or
17 dash camera as required by this section or tampers with body-worn- or
18 dash-camera footage or operation when required to activate the camera,
19 there is a permissive inference in any investigation or legal proceeding,
20 excluding criminal proceedings against the peace officer, that the missing
21 footage would have reflected misconduct by the peace officer. If a peace
22 officer fails to activate or reactivate his or her body-worn camera as
23 required by this section or tampers with body-worn- or dash-camera
24 footage or operation when required to activate the camera, any statements
25 OR CONDUCT sought to be introduced in a prosecution through the peace
26 officer related to the incident that were not recorded due to the peace
27 officer's failure to activate or reactivate the body-worn camera as required

1 by this section or if the statement OR CONDUCT was not recorded by other
2 means creates a rebuttable presumption of inadmissibility.
3 Notwithstanding any other provision of law, this subsection (1)(a)(III)
4 does not apply if the body-worn camera was not activated due to a
5 malfunction of the body-worn camera and the peace officer was not
6 aware of the malfunction, or was unable to rectify it, prior to the incident,
7 provided that the law enforcement agency's documentation shows the
8 peace officer checked the functionality of the body-worn camera at the
9 beginning of his or her shift.

10 (IV) (B) In addition to any criminal liability and penalty under the
11 law, if a court, administrative law judge, hearing officer, or a final
12 decision in an internal investigation finds that a peace officer intentionally
13 failed to activate a body-worn camera or dash camera or tampered with
14 any body-worn or dash camera, except as permitted in this section, with
15 the intent to conceal unlawful or inappropriate actions or obstruct justice,
16 the P.O.S.T. board shall suspend the peace officer's certification for a
17 period of not less than one year and the suspension may only be lifted
18 within the period of the suspension if the peace officer is exonerated by
19 a court, ADMINISTRATIVE LAW JUDGE, OR INTERNAL AFFAIRS
20 INVESTIGATION.

21 (C) In addition to any criminal liability and penalty under the law,
22 if a court, administrative law judge, hearing officer, or a final decision in
23 an internal investigation finds that a peace officer intentionally failed to
24 activate a body-worn camera or dash camera or tampered with any
25 body-worn or dash camera, except as permitted in this section, with the
26 intent to conceal unlawful or inappropriate actions, or obstruct justice, in
27 an incident resulting in a civilian death OR SERIOUS BODILY INJURY, the

1 P.O.S.T. board shall permanently revoke the peace officer's certification
2 and the revocation may only be overturned if the peace officer is
3 exonerated by a court, ADMINISTRATIVE LAW JUDGE, OR INTERNAL
4 AFFAIRS INVESTIGATION.

5 (2) (a) For all incidents in which there is a complaint of peace
6 officer misconduct by another peace officer, a civilian, or nonprofit
7 organization, through notice to the law enforcement agency involved in
8 the alleged misconduct, the local law enforcement agency or the Colorado
9 state patrol shall release, UPON REQUEST, all unedited video and audio
10 recordings of the incident, including those from body-worn cameras, dash
11 cameras, or otherwise collected through investigation, to the public within
12 twenty-one days after the local law enforcement agency or the Colorado
13 state patrol received the ~~complaint of misconduct~~ REQUEST FOR RELEASE
14 OF THE VIDEO OR AUDIO RECORDINGS.

15 (b) (II) (A) Notwithstanding any other provision of this section,
16 any video that raises substantial privacy concerns for criminal defendants,
17 victims, witnesses, juveniles, or informants, including video depicting
18 nudity; a sexual assault; a medical emergency; private medical
19 information; a mental health crisis; a victim interview; a minor, including
20 any images or information that might undermine the requirement to keep
21 certain juvenile records confidential; any personal information other than
22 the name of any person not arrested, cited, charged, or issued a written
23 warning, including a government-issued identification number, date of
24 birth, address, or financial information; significantly explicit and
25 gruesome bodily injury, unless the injury was caused by a peace officer;
26 or the interior of a home or treatment facility, shall be ~~redacted~~ or blurred
27 to protect the substantial privacy interest while still allowing public

1 release. ~~Unredacted~~ UNBLURRED footage shall not be released without the
2 written authorization of the victim or, if the victim is deceased or
3 incapacitated, the written authorization of the victim's next of kin. A
4 person seventeen years of age and under is considered incapacitated,
5 unless legally emancipated. THIS SUBSECTION (2)(b)(II)(A) DOES NOT
6 PERMIT THE REMOVAL OF ANY PORTION OF THE VIDEO.

7 (B) If ~~redaction or~~ blurring is insufficient to protect the substantial
8 privacy interest, the local law enforcement agency or the Colorado state
9 patrol shall, upon request, release the video to the victim or, if the victim
10 is deceased or incapacitated, to the victim's spouse, parent, legal guardian,
11 child, sibling, grandparent, grandchild, significant other, or other lawful
12 representative within twenty days after receipt of the complaint of
13 misconduct. In cases in which the recording is not released to the public
14 pursuant to this subsection (2)(b)(II)(B), the local law enforcement
15 agency shall notify the person whose privacy interest is implicated, if
16 contact information is known, within twenty days after receipt of the
17 complaint of misconduct, and inform the person of his or her right to
18 waive the privacy interest.

19 (C) A witness, victim, or criminal defendant may waive in writing
20 the individual privacy interest that may be implicated by public release.
21 Upon receipt of a written waiver of the applicable privacy interest,
22 accompanied by a request for release, the law enforcement agency may
23 not redact or withhold release to protect that privacy interest. ~~The hearing~~
24 ~~shall be considered a critical stage pursuant to section 24-4.1-302 and~~
25 ~~gives victims the right to be heard pursuant to 24-4.1-302.5.~~

26 (III) Any video that would substantially interfere with or
27 jeopardize an active or ongoing investigation may be withheld from the

1 public; except that the video shall be released no later than forty-five days
2 from the date of the allegation of misconduct; EXCEPT THAT IN A CASE IN
3 WHICH THE ONLY OFFENSES CHARGED ARE STATUTORY TRAFFIC
4 INFRACTIONS, THE RELEASE OF THE VIDEO MAY BE DELAYED PURSUANT TO
5 RULE 8 OF THE COLORADO RULES FOR TRAFFIC INFRACTIONS. In all cases
6 when release of a video is delayed in reliance on this subsection
7 (2)(b)(III), the prosecuting attorney shall prepare a written explanation of
8 the interference or jeopardy that justifies the delayed release,
9 contemporaneous with the refusal to release the video. Upon release of
10 the video, the prosecuting attorney shall release the written explanation
11 to the public.

12 (c) If criminal charges have been filed against any party to the
13 incident, that party must file any constitutional objection to release of the
14 recording in the pending criminal case before the twenty-one-day period
15 expires. Only in cases in which there is a pending criminal investigation
16 or prosecution of a party to the incident, the twenty-one-day period shall
17 begin from the date of appointment of counsel, the filing of an entry of
18 appearance by counsel, or the election to proceed pro se by the defendant,
19 RECEIPT OF THE CRIMINAL COMPLAINT, AND THE DEFENDANT'S RECEIPT OF
20 THE VIDEO IN DISCOVERY in the criminal prosecution made on the record
21 before a judge. If the defendant elects to proceed pro se in the criminal
22 case, the court shall advise the defendant of the twenty-one-day deadline
23 for the defendant to file any constitutional objection to release of the
24 recording in the pending criminal case as part of the court's advisement.
25 The court shall hold a hearing on any objection no later than seven days
26 after it is filed and issue a ruling no later than three days after the hearing.
27 THE HEARING IS CONSIDERED A CRITICAL STAGE AS DEFINED IN SECTION

1 24-4.1-302 AND GIVES VICTIMS THE RIGHT TO BE HEARD PURSUANT TO
2 SECTION 24-4.1-302.5.

3 (3) SUBSECTION (1)(a)(III), AS IT RELATES TO ONLY AN OFFICER
4 TAMPERING WITH BODY-WORN OR DASH-CAMERA FOOTAGE OR OPERATION,
5 AND SUBSECTION (2) OF THIS SECTION APPLY ON AND AFTER THE
6 EFFECTIVE DATE OF THIS SUBSECTION (3) WHEN A PEACE OFFICER IS
7 WEARING A BODY-WORN CAMERA OR THE OFFICER'S VEHICLE IS EQUIPPED
8 WITH A DASH CAMERA. IF A PEACE OFFICER IS WEARING A BODY-WORN
9 CAMERA OR THE OFFICER'S VEHICLE IS EQUIPPED WITH A DASH CAMERA,
10 THE REMAINING PORTIONS OF THIS SECTION APPLY ON AND AFTER JULY 1,
11 2022. THIS SECTION DOES NOT REQUIRE A LAW ENFORCEMENT AGENCY TO
12 PROVIDE ITS LAW ENFORCEMENT OFFICERS WITH BODY-WORN CAMERAS
13 PRIOR TO JULY 1, 2023.

14 **SECTION 3.** In Colorado Revised Statutes, 24-31-903, **amend**
15 (2) introductory portion, (2)(a) introductory portion, (2)(a)(VI),
16 (2)(a)(VII), (2)(a)(VIII), (2)(a)(IX), (2)(c) introductory portion, (2)(c)(I),
17 (2)(c)(VIII)(B), (2)(c)(VIII)(D), (2)(c)(VIII)(E), (2)(d)(III), and
18 (2)(d)(IV); and **add** (2)(a)(X), (2)(a)(XI), and (2)(e) as follows:

19 **24-31-903. Division of criminal justice report.** (2) Beginning
20 ~~January 1, 2023~~ APRIL 1, 2022, the Colorado state patrol and each local
21 law enforcement agency that employs peace officers shall report to the
22 division of criminal justice THE FOLLOWING USING DATA-COLLECTION
23 METHODS DEVELOPED FOR THIS PURPOSE BY THE DIVISION OF CRIMINAL
24 JUSTICE IN CONJUNCTION WITH THE COLORADO BUREAU OF INVESTIGATION
25 AND LOCAL LAW ENFORCEMENT AGENCIES:

26 (a) All use of force by its peace officers that results in death or
27 serious bodily injury OR THAT INVOLVES THE USE OF A WEAPON, including:

1 (VI) Whether a peace officer unholstered OR BRANDISHED a
2 weapon during the incident, AND, IF SO, THE TYPE OF WEAPON;

3 (VII) Whether a peace officer discharged a ~~firearm~~ WEAPON
4 during the incident;

5 (VIII) Whether the use of force resulted in a law enforcement
6 agency investigation and the result of the investigation; ~~and~~

7 (IX) Whether the use of force resulted in a ~~citizen~~ CIVILIAN
8 complaint and the resolution of that complaint;

9 (X) WHETHER AN AMBULANCE WAS CALLED TO THE SCENE AND
10 WHETHER A PERSON WAS TRANSPORTED TO A HOSPITAL FROM THE SCENE
11 WHETHER IN AN AMBULANCE OR OTHER TRANSPORTATION; AND

12 (XI) WHETHER THE PERSON CONTACTED EXHIBITED A WEAPON
13 DURING THE INTERACTION LEADING UP TO THE INJURY OR DEATH, AND, IF
14 SO, THE TYPE OF WEAPON AND WHETHER IT WAS DISCOVERED BEFORE OR
15 AFTER THE USE OF FORCE;

16 (c) All data relating to contacts AND ENTRIES INTO A RESIDENCE,
17 INCLUDING A FORCIBLE ENTRY, conducted by its peace officers, including:

18 (I) The perceived demographic information of the person
19 contacted provided that the identification of these characteristics is based
20 on the observation and perception of the peace officer making the contact
21 and other available data; EXCEPT THAT THIS SUBSECTION (2)(c)(I) DOES
22 NOT APPLY TO A PERSON CONTACTED WHO IS A WITNESS TO A CRIME OR A
23 SURVIVOR OF A CRIME;

24 (VIII) The actions taken by the peace officer during the contact,
25 including but not limited to whether:

26 (B) The peace officer searched the person, A VEHICLE, or any
27 property, and, if so, the basis for the search and the type of contraband or

1 evidence discovered, if any;

2 (D) A peace officer unholstered OR BRANDISHED a weapon during
3 the contact, AND, IF SO, THE TYPE OF WEAPON; and

4 (E) A peace officer discharged a ~~firearm~~ WEAPON during the
5 contact;

6 (d) All instances of unannounced entry into a residence, with or
7 without a warrant, including:

8 (III) Whether a peace officer unholstered OR BRANDISHED a
9 weapon during the unannounced entry, AND, IF SO, THE TYPE OF WEAPON;
10 and

11 (IV) Whether a peace officer discharged a ~~firearm~~ WEAPON during
12 the unannounced entry.

13 (e) THE NUMBER OF OFFICER-INVOLVED CIVILIAN DEATHS.

14 **SECTION 4.** In Colorado Revised Statutes, **amend** 24-31-904 as
15 follows:

16 **24-31-904. Peace officer certification discipline.**

17 (1)(a) Notwithstanding any provision of law, THE P.O.S.T. BOARD SHALL
18 PERMANENTLY REVOKE A PEACE OFFICER'S CERTIFICATION if: ~~any peace~~
19 ~~officer is~~

20 (I) THE P.O.S.T. CERTIFIED PEACE OFFICER IS convicted of or
21 pleads guilty or nolo contendere to a crime involving the unlawful use ~~or~~
22 ~~threatened use~~ of physical force OR a crime involving the failure to
23 intervene in the use of unlawful force ~~or~~ AND THE INCIDENT RESULTED IN
24 SERIOUS BODILY INJURY OR DEATH TO ANOTHER PERSON:

25 (II) THE P.O.S.T. CERTIFIED PEACE OFFICER is found civilly liable
26 for the use of unlawful physical force, or is found civilly liable for failure
27 to intervene in the use of unlawful force ~~the P.O.S.T. board shall~~

1 ~~permanently revoke the peace officer's certification~~ AND THE INCIDENT
2 RESULTED IN SERIOUS BODILY INJURY OR DEATH TO ANOTHER PERSON; OR

3 (III) AN ADMINISTRATIVE LAW JUDGE, HEARING OFFICER, OR
4 INTERNAL INVESTIGATION FINDS THAT A PEACE OFFICER USED UNLAWFUL
5 PHYSICAL FORCE, FAILED TO INTERVENE, OR VIOLATED SECTION 18-1-707,
6 AND THE INCIDENT RESULTED IN SERIOUS BODILY INJURY OR DEATH TO
7 ANOTHER PERSON.

8 (b) The P.O.S.T. board shall not, under any circumstances,
9 reinstate the peace officer's certification or grant new certification to the
10 peace officer unless the peace officer is exonerated by a AN
11 ADMINISTRATIVE LAW JUDGE, HEARING OFFICER, OR court. The P.O.S.T.
12 board shall record each ~~decertified~~ peace officer WHOSE CERTIFICATION
13 IS REVOKED PURSUANT TO THIS SECTION in the database created pursuant
14 to section 24-31-303 (1)(r).

15 (2) (a) NOTWITHSTANDING ANY PROVISION OF LAW, THE P.O.S.T.
16 BOARD SHALL SUSPEND A PEACE OFFICER'S CERTIFICATION FOR AT LEAST
17 A YEAR IF:

18 (I) THE P.O.S.T. CERTIFIED PEACE OFFICER IS CONVICTED OF OR
19 PLEADS GUILTY OR NOLO CONTENDERE TO A CRIME INVOLVING THE
20 UNLAWFUL USE OR THREATENED USE OF PHYSICAL FORCE OR A CRIME
21 INVOLVING THE FAILURE TO INTERVENE IN THE USE OF UNLAWFUL FORCE
22 AND THE INCIDENT DID NOT RESULT IN SERIOUS BODILY INJURY OR DEATH
23 TO ANOTHER PERSON;

24 (II) THE P.O.S.T. CERTIFIED PEACE OFFICER IS FOUND CIVILLY
25 LIABLE FOR THE USE OR THREATENED USE OF UNLAWFUL PHYSICAL FORCE,
26 OR IS FOUND CIVILLY LIABLE FOR FAILURE TO INTERVENE IN THE USE OF
27 UNLAWFUL FORCE AND THE INCIDENT DID NOT RESULT IN SERIOUS BODILY

1 INJURY OR DEATH TO ANOTHER PERSON; OR

2 (III) AN ADMINISTRATIVE LAW JUDGE, HEARING OFFICER, OR
3 INTERNAL INVESTIGATION FINDS THAT A PEACE OFFICER USED OR
4 THREATENED TO USE UNLAWFUL PHYSICAL FORCE, FAILED TO INTERVENE,
5 OR VIOLATED SECTION 18-1-707, AND THE INCIDENT DID NOT RESULT IN
6 SERIOUS BODILY INJURY OR DEATH TO ANOTHER PERSON.

7 (b) THE P.O.S.T. BOARD SHALL REINSTATE THE PEACE OFFICER'S
8 CERTIFICATION IF THE PEACE OFFICER IS EXONERATED BY AN
9 ADMINISTRATIVE LAW JUDGE, HEARING OFFICER, OR COURT.

10 (3) NOTWITHSTANDING THIS SECTION, THE P.O.S.T. BOARD SHALL
11 NOT SUSPEND OR REVOKE A PEACE OFFICER'S CERTIFICATION BASED ON A
12 FINAL DECISION OF AN INTERNAL INVESTIGATION UNLESS AND UNTIL
13 SUBSECTIONS (3)(a) AND (3)(b) OF THIS SECTION ARE COMPLIED WITH, NO
14 LATER THAN ONE HUNDRED EIGHTY DAYS AFTER THE DATE THE LAW
15 ENFORCEMENT AGENCY REPORTS AN INCIDENT TO THE P.O.S.T. BOARD:

16 (a) THE LAW ENFORCEMENT AGENCY THAT EMPLOYS OR
17 EMPLOYED THE PEACE OFFICER SHALL NOTIFY THE P.O.S.T. BOARD UPON
18 ANY SUSTAINED FINDINGS OF SUBSECTION (1)(a)(III) OR (2)(a)(III) OF THIS
19 SECTION, IN A MANNER DESIGNATED BY THE P.O.S.T. BOARD. UPON
20 RECEIPT OF THE NOTIFICATION, THE P.O.S.T. BOARD SHALL NOTIFY THE
21 CERTIFICATE HOLDER OF THE CERTIFICATE HOLDER'S RIGHT TO REQUEST
22 A HEARING. UPON REQUEST OF THE P.O.S.T. BOARD, THE REPORTING
23 AGENCY SHALL PROVIDE RELEVANT DOCUMENTS RELATED TO THE
24 SUSTAINED FINDINGS OF SUBSECTION (1)(a)(III) OR (2)(a)(III). FOR THE
25 PURPOSES OF THIS SUBSECTION (3), THE RECORDS OF ANY LAW
26 ENFORCEMENT AGENCY THAT ARE SUBMITTED FOR REVIEW BY THE
27 P.O.S.T. BOARD REMAIN THE PROPERTY OF THE REPORTING LAW

1 ENFORCEMENT AGENCY AND ARE NOT SUBJECT TO PUBLIC RELEASE BY THE
2 P.O.S.T. BOARD.

3 (b) THE CERTIFICATE HOLDER MUST REQUEST A HEARING WITHIN
4 THIRTY DAYS AFTER RECEIPT OF THE P.O.S.T. BOARD'S NOTIFICATION.
5 UPON THE REQUEST BY THE CERTIFICATE HOLDER, THE P.O.S.T. BOARD
6 SHALL REFER THE MATTER TO AN ADMINISTRATIVE LAW JUDGE, WHO
7 SHALL CONDUCT A HEARING IN COMPLIANCE WITH SECTIONS 24-4-104 AND
8 24-4-105 TO DETERMINE IF THE OFFICER ENGAGED IN THE ALLEGED
9 CONDUCT.

10 (c) IF THE CERTIFICATE HOLDER EITHER DOES NOT REQUEST A
11 HEARING OR REQUESTS A HEARING AND THE ADMINISTRATIVE LAW JUDGE
12 DETERMINES, AFTER CONDUCTING THE HEARING PURSUANT TO THE RULES
13 OF THE P.O.S.T. BOARD AND IN COMPLIANCE WITH SECTIONS 24-4-104
14 AND 24-4-105, THAT THE CERTIFICATE HOLDER VIOLATED SUBSECTION
15 (1)(a)(III) OR (2)(a)(III) OF THIS SECTION, THE P.O.S.T. BOARD SHALL
16 REVOKE OR SUSPEND THE PEACE OFFICER'S CERTIFICATION PURSUANT TO
17 SUBSECTION (1)(a) OR (2)(a) OF THIS SECTION.

18 (4) THE P.O.S.T. BOARD HAS THE AUTHORITY TO PERMANENTLY
19 REVOKE OR SUSPEND THE CERTIFICATION OF ANY PEACE OFFICER WHO
20 ENTERS INTO A DEFERRED JUDGEMENT, DEFERRED PROSECUTION, OR
21 DIVERSION AGREEMENT FOR A CRIME INVOLVING THE UNLAWFUL USE OF
22 PHYSICAL FORCE OR A CRIME INVOLVING THE FAILURE TO INTERVENE IN
23 THE UNLAWFUL USE OF FORCE.

24 **SECTION 5.** In Colorado Revised Statutes, add 24-31-906 as
25 follows:

26 **24-31-906. Retaliation against whistleblower officers**
27 **prohibited.** (1) A PEACE OFFICER'S EMPLOYER OR THE EMPLOYER'S

1 AGENT SHALL NOT DISCHARGE; DISCIPLINE; DEMOTE; DENY A PROMOTION,
2 TRANSFER, OR REASSIGN; DISCRIMINATE AGAINST; HARASS; OR THREATEN
3 A PEACE OFFICER'S EMPLOYMENT BECAUSE THE PEACE OFFICER DISCLOSED
4 INFORMATION THAT SHOWS:

5 (a) A DANGER TO PUBLIC HEALTH OR SAFETY; OR

6 (b) A VIOLATION OF LAW OR POLICY COMMITTED BY ANOTHER
7 PEACE OFFICER.

8 (2) NO LATER THAN JANUARY 1, 2022, ALL LAW ENFORCEMENT
9 AGENCIES THAT EMPLOY P.O.S.T.-CERTIFIED PEACE OFFICERS SHALL
10 PROVIDE A TRAINING AVAILABLE TO EMPLOYEES, A WORKPLACE POSTING,
11 OR BOTH REGARDING THE REQUIREMENTS OF THIS SECTION. IF THE LAW
12 ENFORCEMENT AGENCY PROVIDES A POSTING, THE LAW ENFORCEMENT
13 AGENCY SHALL PLACE THE POSTING IN AN AREA THAT IS READILY
14 ACCESSIBLE TO ALL EMPLOYEES AND PRINTED IN A READABLE FORMAT.
15 FOR NEW EMPLOYEES HIRED AFTER THE DATE OF THE TRAINING FOR
16 EXISTING EMPLOYEES, THE LAW ENFORCEMENT AGENCY SHALL PROVIDE
17 THE TRAINING DURING THE EMPLOYEE'S ORIENTATION.

18 (3) AN EMPLOYEE OR AGENT OF A LAW ENFORCEMENT AGENCY
19 THAT KNOWINGLY OR INTENTIONALLY VIOLATES SUBSECTION (1) OF THIS
20 SECTION SHALL BE DISCIPLINED APPROPRIATELY BY THE LAW
21 ENFORCEMENT AGENCY.

22 **SECTION 6.** In Colorado Revised Statutes, 13-21-131, **amend**
23 (1) and (4) as follows:

24 **13-21-131. Civil action for deprivation of rights.** (1) A peace
25 officer, as defined in section 24-31-901 (3), ~~employed by a local~~
26 ~~government~~ who, under color of law, subjects or causes to be subjected,
27 including failing to intervene, any other person to the deprivation of any

1 individual rights that create binding obligations on government actors
2 secured by the bill of rights, article II of the state constitution, is liable to
3 the injured party for legal or equitable relief or any other appropriate
4 relief.

5 (4) (a) Notwithstanding any other provision of law, a peace
6 officer's employer shall indemnify its peace officers for any liability
7 incurred by the peace officer and for any judgment or settlement entered
8 against the peace officer for claims arising pursuant to this section; except
9 that, if the peace officer's employer determines ON A CASE-BY-CASE BASIS
10 that the officer did not act upon a good faith and reasonable belief that the
11 action was lawful, then the peace officer is personally liable and shall not
12 be indemnified by the peace officer's employer for five percent of the
13 judgment or settlement or twenty-five thousand dollars, whichever is less.
14 Notwithstanding any provision of this section to the contrary, if the peace
15 officer's portion of the judgment is uncollectible from the peace officer,
16 the peace officer's employer or insurance shall satisfy the full amount of
17 the judgment or settlement. A public entity does not have to indemnify a
18 peace officer if the peace officer was convicted of a criminal violation for
19 the conduct from which the claim arises UNLESS THE PEACE OFFICER'S
20 EMPLOYER WAS A CAUSAL FACTOR IN THE VIOLATION, THROUGH ITS
21 ACTION OR INACTION.

22 (b) (I) AN EMPLOYER SHALL NOT:

23 (A) PREEMPTIVELY DETERMINE WHETHER A PEACE OFFICER ACTED
24 IN GOOD FAITH BEFORE SUCH ACTION IN QUESTION HAS OCCURRED; OR

25 (B) PROVIDE A DETERMINATION PROVIDING THAT ANY PEACE
26 OFFICER OR PEACE OFFICERS ARE DEEMED TO HAVE ACTED IN GOOD FAITH
27 UNTIL COMPLETION OF A DOCUMENTED INVESTIGATION CONDUCTED BY

1 THE EMPLOYER.

2 (II) IF A PERSON BELIEVES THAT AN EMPLOYER HAS VIOLATED THE
3 PROVISIONS OF SUBSECTION (4)(b)(I) OF THIS SECTION, THE PERSON SHALL
4 SUBMIT A COMPLAINT TO THE P.O.S.T. BOARD, CREATED IN SECTION
5 24-31-302, WHICH SHALL REFER THE COMPLAINT TO AN ADMINISTRATIVE
6 LAW JUDGE TO DETERMINE WHETHER A VIOLATION OCCURRED. THE
7 ADMINISTRATIVE LAW JUDGE SHALL NOTIFY THE P.O.S.T. BOARD CHAIR
8 OF A FINDING THAT A VIOLATION OF SUBSECTION (4)(b)(I) OF THIS SECTION
9 OCCURRED. IF A VIOLATION IS FOUND, THE P.O.S.T. BOARD SHALL NOT
10 PROVIDE P.O.S.T. CASH FUND MONEY TO THE EMPLOYER FOR ONE FULL
11 YEAR FROM THE DATE OF THE FINDING.

12 (III) FOR THE PURPOSES OF THIS SUBSECTION (4)(b), AN EMPLOYER
13 INCLUDES THE ELECTED SHERIFF, CHIEF OF POLICE, CITY OR TOWN
14 ADMINISTRATOR, COUNTY ADMINISTRATOR, MAYOR, CITY OR TOWN
15 COUNCIL, COUNTY COMMISSION, OR ANY OTHER PUBLIC BODY WITH
16 FORMAL SUPERVISION AND OVERSIGHT OF A LAW ENFORCEMENT AGENCY.

17 **SECTION 7.** In Colorado Revised Statutes, 16-2.5-301, **amend**
18 (1) as follows:

19 **16-2.5-301. Peace officer actions leading to injury or death**
20 **investigations - protocol.** (1) Each police department, sheriff's office,
21 and district attorney within the state shall develop protocols for
22 participating in a multi-agency team, which shall include at least one
23 other police department or sheriff's office, or the Colorado bureau of
24 investigation, in conducting any investigation, evaluation, and review of
25 an incident involving the discharge of a **firearm** by a peace officer that
26 resulted in injury or **death, OR OTHER USE OF FORCE BY A PEACE OFFICER**
27 **THAT RESULTED IN DEATH.** The law enforcement agencies participating

1 need not be from the same judicial district.

2

3 **SECTION 8.** In Colorado Revised Statutes, 18-1-707, **amend** (1)
4 **and (3)(b) as follows:**

5 **18-1-707. Use of force by peace officers - definitions - repeal.**

6 **(1) Peace officers, in carrying out their duties, shall apply nonviolent**
7 **means, when possible, before resorting to the use of physical force. A**
8 **peace officer may use physical force only if nonviolent means would be**
9 **ineffective in effecting an arrest, preventing an escape, or preventing an**
10 **imminent threat of serious bodily injury or death to the peace officer or**
11 **another person.**

12 **(3) A peace officer is justified in using deadly physical force to**
13 **make an arrest only when all other means of apprehension are**
14 **unreasonable given the circumstances and:**

15 **(b) The suspect poses an immediate threat OF DEATH OR SERIOUS**
16 **BODILY INJURY to the peace officer or another person;**

17 **SECTION 9.** In Colorado Revised Statutes, 18-8-802, **amend**
18 (1.5) as follows:

19 **18-8-802. Duty to report use of force by peace officers - duty**

20 **to intervene.** (1.5) (a) A peace officer, AS DEFINED IN SECTION 24-31-901
21 (3), WHO IS ON-DUTY shall intervene to prevent or stop another peace
22 officer from using physical force that exceeds the degree of force
23 permitted, if any, by section 18-1-707 in pursuance of the other peace
24 officer's law enforcement duties in carrying out an arrest of any person,
25 placing any person under detention, taking any person into custody,
26 booking any person, or in the process of crowd control or riot control,
27 without regard for chain of command.

1 (b) (I) A peace officer, AS DEFINED IN SECTION 24-31-901 (3), who
2 intervenes as required by subsection (1.5)(a) of this section shall report
3 the intervention to his or her immediate supervisor.

4 (II) At a minimum, the report required by this subsection (1.5)(b)
5 must include the date, time, and place of the occurrence; the identity, if
6 known, and description of the participants; and a description of the
7 intervention actions taken. This report ~~shall be made~~ MUST BE in writing
8 within ten days of the occurrence of the use of such force and ~~shall be~~
9 ~~appended to~~ MUST BE INCLUDED WITH all other reports of the incident.

10 (c) A member of a law enforcement agency shall not discipline or
11 retaliate in any way against a peace officer, AS DEFINED IN SECTION
12 24-31-901 (3), for intervening as required by subsection (1.5)(a) of this
13 section, or for reporting unconstitutional conduct, or for failing to follow
14 what the officer reasonably believes is an unconstitutional directive.

15 (d) Any peace officer, AS DEFINED IN SECTION 24-31-901 (3), who
16 fails to intervene to prevent the use of unlawful force as prescribed in this
17 subsection (1.5) commits a class 1 misdemeanor. ~~Nothing in this~~
18 ~~subsection (1.5) shall prohibit or discourage prosecution of any other~~
19 ~~criminal offense related to failure to intervene, including a higher charge,~~
20 ~~if supported by the evidence.~~

21 (e) When an administrative law judge or internal investigation
22 finds that a peace officer, AS DEFINED IN SECTION 24-31-901 (3), failed to
23 intervene to prevent the use of unlawful physical force as prescribed in
24 this subsection (1.5), this finding must be presented to the district attorney
25 so that ~~he or she~~ THE DISTRICT ATTORNEY can determine whether charges
26 should be filed pursuant to subsection (1.5)(d) of this section. However,
27 nothing in this subsection (1.5)(e) prohibits OR IS INTENDED TO

1 DISCOURAGE the district attorney from charging an officer with failure to
2 intervene before the conclusion of any internal investigation.

3 ~~(f) In addition to any criminal liability and penalty under the law,
4 when an administrative law judge, hearing officer, or internal
5 investigation finds that a peace officer, failed to intervene as required by
6 subsection (1.5)(a) of this section in an incident resulting in serious bodily
7 injury or death to any person, the peace officer's employer shall subject
8 the peace officer to discipline, up to and including termination, to the
9 extent permitted by applicable constitutional and statutory personnel laws
10 and case law, and the P.O.S.T. board shall permanently decertify the
11 peace officer upon receipt of notice of the peace officer's discipline. The
12 revocation may only be overturned if the peace officer is exonerated by
13 a court.~~

14 (g) In a case in which the prosecution charges a peace officer, AS
15 DEFINED IN SECTION 24-31-901 (3), with offenses related to and based
16 upon the use of excessive force but does not file charges against any other
17 peace officer or officers who were at the scene during the use of force,
18 the district attorney shall prepare a written report explaining the district
19 attorney's basis for the decision not to charge any other peace officer with
20 any criminal conduct and shall publicly disclose the report to the public;
21 except that if disclosure of the report would substantially interfere with
22 or jeopardize an ongoing criminal investigation, the district attorney may
23 delay public disclosure for up to forty-five days. The district attorney
24 shall post the written report on its website or, if it does not have a
25 website, make it publicly available upon request. ~~Nothing in this section
26 is intended to prohibit or discourage criminal prosecution of an officer
27 who failed to intervene for conduct in which the facts support a criminal~~

1 ~~charge, including under a complicity theory, or for an inchoate offense.~~
2 NOTHING IN THIS SUBSECTION (1.5) PROHIBITS OR DISCOURAGES
3 PROSECUTION OF ANY OTHER CRIMINAL OFFENSE RELATED TO FAILURE TO
4 INTERVENE, INCLUDING A HIGHER CHARGE, IF SUPPORTED BY THE
5 EVIDENCE.

6 **SECTION 10.** In Colorado Revised Statutes, 24-31-101, **amend**
7 (1)(n); **repeal** (3) and (4); and **add** (1)(p) and (1)(q) as follows:

8 **24-31-101. Powers and duties of attorney general.** (1) The
9 attorney general:

10 (n) Shall, pursuant to section 24-30-1507, represent expert
11 witnesses and consultants described in section 24-30-1510 (3)(h); ~~and~~

12 (p) MAY BRING A CIVIL ACTION TO ENFORCE THE PROVISIONS OF
13 SECTION 24-31-113; AND

14 (q) MAY BRING A CIVIL ACTION TO ENFORCE THE PROVISIONS OF
15 SECTION 24-31-307 (2) OR A CRIMINAL ACTION TO ENFORCE THE
16 PROVISIONS OF SECTION 24-31-307 (3).

17 ~~(3) The attorney general may bring a civil action to enforce the~~
18 ~~provisions of section 24-31-113.~~

19 ~~(4) The attorney general may bring a civil action to enforce the~~
20 ~~provisions of section 24-31-307 (2) or a criminal action to enforce the~~
21 ~~provisions of section 24-31-307 (3).~~

22 **SECTION 11.** In Colorado Revised Statutes, 24-31-305, **add** (5)
23 as follows:

24 **24-31-305. Certification - issuance - renewal - revocation -**
25 **rules - definition.** (5) IF A LAW ENFORCEMENT AGENCY HIRES A NEW
26 EMPLOYEE, APPOINTS A NEW EMPLOYEE, OR TRANSFERS AN EXISTING
27 EMPLOYEE TO A POSITION REQUIRING P.O.S.T. CERTIFICATION, PRIOR TO

1 SUCH HIRE, APPOINTMENT, OR TRANSFER THE LAW ENFORCEMENT AGENCY
2 SHALL DETERMINE IF THE PERSON HAS A RECORD CONTAINED IN THE
3 DATABASE CREATED IN SECTION 24-31-303 (1)(r). IF THE PERSON IS LISTED
4 IN THE DATABASE AND THE LAW ENFORCEMENT AGENCY PROCEEDS TO
5 EMPLOY THE PERSON IN A POSITION REQUIRING P.O.S.T. CERTIFICATION,
6 THE AGENCY SHALL NOTIFY THE P.O.S.T. BOARD OF THE HIRE,
7 APPOINTMENT, OR TRANSFER IN A FORMAT DETERMINED BY THE P.O.S.T.
8 BOARD.

9 **SECTION 12.** In Colorado Revised Statutes, **amend** 24-31-113
10 as follows:

11 **24-31-113. Public integrity - patterns and practices.** It is
12 unlawful for any governmental authority, or any agent thereof, or any
13 person acting on behalf of a governmental authority, to engage in a
14 pattern or practice of conduct by peace officers or by officials or
15 employees of any governmental agency that deprives persons of rights,
16 privileges, or immunities secured or protected by the constitution or laws
17 of the United States or the state of Colorado. Whenever the attorney
18 general has reasonable cause to believe that a violation of this section has
19 occurred, the attorney general, for or in the name of the state of Colorado,
20 may in a civil action obtain any and all appropriate relief to eliminate the
21 pattern or practice. Before filing suit, the attorney general shall notify the
22 government authority or any agent thereof, and provide it with the factual
23 basis that supports his or her reasonable cause to believe a violation
24 occurred. Upon receipt of the factual basis, the government authority, or
25 any agent thereof, has sixty days to change or eliminate the identified
26 pattern or practice. If the identified pattern or practice is not changed ~~or~~
27 AND PERMANENTLY eliminated after sixty days, the attorney general may

1 file a civil lawsuit. THE ATTORNEY GENERAL MAY ISSUE SUBPOENAS FOR
2 ANY PURPOSE IN CONDUCTING AN INVESTIGATION UNDER THIS SECTION.

3 **SECTION 13.** In Colorado Revised Statutes, 24-31-303, **amend**
4 **(1)(r); and add (1)(s)** as follows:

5 **24-31-303. Duties - powers of the P.O.S.T. board - definition.**

6 (1) The P.O.S.T. board has the following duties:

7 (r) (I) Beginning on January 1, 2022, to create and maintain a
8 database containing information related to a peace officer's:

9 ~~(H)~~ (A) Untruthfulness;

10 ~~(H)~~ (B) ~~Repeated failure~~ THREE OR MORE FAILURES to follow
11 P.O.S.T. board training requirements WITHIN TEN CONSECUTIVE YEARS;

12 ~~(H)~~ (C) ~~Decertification~~ REVOCATION OF THE CERTIFICATION by
13 the P.O.S.T. board, ~~and~~ INCLUDING THE BASIS FOR THE REVOCATION;

14 ~~(H)~~ (D) Termination for cause BY THE PEACE OFFICER'S
15 EMPLOYER UNLESS THE TERMINATION IS OVERTURNED OR REVERSED BY
16 AN APPELLATE PROCESS. A NOTATION MUST BE PLACED NEXT TO THE
17 OFFICER'S NAME DURING THE PENDENCY OF ANY APPELLATE PROCESS.

18 (E) RESIGNATION OR RETIREMENT WHILE UNDER INVESTIGATION
19 BY THE PEACE OFFICER'S EMPLOYING LAW ENFORCEMENT AGENCY, A
20 DISTRICT ATTORNEY, OR THE ATTORNEY GENERAL THAT COULD RESULT IN
21 BEING ENTERED INTO THE DATABASE IN THIS SUBSECTION (1)(r);

22 (F) RESIGNATION OR RETIREMENT FOLLOWING AN INCIDENT THAT
23 LEADS TO THE OPENING OF AN INVESTIGATION WITHIN SIX MONTHS
24 FOLLOWING THE PEACE OFFICER'S RESIGNATION OR RETIREMENT THAT
25 COULD RESULT IN BEING ENTERED INTO THE DATABASE IN THIS
26 SUBSECTION (1)(r); OR

27 (G) BEING THE SUBJECT OF A CRIMINAL INVESTIGATION FOR A

1 CRIME THAT COULD RESULT IN REVOCATION OR SUSPENSION OF
2 CERTIFICATION PURSUANT TO SECTION 24-31-305 OR 24-31-904 OR THE
3 FILING OF CRIMINAL CHARGES FOR SUCH A CRIME. THE INVESTIGATING
4 LAW ENFORCEMENT AGENCY SHALL NOTIFY THE P.O.S.T. BOARD OF THE
5 INVESTIGATION OR FILING OF CRIMINAL CHARGES AS SOON AS
6 PRACTICABLE, IN A MANNER PRESCRIBED IN P.O.S.T. BOARD RULE, SO
7 LONG AS SUCH NOTIFICATION IS UNLIKELY TO DISRUPT OR IMPEDE AN
8 INVESTIGATION.

9 (II) LAW ENFORCEMENT AGENCIES SHALL REPORT TO THE P.O.S.T.
10 BOARD THE INFORMATION REQUIRED IN THIS SUBSECTION (1)(r) IN A
11 FORMAT DETERMINED BY THE P.O.S.T. BOARD. FAILURE TO SUBMIT SUCH
12 INFORMATION IS SUBJECT TO A FINE SET IN RULE BY THE P.O.S.T. BOARD.

13 (III) FOR PURPOSES OF THIS SUBSECTION (1)(r),
14 "UNTRUTHFULNESS" MEANS A PEACE OFFICER KNOWINGLY MADE AN
15 UNTRUTHFUL STATEMENT CONCERNING A MATERIAL FACT OR KNOWINGLY
16 OMITTED A MATERIAL FACT ON AN OFFICIAL CRIMINAL JUSTICE RECORD,
17 WHILE TESTIFYING UNDER OATH, OR DURING AN INTERNAL AFFAIRS
18 INVESTIGATION OR ADMINISTRATIVE INVESTIGATION AND DISCIPLINARY
19 PROCESS.

20 (s) BY JANUARY 1, 2022, TO ADOPT PROCEDURES TO ALLOW A
21 PEACE OFFICER TO SEEK REVIEW OF THE PEACE OFFICER'S STATUS IN THE
22 DATABASE CREATED PURSUANT TO SUBSECTION (1)(r) OF THIS SECTION
23 BASED ON THE PEACE OFFICER'S PRESENTATION OF NEW EVIDENCE TO
24 SHOW THE PEACE OFFICER'S RECORD MAY BE REMOVED FROM THE
25 DATABASE.

26 **SECTION 14.** In Colorado Revised Statutes, 24-31-305, **amend**
27 (1.7)(a) and (1.7)(b) as follows:

1 **24-31-305. Certification - issuance - renewal - revocation -**
2 **rules - definition.** (1.7) (a) Unless revoked OR VOLUNTARILY
3 SURRENDERED, a basic certification or reserve certification issued
4 pursuant to this part 3 is valid as long as the certificate holder is
5 continuously serving as a peace officer or reserve peace officer.

6 (b) If a basic or reserve certificate holder has not served as a peace
7 officer or reserve peace officer for a total of at least six months during
8 any consecutive three-year period, the certification automatically expires
9 at the end of such three-year period, unless the certificate holder is then
10 serving as a peace officer or reserve peace officer OR HAD PREVIOUSLY
11 VOLUNTARILY SURRENDERED HIS OR HER CERTIFICATE.

12 **SECTION 15.** In Colorado Revised Statutes, 24-31-307, **amend**
13 (3); and **add** (3.5) as follows:

14 **24-31-307. Enforcement.** (3) The attorney general may bring
15 criminal charges for violations of this part 3 if THE violation is ~~willful or~~
16 ~~wanton~~ KNOWINGLY OR INTENTIONAL, or impose fines, as set in P.O.S.T.
17 board rule, upon any individual officer or agency for failure to comply
18 with this part 3 or any rule promulgated under this part 3.

19 (3.5) ANY PERSON OR LAW ENFORCEMENT AGENCY THAT
20 KNOWINGLY OR INTENTIONALLY PROVIDES INACCURATE DATA FOR THE
21 DATABASE CREATED PURSUANT TO SECTION 24-31-303 (1)(r) IS SUBJECT
22 TO A FINE SET IN RULE BY THE P.O.S.T. BOARD, AND, IF THE PERSON IS A
23 P.O.S.T. CERTIFIED PEACE OFFICER, THE OFFICER IS SUBJECT TO
24 REVOCATION OR SUSPENSION OF THE OFFICER'S P.O.S.T. CERTIFICATION BY
25 THE P.O.S.T. BOARD. A PERSON OR LAW ENFORCEMENT AGENCY THAT
26 TRUTHFULLY AND ACCURATELY REPORTS INFORMATION PURSUANT TO
27 SECTION 24-31-303 (1)(r) IN GOOD FAITH IS NOT LIABLE UNDER THIS

1 SUBSECTION (3.5).

2 **SECTION 16.** In Colorado Revised Statutes, 24-31-309, **amend**
3 **(2), (3.5) introductory portion, (3.5)(h)(II), (3.5)(h)(IV), and (3.5)(h)(V)**
4 as follows:

5 **24-31-309. Profiling - officer identification - training.**

6 **(2) Definitions.** For purposes of this section:

7 (a) "LEGAL BASIS" MEANS ANY BASIS AUTHORIZED BY STATUTE OR
8 THAT THE COLORADO SUPREME COURT OR UNITED STATES SUPREME
9 COURT HAS DETERMINED IS LAWFUL PURSUANT TO SECTION 7 OF ARTICLE
10 II OF THE STATE CONSTITUTION OR THE FOURTH AMENDMENT TO THE
11 UNITED STATES CONSTITUTION.

12 (b) "Profiling" means the practice of relying solely on race,
13 ethnicity, gender, national origin, language, religion, sexual orientation,
14 gender identity, age, or disability in:

15 (a) (I) Determining the existence of probable cause to place in
16 custody or arrest an individual or in constituting a reasonable and
17 articulable suspicion that an offense has been or is being committed so as
18 to justify the detention of an individual or the investigatory stop of a
19 vehicle; or

20 (b) (II) Determining the scope, substance, or duration of an
21 investigation or law enforcement activity to which a person will be
22 subjected.

23 (3.5) A peace officer, AS DEFINED IN SECTION 24-31-901 (3), shall
24 have a legal basis for making a contact, ~~whether consensual or~~
25 ~~nonconsensual, for the purpose of enforcing the law or investigating~~
26 ~~possible violations of the law. After making a contact, a peace officer, as~~
27 ~~defined in section 24-31-901 (3), shall report to the peace officer's~~

1 employing agency: AS DEFINED IN SECTION 24-31-901 (1), WHETHER
2 CONSENSUAL OR NONCONSENSUAL, FOR MAKING A CONTACT WITH A
3 MEMBER OF THE PUBLIC FOR PURPOSES OF ENFORCING THE LAW OR
4 INVESTIGATING POSSIBLE VIOLATIONS OF THE LAW. AFTER MAKING A
5 CONTACT, A PEACE OFFICER, AS DEFINED IN SECTION 24-31-901 (3), SHALL
6 REPORT TO THE PEACE OFFICER'S EMPLOYING AGENCY:

7 (h) The actions taken by the peace officer during the contact,
8 including but not limited to whether:

9 (II) The peace officer searched the person, A VEHICLE, or any
10 property, and, if so, the basis for the search and the type of contraband or
11 evidence discovered, if any;

12 (IV) A peace officer unholstered OR BRANDISHED a weapon during
13 the contact, AND, IF SO, THE TYPE OF WEAPON; and

14 (V) A peace officer discharged a ~~firearm~~ WEAPON during the
15 contact.

16 **SECTION 17.** In Colorado Revised Statutes, **add** 24-31-317 as
17 follows:

18 **24-31-317. Administrative law judge appointment.** THE
19 P.O.S.T. BOARD CHAIRPERSON MAY APPOINT AN ADMINISTRATIVE LAW
20 JUDGE OR HEARING OFFICER PURSUANT TO ARTICLE 4 OF TITLE 24 TO
21 CONDUCT HEARINGS, ADMINISTER OATHS, TAKE AFFIRMATIONS OF
22 WITNESSES, ISSUE SUBPOENAS COMPELLING THE ATTENDANCE OF
23 WITNESSES AND PRODUCTION OF RECORDS, RULE ON EVIDENCE, MAKE
24 FINDINGS, AND REPORT THE FINDINGS TO THE P.O.S.T. BOARD FOR ANY
25 PROCEEDINGS OR ACTIONS AUTHORIZED UNDER THIS PART 3.

26 **SECTION 18.** In Colorado Revised Statutes, 24-33.5-519, **add**
27 **(2)(c)** as follows:

1 (5) "SCANNER" MEANS A RADIO RECEIVER DESIGNED FOR THE
2 PURPOSE OF MONITORING MULTIPLE RADIO CARRIERS SIMULTANEOUSLY.

3 **24-6-502. Public broadcast of governmental radio**
4 **communications - encryption policy.** A LAW ENFORCEMENT AGENCY
5 THAT ENCRYPTS ALL OF ITS RADIO COMMUNICATIONS SHALL CREATE A
6 COMMUNICATIONS ACCESS POLICY, THROUGH COLLABORATION WITH
7 COLORADO-BASED MEDIA OUTLETS, THAT INCLUDES AN AGREEMENT
8 GOVERNING ACCESS FOR THE MEDIA TO PRIMARY DISPATCH CHANNELS OR
9 TALK GROUPS THROUGH COMMERCIALY AVAILABLE RADIO RECEIVERS,
10 SCANNERS, OR ANY OTHER FEASIBLE TECHNOLOGY. THE POLICY MAY
11 INCLUDE, BUT IS NOT LIMITED TO, VERIFICATION OF MEDIA CREDENTIALS;
12 REASONABLE RESTRICTIONS ON THE USE OF THE COMMERCIALY
13 AVAILABLE RADIO RECEIVERS, SCANNERS, OR OTHER FEASIBLE
14 TECHNOLOGY; AND FINANCIAL OR OTHER COSTS RELATED TO THE SALE,
15 LEASE, OR LOAN OF THE COMMERCIALY AVAILABLE RADIO RECEIVERS,
16 SCANNERS, OR ANY OTHER FEASIBLE TECHNOLOGY. ___

17 **SECTION 20.** In Colorado Revised Statutes, 24-72-303, **amend**
18 **(4)(a)** as follows:

19 **24-72-303. Records of official actions required - open to**
20 **inspection - applicability.** (4) (a) Upon completion of an internal
21 investigation, including any appeals process, that examines the in-uniform
22 or on-duty conduct of a peace officer, as described in part 1 of article 2.5
23 of title 16, related to ~~a specific, identifiable~~ AN incident of alleged
24 misconduct involving a member of the public, the entire investigation file,
25 including the witness interviews, video and audio recordings, transcripts,
26 documentary evidence, investigative notes, and final departmental
27 decision is open for public inspection upon request; except that the

1 custodian may first provide the requester with a summary of the
2 investigation file and if, after reviewing the summary, the requester
3 requests access to the investigation file, the custodian shall provide access
4 to the entire investigation file subject to the provisions of subsections
5 (4)(b), (4)(c), and (4)(d) of this section.

6 **SECTION 21.** In Session Laws of Colorado 2020, **amend** section
7 18 of chapter 110 as follows:

8 Section 18. **Effective date.** This act takes effect upon passage;
9 except that:

10 (1) Section 24-31-902, Colorado Revised Statutes, as enacted in
11 section 2 of this act, takes effect ~~July 1, 2023~~ on the effective date of
12 House Bill 21-1250;

13 (2) Section 4 of this act takes effect September 1, 2020; and

14 (3) Section 5 of this act takes effect September 1, 2020; except
15 that section 18-1-707 (2.5) and (3), Colorado Revised Statutes, as enacted
16 in section 5 of this act, takes effect upon passage.

17 **SECTION 22. Appropriation.** (1) For the 2021-22 state fiscal
18 year, \$4,065,016 is appropriated to the department of public safety. This
19 appropriation consists of \$3,101,748 from the general fund and \$963,268
20 from the highway users tax fund created in section 43-4-201 (1)(a),
21 C.R.S., and appropriated pursuant to section 43-4-201 (3)(a)(I)(C) C.R.S.
22 To implement this act, the department may use this appropriation as
23 follows:

24 (a) \$36,300 from the general fund for use by the executive
25 director's office for leased space;

26 (b) \$602,148 from the highway users tax fund for use by the
27 Colorado state patrol for sergeants, technicians, and troopers, which

1 amount is based on an assumption that the department will require an
2 additional 6.0 FTE;

3 (c) \$97,086 from the highway users tax fund for use by the
4 Colorado state patrol for civilians, which amount is based on an
5 assumption that the department will require an additional 2.0 FTE;

6 (d) \$133,042 from the highway users tax fund for use by the
7 Colorado state patrol for operating expenses;

8 (e) \$34,380 from the highway users tax fund for use by the
9 Colorado state patrol for vehicle lease payments;

10 (f) \$96,612 from the highway users tax fund for use by the
11 Colorado state patrol for state patrol training academy;

12 (g) \$2,000,000 from the general fund for use by the division of
13 criminal justice for body-worn camera grant program;

14 (h) \$42,720 from the general fund for use by the Colorado bureau
15 of investigation for vehicle lease payments;

16 (i) \$611,779 from the general fund for use by the Colorado bureau
17 of investigation for personal services related to laboratory and
18 investigative services, which amount is based on an assumption that the
19 department will require an additional 5.5 FTE;

20 (j) \$319,817 from the general fund for use by the Colorado bureau
21 of investigation for operating expenses related to laboratory and
22 investigative services; and

23 (k) \$91,132 from the general fund for use by the Colorado bureau
24 of investigation for overtime related to laboratory and investigative
25 services.

26

27 (2) For the 2021-22 state fiscal year, \$582,742 is appropriated to

1 the department of law. This appropriation is from reappropriated funds
2 received from the department of personnel from the risk management
3 fund created in section 24-30-1510 (1)(a), C.R.S., and is based on an
4 assumption that the department of law will require an additional 3.0 FTE.
5 To implement this act, the department of law may use this appropriation
6 to provide legal services for the department of public safety.

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8 **SECTION 23. Safety clause.** The general assembly hereby finds,
9 determines, and declares that this act is necessary for the immediate
10 preservation of the public peace, health, or safety.