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An Act

HOUSE BILL 21-1250

BY REPRESENTATIVE(S) Herod and Gonzales-Gutierrez, Amabile, Bacon, Benavidez, Bernett, Bird, Boesenecker, Caraveo, Cutter, Exum, Hooton, Jackson, Jodeh, Lontine, McCormick, Michaelson Jenet, Ortiz, Ricks, Sirota, Snyder, Weissman, Garnett, Esgar, Kennedy, Kipp, McCluskie, Woodrow, Young;
also SENATOR(S) Fields and Gardner, Bridges, Buckner, Coleman, Cooke, Danielson, Fenberg, Ginal, Gonzales, Hansen, Jaquez Lewis, Kolker, Lee, Lundeen, Moreno, Pettersen, Story, Zenzinger, Garcia.

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

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

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

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

(1) ~~"Contacts"~~ "CONTACT" means an IN-PERSON interaction with an individual, whether or not the person is in a motor vehicle, initiated by a

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

peace officer, whether consensual or nonconsensual, for the purpose of enforcing the law or investigating possible violations of the law. "Contacts" do "CONTACT" DOES not include routine interactions with the public at the point of entry or exit from a controlled area; A NON-INVESTIGATORY AND CONSENSUAL INTERACTION WITH A MEMBER OF THE PUBLIC, INITIATED BY A MEMBER OF THE PUBLIC, UNLESS AND UNTIL THE INTERACTION PROGRESSES INTO AN INVESTIGATION OF A POSSIBLE VIOLATION OF THE LAW; A MOTORIST ASSIST; UNDERCOVER INTERACTIONS; OR ROUTINE INTERACTIONS WITH PERSONS DETAINED IN A JAIL OR DETENTION FACILITY.

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

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

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

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

24-31-902. Incident recordings - release - tampering - fine.
(1) (a) (I) By July 1, 2023, all local law enforcement agencies in the state and the Colorado state patrol shall provide body-worn cameras for each peace officer of the law enforcement agency who interacts with members of the public. Law enforcement agencies may seek funding pursuant to section 24-33.5-519.

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

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

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

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

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

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

(C) In addition to any criminal liability and penalty under the law, if a court, administrative law judge, hearing officer, or a final decision in an internal investigation finds that a peace officer intentionally failed to activate a body-worn camera or dash camera or tampered with any body-worn or dash camera, except as permitted in this section, with the intent to conceal unlawful or inappropriate actions, or obstruct justice, in an incident resulting in a civilian death OR SERIOUS BODILY INJURY, the P.O.S.T. board shall permanently revoke the peace officer's certification and the revocation may only be overturned if the peace officer is exonerated by a court, ADMINISTRATIVE LAW JUDGE, OR INTERNAL AFFAIRS INVESTIGATION.

(2) (a) For all incidents in which there is a complaint of peace officer misconduct by another peace officer, a civilian, or nonprofit organization, through notice to the law enforcement agency involved in the alleged misconduct, the local law enforcement agency or the Colorado state patrol shall release, UPON REQUEST, all unedited video and audio recordings of the incident, including those from body-worn cameras, dash cameras, or otherwise collected through investigation, to the public within twenty-one days after the local law enforcement agency or the Colorado state patrol

received the ~~complaint of misconduct~~ REQUEST FOR RELEASE OF THE VIDEO OR AUDIO RECORDINGS.

(b) (II) (A) Notwithstanding any other provision of this section, any video that raises substantial privacy concerns for criminal defendants, victims, witnesses, juveniles, or informants, including video depicting nudity; a sexual assault; a medical emergency; private medical information; a mental health crisis; a victim interview; a minor, including any images or information that might undermine the requirement to keep certain juvenile records confidential; any personal information other than the name of any person not arrested, cited, charged, or issued a written warning, including a government-issued identification number, date of birth, address, or financial information; significantly explicit and gruesome bodily injury, unless the injury was caused by a peace officer; or the interior of a home or treatment facility, shall be ~~redacted~~ or blurred to protect the substantial privacy interest while still allowing public release. ~~Unredacted~~ UNBLURRED footage shall not be released without the written authorization of the victim or, if the victim is deceased or incapacitated, the written authorization of the victim's next of kin. A person seventeen years of age and under is considered incapacitated, unless legally emancipated. THIS SUBSECTION (2)(b)(II)(A) DOES NOT PERMIT THE REMOVAL OF ANY PORTION OF THE VIDEO.

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

(C) A witness, victim, or criminal defendant may waive in writing the individual privacy interest that may be implicated by public release. Upon receipt of a written waiver of the applicable privacy interest, accompanied by a request for release, the law enforcement agency may not

redact or withhold release to protect that privacy interest. ~~The hearing shall be considered a critical stage pursuant to section 24-4.1-302 and gives victims the right to be heard pursuant to 24-4.1-302.5.~~

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

(c) If criminal charges have been filed against any party to the incident, that party must file any constitutional objection to release of the recording in the pending criminal case before the twenty-one-day period expires. Only in cases in which there is a pending criminal investigation or prosecution of a party to the incident, the twenty-one-day period shall begin from the date of appointment of counsel, the filing of an entry of appearance by counsel, or the election to proceed pro se by the defendant, RECEIPT OF THE CRIMINAL COMPLAINT, AND THE DEFENDANT'S RECEIPT OF THE VIDEO IN DISCOVERY in the criminal prosecution made on the record before a judge. If the defendant elects to proceed pro se in the criminal case, the court shall advise the defendant of the twenty-one-day deadline for the defendant to file any constitutional objection to release of the recording in the pending criminal case as part of the court's advisement. The court shall hold a hearing on any objection no later than seven days after it is filed and issue a ruling no later than three days after the hearing. THE HEARING IS CONSIDERED A CRITICAL STAGE AS DEFINED IN SECTION 24-4.1-302 AND GIVES VICTIMS THE RIGHT TO BE HEARD PURSUANT TO SECTION 24-4.1-302.5.

(3) SUBSECTION (1)(a)(III), AS IT RELATES TO ONLY AN OFFICER TAMPERING WITH BODY-WORN OR DASH-CAMERA FOOTAGE OR OPERATION, AND SUBSECTION (2) OF THIS SECTION APPLY ON AND AFTER THE EFFECTIVE DATE OF THIS SUBSECTION (3) WHEN A PEACE OFFICER IS WEARING A BODY-WORN CAMERA OR THE OFFICER'S VEHICLE IS EQUIPPED WITH A DASH

CAMERA. IF A PEACE OFFICER IS WEARING A BODY-WORN CAMERA OR THE OFFICER'S VEHICLE IS EQUIPPED WITH A DASH CAMERA, THE REMAINING PORTIONS OF THIS SECTION APPLY ON AND AFTER JULY 1, 2022. THIS SECTION DOES NOT REQUIRE A LAW ENFORCEMENT AGENCY TO PROVIDE ITS LAW ENFORCEMENT OFFICERS WITH BODY-WORN CAMERAS PRIOR TO JULY 1, 2023.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SECTION 4. In Colorado Revised Statutes, **amend** 24-31-904 as

follows:

24-31-904. Peace officer certification discipline.

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

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

(II) THE P.O.S.T. CERTIFIED PEACE OFFICER is found civilly liable for the use of unlawful physical force, or is found civilly liable for failure to intervene in the use of unlawful force ~~the P.O.S.T. board shall permanently revoke the peace officer's certification~~ AND THE INCIDENT RESULTED IN SERIOUS BODILY INJURY OR DEATH TO ANOTHER PERSON; OR

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

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

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

(I) THE P.O.S.T. CERTIFIED PEACE OFFICER IS CONVICTED OF OR PLEADS GUILTY OR NOLO CONTENDERE TO A CRIME INVOLVING THE UNLAWFUL USE OR THREATENED USE OF PHYSICAL FORCE OR A CRIME INVOLVING THE FAILURE TO INTERVENE IN THE USE OF UNLAWFUL FORCE

AND THE INCIDENT DID NOT RESULT IN SERIOUS BODILY INJURY OR DEATH TO ANOTHER PERSON;

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

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

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

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

(a) THE LAW ENFORCEMENT AGENCY THAT EMPLOYS OR EMPLOYED THE PEACE OFFICER SHALL NOTIFY THE P.O.S.T. BOARD UPON ANY SUSTAINED FINDINGS OF SUBSECTION (1)(a)(III) OR (2)(a)(III) OF THIS SECTION, IN A MANNER DESIGNATED BY THE P.O.S.T. BOARD. UPON RECEIPT OF THE NOTIFICATION, THE P.O.S.T. BOARD SHALL NOTIFY THE CERTIFICATE HOLDER OF THE CERTIFICATE HOLDER'S RIGHT TO REQUEST A HEARING. UPON REQUEST OF THE P.O.S.T. BOARD, THE REPORTING AGENCY SHALL PROVIDE RELEVANT DOCUMENTS RELATED TO THE SUSTAINED FINDINGS OF SUBSECTION (1)(a)(III) OR (2)(a)(III). FOR THE PURPOSES OF THIS SUBSECTION (3), THE RECORDS OF ANY LAW ENFORCEMENT AGENCY THAT ARE SUBMITTED FOR REVIEW BY THE P.O.S.T. BOARD REMAIN THE PROPERTY OF THE REPORTING LAW ENFORCEMENT AGENCY AND ARE NOT SUBJECT TO PUBLIC RELEASE BY THE P.O.S.T. BOARD.

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

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

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

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

24-31-906. Retaliation against whistleblower officers prohibited.

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

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

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

(2) NO LATER THAN JANUARY 1, 2022, ALL LAW ENFORCEMENT

AGENCIES THAT EMPLOY P.O.S.T.-CERTIFIED PEACE OFFICERS SHALL PROVIDE A TRAINING AVAILABLE TO EMPLOYEES, A WORKPLACE POSTING, OR BOTH REGARDING THE REQUIREMENTS OF THIS SECTION. IF THE LAW ENFORCEMENT AGENCY PROVIDES A POSTING, THE LAW ENFORCEMENT AGENCY SHALL PLACE THE POSTING IN AN AREA THAT IS READILY ACCESSIBLE TO ALL EMPLOYEES AND PRINTED IN A READABLE FORMAT. FOR NEW EMPLOYEES HIRED AFTER THE DATE OF THE TRAINING FOR EXISTING EMPLOYEES, THE LAW ENFORCEMENT AGENCY SHALL PROVIDE THE TRAINING DURING THE EMPLOYEE'S ORIENTATION.

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

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

13-21-131. Civil action for deprivation of rights. (1) A peace officer, as defined in section 24-31-901 (3), ~~employed by a local government~~ who, under color of law, subjects or causes to be subjected, including failing to intervene, any other person to the deprivation of any individual rights that create binding obligations on government actors secured by the bill of rights, article II of the state constitution, is liable to the injured party for legal or equitable relief or any other appropriate relief.

(4) (a) Notwithstanding any other provision of law, a peace officer's employer shall indemnify its peace officers for any liability incurred by the peace officer and for any judgment or settlement entered against the peace officer for claims arising pursuant to this section; except that, if the peace officer's employer determines ON A CASE-BY-CASE BASIS that the officer did not act upon a good faith and reasonable belief that the action was lawful, then the peace officer is personally liable and shall not be indemnified by the peace officer's employer for five percent of the judgment or settlement or twenty-five thousand dollars, whichever is less. Notwithstanding any provision of this section to the contrary, if the peace officer's portion of the judgment is uncollectible from the peace officer, the peace officer's employer or insurance shall satisfy the full amount of the judgment or settlement. A public entity does not have to indemnify a peace officer if the peace officer was convicted of a criminal violation for the conduct from which the claim arises UNLESS THE PEACE OFFICER'S EMPLOYER WAS A

CAUSAL FACTOR IN THE VIOLATION, THROUGH ITS ACTION OR INACTION.

(b) (I) AN EMPLOYER SHALL NOT:

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

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

(II) IF A PERSON BELIEVES THAT AN EMPLOYER HAS VIOLATED THE PROVISIONS OF SUBSECTION (4)(b)(I) OF THIS SECTION, THE PERSON SHALL SUBMIT A COMPLAINT TO THE P.O.S.T. BOARD, CREATED IN SECTION 24-31-302, 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 OF SUBSECTION (4)(b)(I) OF THIS SECTION 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.

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

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

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

DEATH. The law enforcement agencies participating need not be from the same judicial district.

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

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

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

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

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

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

18-8-802. Duty to report use of force by peace officers - duty to intervene. (1.5) (a) A peace officer, AS DEFINED IN SECTION 24-31-901 (3), WHO IS ON-DUTY shall intervene to prevent or stop another peace officer from using physical force that exceeds the degree of force permitted, if any, by section 18-1-707 in pursuance of the other peace officer's law enforcement duties in carrying out an arrest of any person, placing any person under detention, taking any person into custody, booking any person, or in the process of crowd control or riot control, without regard for chain of command.

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

(II) At a minimum, the report required by this subsection (1.5)(b) must include the date, time, and place of the occurrence; the identity, if

known, and description of the participants; and a description of the intervention actions taken. This report ~~shall be made~~ MUST BE in writing within ten days of the occurrence of the use of such force and ~~shall be appended to~~ MUST BE INCLUDED WITH all other reports of the incident.

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

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

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

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

(g) In a case in which the prosecution charges a peace officer, AS

DEFINED IN SECTION 24-31-901 (3), with offenses related to and based upon the use of excessive force but does not file charges against any other peace officer or officers who were at the scene during the use of force, the district attorney shall prepare a written report explaining the district attorney's basis for the decision not to charge any other peace officer with any criminal conduct and shall publicly disclose the report to the public; except that if disclosure of the report would substantially interfere with or jeopardize an ongoing criminal investigation, the district attorney may delay public disclosure for up to forty-five days. The district attorney shall post the written report on its website or, if it does not have a website, make it publicly available upon request. ~~Nothing in this section is intended to prohibit or discourage criminal prosecution of an officer who failed to intervene for conduct in which the facts support a criminal charge, including under a complicity theory, or for an inchoate offense.~~ NOTHING IN THIS SUBSECTION (1.5) PROHIBITS OR DISCOURAGES PROSECUTION OF ANY OTHER CRIMINAL OFFENSE RELATED TO FAILURE TO INTERVENE, INCLUDING A HIGHER CHARGE, IF SUPPORTED BY THE EVIDENCE.

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

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

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

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

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

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

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

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

24-31-305. Certification - issuance - renewal - revocation - rules - definition. (5) IF A LAW ENFORCEMENT AGENCY HIRES A NEW EMPLOYEE, APPOINTS A NEW EMPLOYEE, OR TRANSFERS AN EXISTING EMPLOYEE TO A POSITION REQUIRING P.O.S.T. CERTIFICATION, PRIOR TO SUCH HIRE, APPOINTMENT, OR TRANSFER THE LAW ENFORCEMENT AGENCY SHALL DETERMINE IF THE PERSON HAS A RECORD CONTAINED IN THE DATABASE CREATED IN SECTION 24-31-303 (1)(r). 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 IN A FORMAT DETERMINED BY THE P.O.S.T. BOARD.

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

24-31-113. Public integrity - patterns and practices. It is unlawful for any governmental authority, or any agent thereof, or any person acting on behalf of a governmental authority, to engage in a pattern or practice of conduct by peace officers or by officials or employees of any governmental agency that deprives persons of rights, privileges, or immunities secured or protected by the constitution or laws of the United States or the state of Colorado. Whenever the attorney general has reasonable cause to believe that a violation of this section has occurred, the attorney general, for or in the name of the state of Colorado, may in a civil action obtain any and all appropriate relief to eliminate the pattern or practice. Before filing suit, the attorney general shall notify the government authority or any agent thereof, and provide it with the factual basis that supports his or her reasonable cause to believe a violation occurred. Upon receipt of the factual basis, the government authority, or any agent thereof, has sixty days to change or eliminate the identified pattern or practice. If the identified pattern or practice is not changed ~~or~~ AND PERMANENTLY eliminated after sixty days, the attorney general may file a civil lawsuit. THE ATTORNEY GENERAL MAY ISSUE SUBPOENAS FOR ANY PURPOSE IN CONDUCTING AN INVESTIGATION UNDER THIS SECTION.

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

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

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

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

(⊕) (A) Untruthfulness;

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

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

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

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

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

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

(II) LAW ENFORCEMENT AGENCIES SHALL REPORT TO THE P.O.S.T.

BOARD THE INFORMATION REQUIRED IN THIS SUBSECTION (1)(r) IN A FORMAT DETERMINED BY THE P.O.S.T. BOARD. FAILURE TO SUBMIT SUCH INFORMATION IS SUBJECT TO A FINE SET IN RULE BY THE P.O.S.T. BOARD.

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

(t) BY JANUARY 1, 2022, TO ADOPT PROCEDURES TO ALLOW A PEACE OFFICER TO SEEK REVIEW OF THE PEACE OFFICER'S STATUS IN THE DATABASE CREATED PURSUANT TO SUBSECTION (1)(r) OF THIS SECTION BASED ON THE PEACE OFFICER'S PRESENTATION OF NEW EVIDENCE TO SHOW THE PEACE OFFICER'S RECORD MAY BE REMOVED FROM THE DATABASE.

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

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

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

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

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

this part 3 or any rule promulgated under this part 3.

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

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

24-31-309. Profiling - officer identification - training.
(2) **Definitions.** For purposes of this section:

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

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

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

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

(3.5) A peace officer, AS DEFINED IN SECTION 24-31-901 (3), shall

~~have a legal basis for making a contact, whether consensual or nonconsensual, for the purpose of enforcing the law or investigating possible violations of the law. After making a contact, a peace officer, as defined in section 24-31-901 (3), shall report to the peace officer's employing agency.~~ AS DEFINED IN SECTION 24-31-901 (1), WHETHER CONSENSUAL OR NONCONSENSUAL, FOR MAKING A CONTACT WITH A MEMBER OF THE PUBLIC FOR PURPOSES OF ENFORCING THE LAW OR INVESTIGATING POSSIBLE VIOLATIONS OF THE LAW. AFTER MAKING A CONTACT, A PEACE OFFICER, AS DEFINED IN SECTION 24-31-901 (3), SHALL REPORT TO THE PEACE OFFICER'S EMPLOYING AGENCY:

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

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

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

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

SECTION 17. In Colorado Revised Statutes, **add** 24-31-318 as follows:

24-31-318. Administrative law judge appointment. THE P.O.S.T. BOARD CHAIRPERSON MAY APPOINT AN ADMINISTRATIVE LAW JUDGE OR HEARING OFFICER PURSUANT TO ARTICLE 4 OF TITLE 24 TO CONDUCT HEARINGS, ADMINISTER OATHS, TAKE AFFIRMATIONS OF WITNESSES, ISSUE SUBPOENAS COMPELLING THE ATTENDANCE OF WITNESSES AND PRODUCTION OF RECORDS, RULE ON EVIDENCE, MAKE FINDINGS, AND REPORT THE FINDINGS TO THE P.O.S.T. BOARD FOR ANY PROCEEDINGS OR ACTIONS AUTHORIZED UNDER THIS PART 3.

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

24-33.5-519. Body-worn cameras for law enforcement officers

- grant program - study group - fund - repeal. (2) (c) (I) THE GENERAL ASSEMBLY SHALL APPROPRIATE TWO MILLION DOLLARS IN FISCAL YEAR 2021-22 FOR THE GRANT PROGRAM.

(II) THIS SUBSECTION (2)(c) IS REPEALED, EFFECTIVE JULY 1, 2022.

SECTION 19. In Colorado Revised Statutes, **add** part 5 to article 6 of title 24 as follows:

PART 5
ENCRYPTION OF RADIO COMMUNICATIONS
BY GOVERNMENTAL ENTITIES

24-6-501. Definitions. AS USED IN THIS PART 5, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "ENCRYPTION" MEANS THE ENCODING OF VOICE COMMUNICATION ON AN ANALOG OR DIGITALLY MODULATED RADIO CARRIER, WHICH ENCODING RENDERS THE COMMUNICATION DIFFICULT OR IMPOSSIBLE TO BE MONITORED BY COMMERCIALY AVAILABLE RADIO RECEIVERS OR SCANNERS.

(2) "LAW ENFORCEMENT AGENCY" MEANS A MUNICIPAL POLICE DEPARTMENT OR A COUNTY SHERIFF'S OFFICE.

(3) "MEDIA" MEANS A NEWS MEDIA ENTITY ASSOCIATED WITH A STATEWIDE ORGANIZATION REPRESENTING FCC-LICENSED BROADCASTING ENTITIES OR A STATEWIDE ORGANIZATION REPRESENTING A MAJORITY OF COLORADO NEWSPAPERS.

(4) "RADIO COMMUNICATIONS" MEANS ANY COMMUNICATION BY WAY OF TRANSMISSION OF A RADIO FREQUENCY CARRIER TO BASE, MOBILE, OR PORTABLE RADIO TRANSCEIVERS BY EITHER ANALOG OR DIGITAL MODULATION.

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

24-6-502. Public broadcast of governmental radio communications - encryption policy. A LAW ENFORCEMENT AGENCY THAT ENCRYPTS ALL OF ITS RADIO COMMUNICATIONS SHALL CREATE A

COMMUNICATIONS ACCESS POLICY, THROUGH COLLABORATION WITH COLORADO-BASED MEDIA OUTLETS, THAT INCLUDES AN AGREEMENT GOVERNING ACCESS FOR THE MEDIA TO PRIMARY DISPATCH CHANNELS OR TALK GROUPS THROUGH COMMERCIALY AVAILABLE RADIO RECEIVERS, SCANNERS, OR ANY OTHER FEASIBLE TECHNOLOGY. THE POLICY MAY INCLUDE, BUT IS NOT LIMITED TO, VERIFICATION OF MEDIA CREDENTIALS; REASONABLE RESTRICTIONS ON THE USE OF THE COMMERCIALY AVAILABLE RADIO RECEIVERS, SCANNERS, OR OTHER FEASIBLE TECHNOLOGY; AND FINANCIAL OR OTHER COSTS RELATED TO THE SALE, LEASE, OR LOAN OF THE COMMERCIALY AVAILABLE RADIO RECEIVERS, SCANNERS, OR ANY OTHER FEASIBLE TECHNOLOGY.

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

24-72-303. Records of official actions required - open to inspection - applicability. (4) (a) Upon completion of an internal investigation, including any appeals process, that examines the in-uniform or on-duty conduct of a peace officer, as described in part 1 of article 2.5 of title 16, related to ~~a specific, identifiable~~ AN incident of alleged misconduct involving a member of the public, the entire investigation file, including the witness interviews, video and audio recordings, transcripts, documentary evidence, investigative notes, and final departmental decision is open for public inspection upon request; except that the custodian may first provide the requester with a summary of the investigation file and if, after reviewing the summary, the requester requests access to the investigation file, the custodian shall provide access to the entire investigation file subject to the provisions of subsections (4)(b), (4)(c), and (4)(d) of this section.

SECTION 21. In Colorado Revised Statutes, **add** 24-31-114 as follows:

24-31-114. No-knock and forced entry study group - repeal. (1) ON OR BEFORE SEPTEMBER 1, 2021, THE ATTORNEY GENERAL SHALL CONVENE A STUDY GROUP TO STUDY PROCEDURES RELATED TO THE USE OF NO-KNOCK ENTRY WARRANTS AND FORCED ENTRY.

(2) (a) THE STUDY GROUP CONSISTS OF TWELVE MEMBERS AS FOLLOWS:

(I) A REPRESENTATIVE OF THE DISTRICT ATTORNEYS APPOINTED BY THE EXECUTIVE DIRECTOR OF THE COLORADO DISTRICT ATTORNEYS' COUNCIL;

(II) A REPRESENTATIVE OF COUNTY SHERIFFS APPOINTED BY THE DIRECTOR OF A STATEWIDE ORGANIZATION REPRESENTING SHERIFFS;

(III) A REPRESENTATIVE OF THE CHIEFS OF POLICE APPOINTED BY THE PRESIDENT OF A STATEWIDE ORGANIZATION OF CHIEFS OF POLICE;

(IV) A REPRESENTATIVE OF POLICE OFFICERS APPOINTED BY THE PRESIDENT OF A STATEWIDE ORGANIZATION REPRESENTING POLICE OFFICERS;

(V) THE STATE PUBLIC DEFENDER OR HIS OR HER DESIGNEE;

(VI) A CRIMINAL DEFENSE ATTORNEY APPOINTED BY A STATEWIDE ORGANIZATION REPRESENTING CRIMINAL DEFENSE ATTORNEYS;

(VII) TWO REPRESENTATIVES OF STATEWIDE ORGANIZATIONS ADVOCATING CRIMINAL JUSTICE OR SENTENCING REFORM APPOINTED BY THE ATTORNEY GENERAL; AND

(VIII) FOUR LEGISLATIVE MEMBERS, ONE SENATOR APPOINTED BY THE SENATE PRESIDENT; ONE SENATOR APPOINTED BY THE SENATE MINORITY LEADER; ONE REPRESENTATIVE APPOINTED BY THE SPEAKER OF THE HOUSE OF REPRESENTATIVES; AND ONE REPRESENTATIVE APPOINTED BY THE MINORITY LEADER OF THE HOUSE OF REPRESENTATIVES.

(b) THE APPOINTING AUTHORITIES SHALL MAKE APPOINTMENTS NO LATER THAN AUGUST 16, 2021.

(c) THE MEMBERS OF THE STUDY GROUP SHALL SERVE WITHOUT COMPENSATION.

(3) THE STUDY GROUP SHALL:

(a) SURVEY EVIDENCE-BASED POLICY AND NATIONAL BEST PRACTICES REGARDING PROCEDURES RELATED TO THE USE OF NO-KNOCK ENTRY WARRANTS AND FORCED ENTRY;

(b) REVIEW THE EFFICACY OF THE USE OF NO-KNOCK ENTRY WARRANTS AND FORCED ENTRY;

(c) SURVEY POLICIES AND PROCEDURES IN LAW ENFORCEMENT AGENCIES THROUGHOUT THE STATE REGARDING THE USE OF NO-KNOCK ENTRY WARRANTS AND FORCED ENTRY;

(d) GATHER STAKEHOLDER FEEDBACK REGARDING THE EXECUTION OF SEARCH WARRANTS THROUGH NO KNOCK OR FORCED ENTRY.

(e) DEVELOP RECOMMENDATIONS FOR POTENTIAL STATE LEGISLATION REGARDING PROCEDURES RELATED TO THE USE OF NO-KNOCK ENTRY WARRANTS AND FORCED ENTRY.

(4) THE STUDY GROUP SHALL REPORT ITS FINDINGS AND RECOMMENDATIONS TO THE ATTORNEY GENERAL ON OR BEFORE DECEMBER 31, 2021.

(5) THE ATTORNEY GENERAL SHALL INCLUDE THE STUDY GROUP'S FINDINGS IN ITS ANNUAL REPORT BEFORE THE HOUSE OF REPRESENTATIVES AND SENATE COMMITTEES OF REFERENCE PURSUANT TO SECTION 2-7-203 MADE DURING THE 2022 LEGISLATIVE SESSION.

(6) THIS SECTION IS REPEALED, EFFECTIVE JUNE 30, 2022.

SECTION 22. In Colorado Revised Statutes, **add** 24-32-131 as follows:

24-32-131. Best practices in policing study. (1) (a) THE DIVISION OF LOCAL GOVERNMENT SHALL CONTRACT WITH A NATIONALLY RECOGNIZED RESEARCH AND CONSULTING ENTITY THAT IS AN EXPERT IN DATA-DRIVEN, EVIDENCE-BASED POLICING THAT IS COMMUNITY-FOCUSED FOR AN INDEPENDENT STUDY TO ASSESS AND PROVIDE A REPORT AND FINDINGS ON EVIDENCED-BASED POLICING NATIONAL BEST PRACTICES IN DEFINED AREAS OF STUDY. THE CONSULTING ENTITY SHALL COMPLETE AN INTERIM STUDY NO LATER THAN DECEMBER 30, 2021, AND THE FINAL STUDY NO LATER THAN JULY 1, 2022. THE STUDY SHALL DETERMINE EVIDENCE-BASED BEST PRACTICES IN THE FOLLOWING AREAS TO PROMOTE GREATER POLICING FAIRNESS, EQUITY, AND EFFECTIVENESS:

(I) USE OF FORCE STRATEGIES, STANDARDS, AND TRAINING THAT VALUE THE SANCTITY OF HUMAN LIFE, PROMOTE DE-ESCALATION TACTICS, PROVIDE CLARITY FOR OFFICERS, PROTECT COMMUNITIES, AND MINIMIZE HARM TO OFFENDERS;

(II) CRIME AND COMMUNITY HARM REDUCTION STRATEGIES THAT INCLUDE PROBLEM ANALYSIS OF HIGH-RISK PEOPLE AND PLACES, CONSIDERING RACIAL AND ETHNIC BIAS IN POLICING WITH A FOCUS ON PREVENTION WHILE IMPROVING SAFETY AND POLICE-COMMUNITY INTERACTIONS;

(III) INITIATIVES TO SAFELY INCREASE COMMUNITY RESPONSE FOR LOWER-LEVEL OFFENSES AND CALLS FOR SERVICE;

(IV) STRATEGIES TO EFFECTIVELY MOVE LAW ENFORCEMENT AND THE COMMUNITY FORWARD TOGETHER BY BUILDING A SHARED UNDERSTANDING AND IDENTIFYING COMMON SOLUTIONS TO BETTER PROTECT OUR VULNERABLE AND UNDERREPRESENTED COMMUNITIES, IN ADDITION TO THOSE SUFFERING FROM MENTAL ILLNESS OR EXPERIENCING HOMELESSNESS THROUGH NON-TRADITIONAL POLICING METHODOLOGIES;

(V) METHODS TO ENHANCE OFFICER RECEPTIVITY TO ENGAGE IN EVIDENCE-BASED POLICING PRACTICES THAT INVOLVE HARM REDUCTION AND REDUCE RELIANCE ON TRADITIONAL JUSTICE SYSTEM RESOURCES AND PROCESSES;

(VI) INNOVATIVE APPROACHES TO OFFICER MENTAL HEALTH, RECRUITMENT, AND RETENTION TO ADDRESS TRAUMA AND ENSURE OFFICER PREPAREDNESS FOR COMMUNITY ENGAGEMENT; AND

(VII) ANALYSIS OF RECRUITMENT AND QUALIFICATION STANDARDS FOR ENTRY-LEVEL POLICE OFFICER POSITIONS TO ATTRACT CANDIDATE POOLS WITH DIVERSE PERSPECTIVES AND ONGOING TRAINING AND QUALIFICATION REQUIREMENTS TO ENHANCE OFFICERS' WILLINGNESS TO ENGAGE IN JUSTICE STRATEGIES EMBRACING COMMUNITY COLLABORATION WHILE ALSO DECREASING AND IDENTIFYING SIGNS OF PROBLEMATIC BEHAVIORS.

(b) THE CONSULTING ENTITY MAY CONSULT WITH AND SEEK INPUT FROM:

- (I) NATIONAL ORGANIZATIONS OF SOCIAL AND CIVIL JUSTICE;
- (II) COLORADO DISTRICT ATTORNEYS AND THE COLORADO DISTRICT ATTORNEYS' COUNCIL;
- (III) A STATEWIDE ORGANIZATION REPRESENTING MUNICIPALITIES;
- (IV) A STATEWIDE ORGANIZATION REPRESENTING COUNTIES;
- (V) NATIONAL ORGANIZATIONS REPRESENTING LAW ENFORCEMENT;
- (VI) NATIONAL ORGANIZATIONS REPRESENTING LOCAL GOVERNMENTS; AND
- (VII) ANY OTHER ENTITIES OR ORGANIZATIONS THE CONSULTING ENTITY DETERMINES ARE NECESSARY.

(c) (I) THE DIVISION SHALL RELAY ANY REFINED SCOPE OF WORK TO THE CONSULTING ENTITY AND THE RECOMMENDED RESEARCH ENTITIES FROM THE ADVISORY COMMITTEE AS DESCRIBED IN SUBSECTION (2) OF THIS SECTION.

(II) THE DIVISION SHALL DEVELOP A REQUEST FOR PROPOSAL TO CONTRACT WITH THE CONSULTING ENTITY, AWARD THE CONTRACT FOR THE STUDY DESCRIBED IN SUBSECTION (1)(a) OF THIS SECTION, AND OVERSEE THE FULFILLMENT OF THE CONTRACT TERMS. THE DIVISION SHALL AWARD THE CONTRACT NO LATER THAN THIRTY DAYS AFTER THE FINAL APPOINTMENT TO THE ADVISORY COMMITTEE.

(III) THE DIVISION SHALL PROVIDE THE CONSULTING ENTITY'S INTERIM AND FINAL STUDY FINDINGS TO THE HOUSE OF REPRESENTATIVES JUDICIARY COMMITTEE AND THE SENATE JUDICIARY COMMITTEE, OR THEIR SUCCESSOR COMMITTEES.

(2)(a) THE DIVISION SHALL CONVENE AN ADVISORY COMMITTEE FOR THE STUDY. THE ADVISORY COMMITTEE SHALL CONSIST OF:

(I) THE FOLLOWING MEMBERS APPOINTED BY THE PRESIDENT OF THE SENATE:

(A) A REPRESENTATIVE FROM A NON-PROFIT THAT IS AN ADVOCATE FOR POLICING REFORM AND CIVIL LIBERTIES;

(B) A REPRESENTATIVE FROM A COMMUNITY-BASED CRIMINAL JUSTICE ORGANIZATION;

(C) AN INDIVIDUAL NEGATIVELY IMPACTED BY THE CRIMINAL JUSTICE SYSTEM OR LAW ENFORCEMENT;

(D) A REPRESENTATIVE WHO ADVOCATES FOR JUVENILE JUSTICE;
AND

(E) ONE MEMBER OF THE SENATE;

(II) THE FOLLOWING REPRESENTATIVES APPOINTED BY THE SPEAKER OF THE HOUSE OF REPRESENTATIVES:

(A) A REPRESENTATIVE OF THE COUNTY SHERIFFS RECOMMENDED BY THE DIRECTOR OF A STATEWIDE ORGANIZATION REPRESENTING SHERIFFS;

(B) A REPRESENTATIVE OF THE CHIEFS OF POLICE RECOMMENDED BY THE PRESIDENT OF A STATEWIDE ORGANIZATION REPRESENTING THE CHIEFS OF POLICE;

(C) A REPRESENTATIVE OF POLICE OFFICERS RECOMMENDED BY THE PRESIDENT OF A STATEWIDE ORGANIZATION REPRESENTING POLICE OFFICERS;
AND

(D) A MEMBER OF THE HOUSE OF REPRESENTATIVES;

(III) THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF PUBLIC SAFETY, OR HIS OR HER DESIGNEE;

(IV) ONE MEMBER OF THE SENATE APPOINTED BY THE SENATE MINORITY LEADER; AND

(V) ONE MEMBER OF THE HOUSE OF REPRESENTATIVES BY THE HOUSE MINORITY LEADER.

(b) THE APPOINTING AUTHORITIES SHALL APPOINT THE MEMBERS OF

THE ADVISORY COMMITTEE NO LATER THAN TEN DAYS AFTER THE EFFECTIVE DATE OF HOUSE BILL 21-1250.

(c) THE ADVISORY COMMITTEE SHALL SUBMIT TO THE DIVISION THE NAMES OF THREE RESEARCH OR STUDY ORGANIZATIONS WELL VERSED IN DATA-DRIVEN POLICING THAT THEY RECOMMEND BE REQUESTED TO SUBMIT PROPOSALS TO CONDUCT THE STUDY NO LATER THAN TEN DAYS AFTER THE FINAL APPOINTMENT TO THE ADVISORY COMMITTEE.

(d) THE ADVISORY COMMITTEE MAY REFINE THE SCOPE OF THE WORK OF THE STUDY IF NECESSARY. THE CONSULTING AUTHORITY SHALL PROVIDE PERIODIC UPDATES FROM THE STUDY ORGANIZATION OVER THE COURSE OF THE STUDY ON THE PROGRESS AND INTERIM FINDINGS. THE ADVISORY COMMITTEE MAY RESPOND TO THE PERIODIC UPDATES AS REQUESTED BY THE CONSULTING AUTHORITY.

(e) ONCE THE INTERIM STUDY AND FINAL STUDY IS COMPLETED, THE CONSULTING ENTITY SHALL PROVIDE THE DIVISION WITH ITS FINDINGS. THE DIVISION SHALL PROVIDE THE ADVISORY COMMITTEE WITH THE INTERIM AND FINAL STUDY FINDINGS. THE ADVISORY COMMITTEE SHALL REVIEW THE FINDINGS AND DETERMINE WHETHER TO RECOMMEND LEGISLATIVE ACTION, MAKE INTERNAL POLICY RECOMMENDATIONS TO LAW ENFORCEMENT ENTITIES, AND ANY OTHER ACTIONS IT DEEMS APPROPRIATE.

SECTION 23. In Session Laws of Colorado 2020, **amend** section 18 of chapter 110 as follows:

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

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

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

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

SECTION 24. Appropriation. (1) For the 2021-22 state fiscal year, \$4,065,016 is appropriated to the department of public safety. This appropriation consists of \$3,101,748 from the general fund and \$963,268 from the highway users tax fund created in section 43-4-201 (1)(a), C.R.S., and appropriated pursuant to section 43-4-201 (3)(a)(I)(C) C.R.S. To implement this act, the department may use this appropriation as follows:

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

(b) \$602,148 from the highway users tax fund for use by the Colorado state patrol for sergeants, technicians, and troopers, which amount is based on an assumption that the department will require an additional 6.0 FTE;

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

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

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

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

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

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

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

(j) \$319,817 from the general fund for use by the Colorado bureau

of investigation for operating expenses related to laboratory and investigative services; and

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

(2) For the 2021-22 state fiscal year, \$582,742 is appropriated to the department of law. This appropriation is from reappropriated funds received from the department of personnel from the risk management fund created in section 24-30-1510 (1)(a), C.R.S., and is based on an assumption that the department of law will require an additional 3.0 FTE. To implement this act, the department of law may use this appropriation to provide legal services for the department of public safety.

(3) For the 2021-22 state fiscal year, \$250,000 is appropriated to the department of local affairs for use by the division of local government. This appropriation is from the general fund. To implement this act, the division of local government may use this appropriation for FTE and associated administrative costs to implement section 24-32-131.

SECTION 25. Safety clause. The general assembly hereby finds,

determines, and declares that this act is necessary for the immediate preservation of the public peace, health, or safety.

Alec Garnett
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Leroy M. Garcia
PRESIDENT OF
THE SENATE

Robin Jones
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

Cindi L. Markwell
SECRETARY OF
THE SENATE

APPROVED _____
(Date and Time)

Jared S. Polis
GOVERNOR OF THE STATE OF COLORADO