

SENATE COMMITTEE OF REFERENCE REPORT

Chair of Committee

Date

March 17, 2021

Committee on Judiciary.

After consideration on the merits, the Committee recommends the following:

SB21-081 be amended as follows, and as so amended, be referred to the Committee of the Whole with favorable recommendation and with a recommendation that it be placed on the consent calendar:

- 1 Amend printed bill, page 2, strike lines 13 through 21 and substitute:
2 "(4) (a) (I) NOTWITHSTANDING SUBSECTIONS (2)(a) AND (2)(b) OF
3 THIS SECTION, A COURT MAY ISSUE A COURT ORDER FOR PRODUCTION OF
4 RECORDS, UNDER SEAL, ON REQUEST OF A LAW ENFORCEMENT AGENCY,
5 PUBLIC SAFETY AGENCY, OR DISTRICT ATTORNEY, FOR PROGRAM
6 MATERIALS IDENTIFYING A REPORTING PARTY IF THE COURT, FOLLOWING
7 AN IN-CAMERA REVIEW OF AN AFFIDAVIT AND ANY OTHER RELEVANT
8 MATERIAL OR EVIDENCE PROVIDED UNDER SEAL BY THE REQUESTING
9 PARTY, DETERMINES PROBABLE CAUSE EXISTS THAT A REPORTING PARTY
10 TO THE PROGRAM KNOWINGLY USED THE PROGRAM IN THE COMMISSION OF
11 FALSE REPORTING OF AN EMERGENCY, AS DEFINED IN SECTION 18-8-111
12 (2), AND THAT RELEASE OF PROGRAM MATERIALS IS JUSTIFIED ON BALANCE
13 IN VIEW OF THE PROBABLE VIOLATION AND THE PROGRAM PURPOSE OF
14 ANONYMITY.
15 (II) ANY SUCH REQUEST FOR A COURT ORDER FOR PRODUCTION OF
16 RECORDS MAY BE FILED ONLY AFTER REASONABLE NOTICE IS PROVIDED TO
17 THE ATTORNEY GENERAL. THE REQUESTING PARTY SHALL NOTE ANY
18 RESPONSE FROM THE ATTORNEY GENERAL IN THE AFFIDAVIT AND THE
19 COURT SHALL CONSIDER THE NOTE IN REVIEWING ANY APPLICATION FOR
20 A COURT ORDER UNDER THIS SECTION."

21 Page 3, strike line 1.

1 Page 3, strike lines 8 through 12 and substitute:

2 "(II) (A) A COURT MAY LIFT THE SEALING AND CONFIDENTIALITY
3 OF THE INFORMATION, PRIOR TO THE FILING OF CHARGES, ONLY ON A
4 MOTION OF A DISTRICT ATTORNEY UPON SHOWING OF GOOD CAUSE
5 FOLLOWING AN IN-CAMERA REVIEW OF THE INFORMATION. THE DISTRICT
6 ATTORNEY SHALL PROVIDE REASONABLE NOTICE AND THE OPPORTUNITY
7 TO RESPOND TO THE DEPARTMENT OF ANY MOTION TO LIFT THE SEAL FILED
8 PURSUANT TO THIS SECTION, PRIOR TO FILING A MOTION PURSUANT TO THIS
9 SECTION.

10 (B) UPON FILING OF CHARGES AGAINST ANY PERSON FOR CHARGES
11 THAT RELY ON INFORMATION PROVIDED PURSUANT TO A COURT ORDER
12 UNDER THIS SECTION, ANY SEALING ORDER WILL IMMEDIATELY EXPIRE
13 AND THE INFORMATION IS SUBJECT TO DISCOVERY OBLIGATIONS AND
14 NECESSARY PROTECTIVE ORDERS TO PRECLUDE FURTHER DISSEMINATION
15 OF THE MATERIAL."

16 Page 3, after line 12 insert:

17 "(c) IF A DISTRICT ATTORNEY IS CONSIDERING FILING ANY
18 CRIMINAL CHARGES AS A RESULT OF A PRODUCTION OF RECORDS ISSUED
19 PURSUANT TO SUBSECTION (4)(a) OF THIS SECTION, THE DISTRICT
20 ATTORNEY SHALL FIRST CONSIDER REFERRING THE ALLEGED RESPONSIBLE
21 PERSON FOR AN ASSESSMENT FOR SUITABILITY TO PARTICIPATE IN
22 RESTORATIVE JUSTICE PRACTICES."

** ** ** ** **

