

NOTE: This bill has been prepared for the signatures of the appropriate legislative officers and the Governor. To determine whether the Governor has signed the bill or taken other action on it, please consult the legislative status sheet, the legislative history, or the Session Laws.

An Act

SENATE BILL 21-081

BY SENATOR(S) Kolker, Bridges, Buckner, Cooke, Danielson, Gardner, Ginal, Gonzales, Jaquez Lewis, Lee, Moreno, Priola, Story, Garcia;
also REPRESENTATIVE(S) Michaelson Jenet, Bennett, Bird, Boesenecker, Cutter, Duran, Froelich, Hooton, Kipp, McCormick, Mullica, Young.

CONCERNING PROCEDURAL MEASURES TO PREVENT THE MISUSE OF THE
SAFE2TELL PROGRAM.

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

SECTION 1. In Colorado Revised Statutes, 24-31-607, **add** (3) and (4) as follows:

24-31-607. In camera review - confidentiality of materials - criminal penalty. (3) NOTWITHSTANDING ANY PROVISION TO THE CONTRARY, UPON REQUEST BY A LAW ENFORCEMENT AGENCY, THE ATTORNEY GENERAL MAY DISCLOSE TO LAW ENFORCEMENT PERSONNEL ANY MATERIALS OR INFORMATION OBTAINED THROUGH THE IMPLEMENTATION OR OPERATION OF THE PROGRAM IF THE ATTORNEY GENERAL REASONABLY DEEMS SUCH DISCLOSURE NECESSARY FOR THE PREVENTION OF IMMINENT PHYSICAL HARM OR SERIOUS BODILY INJURY TO ONE OR MORE PERSONS.

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.

(4) (a) (I) NOTWITHSTANDING SUBSECTIONS (2)(a) AND (2)(b) OF THIS SECTION, A COURT MAY ISSUE A COURT ORDER FOR PRODUCTION OF RECORDS, UNDER SEAL, ON REQUEST OF A LAW ENFORCEMENT AGENCY, PUBLIC SAFETY AGENCY, OR DISTRICT ATTORNEY, FOR PROGRAM MATERIALS IDENTIFYING A REPORTING PARTY IF THE COURT, FOLLOWING AN IN-CAMERA REVIEW OF AN AFFIDAVIT AND ANY OTHER RELEVANT MATERIAL OR EVIDENCE PROVIDED UNDER SEAL BY THE REQUESTING PARTY, DETERMINES PROBABLE CAUSE EXISTS THAT A REPORTING PARTY TO THE PROGRAM KNOWINGLY USED THE PROGRAM IN THE COMMISSION OF FALSE REPORTING OF AN EMERGENCY, AS DEFINED IN SECTION 18-8-111 (2), AND THAT RELEASE OF PROGRAM MATERIALS IS JUSTIFIED ON BALANCE IN VIEW OF THE PROBABLE VIOLATION AND THE PROGRAM PURPOSE OF ANONYMITY.

(II) ANY SUCH REQUEST FOR A COURT ORDER FOR PRODUCTION OF RECORDS MAY BE FILED ONLY AFTER REASONABLE NOTICE IS PROVIDED TO THE ATTORNEY GENERAL. THE REQUESTING PARTY SHALL NOTE ANY RESPONSE FROM THE ATTORNEY GENERAL IN THE AFFIDAVIT AND THE COURT SHALL CONSIDER THE NOTE IN REVIEWING ANY APPLICATION FOR A COURT ORDER UNDER THIS SECTION.

(b) (I) A COURT SHALL ORDER THAT A WARRANT ISSUED PURSUANT TO SUBSECTION (4)(a) OF THIS SECTION, AND ANY RELATED EVIDENCE USED TO OBTAIN SUCH WARRANT, BE SEALED. THE PROGRAM AND ANY LAW ENFORCEMENT AGENCY, PUBLIC SAFETY AGENCY, OR DISTRICT ATTORNEY THAT RECEIVES INFORMATION PURSUANT TO SUBSECTION (4)(a) OF THIS SECTION SHALL KEEP THE INFORMATION CONFIDENTIAL.

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

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

MATERIAL.

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

SECTION 2. In Colorado Revised Statutes, 24-31-606, **amend** (2)(g) as follows:

24-31-606. Safe2tell program - creation - duties. (2) The program must:

(g) Provide safe2tell awareness and educational materials TO all elementary and secondary schools in Colorado with a primary focus on targeting marketing materials to Colorado school-age children, teachers, administrators, education professionals, and, subject to available funds, other youth-related organizations, including boys and girls clubs and 4-H extension offices, at no charge to the school or recipient. THE MATERIALS DESCRIBED IN THIS SUBSECTION (2)(g) AND SUBSECTION (2)(h) OF THIS SECTION MUST INCLUDE AN EXPLANATION OF THE CIRCUMSTANCES PURSUANT TO SECTION 24-31-607 (3) OR (4) WHEN A STUDENT'S REPORT MAY NOT REMAIN ANONYMOUS.

SECTION 3. 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.

Leroy M. Garcia
PRESIDENT OF
THE SENATE

Alec Garnett
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Cindi L. Markwell
SECRETARY OF
THE SENATE

Robin Jones
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

APPROVED _____
(Date and Time)

Jared S. Polis
GOVERNOR OF THE STATE OF COLORADO