

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

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 21-0775.01 Michael Dohr x4347

HOUSE BILL 21-1250

HOUSE SPONSORSHIP

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SENATE SPONSORSHIP

Fields,

House Committees

Judiciary
Appropriations

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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.

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 A NOT GUILTY VERDICT IN A
18 CRIMINAL PROSECUTION, A FINDING OF NO LIABILITY IN A CIVIL ACTION, A
19 FINDING OF NO CULPABILITY OR NO LIABILITY IN AN ADMINISTRATIVE
20 PROCEEDING, OR BEING CLEARED BY AN INTERNAL INVESTIGATION;
21 EXCEPT THAT A FINDING OF NO CULPABILITY OR NO LIABILITY IN AN
22 ADMINISTRATIVE PROCEEDING OR BEING CLEARED BY AN INTERNAL
23 INVESTIGATION DOES NOT MEAN "EXONERATED" IF THE OFFICER IS FOUND
24 GUILTY IN A SUBSEQUENT CRIMINAL PROSECUTION FOR THE SAME
25 CONDUCT OR FOUND LIABLE FOR THE SAME CONDUCT IN A CIVIL ACTION.

26 (4.5) "P.O.S.T. BOARD" MEANS THE PEACE OFFICERS STANDARDS
27 AND TRAINING BOARD CREATED IN SECTION 24-31-302.

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

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

8 **24-31-902. Incident recordings - release - tampering - fine.**
9 (1) (a) (I) By July 1, 2023, all local law enforcement agencies in the state
10 and the Colorado state patrol shall provide body-worn cameras for each
11 peace officer of the law enforcement agency who interacts with members
12 of the public. Law enforcement agencies may seek funding pursuant to
13 section 24-33.5-519.

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

26 (B) A peace officer may turn off a body-worn camera to avoid
27 recording personal information that is not case related; when working on

1 an unrelated assignment; when there is a long break in the incident; ~~or~~
2 ~~contact that is not related to the initial incident;~~ and in administrative,
3 tactical, and management discussions WHEN CIVILIANS ARE NOT PRESENT.

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

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

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

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

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

1 exonerated by a court, ADMINISTRATIVE LAW JUDGE, OR INTERNAL
2 AFFAIRS INVESTIGATION.

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

13 (b) (II) (A) Notwithstanding any other provision of this section,
14 any video that raises substantial privacy concerns for criminal defendants,
15 victims, witnesses, juveniles, or informants, including video depicting
16 nudity; a sexual assault; a medical emergency; private medical
17 information; a mental health crisis; a victim interview; a minor, including
18 any images or information that might undermine the requirement to keep
19 certain juvenile records confidential; any personal information other than
20 the name of any person not arrested, cited, charged, or issued a written
21 warning, including a government-issued identification number, date of
22 birth, address, or financial information; significantly explicit and
23 gruesome bodily injury, unless the injury was caused by a peace officer;
24 or the interior of a home or treatment facility, shall be ~~redacted~~ or blurred
25 to protect the substantial privacy interest while still allowing public
26 release. ~~Unredacted~~ UNBLURRED footage shall not be released without the
27 written authorization of the victim or, if the victim is deceased or

1 incapacitated, the written authorization of the victim's next of kin. A
2 person seventeen years of age and under is considered incapacitated,
3 unless legally emancipated. THIS SUBSECTION (2)(b)(II)(A) DOES NOT
4 PERMIT THE REMOVAL OF ANY PORTION OF THE VIDEO.

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

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

24 (III) Any video that would substantially interfere with or
25 jeopardize an active or ongoing investigation may be withheld from the
26 public; except that the video shall be released no later than forty-five days
27 from the date of the allegation of misconduct; EXCEPT THAT IN A CASE IN

1 WHICH THE ONLY OFFENSES CHARGED ARE STATUTORY TRAFFIC
2 INFRACTIONS, THE RELEASE OF THE VIDEO MAY BE DELAYED PURSUANT TO
3 RULE 8 OF THE COLORADO RULES FOR TRAFFIC INFRACTIONS. In all cases
4 when release of a video is delayed in reliance on this subsection
5 (2)(b)(III), the prosecuting attorney shall prepare a written explanation of
6 the interference or jeopardy that justifies the delayed release,
7 contemporaneous with the refusal to release the video. Upon release of
8 the video, the prosecuting attorney shall release the written explanation
9 to the public.

10 (c) If criminal charges have been filed against any party to the
11 incident, that party must file any constitutional objection to release of the
12 recording in the pending criminal case before the twenty-one-day period
13 expires. Only in cases in which there is a pending criminal investigation
14 or prosecution of a party to the incident, the twenty-one-day period shall
15 begin from the date of appointment of counsel, the filing of an entry of
16 appearance by counsel, or the election to proceed pro se by the defendant,
17 RECEIPT OF THE CRIMINAL COMPLAINT, AND THE DEFENDANT'S RECEIPT OF
18 THE VIDEO IN DISCOVERY in the criminal prosecution made on the record
19 before a judge. If the defendant elects to proceed pro se in the criminal
20 case, the court shall advise the defendant of the twenty-one-day deadline
21 for the defendant to file any constitutional objection to release of the
22 recording in the pending criminal case as part of the court's advisement.
23 The court shall hold a hearing on any objection no later than seven days
24 after it is filed and issue a ruling no later than three days after the hearing.
25 THE HEARING IS CONSIDERED A CRITICAL STAGE AS DEFINED IN SECTION
26 24-4.1-302 AND GIVES VICTIMS THE RIGHT TO BE HEARD PURSUANT TO
27 SECTION 24-4.1-302.5.

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

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

17 **24-31-903. Division of criminal justice report.** (2) Beginning
18 ~~January 1, 2023~~ JANUARY 1, 2022, the Colorado state patrol and each
19 local law enforcement agency that employs peace officers shall report to
20 the division of criminal justice THE FOLLOWING USING DATA-COLLECTION
21 METHODS DEVELOPED FOR THIS PURPOSE BY THE DIVISION OF CRIMINAL
22 JUSTICE IN CONJUNCTION WITH THE COLORADO BUREAU OF INVESTIGATION
23 AND LOCAL LAW ENFORCEMENT AGENCIES:

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

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

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

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

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

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

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

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

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

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

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

27 (D) A peace officer unholstered OR BRANDISHED a weapon during

1 the contact, AND, IF SO, THE TYPE OF WEAPON; and

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

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

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

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

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

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

14 **24-31-904. Peace officer certification discipline.**

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

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 unlawful use ~~or~~
20 ~~threatened use~~ of physical force OR a crime involving the failure to
21 intervene in the use of unlawful force ~~or~~ AND THE INCIDENT RESULTED IN
22 SERIOUS BODILY INJURY OR DEATH TO ANOTHER PERSON:

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

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

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

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

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

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

27 (III) AN ADMINISTRATIVE LAW JUDGE, HEARING OFFICER, OR

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

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

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

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

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

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

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

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

24 **24-31-906. Retaliation against whistleblower officers**
25 **prohibited.** (1) A PEACE OFFICER'S EMPLOYER OR THE EMPLOYER'S
26 AGENT SHALL NOT DISCHARGE; DISCIPLINE; DEMOTE; DENY A PROMOTION,
27 TRANSFER, OR REASSIGN; DISCRIMINATE AGAINST; HARASS; OR THREATEN

1 A PEACE OFFICER'S EMPLOYMENT BECAUSE THE PEACE OFFICER DISCLOSED
2 INFORMATION THAT SHOWS:

- 3 (a) A DANGER TO PUBLIC HEALTH OR SAFETY; OR
- 4 (b) A VIOLATION OF LAW OR POLICY COMMITTED BY ANOTHER
5 PEACE OFFICER.

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

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

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

22 **13-21-131. Civil action for deprivation of rights.** (1) A peace
23 officer, as defined in section 24-31-901 (3), ~~employed by a local~~
24 ~~government~~ who, under color of law, subjects or causes to be subjected,
25 including failing to intervene, any other person to the deprivation of any
26 individual rights that create binding obligations on government actors
27 secured by the bill of rights, article II of the state constitution, is liable to

1 the injured party for legal or equitable relief or any other appropriate
2 relief.

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

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

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

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

27 (II) IF A PERSON BELIEVES THAT AN EMPLOYER HAS VIOLATED THE

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

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

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

17 **16-2.5-301. Peace officer actions leading to injury or death**
18 **investigations - protocol.** (1) Each police department, sheriff's office,
19 and district attorney within the state shall develop protocols for
20 participating in a multi-agency team, which shall include at least one
21 other police department or sheriff's office, or the Colorado bureau of
22 investigation, in conducting any investigation, evaluation, and review of
23 an incident involving the discharge of a **firearm** by a peace officer that
24 resulted in injury or **death, OR OTHER USE OF FORCE BY A PEACE OFFICER**
25 **THAT RESULTED IN DEATH.** The law enforcement agencies participating
26 need not be from the same judicial district.

27



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

3 **18-1-707. Use of force by peace officers - definitions - repeal.**

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

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

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

15 **SECTION 9.** In Colorado Revised Statutes, 18-8-802, **amend**
16 (1.5) as follows:

17 **18-8-802. Duty to report use of force by peace officers - duty**
18 **to intervene.** (1.5) (a) A peace officer, AS DEFINED IN SECTION 24-31-901
19 (3), WHO IS ON-DUTY shall intervene to prevent or stop another peace
20 officer from using physical force that exceeds the degree of force
21 permitted, if any, by section 18-1-707 in pursuance of the other peace
22 officer's law enforcement duties in carrying out an arrest of any person,
23 placing any person under detention, taking any person into custody,
24 booking any person, or in the process of crowd control or riot control,
25 without regard for chain of command.

26 (b) (I) A peace officer, AS DEFINED IN SECTION 24-31-901 (3), who
27 intervenes as required by subsection (1.5)(a) of this section shall report

1 the intervention to his or her immediate supervisor.

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

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

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

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

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

12 (g) In a case in which the prosecution charges a peace officer, AS
13 DEFINED IN SECTION 24-31-901 (3), with offenses related to and based
14 upon the use of excessive force but does not file charges against any other
15 peace officer or officers who were at the scene during the use of force,
16 the district attorney shall prepare a written report explaining the district
17 attorney's basis for the decision not to charge any other peace officer with
18 any criminal conduct and shall publicly disclose the report to the public;
19 except that if disclosure of the report would substantially interfere with
20 or jeopardize an ongoing criminal investigation, the district attorney may
21 delay public disclosure for up to forty-five days. The district attorney
22 shall post the written report on its website or, if it does not have a
23 website, make it publicly available upon request. ~~Nothing in this section~~
24 ~~is intended to prohibit or discourage criminal prosecution of an officer~~
25 ~~who failed to intervene for conduct in which the facts support a criminal~~
26 ~~charge, including under a complicity theory, or for an inchoate offense.~~
27 NOTHING IN THIS SUBSECTION (1.5) PROHIBITS OR DISCOURAGES

1 PROSECUTION OF ANY OTHER CRIMINAL OFFENSE RELATED TO FAILURE TO
2 INTERVENE, INCLUDING A HIGHER CHARGE, IF SUPPORTED BY THE
3 EVIDENCE.

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

6 **24-31-101. Powers and duties of attorney general.** (1) The
7 attorney general:

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

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

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

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

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

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

22 **24-31-305. Certification - issuance - renewal - revocation -**
23 **rules - definition.** (5) IF A LAW ENFORCEMENT AGENCY HIRES A NEW
24 EMPLOYEE, APPOINTS A NEW EMPLOYEE, OR TRANSFERS AN EXISTING
25 EMPLOYEE TO A POSITION REQUIRING P.O.S.T. CERTIFICATION, PRIOR TO
26 SUCH HIRE, APPOINTMENT, OR TRANSFER THE LAW ENFORCEMENT AGENCY
27 SHALL DETERMINE IF THE PERSON HAS A RECORD CONTAINED IN THE

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

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

9 **24-31-113. Public integrity - patterns and practices.** It is
10 unlawful for any governmental authority, or any agent thereof, or any
11 person acting on behalf of a governmental authority, to engage in a
12 pattern or practice of conduct by peace officers or by officials or
13 employees of any governmental agency that deprives persons of rights,
14 privileges, or immunities secured or protected by the constitution or laws
15 of the United States or the state of Colorado. Whenever the attorney
16 general has reasonable cause to believe that a violation of this section has
17 occurred, the attorney general, for or in the name of the state of Colorado,
18 may in a civil action obtain any and all appropriate relief to eliminate the
19 pattern or practice. Before filing suit, the attorney general shall notify the
20 government authority or any agent thereof, and provide it with the factual
21 basis that supports his or her reasonable cause to believe a violation
22 occurred. Upon receipt of the factual basis, the government authority, or
23 any agent thereof, has sixty days to change or eliminate the identified
24 pattern or practice. If the identified pattern or practice is not changed ~~or~~
25 AND PERMANENTLY eliminated after sixty days, the attorney general may
26 file a civil lawsuit. THE ATTORNEY GENERAL MAY ISSUE SUBPOENAS FOR
27 ANY PURPOSE IN CONDUCTING AN INVESTIGATION UNDER THIS SECTION.

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

3 **24-31-303. Duties - powers of the P.O.S.T. board - definition.**

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

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

7 ~~(H)~~ (A) Untruthfulness;

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

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

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

16 (E) RESIGNATION OR RETIREMENT WHILE UNDER INVESTIGATION.

17 (II) LAWENFORCEMENT AGENCIES SHALL REPORT TO THE P.O.S.T.
18 BOARD THE INFORMATION REQUIRED IN THIS SUBSECTION (1)(r) IN A
19 FORMAT DETERMINED BY THE P.O.S.T. BOARD. FAILURE TO SUBMIT SUCH
20 INFORMATION IS SUBJECT TO A FINE SET IN RULE BY THE P.O.S.T. BOARD.

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

1 (s) BY JANUARY 1, 2022, TO ADOPT PROCEDURES TO ALLOW A
2 PEACE OFFICER TO SEEK REVIEW OF THE PEACE OFFICER'S STATUS IN THE
3 DATABASE CREATED PURSUANT TO SUBSECTION (1)(r) OF THIS SECTION
4 BASED ON THE PEACE OFFICER'S PRESENTATION OF NEW EVIDENCE TO
5 SHOW THE PEACE OFFICER'S RECORD MAY BE REMOVED FROM THE
6 DATABASE.

7 **SECTION 14.** In Colorado Revised Statutes, 24-31-305, **amend**
8 (1.7)(a) and (1.7)(b) as follows:

9 **24-31-305. Certification - issuance - renewal - revocation -**
10 **rules - definition.** (1.7) (a) Unless revoked OR VOLUNTARILY
11 SURRENDERED, a basic certification or reserve certification issued
12 pursuant to this part 3 is valid as long as the certificate holder is
13 continuously serving as a peace officer or reserve peace officer.

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

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

22 **24-31-307. Enforcement.** (3) The attorney general may bring
23 criminal charges for violations of this part 3 if THE violation is ~~willful or~~
24 ~~wanton~~ KNOWINGLY OR INTENTIONAL, or impose fines, as set in P.O.S.T.
25 board rule, upon any individual officer or agency for failure to comply
26 with this part 3 or any rule promulgated under this part 3.

27 (3.5) ANY PERSON OR LAW ENFORCEMENT AGENCY THAT

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

10 **SECTION 16.** In Colorado Revised Statutes, 24-31-309, **amend**
11 **(2), (3.5) introductory portion, (3.5)(h)(II), (3.5)(h)(IV), and (3.5)(h)(V)**
12 **as follows:**

13 **24-31-309. Profiling - officer identification - training.**

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

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

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

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

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

4 (3.5) A peace officer, AS DEFINED IN SECTION 24-31-901 (3), shall
5 have a legal basis for making a contact, ~~whether consensual or~~
6 ~~nonconsensual, for the purpose of enforcing the law or investigating~~
7 ~~possible violations of the law. After making a contact, a peace officer, as~~
8 ~~defined in section 24-31-901 (3), shall report to the peace officer's~~
9 employing agency: AS DEFINED IN SECTION 24-31-901 (1), WHETHER
10 CONSENSUAL OR NONCONSENSUAL, FOR MAKING A CONTACT WITH A
11 MEMBER OF THE PUBLIC FOR PURPOSES OF ENFORCING THE LAW OR
12 INVESTIGATING POSSIBLE VIOLATIONS OF THE LAW. AFTER MAKING A
13 CONTACT, A PEACE OFFICER, AS DEFINED IN SECTION 24-31-901 (3), SHALL
14 REPORT TO THE PEACE OFFICER'S EMPLOYING AGENCY:

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

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

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

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

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

26 **24-31-317. Administrative law judge appointment.** THE
27 P.O.S.T. BOARD CHAIRPERSON MAY APPOINT AN ADMINISTRATIVE LAW

1 JUDGE OR HEARING OFFICER PURSUANT TO ARTICLE 4 OF TITLE 24 TO
2 CONDUCT HEARINGS, ADMINISTER OATHS, TAKE AFFIRMATIONS OF
3 WITNESSES, ISSUE SUBPOENAS COMPELLING THE ATTENDANCE OF
4 WITNESSES AND PRODUCTION OF RECORDS, RULE ON EVIDENCE, MAKE
5 FINDINGS, AND REPORT THE FINDINGS TO THE P.O.S.T. BOARD FOR ANY
6 PROCEEDINGS OR ACTIONS AUTHORIZED UNDER THIS PART 3.

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

9 **24-33.5-519. Body-worn cameras for law enforcement officers**
10 **- grant program - study group - fund - repeal.** (2) (c) (I) THE GENERAL
11 ASSEMBLY SHALL APPROPRIATE TWO MILLION DOLLARS IN FISCAL YEAR
12 2021-22 FOR THE GRANT PROGRAM.

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

14 **SECTION 19.** In Colorado Revised Statutes, **add** part 5 to article
15 6 of title 24 as follows:

16 **PART 5**

17 **ENCRYPTION OF RADIO COMMUNICATIONS**

18 **BY GOVERNMENTAL ENTITIES**

19 **24-6-501. Definitions.** AS USED IN THIS PART 5, UNLESS THE
20 CONTEXT OTHERWISE REQUIRES:

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

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

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

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

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

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

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

27 **24-72-303. Records of official actions required - open to**

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

14 **SECTION 21.** In Session Laws of Colorado 2020, **amend** section
15 18 of chapter 110 as follows:

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

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

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

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

25 **SECTION 22. Appropriation.** (1) For the 2021-22 state fiscal
26 year, \$4,065,016 is appropriated to the department of public safety. This
27 appropriation consists of \$3,101,748 from the general fund and \$963,268

1 from the highway users tax fund created in section 43-4-201 (1)(a),
2 C.R.S., and appropriated pursuant to section 43-4-201 (3)(a)(I)(C) C.R.S.
3 To implement this act, the department may use this appropriation as
4 follows:

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

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

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

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

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

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

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

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

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

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

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

7 ==
8 (2) For the 2021-22 state fiscal year, \$582,742 is appropriated to
9 the department of law. This appropriation is from reappropriated funds
10 received from the department of personnel from the risk management
11 fund created in section 24-30-1510 (1)(a), C.R.S., and is based on an
12 assumption that the department of law will require an additional 3.0 FTE.
13 To implement this act, the department of law may use this appropriation
14 to provide legal services for the department of public safety.

15 ==
16 **SECTION 23. Safety clause.** The general assembly hereby finds,
17 determines, and declares that this act is necessary for the immediate
18 preservation of the public peace, health, or safety.