

SENATE COMMITTEE OF REFERENCE AMENDMENT

Committee on State, Veterans, & Military Affairs.

SB26-190 be amended as follows:

1 Amend printed bill, strike everything below the enacting clause and  
2 substitute:

3 **"SECTION 1. Legislative declaration.** (1) The general  
4 assembly finds and declares that:

5 (a) A peace officer's use of force that results in death requires  
6 heightened transparency to maintain public trust;

7 (b) Colorado law requires a multi-agency investigation of a peace  
8 officer's use of force that results in death or a peace officer's discharge of  
9 a firearm that results in injury or death; and

10 (c) The family of a person who dies because of a peace officer's  
11 use of force has a compelling interest in timely access to information  
12 about the incident.

13 **SECTION 2.** In Colorado Revised Statutes, 24-31-901, **add** (2.8),  
14 (5.5), (6.4), and (6.6) as follows:

15 **24-31-901. Definitions.**

16 As used in this part 9, unless the context otherwise requires:

17 (2.8) "LAWFUL REPRESENTATIVE" HAS THE MEANING SET FORTH  
18 IN SECTION 24-4.1-302.

19 (5.5) "SIGNIFICANT OTHER" HAS THE MEANING SET FORTH IN  
20 SECTION 24-4.1-302.

21 (6.4) "VICTIM" HAS THE MEANING SET FORTH IN SECTION  
22 24-4.1-302.

23 (6.6) "VICTIM'S IMMEDIATE FAMILY" HAS THE MEANING SET FORTH  
24 IN SECTION 24-4.1-302.

25 **SECTION 3.** In Colorado Revised Statutes, 24-31-902, **amend**  
26 (2)(a) and (2)(b)(I) as follows:

27 **24-31-902. Incident recordings - release - tampering - fine.**

28 (2) (a) (I) For all incidents in which there is a complaint of peace  
29 officer misconduct ~~by another peace officer, a civilian, or nonprofit~~  
30 ~~organization, through notice to~~ THAT DOES NOT RESULT IN A VICTIM'S  
31 DEATH, the law enforcement agency ~~involved in the alleged misconduct,~~  
32 ~~the local law enforcement agency or the Colorado state patrol~~ THAT  
33 EMPLOYS THE PEACE OFFICER shall release, upon request OF ANY PERSON,  
34 all unedited video and audio recordings of the incident, including those  
35 from body-worn cameras, dash cameras, or otherwise collected through  
36 investigation, to the public within twenty-one days after ~~the local law~~  
37 ~~enforcement agency or the Colorado state patrol received the request for~~  
38 ~~release of the video or audio recordings~~ THE REQUEST.

39 (II) FOR ALL INCIDENTS IN WHICH THE USE OF FORCE THAT  
40 RESULTS IN A VICTIM'S DEATH, THE LAW ENFORCEMENT AGENCY THAT

1 EMPLOYS THE PEACE OFFICER SHALL RELEASE, UPON REQUEST OF ANY  
2 PERSON, ALL UNEDITED VIDEO AND AUDIO RECORDINGS OF THE INCIDENT,  
3 INCLUDING THOSE FROM BODY-WORN CAMERAS, DASH CAMERAS, OR  
4 OTHERWISE COLLECTED THROUGH INVESTIGATION, FOLLOWING THE  
5 EXPIRATION OF THE TWENTY-ONE-DAY PERIOD DESCRIBED IN SUBSECTION  
6 (2)(b)(I) OF THIS SECTION.

7 (III) AFTER THE COMPLETION OF THE INVESTIGATION OF THE USE  
8 OF FORCE BY A PEACE OFFICER THAT RESULTS IN A VICTIM'S DEATH BY THE  
9 MULTI-AGENCY TEAM DESCRIBED IN SECTION 16-2.5-302, THE MEMBERS  
10 OF THE VICTIM'S IMMEDIATE FAMILY WHO RECEIVED VIDEO AND AUDIO  
11 RECORDINGS OF THE INCIDENT PURSUANT TO SUBSECTION (2)(a)(II) OF  
12 THIS SECTION, OR THE MEMBERS' DESIGNEE, MAY REQUEST AT NO COST  
13 THE UNREDACTED, UNBLURRED, AND UNCENSORED VIDEO AND AUDIO  
14 RECORDING. UPON REQUEST, THE LAW ENFORCEMENT AGENCY THAT  
15 EMPLOYS THE PEACE OFFICER SHALL PROVIDE THE UNREDACTED,  
16 UNBLURRED, AND UNCENSORED VIDEO AND AUDIO RECORDING TO THE  
17 REQUESTING FAMILY MEMBER WITHIN TWENTY-ONE DAYS AFTER THE  
18 REQUEST. NOTWITHSTANDING THE REQUIREMENT IN THIS SUBSECTION  
19 (2)(a)(III) TO PROVIDE UNREDACTED, UNBLURRED, AND UNCENSORED  
20 VIDEO AND AUDIO RECORDING, THE PROVIDING LAW ENFORCEMENT  
21 AGENCY SHALL, AS REQUIRED IN SUBSECTION (2)(b)(II)(A) OF THIS  
22 SECTION, BLUR THE RECORDING TO PROTECT SUBSTANTIAL PRIVACY  
23 INTERESTS.

24 (b) (I) FOR ALL INCIDENTS IN WHICH THE USE OF FORCE BY A PEACE  
25 OFFICER RESULTS IN A VICTIM'S DEATH, THE LAW ENFORCEMENT AGENCY  
26 THAT EMPLOYS THE PEACE OFFICER SHALL MAKE REASONABLE EFFORTS TO  
27 IDENTIFY THE VICTIM'S IMMEDIATE FAMILY AND PROVIDE all video and  
28 audio recordings depicting a THE VICTIM'S death ~~must be provided upon~~  
29 ~~request to the victim's spouse, parent, legal guardian, child, sibling,~~  
30 ~~grandparent, grandchild, significant other, or other lawful representative,~~  
31 ~~and such~~ TO EACH IDENTIFIED MEMBER OF THE VICTIM'S IMMEDIATE  
32 FAMILY, UNLESS THE MEMBER DECLINES, WITHIN TWENTY-ONE DAYS  
33 AFTER THE INCIDENT. THE person shall be notified of ~~his or her~~ THEIR  
34 right, pursuant to section 24-4.1-302.5 (1)(j.8), to receive and review the  
35 recording at least seventy-two hours prior to A public disclosure MADE  
36 PURSUANT TO SUBSECTION (2)(a)(I) OF THIS SECTION. ~~A person seventeen~~  
37 ~~years of age and under is considered incapacitated, unless legally~~  
38 ~~emancipated.~~

39 **SECTION 4.** In Colorado Revised Statutes, **repeal and reenact,**  
40 **with amendments,** part 3 of article 2.5 of title 16 as follows:

41 PART 3  
42 PEACE OFFICER USE OF FORCE  
43 INVESTIGATIONS AND PROCEDURES

1           **16-2.5-301. Definitions.**

2           AS USED IN THIS PART 3, UNLESS THE CONTEXT OTHERWISE  
3 REQUIRES:

4           (1) "VICTIM" HAS THE MEANING SET FORTH IN SECTION 24-4.1-302.

5           (2) "VICTIM'S IMMEDIATE FAMILY" HAS THE MEANING SET FORTH  
6 IN SECTION 24-4.1-302.

7           **16-3.5-302. Peace officer actions leading to injury or death**  
8 **investigations - protocol - notification to victim's immediate family.**

9           (1) (a) EACH POLICE DEPARTMENT, SHERIFF'S OFFICE, AND  
10 DISTRICT ATTORNEY WITHIN THE STATE SHALL MAINTAIN PROTOCOLS FOR  
11 PARTICIPATING IN A MULTI-AGENCY TEAM, WHICH MUST INCLUDE AT  
12 LEAST ONE OTHER POLICE DEPARTMENT OR SHERIFF'S OFFICE, OR THE  
13 COLORADO BUREAU OF INVESTIGATION, IN CONDUCTING ANY  
14 INVESTIGATION, EVALUATION, OR REVIEW OF AN INCIDENT INVOLVING THE  
15 DISCHARGE OF A FIREARM BY A PEACE OFFICER THAT RESULTED IN INJURY  
16 OR DEATH, OR OTHER USE OF FORCE BY A PEACE OFFICER THAT RESULTED  
17 IN DEATH. THE LAW ENFORCEMENT AGENCIES PARTICIPATING NEED NOT  
18 BE FROM THE SAME JUDICIAL DISTRICT.

19           (b) EACH LAW ENFORCEMENT AGENCY SHALL POST THE PROTOCOL  
20 ON ITS WEBSITE OR, IF IT DOES NOT HAVE A WEBSITE, MAKE IT PUBLICLY  
21 AVAILABLE UPON REQUEST.

22           (2) WITHIN TWENTY-FOUR HOURS AFTER AN INCIDENT OF A PEACE  
23 OFFICER'S USE OF FORCE THAT RESULTS IN DEATH, THE LAW ENFORCEMENT  
24 AGENCY THAT EMPLOYS THE PEACE OFFICER SHALL NOTIFY ANY PERSON  
25 IN THE VICTIM'S IMMEDIATE FAMILY KNOWN TO THE EMPLOYING LAW  
26 ENFORCEMENT AGENCY OF:

27           (a) THE NAMES OF ALL LAW ENFORCEMENT AGENCIES THAT  
28 COMPRISE THE MULTI-AGENCY TEAM DESCRIBED IN SUBSECTION (1) OF  
29 THIS SECTION THAT IS INVESTIGATING THE USE OF FORCE; AND

30           (b) THE STATUS OF THE INVESTIGATION.

31           **16-2.5-303. Extrajudicial statement concerning use of force.**

32           (1) AN ATTORNEY OR PEACE OFFICER WHO IS PARTICIPATING OR  
33 HAS PARTICIPATED IN THE INVESTIGATION OR LITIGATION OF A CRIMINAL  
34 MATTER INVOLVING THE USE OF FORCE BY A PEACE OFFICER THAT RESULTS  
35 IN A VICTIM'S DEATH SHALL NOT MAKE AN EXTRAJUDICIAL STATEMENT  
36 THAT THE ATTORNEY OR PEACE OFFICER KNOWS OR REASONABLY SHOULD  
37 KNOW WILL BE DISSEMINATED BY MEANS OF PUBLIC COMMUNICATION AND  
38 WILL HAVE A SUBSTANTIAL LIKELIHOOD OF MATERIALLY PREJUDICING AN  
39 ADJUDICATIVE PROCEEDING IN THE MATTER; EXCEPT THAT AN ATTORNEY  
40 OR PEACE OFFICER MAY STATE:

41           (a) THE CLAIM, OFFENSE, OR DEFENSE INVOLVED AND, EXCEPT  
42 WHEN PROHIBITED BY LAW, THE IDENTITY OF THE PERSONS INVOLVED;

43           (b) INFORMATION CONTAINED IN A PUBLIC RECORD;

- 1 (c) THAT AN INVESTIGATION OF A MATTER IS IN PROGRESS;  
2 (d) THE SCHEDULING OR RESULT OF ANY STEP IN THE  
3 INVESTIGATION OR LITIGATION;  
4 (e) A REQUEST FOR ASSISTANCE IN OBTAINING EVIDENCE AND  
5 INFORMATION NECESSARY THERETO;  
6 (f) A WARNING OF DANGER CONCERNING THE BEHAVIOR OF A  
7 PERSON INVOLVED WHEN THERE IS REASON TO BELIEVE THAT THE  
8 LIKELIHOOD OF SUBSTANTIAL HARM TO AN INDIVIDUAL OR TO THE PUBLIC  
9 EXISTS;  
10 (g) THE IDENTITY, RESIDENCE, OCCUPATION, AND FAMILY STATUS  
11 OF THE ACCUSED;  
12 (h) WHETHER THE ACCUSED PERSON HAS BEEN APPREHENDED AND,  
13 IF NOT, INFORMATION NECESSARY TO AID IN THE APPREHENSION OF THE  
14 PERSON;  
15 (i) THE FACT, TIME, AND PLACE OF ARREST;  
16 (j) THE IDENTITY OF THE INVESTIGATING AND ARRESTING PEACE  
17 OFFICERS OR AGENCIES AND THE LENGTH OF THE INVESTIGATION; AND  
18 (k) INFORMATION THAT A REASONABLE ATTORNEY WOULD  
19 BELIEVE IS REQUIRED TO PROTECT A CLIENT FROM THE SUBSTANTIAL  
20 UNDUE PREJUDICIAL EFFECT OF RECENT PUBLICITY THAT WAS NOT  
21 INITIATED BY THE ATTORNEY OR THE ATTORNEY'S CLIENT. A STATEMENT  
22 MADE PURSUANT TO THIS SUBSECTION (1)(k) MUST BE LIMITED TO  
23 INFORMATION NECESSARY TO MITIGATE THE RECENT ADVERSE PUBLICITY.  
24 (2) THE PROHIBITION IN SUBSECTION (1) OF THIS SECTION APPLIES  
25 TO AN ATTORNEY ASSOCIATED IN A LAW FIRM WITH, OR AN ATTORNEY OR  
26 A PEACE OFFICER EMPLOYED BY THE SAME GOVERNMENTAL AGENCY AS,  
27 AN ATTORNEY OR PEACE OFFICER SUBJECT TO SUBSECTION (1) OF THIS  
28 SECTION.

29 **SECTION 5.** In Colorado Revised Statutes, 24-4.1-302.5, **amend**  
30 (1)(j.8) as follows:

31 **24-4.1-302.5. Rights afforded to victims - definitions.**

32 (1) In order to preserve and protect a victim's rights to justice and  
33 due process, each victim of a crime has the following rights:

34 (j.8) The right ~~upon request~~, to obtain any incident recording as  
35 described in section 24-31-902;

36 **SECTION 6.** In Colorado Revised Statutes, 20-1-114, **amend** (1)  
37 as follows:

38 **20-1-114. Peace officer-involved shooting investigations -**  
39 **disclosure.**

40 (1) The district attorney shall, if no criminal charges are filed  
41 following the completion of an investigation pursuant to ~~section~~  
42 ~~16-2.5-301, C.R.S.~~, SECTION 16-2.5-302, release a report and publicly  
43 disclose the report explaining the district attorney's findings, including the

1 basis for the decision not to charge the officer with any criminal conduct.  
2 The district attorney shall post the written report on its website or, if it  
3 does not have a website, make it publicly available upon request.

4 **SECTION 7. Safety clause.** The general assembly finds,  
5 determines, and declares that this act is necessary for the immediate  
6 preservation of the public peace, health, or safety or for appropriations for  
7 the support and maintenance of the departments of the state and state  
8 institutions."

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