

First Regular Session  
Seventy-first General Assembly  
STATE OF COLORADO

INTRODUCED

LLS NO. 17-0666.02 Michael Dohr x4347

SENATE BILL 17-092

---

SENATE SPONSORSHIP

Zenzinger,

HOUSE SPONSORSHIP

Melton,

---

Senate Committees

State, Veterans, & Military Affairs

House Committees

---

A BILL FOR AN ACT

101 CONCERNING REQUIRING A PERSONNEL FILE WAIVER FOR PRIVATE  
102 EMPLOYMENT AS PART OF THE BACKGROUND CHECK PROCESS  
103 FOR A PERSON APPLYING FOR A POSITION AS A PEACE OFFICER.

---

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>.)*

Under current law, when a law enforcement agency interviews a candidate for a peace officer position and that candidate previously worked for a state or local law enforcement agency or governmental agency, the candidate must execute a waiver that allows the previous employer to release the candidate's personnel file to the interviewing

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.  
*Capital letters indicate new material to be added to existing statute.*  
*Dashes through the words indicate deletions from existing statute.*

agency. The bill requires the candidate to also sign a waiver releasing his or her personnel file related to employment with a private entity to the interviewing agency.

---

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

2           **SECTION 1.** In Colorado Revised Statutes, 24-33.5-115, **amend**  
3 (1), (2), and (3) as follows:

4           **24-33.5-115. Peace officer hiring - required use of waiver -**  
5 **definitions.** (1) A state or local law enforcement agency, including  
6 higher education law enforcement agencies and public transit law  
7 enforcement agencies, shall require each candidate that it interviews for  
8 a peace officer position who has been employed by another law  
9 enforcement agency, ~~or~~ governmental agency, OR PRIVATE ENTITY to  
10 execute a written waiver that explicitly authorizes each law enforcement  
11 agency, ~~or~~ governmental agency, OR PRIVATE ENTITY that has employed  
12 the candidate to disclose the applicant's files, including internal affairs  
13 files, to the state or local law enforcement agency and releases the  
14 interviewing agency and each law enforcement agency, ~~or~~ governmental  
15 agency, OR PRIVATE ENTITY that employed the candidate from any liability  
16 related to the use and disclosure of the files. A law enforcement agency,  
17 ~~or~~ governmental agency, OR PRIVATE ENTITY may disclose the applicant's  
18 files by either providing copies or allowing the interviewing agency to  
19 review the files at the law enforcement agency's office, ~~or~~ governmental  
20 agency's office, OR PRIVATE ENTITY'S OFFICE. A candidate who refuses to  
21 execute the waiver shall not be considered for employment by the  
22 interviewing agency. The agency interviewing the candidate shall, at least  
23 twenty-one days prior to making the hiring decision, submit the waiver to  
24 each law enforcement agency, ~~or~~ governmental agency, OR PRIVATE

1 ENTITY that has employed the candidate. A state or local law enforcement  
2 agency, ~~or~~ governmental agency, OR PRIVATE ENTITY that receives such  
3 a waiver shall provide the disclosure to the agency that is considering the  
4 candidate for employment not more than twenty-one days after such  
5 receipt.

6 (2) A state or local law enforcement agency, GOVERNMENTAL  
7 AGENCY, OR PRIVATE ENTITY is not required to provide the disclosures  
8 described in subsection (1) of this section if the agency is prohibited from  
9 providing the disclosure pursuant to a binding nondisclosure agreement  
10 to which the agency is a party, which agreement was executed before ~~the~~  
11 ~~effective date of this section~~ JUNE 10, 2016.

12 (3) A state or local law enforcement agency, ~~or~~ governmental  
13 agency, OR PRIVATE ENTITY is not liable for complying with the  
14 provisions of this section or participating in an official oral interview with  
15 an investigator regarding the candidate.

16 **SECTION 2.** In Colorado Revised Statutes, 24-35-120, **amend**  
17 (1), (2), and (3) as follows:

18 **24-35-120. Peace officer hiring - required use of waiver -**  
19 **definitions.** (1) The department of revenue shall require each candidate  
20 that it interviews for a peace officer position who has been employed by  
21 another law enforcement agency, ~~or~~ governmental agency, OR PRIVATE  
22 ENTITY to execute a written waiver that explicitly authorizes each law  
23 enforcement agency, ~~or~~ governmental agency, OR PRIVATE ENTITY that  
24 has employed the candidate to disclose the applicant's files, including  
25 internal affairs files, to the department and releases the department and  
26 each law enforcement agency, ~~or~~ governmental agency, OR PRIVATE  
27 ENTITY that employed the candidate from any liability related to the use

1 and disclosure of the files. A law enforcement agency, ~~or~~ governmental  
2 agency, OR PRIVATE ENTITY may disclose the applicant's files by either  
3 providing copies or allowing the department of revenue to review the files  
4 at the law enforcement agency's office, ~~or~~ governmental agency's office,  
5 OR PRIVATE ENTITY'S OFFICE. A candidate who refuses to execute the  
6 waiver shall not be considered for employment by the department of  
7 revenue. The department of revenue shall, at least twenty-one days prior  
8 to making the hiring decision, submit the waiver to each law enforcement  
9 agency, ~~or~~ governmental agency, OR PRIVATE ENTITY that has employed  
10 the candidate. A state or local law enforcement agency, ~~or~~ governmental  
11 agency, OR PRIVATE ENTITY that receives such a waiver shall provide the  
12 disclosure to the department of revenue not more than twenty-one days  
13 after such receipt.

14 (2) A state or local law enforcement agency, GOVERNMENTAL  
15 AGENCY, OR PRIVATE ENTITY is not required to provide the disclosures  
16 described in subsection (1) of this section if the agency is prohibited from  
17 providing the disclosure pursuant to a binding nondisclosure agreement  
18 to which the agency is a party, which agreement was executed before  
19 June 10, 2016, or participating in an official oral interview with an  
20 investigator regarding the candidate.

21 (3) A state or local law enforcement agency, ~~or~~ governmental  
22 ~~entity~~ AGENCY, OR PRIVATE ENTITY is not liable for complying with the  
23 provisions of this section.

24 **SECTION 3.** In Colorado Revised Statutes, 30-10-526, **amend**  
25 (1), (2), and (3) as follows:

26 **30-10-526. Sheriff office hiring - required use of waiver -**  
27 **definitions.** (1) A sheriff's office shall require each candidate that it

1 interviews for a peace officer position who has been employed by another  
2 law enforcement agency, ~~or~~ governmental agency, OR PRIVATE ENTITY to  
3 execute a written waiver that explicitly authorizes each law enforcement  
4 agency, ~~or~~ governmental agency, OR PRIVATE ENTITY that has employed  
5 the candidate to disclose the applicant's files, including internal affairs  
6 files, to the interviewing sheriff's agency and releases the interviewing  
7 sheriff's office and each law enforcement agency, ~~or~~ governmental  
8 agency, OR PRIVATE ENTITY that employed the candidate from any liability  
9 related to the use and disclosure of the files. A law enforcement agency,  
10 ~~or~~ governmental agency, OR PRIVATE ENTITY may disclose the applicant's  
11 files by either providing copies or allowing the sheriff's office to review  
12 the files at the law enforcement agency's office, ~~or~~ governmental agency's  
13 office, OR PRIVATE ENTITY'S OFFICE. A candidate who refuses to execute  
14 the waiver shall not be considered for employment by the sheriff's office.  
15 The sheriff's office interviewing the candidate shall, at least twenty-one  
16 days prior to making the hiring decision, submit the waiver to each law  
17 enforcement agency, ~~or~~ governmental agency, OR PRIVATE ENTITY that  
18 has employed the candidate. A state or local law enforcement agency, ~~or~~  
19 governmental agency, OR PRIVATE ENTITY that receives such a waiver  
20 shall provide the disclosure to the sheriff's office that is interviewing the  
21 candidate not more than twenty-one days after such receipt.

22 (2) A state or local law enforcement agency, GOVERNMENTAL  
23 AGENCY, OR PRIVATE ENTITY is not required to provide the disclosures  
24 described in subsection (1) of this section if the agency is prohibited from  
25 providing the disclosure pursuant to a binding nondisclosure agreement  
26 to which the agency is a party, which agreement was executed before  
27 June 10, 2016.

1           (3) A state or local law enforcement agency, ~~or~~ governmental  
2 agency, OR PRIVATE ENTITY is not liable for complying with the  
3 provisions of this section or participating in an official oral interview with  
4 an investigator regarding the candidate.

5           **SECTION 4.** In Colorado Revised Statutes, 31-30-108, **amend**  
6 (1), (2), and (3) as follows:

7           **31-30-108. Peace officer hiring - required use of waiver -**  
8 **definitions.** (1) A municipal police department or town marshal's office  
9 shall require each candidate that it interviews for a peace officer position  
10 who has been employed by another law enforcement agency, ~~or~~  
11 governmental agency, OR PRIVATE ENTITY to execute a written waiver that  
12 explicitly authorizes each law enforcement agency, ~~or~~ governmental  
13 agency, OR PRIVATE ENTITY that has employed the candidate to disclose  
14 the applicant's files, including internal affairs files, to the municipal  
15 police department or town marshal's office interviewing the candidate and  
16 releases the interviewing agency and each law enforcement agency, ~~or~~  
17 governmental agency, OR PRIVATE ENTITY that employed the candidate  
18 from any liability related to the use and disclosure of the files. A law  
19 enforcement agency, ~~or~~ governmental agency, OR PRIVATE ENTITY may  
20 disclose the applicant's files by either providing copies or allowing the  
21 municipal police department or town marshal's office to review the files  
22 at the law enforcement agency's office, ~~or~~ governmental agency's office,  
23 OR PRIVATE ENTITY'S OFFICE. A candidate who refuses to execute the  
24 waiver shall not be considered for employment by the department or  
25 office. The department or office interviewing the candidate shall, at least  
26 twenty-one days prior to making the hiring decision, submit the waiver to  
27 each law enforcement agency, ~~or~~ governmental agency, OR PRIVATE

1 ENTITY that has employed the candidate. A state or local law enforcement  
2 agency, ~~or~~ governmental agency, OR PRIVATE ENTITY that receives such  
3 a waiver shall provide the disclosure to the municipal police department  
4 or town marshal's office that is interviewing the candidate not more than  
5 twenty-one days after such receipt.

6 (2) A state or local law enforcement agency, GOVERNMENTAL  
7 AGENCY, OR PRIVATE ENTITY is not required to provide the disclosures  
8 described in subsection (1) of this section if the agency is prohibited from  
9 providing the disclosure pursuant to a binding nondisclosure agreement  
10 to which the agency is a party, which agreement was executed before the  
11 effective date of this section.

12 (3) A state or local law enforcement agency, ~~or~~ governmental  
13 agency, OR PRIVATE ENTITY is not liable for complying with the  
14 provisions of this section or participating in an official oral interview with  
15 an investigator regarding the candidate.

16 **SECTION 5.** In Colorado Revised Statutes, 33-9-112, **amend** (1),  
17 (2), and (3) as follows:

18 **33-9-112. Peace officer hiring - required use of waiver -**  
19 **definitions.** (1) The division shall require each candidate that it  
20 interviews for a peace officer position who has been employed by another  
21 law enforcement agency, ~~or~~ governmental agency, OR PRIVATE ENTITY to  
22 execute a written waiver that explicitly authorizes each law enforcement  
23 agency, ~~or~~ governmental agency, OR PRIVATE ENTITY that has employed  
24 the candidate to disclose the applicant's files, including internal affairs  
25 files, to the division and releases the division and each law enforcement  
26 agency, ~~or~~ governmental agency, OR PRIVATE ENTITY that employed the  
27 candidate from any liability related to the use and disclosure of the files.

1 A law enforcement agency, ~~or~~ governmental agency, OR PRIVATE ENTITY  
2 may disclose the applicant's files by either providing copies or allowing  
3 the division to review the files at the law enforcement agency's office, ~~or~~  
4 governmental agency's office, OR PRIVATE ENTITY'S OFFICE. A candidate  
5 who refuses to execute the waiver shall not be considered for employment  
6 by the division. The division shall, at least twenty-one days prior to  
7 making the hiring decision, submit the waiver to each law enforcement  
8 agency, ~~or~~ governmental agency, OR PRIVATE ENTITY that has employed  
9 the candidate. A state or local law enforcement agency, ~~or~~ governmental  
10 agency, OR PRIVATE ENTITY that receives such a waiver shall provide the  
11 disclosure to the division not more than twenty-one days after such  
12 receipt.

13 (2) A state or local law enforcement agency, GOVERNMENTAL  
14 AGENCY, OR PRIVATE ENTITY is not required to provide the disclosures  
15 described in subsection (1) of this section if the agency is prohibited from  
16 providing the disclosure pursuant to a binding nondisclosure agreement  
17 to which the agency is a party, which agreement was executed before  
18 June 10, 2016.

19 (3) A state or local law enforcement agency, ~~or~~ governmental  
20 agency, OR PRIVATE ENTITY is not liable for complying with the  
21 provisions of this section or participating in an official oral interview with  
22 an investigator regarding the candidate.

23 **SECTION 6. Safety clause.** The general assembly hereby finds,  
24 determines, and declares that this act is necessary for the immediate  
25 preservation of the public peace, health, and safety.