

Second Regular Session
Seventieth General Assembly
STATE OF COLORADO

REVISED

*This Version Includes All Amendments Adopted
on Second Reading in the Second House*

LLS NO. 16-0417.02 Michael Dohr x4347

HOUSE BILL 16-1262

HOUSE SPONSORSHIP

Williams, Esgar, Melton, Salazar

SENATE SPONSORSHIP

Cooke,

House Committees
Judiciary

Senate Committees
Judiciary

A BILL FOR AN ACT

101 CONCERNING MEASURES TO IMPROVE PEACE OFFICER HIRING, AND, IN
102 CONNECTION THEREWITH, REQUIRING EMPLOYMENT WAIVERS
103 AS PART OF THE BACKGROUND CHECK PROCESS FOR A PERSON
104 APPLYING FOR A POSITION AS A PEACE OFFICER WHO HAS
105 WORKED AS AN OFFICER AND GIVING THE P.O.S.T. BOARD THE
106 AUTHORITY TO DENY CERTIFICATION TO AN APPLICANT WHO
107 ENTERED INTO A DEFERRED AGREEMENT.

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

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.*

SENATE
Amended 2nd Reading
March 30, 2016

HOUSE
3rd Reading Unamended
March 17, 2016

HOUSE
Amended 2nd Reading
March 16, 2016

[http://www.leg.state.co.us/bills/summaries.](http://www.leg.state.co.us/bills/summaries/))

Each law enforcement agency in the state that interviews a candidate for a peace officer position who has worked at another law enforcement agency or in private security shall require the candidate to execute a waiver. The waiver will allow the candidate's previous law enforcement agency or private security company employers to disclose all files pertaining to the applicant, including internal affairs files, to the interviewing agency and releases the interviewing agency and each law enforcement agency or private security company that employed the candidate from any liability related to the use and disclosure of the files. The interviewing agency must submit the waiver to each law enforcement agency or private security company at least 10 days before making a hiring decision. A state or local law enforcement agency or private security company that receives a waiver shall provide the disclosure to the Colorado law enforcement agency that is interviewing the candidate not more than 7 days after such receipt.

The bill requires a P.O.S.T. certification applicant who has worked at another law enforcement agency to execute the same waiver as described above.

Under current law, the P.O.S.T. board must deny certification to a person who was convicted of any felony and certain misdemeanors. The bill gives the P.O.S.T. board the authority to deny certification to a person who entered into a deferred judgment, deferred prosecution, diversion agreement, or deferred adjudication for any of those crimes or had a juvenile adjudication for any of those crimes.

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

2 **SECTION 1.** In Colorado Revised Statutes, **add** 24-33.5-115 as
3 follows:

4 **24-33.5-115. Peace officer hiring - required use of waiver -**
5 **definitions.** (1) A STATE OR LOCAL LAW ENFORCEMENT AGENCY,
6 INCLUDING HIGHER EDUCATION LAW ENFORCEMENT AGENCIES AND PUBLIC
7 TRANSIT LAW ENFORCEMENT AGENCIES, SHALL REQUIRE EACH CANDIDATE
8 THAT IT INTERVIEWS FOR A PEACE OFFICER POSITION WHO HAS BEEN
9 EMPLOYED BY ANOTHER LAW ENFORCEMENT AGENCY OR GOVERNMENTAL
10 AGENCY TO EXECUTE A WRITTEN WAIVER THAT EXPLICITLY AUTHORIZES

1 EACH LAW ENFORCEMENT AGENCY OR GOVERNMENTAL AGENCY THAT HAS
2 EMPLOYED THE CANDIDATE TO DISCLOSE THE APPLICANT'S FILES,
3 INCLUDING INTERNAL AFFAIRS FILES, TO THE STATE OR LOCAL LAW
4 ENFORCEMENT AGENCY AND RELEASES THE INTERVIEWING AGENCY AND
5 EACH LAW ENFORCEMENT AGENCY OR GOVERNMENTAL AGENCY THAT
6 EMPLOYED THE CANDIDATE FROM ANY LIABILITY RELATED TO THE USE
7 AND DISCLOSURE OF THE FILES. A LAW ENFORCEMENT AGENCY OR
8 GOVERNMENTAL AGENCY MAY DISCLOSE THE APPLICANT'S FILES BY
9 EITHER PROVIDING COPIES OR ALLOWING THE INTERVIEWING AGENCY TO
10 REVIEW THE FILES AT THE LAW ENFORCEMENT AGENCY'S OFFICE OR
11 GOVERNMENTAL AGENCY'S OFFICE. A CANDIDATE WHO REFUSES TO
12 EXECUTE THE WAIVER SHALL NOT BE CONSIDERED FOR EMPLOYMENT BY
13 THE INTERVIEWING AGENCY. THE AGENCY INTERVIEWING THE CANDIDATE
14 SHALL, AT LEAST TWENTY-ONE DAYS PRIOR TO MAKING THE HIRING
15 DECISION, SUBMIT THE WAIVER TO EACH LAW ENFORCEMENT AGENCY OR
16 GOVERNMENTAL AGENCY THAT HAS EMPLOYED THE CANDIDATE. A
17 STATE OR LOCAL LAW ENFORCEMENT AGENCY OR GOVERNMENTAL
18 AGENCY THAT RECEIVES SUCH A WAIVER SHALL PROVIDE THE DISCLOSURE
19 TO THE AGENCY THAT IS CONSIDERING THE CANDIDATE FOR EMPLOYMENT
20 NOT MORE THAN TWENTY-ONE DAYS AFTER SUCH RECEIPT.

21 (2) A STATE OR LOCAL LAW ENFORCEMENT AGENCY IS NOT
22 REQUIRED TO PROVIDE THE DISCLOSURES DESCRIBED IN SUBSECTION (1) OF
23 THIS SECTION IF THE AGENCY IS PROHIBITED FROM PROVIDING THE
24 DISCLOSURE PURSUANT TO A BINDING NONDISCLOSURE AGREEMENT TO
25 WHICH THE AGENCY IS A PARTY, WHICH AGREEMENT WAS EXECUTED
26 BEFORE THE EFFECTIVE DATE OF THIS SECTION.

27 (3) A STATE OR LOCAL LAW ENFORCEMENT AGENCY OR

1 GOVERNMENTAL AGENCY IS NOT LIABLE FOR COMPLYING WITH THE
2 PROVISIONS OF THIS SECTION OR PARTICIPATING IN AN OFFICIAL ORAL
3 INTERVIEW WITH AN INVESTIGATOR REGARDING THE CANDIDATE.

4 (4) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE
5 REQUIRES:

6 (a) "FILES" MEANS ALL PERFORMANCE REVIEWS, ANY OTHER FILES
7 RELATED TO JOB PERFORMANCE, ADMINISTRATIVE FILES, GRIEVANCES,
8 PREVIOUS PERSONNEL APPLICATIONS, PERSONNEL RELATED CLAIMS,
9 DISCIPLINARY ACTIONS, AND ALL COMPLAINTS, EARLY WARNINGS, AND
10 COMMENDATIONS, BUT DOES NOT INCLUDE NONPERFORMANCE OR
11 CONDUCT-RELATED DATA, INCLUDING MEDICAL FILES, SCHEDULES, PAY
12 AND BENEFIT INFORMATION, OR SIMILAR ADMINISTRATIVE DATA OR
13 INFORMATION.

14 (b) "STATE OR LOCAL LAW ENFORCEMENT AGENCY" MEANS:

15 (I) THE COLORADO STATE PATROL CREATED PURSUANT TO
16 SECTION 24-33.5-201;

17 (II) THE COLORADO BUREAU OF INVESTIGATION CREATED
18 PURSUANT TO SECTION 24-33.5-401;

19 (III) A COUNTY SHERIFF'S OFFICE;

20 (IV) A MUNICIPAL POLICE DEPARTMENT;

21 (V) THE DIVISION OF PARKS AND WILDLIFE WITHIN THE
22 DEPARTMENT OF NATURAL RESOURCES CREATED PURSUANT TO SECTION
23 24-1-124; OR

24 (VI) A TOWN MARSHAL'S OFFICE.

25 **SECTION 2.** In Colorado Revised Statutes, **add 24-35-120** as
26 follows:

27 **24-35-120. Peace officer hiring - required use of waiver -**

1 **definitions.** (1) THE DEPARTMENT OF REVENUE SHALL REQUIRE EACH
2 CANDIDATE THAT IT INTERVIEWS FOR A PEACE OFFICER POSITION WHO HAS
3 BEEN EMPLOYED BY ANOTHER LAW ENFORCEMENT AGENCY OR
4 GOVERNMENTAL AGENCY TO EXECUTE A WRITTEN WAIVER THAT
5 EXPLICITLY AUTHORIZES EACH LAW ENFORCEMENT AGENCY OR
6 GOVERNMENTAL AGENCY THAT HAS EMPLOYED THE CANDIDATE TO
7 DISCLOSE THE APPLICANT'S FILES, INCLUDING INTERNAL AFFAIRS FILES, TO
8 THE DEPARTMENT AND RELEASES THE DEPARTMENT AND EACH LAW
9 ENFORCEMENT AGENCY OR GOVERNMENTAL AGENCY THAT EMPLOYED THE
10 CANDIDATE FROM ANY LIABILITY RELATED TO THE USE AND DISCLOSURE
11 OF THE FILES. A LAW ENFORCEMENT AGENCY OR GOVERNMENTAL AGENCY
12 MAY DISCLOSE THE APPLICANT'S FILES BY EITHER PROVIDING COPIES OR
13 ALLOWING THE DEPARTMENT OF REVENUE TO REVIEW THE FILES AT THE
14 LAW ENFORCEMENT AGENCY'S OFFICE OR GOVERNMENTAL AGENCY'S
15 OFFICE. A CANDIDATE WHO REFUSES TO EXECUTE THE WAIVER SHALL NOT
16 BE CONSIDERED FOR EMPLOYMENT BY THE DEPARTMENT OF REVENUE. THE
17 DEPARTMENT OF REVENUE SHALL, AT LEAST TWENTY-ONE DAYS PRIOR TO
18 MAKING THE HIRING DECISION, SUBMIT THE WAIVER TO EACH LAW
19 ENFORCEMENT AGENCY OR GOVERNMENTAL AGENCY THAT HAS EMPLOYED
20 THE CANDIDATE. A STATE OR LOCAL LAW ENFORCEMENT AGENCY OR
21 GOVERNMENTAL AGENCY THAT RECEIVES SUCH A WAIVER SHALL PROVIDE
22 THE DISCLOSURE TO THE DEPARTMENT OF REVENUE NOT MORE THAN
23 TWENTY-ONE DAYS AFTER SUCH RECEIPT.

24 (2) A STATE OR LOCAL LAW ENFORCEMENT AGENCY IS NOT
25 REQUIRED TO PROVIDE THE DISCLOSURES DESCRIBED IN SUBSECTION (1) OF
26 THIS SECTION IF THE AGENCY IS PROHIBITED FROM PROVIDING THE
27 DISCLOSURE PURSUANT TO A BINDING NONDISCLOSURE AGREEMENT TO

1 WHICH THE AGENCY IS A PARTY, WHICH AGREEMENT WAS EXECUTED
2 BEFORE THE EFFECTIVE DATE OF THIS SECTION, OR PARTICIPATING IN AN
3 OFFICIAL ORAL INTERVIEW WITH AN INVESTIGATOR REGARDING THE
4 CANDIDATE.

5 (3) A STATE OR LOCAL LAW ENFORCEMENT AGENCY OR
6 GOVERNMENTAL ENTITY IS NOT LIABLE FOR COMPLYING WITH THE
7 PROVISIONS OF THIS SECTION.

8 (4) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE
9 REQUIRES:

10 (a) "FILES" MEANS ALL PERFORMANCE REVIEWS, ANY OTHER FILES
11 RELATED TO JOB PERFORMANCE, ADMINISTRATIVE FILES, GRIEVANCES,
12 PREVIOUS PERSONNEL APPLICATIONS, PERSONNEL-RELATED CLAIMS,
13 DISCIPLINARY ACTIONS, AND ALL COMPLAINTS, EARLY WARNINGS, AND
14 COMMENDATIONS, BUT DOES NOT INCLUDE NONPERFORMANCE OR
15 CONDUCT-RELATED DATA, INCLUDING MEDICAL FILES, SCHEDULES, PAY
16 AND BENEFIT INFORMATION, OR SIMILAR ADMINISTRATIVE DATA OR
17 INFORMATION.

18 (b) "STATE OR LOCAL LAW ENFORCEMENT AGENCY" MEANS:

19 (I) THE COLORADO STATE PATROL CREATED PURSUANT TO
20 SECTION 24-33.5-201;

21 (II) THE COLORADO BUREAU OF INVESTIGATION CREATED
22 PURSUANT TO SECTION 24-33.5-401;

23 (III) A COUNTY SHERIFF'S OFFICE;

24 (IV) A MUNICIPAL POLICE DEPARTMENT;

25 (V) THE DIVISION OF PARKS AND WILDLIFE WITHIN THE
26 DEPARTMENT OF NATURAL RESOURCES CREATED PURSUANT TO SECTION
27 24-1-124; OR

1 (VI) A TOWN MARSHAL'S OFFICE.

2 SECTION 3. In Colorado Revised Statutes, add 30-10-526 as
3 follows:

4 30-10-526. Sheriff office hiring - required use of waiver -
5 definitions. (1) A SHERIFF'S OFFICE SHALL REQUIRE EACH CANDIDATE
6 THAT IT INTERVIEWS FOR A PEACE OFFICER POSITION WHO HAS BEEN
7 EMPLOYED BY ANOTHER LAW ENFORCEMENT AGENCY OR GOVERNMENTAL
8 AGENCY TO EXECUTE A WRITTEN WAIVER THAT EXPLICITLY AUTHORIZES
9 EACH LAW ENFORCEMENT AGENCY OR GOVERNMENTAL AGENCY THAT HAS
10 EMPLOYED THE CANDIDATE TO DISCLOSE THE APPLICANT'S FILES,
11 INCLUDING INTERNAL AFFAIRS FILES, TO THE INTERVIEWING SHERIFF'S
12 AGENCY AND RELEASES THE INTERVIEWING SHERIFF'S OFFICE AND EACH
13 LAW ENFORCEMENT AGENCY OR GOVERNMENTAL AGENCY THAT
14 EMPLOYED THE CANDIDATE FROM ANY LIABILITY RELATED TO THE USE
15 AND DISCLOSURE OF THE FILES. A LAW ENFORCEMENT AGENCY OR
16 GOVERNMENTAL AGENCY MAY DISCLOSE THE APPLICANT'S FILES BY
17 EITHER PROVIDING COPIES OR ALLOWING THE SHERIFF'S OFFICE TO REVIEW
18 THE FILES AT THE LAW ENFORCEMENT AGENCY'S OFFICE OR
19 GOVERNMENTAL AGENCY'S OFFICE. A CANDIDATE WHO REFUSES TO
20 EXECUTE THE WAIVER SHALL NOT BE CONSIDERED FOR EMPLOYMENT BY
21 THE SHERIFF'S OFFICE. THE SHERIFF'S OFFICE INTERVIEWING THE
22 CANDIDATE SHALL, AT LEAST TWENTY-ONE DAYS PRIOR TO MAKING THE
23 HIRING DECISION, SUBMIT THE WAIVER TO EACH LAW ENFORCEMENT
24 AGENCY OR GOVERNMENTAL AGENCY THAT HAS EMPLOYED THE
25 CANDIDATE. A STATE OR LOCAL LAW ENFORCEMENT AGENCY OR
26 GOVERNMENTAL AGENCY THAT RECEIVES SUCH A WAIVER SHALL PROVIDE
27 THE DISCLOSURE TO THE SHERIFF'S OFFICE THAT IS INTERVIEWING THE

1 CANDIDATE NOT MORE THAN TWENTY-ONE DAYS AFTER SUCH RECEIPT.

2 (2) A STATE OR LOCAL LAW ENFORCEMENT AGENCY IS NOT
3 REQUIRED TO PROVIDE THE DISCLOSURES DESCRIBED IN SUBSECTION (1) OF
4 THIS SECTION IF THE AGENCY IS PROHIBITED FROM PROVIDING THE
5 DISCLOSURE PURSUANT TO A BINDING NONDISCLOSURE AGREEMENT TO
6 WHICH THE AGENCY IS A PARTY, WHICH AGREEMENT WAS EXECUTED
7 BEFORE THE EFFECTIVE DATE OF THIS SECTION.

8 (3) A STATE OR LOCAL LAW ENFORCEMENT AGENCY OR
9 GOVERNMENTAL AGENCY IS NOT LIABLE FOR COMPLYING WITH THE
10 PROVISIONS OF THIS SECTION OR PARTICIPATING IN AN OFFICIAL ORAL
11 INTERVIEW WITH AN INVESTIGATOR REGARDING THE CANDIDATE.

12 (4) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE
13 REQUIRES:

14 (a) "FILES" MEANS ALL PERFORMANCE REVIEWS, ANY OTHER FILES
15 RELATED TO JOB PERFORMANCE, ADMINISTRATIVE FILES, GRIEVANCES,
16 PREVIOUS PERSONNEL APPLICATIONS, PERSONNEL RELATED CLAIMS,
17 DISCIPLINARY ACTIONS, AND ALL COMPLAINTS, EARLY WARNINGS, AND
18 COMMENDATIONS, BUT DOES NOT INCLUDE NONPERFORMANCE OR
19 CONDUCT-RELATED DATA, INCLUDING MEDICAL FILES, SCHEDULES, PAY
20 AND BENEFIT INFORMATION, OR SIMILAR ADMINISTRATIVE DATA OR
21 INFORMATION.

22 (b) "STATE OR LOCAL LAW ENFORCEMENT AGENCY" MEANS:

23 (I) THE COLORADO STATE PATROL CREATED PURSUANT TO
24 SECTION 24-33.5-201, C.R.S.;

25 (II) THE COLORADO BUREAU OF INVESTIGATION CREATED
26 PURSUANT TO SECTION 24-33.5-401, C.R.S.;

27 (III) A COUNTY SHERIFF'S OFFICE;

1 (IV) A MUNICIPAL POLICE DEPARTMENT;

2 (V) THE DIVISION OF PARKS AND WILDLIFE WITHIN THE
3 DEPARTMENT OF NATURAL RESOURCES CREATED PURSUANT TO SECTION
4 24-1-124, C.R.S.; OR

5 (VI) A TOWN MARSHAL'S OFFICE.

6 SECTION 4. In Colorado Revised Statutes, add 31-30-108 as
7 follows:

8 **31-30-108. Peace officer hiring - required use of waiver -**
9 **definitions.** (1) A MUNICIPAL POLICE DEPARTMENT OR TOWN MARSHAL'S
10 OFFICE SHALL REQUIRE EACH CANDIDATE THAT IT INTERVIEWS FOR A
11 PEACE OFFICER POSITION WHO HAS BEEN EMPLOYED BY ANOTHER LAW
12 ENFORCEMENT AGENCY OR GOVERNMENTAL AGENCY TO EXECUTE A
13 WRITTEN WAIVER THAT EXPLICITLY AUTHORIZES EACH LAW ENFORCEMENT
14 AGENCY OR GOVERNMENTAL AGENCY THAT HAS EMPLOYED THE
15 CANDIDATE TO DISCLOSE THE APPLICANT'S FILES, INCLUDING INTERNAL
16 AFFAIRS FILES, TO THE MUNICIPAL POLICE DEPARTMENT OR TOWN
17 MARSHAL'S OFFICE INTERVIEWING THE CANDIDATE AND RELEASES THE
18 INTERVIEWING AGENCY AND EACH LAW ENFORCEMENT AGENCY OR
19 GOVERNMENTAL AGENCY THAT EMPLOYED THE CANDIDATE FROM ANY
20 LIABILITY RELATED TO THE USE AND DISCLOSURE OF THE FILES. A LAW
21 ENFORCEMENT AGENCY OR GOVERNMENTAL AGENCY MAY DISCLOSE THE
22 APPLICANT'S FILES BY EITHER PROVIDING COPIES OR ALLOWING THE
23 MUNICIPAL POLICE DEPARTMENT OR TOWN MARSHAL'S OFFICE TO REVIEW
24 THE FILES AT THE LAW ENFORCEMENT AGENCY'S OFFICE OR
25 GOVERNMENTAL AGENCY'S OFFICE. A CANDIDATE WHO REFUSES TO
26 EXECUTE THE WAIVER SHALL NOT BE CONSIDERED FOR EMPLOYMENT BY
27 THE DEPARTMENT OR OFFICE. THE DEPARTMENT OR OFFICE INTERVIEWING

1 THE CANDIDATE SHALL, AT LEAST TWENTY-ONE DAYS PRIOR TO MAKING
2 THE HIRING DECISION, SUBMIT THE WAIVER TO EACH LAW ENFORCEMENT
3 AGENCY OR GOVERNMENTAL AGENCY THAT HAS EMPLOYED THE
4 CANDIDATE. A STATE OR LOCAL LAW ENFORCEMENT AGENCY OR
5 GOVERNMENTAL AGENCY THAT RECEIVES SUCH A WAIVER SHALL PROVIDE
6 THE DISCLOSURE TO THE MUNICIPAL POLICE DEPARTMENT OR TOWN
7 MARSHAL'S OFFICE THAT IS INTERVIEWING THE CANDIDATE NOT MORE
8 THAN TWENTY-ONE DAYS AFTER SUCH RECEIPT.

9 (2) A STATE OR LOCAL LAW ENFORCEMENT AGENCY IS NOT
10 REQUIRED TO PROVIDE THE DISCLOSURES DESCRIBED IN SUBSECTION (1) OF
11 THIS SECTION IF THE AGENCY IS PROHIBITED FROM PROVIDING THE
12 DISCLOSURE PURSUANT TO A BINDING NONDISCLOSURE AGREEMENT TO
13 WHICH THE AGENCY IS A PARTY, WHICH AGREEMENT WAS EXECUTED
14 BEFORE THE EFFECTIVE DATE OF THIS SECTION.

15 (3) A STATE OR LOCAL LAW ENFORCEMENT AGENCY OR
16 GOVERNMENTAL AGENCY IS NOT LIABLE FOR COMPLYING WITH THE
17 PROVISIONS OF THIS SECTION OR PARTICIPATING IN AN OFFICIAL ORAL
18 INTERVIEW WITH AN INVESTIGATOR REGARDING THE CANDIDATE.

19 (4) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE
20 REQUIRES:

21 (a) "FILES" MEANS ALL PERFORMANCE REVIEWS, ANY OTHER FILES
22 RELATED TO JOB PERFORMANCE, ADMINISTRATIVE FILES, GRIEVANCES,
23 PREVIOUS PERSONNEL APPLICATIONS, PERSONNEL RELATED CLAIMS,
24 DISCIPLINARY ACTIONS, AND ALL COMPLAINTS, EARLY WARNINGS, AND
25 COMMENDATIONS, BUT DOES NOT INCLUDE NONPERFORMANCE OR
26 CONDUCT-RELATED DATA, INCLUDING MEDICAL FILES, SCHEDULES, PAY
27 AND BENEFIT INFORMATION, OR SIMILAR ADMINISTRATIVE DATA OR

1 INFORMATION.

2 (b) "STATE OR LOCAL LAW ENFORCEMENT AGENCY" MEANS:

3 (I) THE COLORADO STATE PATROL CREATED PURSUANT TO
4 SECTION 24-33.5-201, C.R.S.;

5 (II) THE COLORADO BUREAU OF INVESTIGATION CREATED
6 PURSUANT TO SECTION 24-33.5-401, C.R.S.;

7 (III) A COUNTY SHERIFF'S OFFICE;

8 (IV) A MUNICIPAL POLICE DEPARTMENT;

9 (V) THE DIVISION OF PARKS AND WILDLIFE WITHIN THE
10 DEPARTMENT OF NATURAL RESOURCES CREATED PURSUANT TO SECTION
11 24-1-124, C.R.S.; OR

12 (VI) A TOWN MARSHAL'S OFFICE.

13 **SECTION 5.** In Colorado Revised Statutes, **add** 33-9-112 as
14 follows:

15 **33-9-112. Peace officer hiring - required use of waiver -**
16 **definitions.** (1) THE DIVISION SHALL REQUIRE EACH CANDIDATE THAT IT
17 INTERVIEWS FOR A PEACE OFFICER POSITION WHO HAS BEEN EMPLOYED BY
18 ANOTHER LAW ENFORCEMENT AGENCY OR GOVERNMENTAL AGENCY TO
19 EXECUTE A WRITTEN WAIVER THAT EXPLICITLY AUTHORIZES EACH LAW
20 ENFORCEMENT AGENCY OR GOVERNMENTAL AGENCY THAT HAS EMPLOYED
21 THE CANDIDATE TO DISCLOSE THE APPLICANT'S FILES, INCLUDING
22 INTERNAL AFFAIRS FILES, TO THE DIVISION AND RELEASES THE DIVISION
23 AND EACH LAW ENFORCEMENT AGENCY OR GOVERNMENTAL AGENCY THAT
24 EMPLOYED THE CANDIDATE FROM ANY LIABILITY RELATED TO THE USE
25 AND DISCLOSURE OF THE FILES. A LAW ENFORCEMENT AGENCY OR
26 GOVERNMENTAL AGENCY MAY DISCLOSE THE APPLICANT'S FILES BY
27 EITHER PROVIDING COPIES OR ALLOWING THE DIVISION TO REVIEW THE

1 FILES AT THE LAW ENFORCEMENT AGENCY'S OFFICE OR GOVERNMENTAL
2 AGENCY'S OFFICE. A CANDIDATE WHO REFUSES TO EXECUTE THE WAIVER
3 SHALL NOT BE CONSIDERED FOR EMPLOYMENT BY THE DIVISION. THE
4 DIVISION SHALL, AT LEAST TWENTY-ONE DAYS PRIOR TO MAKING THE
5 HIRING DECISION, SUBMIT THE WAIVER TO EACH LAW ENFORCEMENT
6 AGENCY OR GOVERNMENTAL AGENCY THAT HAS EMPLOYED THE
7 CANDIDATE. A STATE OR LOCAL LAW ENFORCEMENT AGENCY OR
8 GOVERNMENTAL AGENCY THAT RECEIVES SUCH A WAIVER SHALL PROVIDE
9 THE DISCLOSURE TO THE DIVISION NOT MORE THAN TWENTY-ONE DAYS
10 AFTER SUCH RECEIPT.

11 (2) A STATE OR LOCAL LAW ENFORCEMENT AGENCY IS NOT
12 REQUIRED TO PROVIDE THE DISCLOSURES DESCRIBED IN SUBSECTION (1) OF
13 THIS SECTION IF THE AGENCY IS PROHIBITED FROM PROVIDING THE
14 DISCLOSURE PURSUANT TO A BINDING NONDISCLOSURE AGREEMENT TO
15 WHICH THE AGENCY IS A PARTY, WHICH AGREEMENT WAS EXECUTED
16 BEFORE THE EFFECTIVE DATE OF THIS SECTION.

17 (3) A STATE OR LOCAL LAW ENFORCEMENT AGENCY OR
18 GOVERNMENTAL AGENCY IS NOT LIABLE FOR COMPLYING WITH THE
19 PROVISIONS OF THIS SECTION OR PARTICIPATING IN AN OFFICIAL ORAL
20 INTERVIEW WITH AN INVESTIGATOR REGARDING THE CANDIDATE.

21 (4) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE
22 REQUIRES:

23 (a) "FILES" MEANS ALL PERFORMANCE REVIEWS, ANY OTHER FILES
24 RELATED TO JOB PERFORMANCE, ADMINISTRATIVE FILES, GRIEVANCES,
25 PREVIOUS PERSONNEL APPLICATIONS, PERSONNEL RELATED CLAIMS,
26 DISCIPLINARY ACTIONS, AND ALL COMPLAINTS, EARLY WARNINGS, AND
27 COMMENDATIONS, BUT DOES NOT INCLUDE NONPERFORMANCE OR

1 CONDUCT-RELATED DATA, INCLUDING MEDICAL FILES, SCHEDULES, PAY
2 AND BENEFIT INFORMATION, OR SIMILAR ADMINISTRATIVE DATA OR
3 INFORMATION.

4 (b) "STATE OR LOCAL LAW ENFORCEMENT AGENCY" MEANS:

5 (I) THE COLORADO STATE PATROL CREATED PURSUANT TO
6 SECTION 24-33.5-201, C.R.S.;

7 (II) THE COLORADO BUREAU OF INVESTIGATION CREATED
8 PURSUANT TO SECTION 24-33.5-401, C.R.S.;

9 (III) A COUNTY SHERIFF'S OFFICE;

10 (IV) A MUNICIPAL POLICE DEPARTMENT;

11 (V) THE DIVISION OF PARKS AND WILDLIFE WITHIN THE
12 DEPARTMENT OF NATURAL RESOURCES CREATED PURSUANT TO SECTION
13 24-1-124, C.R.S.; OR

14 (VI) A TOWN MARSHAL'S OFFICE.

15 **SECTION 6.** In Colorado Revised Statutes, 24-31-305, **amend**
16 (1.5) as follows:

17 **24-31-305. Certification - issuance - renewal - revocation.**

18 (1.5) (a) The P.O.S.T. board shall deny certification to any person
19 who has been convicted of:

20 (a) (I) A felony;

21 (b) (II) Any misdemeanor in violation of sections 18-3-204,
22 18-3-402, 18-3-404, 18-3-405.5, and 18-3-412.5, C.R.S.;

23 (c) (III) Any misdemeanor in violation of sections 18-7-201,
24 18-7-202, 18-7-203, 18-7-204, 18-7-302, and 18-7-601, C.R.S.;

25 (d) (IV) Any misdemeanor in violation of any section of article 8
26 of title 18, C.R.S.;

27 (e) (V) Any misdemeanor in violation of sections 18-9-111 and

1 18-9-121, C.R.S.;

2 ~~(f)~~ (VI) Any misdemeanor in violation of sections 18-18-404,
3 18-18-405, 18-18-406, and 18-18-411, C.R.S.;

4 ~~(g)~~ (VII) Any misdemeanor in violation of section 18-6-403 (3)
5 (b.5), C.R.S., as it existed prior to July 1, 2006;

6 ~~(h)~~ (VIII) Any misdemeanor in violation of federal law or the law
7 of any state that is the equivalent of any of the offenses specified in
8 paragraphs (a) to (g) of this subsection (1.5); or

9 ~~(i)~~ (IX) Any local municipal ordinance that is the equivalent of
10 any of the offenses specified in paragraphs (a) to (g) of this subsection
11 (1.5).

12 (b) THE P.O.S.T. BOARD **MUST** DENY CERTIFICATION TO ANY
13 PERSON WHO ENTERED INTO ONE OF THE FOLLOWING FOR A CRIME LISTED
14 IN PARAGRAPH (a) OF THIS SUBSECTION (1.5) IF THE P.O.S.T. BOARD
15 DETERMINES THAT CERTIFICATION IS NOT IN THE PUBLIC INTEREST:

16 (I) A DEFERRED JUDGMENT AND SENTENCING AGREEMENT OR
17 DEFERRED SENTENCING AGREEMENT, WHETHER PENDING OR
18 SUCCESSFULLY COMPLETED;

19 (II) A DEFERRED PROSECUTION AGREEMENT, WHETHER PENDING
20 OR SUCCESSFULLY COMPLETED; **OR**

21 (III) A PRETRIAL DIVERSION AGREEMENT, WHETHER PENDING OR
22 SUCCESSFULLY **COMPLETED**.

23

24 **SECTION 7. Safety clause.** The general assembly hereby finds,
25 determines, and declares that this act is necessary for the immediate
26 preservation of the public peace, health, and safety.