

**Second Regular Session
Seventy-fourth General Assembly
STATE OF COLORADO**

PREAMENDED

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

LLS NO. 24-0945.02 Michael Dohr x4347

HOUSE BILL 24-1460

HOUSE SPONSORSHIP

Herod and Bacon, deGruy Kennedy

SENATE SPONSORSHIP

(None),

House Committees
Judiciary

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING MEASURES TO STRENGTHEN RESPONSES TO LAW**
102 **ENFORCEMENT MISCONDUCT.**

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 requires a law enforcement agency (agency) that receives an allegation of misconduct, criminal conduct, or other unprofessional conduct regarding a peace officer employed by the agency to investigate the allegation. If a peace officer receives an allegation of misconduct, criminal conduct, or other unprofessional conduct (misconduct) or is reasonably aware of the misconduct of another peace officer, the peace

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
*Capital letters or bold & italic numbers indicate new material to be added to existing law.
Dashes through the words or numbers indicate deletions from existing law.*

officer shall report the allegation to the subject of the allegation's employing agency. A peace officer who fails to make the report commits a class 2 misdemeanor. A person who makes an allegation has a private right of action if the allegation is not investigated.

The bill clarifies that patterns and practices investigations may also be related to deprivation of rights by a peace officer against another peace officer.

Current law requires agencies to report certain information regarding officers' misconduct to a database maintained by the P.O.S.T. board. The attorney general may audit the reports made to the database to verify reporting compliance. The bill requires the attorney general to accept reports of non-reporting to the database and requires those reports to be investigated within available resources.

Current law requires unedited video and audio recordings of incidents of alleged misconduct to be released the public upon request. The bill states that a law enforcement agency shall not charge a fee to the requestor related to releasing the recording.

Current law provides a peace officer with whistle-blower protection. The bill allows a peace officer who is subject to whistle-blower discipline a private right of action against the officer's employing agency.

The bill requires each agency to retain all reports regarding allegations of misconduct and all investigation files, notes, and reports related to those reports. The bill also requires the investigating agency to provide a copy of the investigation file to the subject of the investigation after the investigation is completed.

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

2 **SECTION 1.** In Colorado Revised Statutes, 18-8-802, **add**
3 (2.5) as follows:

4 **18-8-802. Duty to report use of force by peace officers - duty**
5 **to intervene.** (2.5) (a) IF A LAW ENFORCEMENT AGENCY RECEIVES AN
6 ALLEGATION OF UNLAWFUL CONDUCT REGARDING A PEACE OFFICER
7 EMPLOYED BY THE LAW ENFORCEMENT AGENCY, THE LAW ENFORCEMENT
8 AGENCY SHALL INVESTIGATE THE ALLEGATION AND SHALL COMPLY WITH
9 SECTION 24-31-908.

10 **(II) IF A LAW ENFORCEMENT AGENCY FAILS TO INVESTIGATE,**

1 COLLUDES IN FAILING TO INVESTIGATE, OR DESTROYS OR ALTERS
2 EVIDENCE IN AN INVESTIGATION, THOSE ACTIONS CONSTITUTE
3 DISCRIMINATION FOR PURPOSES OF PART 3 OF ARTICLE 34 OF TITLE 24.

4 (b) (I) IF A PEACE OFFICER RECEIVES AN ALLEGATION OF
5 UNLAWFUL CONDUCT OR IS REASONABLY AWARE OF THE UNLAWFUL
6 CONDUCT OF ANOTHER PEACE OFFICER, THE PEACE OFFICER SHALL REPORT
7 THE ALLEGATION TO THE SUBJECT OF THE ALLEGATION'S EMPLOYING LAW
8 ENFORCEMENT AGENCY.

9
10 (II) IF A PEACE OFFICER IN A SUPERVISORY CAPACITY FAILS TO
11 REPORT THE UNLAWFUL CONDUCT PURSUANT TO SUBSECTION (2.5)(b)(I)
12 OF THIS SECTION, THE P.O.S.T. BOARD MAY REVOKE THE PEACE OFFICER'S
13 CERTIFICATION PURSUANT TO SECTION 24-31-305 AND THE ATTORNEY
14 GENERAL MAY ADD THE PEACE OFFICER TO THE DATABASE DESCRIBED IN
15 SECTION 24-31-303 (1)(r).

16 **SECTION 2.** In Colorado Revised Statutes, 24-31-303, **amend**
17 (1)(r)(II); and **add** (1)(r)(I)(I) and (1)(r)(V) as follows:

18 **24-31-303. Duties - powers of the P.O.S.T. board - definition.**

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

20 (r) (I) Subject to available appropriations, beginning on January
21 1, 2022, to create and maintain a database, in a searchable format to be
22 published on its website, containing information related to a peace
23 officer's:

24 (I) FAILURE TO COMPLY WITH SECTION 18-8-802 (2.5).

25 (II) Law enforcement agencies shall report to the P.O.S.T.
26 board the information required in this subsection (1)(r) in a format
27 determined by the P.O.S.T. board. Failure to submit such THE information

1 is subject to a fine set in rule by the P.O.S.T. board. THE ATTORNEY
2 GENERAL MAY AUDIT THE REPORTS MADE PURSUANT TO THIS SUBSECTION
3 (1)(r) TO VERIFY LAW ENFORCEMENT AGENCIES' COMPLIANCE WITH THIS
4 SUBSECTION (1)(r). IN CONDUCTING THE AUDITS, THE ATTORNEY GENERAL
5 MAY ALSO REQUEST INFORMATION FROM LAW ENFORCEMENT AGENCIES TO
6 VERIFY COMPLIANCE WITH THIS SUBSECTION (1)(r). THE ATTORNEY
7 GENERAL MAY ISSUE SUBPOENAS FOR ANY PURPOSE IN CONDUCTING AN
8 AUDIT PURSUANT TO THIS SECTION. IF THE ATTORNEY GENERAL
9 DETERMINES DURING AN AUDIT PURSUANT TO THIS SUBSECTION (1)(r)(II)
10 THAT A PEACE OFFICER IS ELIGIBLE TO BE ADDED TO THE DATABASE, THE
11 ATTORNEY GENERAL SHALL ADD THE PEACE OFFICER TO THE DATABASE.

12 (V) IF THE ATTORNEY GENERAL DETERMINES THAT A PEACE
13 OFFICER WAS ADDED TO DATABASE AS A MEANS OF RETALIATION, THE
14 ATTORNEY GENERAL SHALL REMOVE THE PEACE OFFICER FROM THE
15 DATABASE. IF A PEACE OFFICER WAS SUBJECT TO RETALIATION IN
16 VIOLATION OF SECTION 24-31-906, THERE IS A REBUTTABLE PRESUMPTION
17 THAT THE PEACE OFFICER SHOULD BE REMOVED FROM THE DATABASE.

18 **SECTION 3.** In Colorado Revised Statutes, 24-31-902, **amend**
19 (2)(a) and (2)(b)(III) as follows:

20 **24-31-902. Incident recordings - release - tampering - fine.**

21 (2) (a) For all incidents in which there is AN OFFICER-INVOLVED
22 SHOOTING OR a complaint of peace officer misconduct by another peace
23 officer, a civilian, or nonprofit organization, through notice to the law
24 enforcement agency involved in THE OFFICER-INVOLVED SHOOTING OR the
25 alleged misconduct, the local law enforcement agency or the Colorado
26 state patrol shall release, upon request, all unedited video and audio
27 recordings of the incident, including those from body-worn cameras, dash

1 cameras, or otherwise collected through investigation, to the public within
2 twenty-one days after the local law enforcement agency or the Colorado
3 state patrol received the request for release of the video or audio
4 recordings. NOTWITHSTANDING THE PROVISIONS OF SECTIONS 24-72-205
5 AND 24-72-306, THE LAW ENFORCEMENT AGENCY SHALL NOT CHARGE A
6 FEE TO THE REQUESTOR RELATED TO RELEASING THE UNEDITED VIDEO AND
7 AUDIO RECORDINGS OF AN INCIDENT.

8 (b) (III) Any video that would substantially interfere with or
9 jeopardize an active or ongoing investigation may be withheld from the
10 public; except that the video shall be released no later than forty-five days
11 from the date of the OFFICER-INVOLVED SHOOTING OR THE allegation of
12 misconduct; except that in a case in which the only offenses charged are
13 statutory traffic infractions, the release of the video may be delayed
14 pursuant to rule 8 of the Colorado rules for traffic infractions. In all cases
15 when release of a video is delayed in reliance on this subsection
16 (2)(b)(III), the prosecuting attorney shall prepare a written explanation of
17 the interference or jeopardy that justifies the delayed release,
18 contemporaneous with the refusal to release the video. Upon release of
19 the video, the prosecuting attorney shall release the written explanation
20 to the public.

21 **SECTION 4.** In Colorado Revised Statutes, 24-31-906, **amend**
22 (1) introductory portion and (3); and **add** (4) as follows:

23 **24-31-906. Retaliation against whistle-blower officers**
24 **prohibited.** (1) A peace officer's employer or the employer's agent shall
25 not discharge; discipline; demote; deny a promotion, transfer, or ~~reassign~~
26 REASSIGNMENT; discriminate against; harass; SUSPEND; ENFORCE
27 CORRECTIVE ACTION; REPRIMAND; ADMONISH; CREATE A BASELESS

1 UNSATISFACTORY OR BELOW-STANDARD PERFORMANCE EVALUATION;
2 IMPOSE A REDUCTION IN FORCE; WITHHOLD WORK; CHANGE WORK HOURS;
3 PROVIDE A BASELESS NEGATIVE REFERENCE; CREATE OR TOLERATE A
4 HOSTILE WORK ENVIRONMENT; or threaten a peace officer's employment
5 ANY DISCIPLINE OR PENALTY because the peace officer disclosed
6 information that shows:

7 (3) An employee or agent of a law enforcement agency that
8 knowingly or intentionally violates subsection (1) of this section shall be
9 disciplined appropriately by the law enforcement agency. THE PEACE
10 OFFICER WHO WAS SUBJECT TO THE RETALIATION MAY USE THE FACT THAT
11 THE PEACE OFFICER WAS SUBJECT TO RETALIATION IN ORDER TO APPEAL
12 OR REMEDIATE ANY DISCHARGE; DISCIPLINE; DEMOTION; DENIAL OF A
13 PROMOTION, TRANSFER, OR REASSIGNMENT; DISCRIMINATION AGAINST;
14 HARASSMENT; OR IMPOSITION OF A REQUIREMENT ON AN OFFICER THAT IS
15 NOT APPLICABLE TO SIMILARLY SITUATED OFFICERS IN THE AGENCY OR
16 THAT IS NOT BASED ON PERFORMANCE THE PEACE OFFICER WAS SUBJECT
17 TO.

18
19 (4) IF A LAW ENFORCEMENT AGENCY VIOLATES SUBSECTION (1) OF
20 THIS SECTION, THE VIOLATION CONSTITUTES DISCRIMINATION FOR
21 PURPOSES OF PART 3 OF ARTICLE 34 OF THIS TITLE 24.

22 **SECTION 5.** In Colorado Revised Statutes, **add** 24-31-907 and
23 24-31-908 as follows:

24 **24-31-907. Reports to the attorney general for noncompliance.**

25 (1) THE ATTORNEY GENERAL SHALL ACCEPT REPORTS OF
26 NONCOMPLIANCE WITH SECTION 24-31-303 (1)(r) AND SHALL INVESTIGATE
27 ALL REPORTS RECEIVED WITHIN AVAILABLE RESOURCES.

1 (2) THE ATTORNEY GENERAL SHALL NOTIFY ALL LAW
2 ENFORCEMENT AGENCIES AND PEACE OFFICERS IN THE STATE OF THE
3 ABILITY TO MAKE A REPORT TO THE ATTORNEY GENERAL PURSUANT TO
4 SUBSECTION (1) OF THIS SECTION ON AN ANNUAL BASIS.

5 **24-31-908. Retention of the law enforcement internal affairs**
6 **investigations.** (1) EACH LAW ENFORCEMENT AGENCY SHALL RETAIN ALL
7 REPORTS REGARDING ALLEGATIONS OF MISCONDUCT, CRIMINAL CONDUCT,
8 OR OTHER UNPROFESSIONAL CONDUCT AND ALL INVESTIGATION FILES,
9 NOTES, AND REPORTS RELATED TO THOSE REPORTS FOR AT LEAST TEN
10 YEARS AFTER THE DATE OF THE INITIAL REPORT OR THE LENGTH OF THE
11 PEACE OFFICER'S EMPLOYMENT, WHICHEVER IS LONGER.

12 (2) AN INVESTIGATING LAW ENFORCEMENT AGENCY SHALL
13 PROVIDE A COPY OF THE INVESTIGATION FILE TO THE SUBJECT OF AN
14 INVESTIGATION DESCRIBED IN SUBSECTION (1) OF THIS SECTION AFTER THE
15 INVESTIGATION IS COMPLETE.

16 **SECTION 6. Safety clause.** The general assembly finds,
17 determines, and declares that this act is necessary for the immediate
18 preservation of the public peace, health, or safety or for appropriations for
19 the support and maintenance of the departments of the state and state
20 institutions.