

CHAPTER 301

CRIMINAL LAW AND PROCEDURE

HOUSE BILL 94-1122

BY REPRESENTATIVES George, Foster, Acquafresca, Agler, Fleming, Hagedorn, Kaufman, Lawrence, Piffner, Pierson, Reeser, Rupert, Taylor, Epps, Grampsas, Nichol, and Snyder;
also SENATORS Bishop, Cassidy, Gallagher, Hopper, Martinez, and Peterson.

AN ACT**CONCERNING CRIME STOPPER ORGANIZATIONS.**

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

SECTION 1. Title 16, Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW ARTICLE to read:

ARTICLE 15.7
Crime Stopper Organizations

16-15.7-101. Legislative declaration. THE GENERAL ASSEMBLY FINDS THAT A SIGNIFICANT NUMBER OF CRIMINAL OFFENDERS REMAIN AT LARGE IN THIS STATE BECAUSE LAW ENFORCEMENT AGENCIES OFTEN LACK INFORMATION CONCERNING CRIMINAL ACTIVITY. IN MANY INSTANCES PRIVATE CITIZENS HAVE INFORMATION THAT, IF KNOWN TO LAW ENFORCEMENT AGENCIES, WOULD LEAD TO THE DETECTION AND APPREHENSION OF SUCH OFFENDERS. PRIVATE, NONPROFIT CRIME STOPPER ORGANIZATIONS THAT OFFER REWARDS FOR SUCH INFORMATION HAVE BEEN SUCCESSFUL AT ENCOURAGING SOME CITIZENS TO COME FORWARD; HOWEVER, EVEN WITH THE OFFER OF A REWARD, MANY CITIZENS DO NOT COME FORWARD BECAUSE THEY FEAR INVOLVEMENT AND SHUN PUBLICITY. IN ORDER TO REMEDY THIS SITUATION AND TO INCREASE THE EFFECTIVENESS OF CRIME STOPPER ORGANIZATIONS, THE GENERAL ASSEMBLY FINDS AND DECLARES THAT IT IS APPROPRIATE TO PROVIDE FOR THE ANONYMITY OF ANY PERSON WHO PROVIDES INFORMATION CONCERNING CRIMINAL ACTIVITY TO A CRIME STOPPER ORGANIZATION AND TO PROVIDE FOR THE CONFIDENTIALITY OF CRIME STOPPER ORGANIZATION RECORDS.

16-15.7-102. Definitions. AS USED IN THIS ARTICLE, UNLESS THE CONTEXT

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

OTHERWISE REQUIRES:

(1) "CRIME STOPPER ORGANIZATION" MEANS A PRIVATE, NONPROFIT ORGANIZATION:

(a) WHOSE PRIMARY PURPOSES ARE TO ACCEPT DONATIONS FOR THE PAYMENT OF REWARDS TO PERSONS WHO PROVIDE INFORMATION CONCERNING CRIMINAL ACTIVITY AND TO FORWARD SUCH INFORMATION TO APPROPRIATE LAW ENFORCEMENT AGENCIES;

(b) IS INCORPORATED PURSUANT TO THE PROVISIONS OF ARTICLES 20 TO 29 OF TITLE 7, C.R.S.;

(c) IS HELD TO BE TAX EXEMPT BY THE UNITED STATES INTERNAL REVENUE SERVICE; AND

(d) HAS COMPLIED WITH THE REQUIREMENTS OF SECTION 16-15.7-103.

16-15.7-103. Requirements for articles of incorporation of crime stopper organizations. (1) IN ADDITION TO ANY OTHER REQUIREMENTS FOR ARTICLES OF INCORPORATION IMPOSED BY ARTICLES 20 TO 29 OF TITLE 7, C.R.S., THE ARTICLES OF INCORPORATION FOR ANY CRIME STOPPER ORGANIZATION THAT ELECTS TO AVAIL ITSELF OF THE CONFIDENTIALITY PROVISIONS OF THIS ARTICLE SHALL PROVIDE THAT THE ORGANIZATION SHALL:

(a) ESTABLISH A METHOD TO ENSURE THAT THE IDENTITY OF ANY PERSON WHO PROVIDES INFORMATION CONCERNING CRIMINAL ACTIVITY TO THE ORGANIZATION REMAINS UNKNOWN TO ALL PERSONS AND ENTITIES, INCLUDING OFFICERS AND EMPLOYEES OF THE ORGANIZATION;

(b) ESTABLISH A METHOD TO ENSURE THAT IF THE IDENTITY OF ANY PERSON WHO PROVIDES INFORMATION BECOMES KNOWN TO THE CRIME STOPPER ORGANIZATION, WHETHER THROUGH VOLUNTARY DISCLOSURE OR BY ANY OTHER MEANS, SUCH IDENTITY IS NOT FURTHER DISCLOSED;

(c) ASSIST LAW ENFORCEMENT AGENCIES IN THE DETECTION OF CRIME AND APPREHENSION OF CRIMINAL OFFENDERS BY PROMPTLY FORWARDING INFORMATION RECEIVED CONCERNING CRIMINAL ACTS TO SUCH AGENCIES;

(d) FOSTER THE DETECTION OF CRIME AND ENCOURAGE CITIZENS TO REPORT INFORMATION ABOUT CRIMINAL ACTIVITY; AND

(e) ENCOURAGE NEWS AND OTHER MEDIA TO PROMOTE LOCAL CRIME STOPPER ORGANIZATIONS BY INFORMING THE PUBLIC OF THE FUNCTIONS AND BENEFITS OF THE ORGANIZATION.

16-15.7-104. In camera review - confidentiality - records and information - criminal penalty. (1) (a) A CRIME STOPPER ORGANIZATION MAY NOT BE COMPELLED TO PRODUCE RECORDS CONCERNING A REPORT OF CRIMINAL ACTIVITY BEFORE A COURT OR OTHER TRIBUNAL EXCEPT ON THE MOTION OF A CRIMINAL DEFENDANT TO THE COURT IN WHICH THE OFFENSE IS BEING TRIED THAT THE RECORDS OR REPORT

CONTAIN IMPEACHMENT EVIDENCE OR EVIDENCE THAT IS EXCULPATORY TO THE DEFENDANT IN THE TRIAL OF THAT OFFENSE.

(b) ON MOTION OF A DEFENDANT PURSUANT TO PARAGRAPH (a), THE COURT MAY SUBPOENA THE RECORDS OR REPORT. THE COURT SHALL CONDUCT AN EX PARTE IN CAMERA INSPECTION OF MATERIALS PRODUCED UNDER SUBPOENA TO DETERMINE WHETHER THE MATERIALS CONTAIN IMPEACHMENT EVIDENCE OR EVIDENCE THAT IS EXCULPATORY TO THE DEFENDANT.

(c) IF THE COURT DETERMINES THAT THE MATERIALS PRODUCED CONTAIN IMPEACHMENT EVIDENCE OR EVIDENCE THAT IS EXCULPATORY TO THE DEFENDANT, THE COURT SHALL PRESENT THE EVIDENCE TO THE DEFENDANT. IN THE EVENT THE MATERIALS CONTAIN INFORMATION WHICH WOULD IDENTIFY THE PERSON WHO WAS THE SOURCE OF THE EVIDENCE, THE COURT SHALL ENSURE THAT SUCH IDENTITY IS NOT DISCLOSED, UNLESS THE STATE OR FEDERAL CONSTITUTION REQUIRES THE DISCLOSURE OF THAT PERSON'S IDENTITY. THE COURT SHALL EXECUTE AN AFFIDAVIT ACCOMPANYING THE DISCLOSED MATERIALS SWEARING THAT, IN THE OPINION OF THE COURT, THE MATERIALS DISCLOSED REPRESENT THE IMPEACHMENT OR EXCULPATORY EVIDENCE THE DEFENDANT IS ENTITLED TO RECEIVE UNDER THIS SECTION.

(d) THE COURT SHALL RETURN TO THE CRIME STOPPERS ORGANIZATION ALL MATERIALS PRODUCED UNDER THIS SUBSECTION (1) WHICH ARE NOT DISCLOSED TO THE DEFENDANT. THE CRIME STOPPERS ORGANIZATION SHALL RETAIN SUCH MATERIALS UNTIL THE CONCLUSION OF THE CRIMINAL TRIAL AND THE EXPIRATION OF THE TIME FOR ALL DIRECT APPEALS IN THE CASE.

(2) (a) RECORDS AND INFORMATION OF A CRIME STOPPER ORGANIZATION CONCERNING CRIMINAL ACTS ARE CONFIDENTIAL AND NO PERSON SHALL DISCLOSE SUCH RECORDS OR INFORMATION. A CRIME STOPPER ORGANIZATION SHALL ONLY BE COMPELLED TO PRODUCE SUCH RECORDS OR INFORMATION BEFORE A COURT OR OTHER TRIBUNAL PURSUANT TO COURT ORDER FOR AN IN CAMERA REVIEW. ANY SUCH REVIEW SHALL BE LIMITED TO AN INSPECTION OF RECORDS AND INFORMATION WHICH ARE RELEVANT TO THE SPECIFIC CASE PENDING BEFORE THE COURT.

(b) ANY PERSON WHO KNOWINGLY OR INTENTIONALLY DISCLOSES CONFIDENTIAL RECORDS OR INFORMATION IN VIOLATION OF THE PROVISIONS OF THIS SUBSECTION (2) COMMITS A CLASS 1 MISDEMEANOR AND SHALL BE PUNISHED AS PROVIDED IN SECTION 18-1-106, C.R.S. ANY CRIMINAL PROSECUTION BROUGHT PURSUANT TO THE PROVISIONS OF THIS SUBSECTION (2) SHALL BE BROUGHT WITHIN FIVE YEARS AFTER THE DATE THE VIOLATION OCCURRED.

SECTION 2. Part 1 of article 11 of title 16, Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW SECTION to read:

16-11-101.7. Repayment of crime stopper reward - crime stopper reward reimbursement fund - created. (1) IN ADDITION TO ANY OTHER PENALTY AUTHORIZED BY LAW, AFTER A DEFENDANT HAS BEEN CONVICTED OF OR ENTERED A PLEA OF GUILTY OR NOLO CONTENDERE TO A FELONY OFFENSE, OR ENTERS INTO A PLEA BARGAIN AGREEMENT CONCERNING A FELONY OFFENSE WHICH IS REDUCED TO A MISDEMEANOR PURSUANT TO SUCH AGREEMENT, THE COURT MAY ORDER SUCH

DEFENDANT TO REPAY ALL OR PART OF ANY REWARD PAID BY A CRIME STOPPER ORGANIZATION THAT LED TO THE DEFENDANT'S ARREST AND CONVICTION. THE AMOUNT OF SUCH REPAYMENT MAY NOT EXCEED THE ACTUAL REWARD PAID BY ANY CRIME STOPPER ORGANIZATION AND SHALL BE USED SOLELY FOR PAYING REWARDS.

(2) (a) UPON AN ORDER TO REPAY ALL OR PART OF A CRIME STOPPER REWARD, THE COURT SHALL ASSESS SUCH REPAYMENT AGAINST THE DEFENDANT IN THE SAME MANNER AS OTHER COSTS OF PROSECUTION ARE ASSESSED AGAINST A DEFENDANT. THE COURT SHALL ORDER THE DEFENDANT TO:

(I) PAY THE ENTIRE AMOUNT WHEN SENTENCE IS PRONOUNCED; OR

(II) PAY THE ENTIRE AMOUNT ON SUCH LATER DATE AS MAY BE SPECIFIED BY THE COURT.

(b) ANY ORDER FOR THE REPAYMENT OF ALL OR PART OF A CRIME STOPPER REWARD SHALL BE PRIORITIZED IN ACCORDANCE WITH THE PROVISIONS OF SECTION 16-11-204 (2.5).

(3) ALL MONEYS COLLECTED BY THE COURT PURSUANT TO THIS SECTION, TOGETHER WITH TRANSMITTAL INFORMATION WHICH INCLUDES THE COURT'S DOCKET NUMBER, THE DEFENDANT'S NAME, AND THE CRIME STOPPER ORGANIZATION WHICH IS DESIGNATED TO RECEIVE THE REPAYMENT OF REWARD, SHALL BE PROMPTLY FORWARDED TO THE DIVISION OF CRIMINAL JUSTICE CREATED BY SECTION 24-33.5-502, C.R.S. UPON RECEIPT, THE DIVISION OF CRIMINAL JUSTICE SHALL PROMPTLY TRANSMIT THE MONEYS TO THE STATE TREASURER WHO SHALL DEPOSIT THEM IN THE CRIME STOPPER REWARD REIMBURSEMENT FUND WHICH IS HEREBY CREATED. MONEYS IN THE FUND SHALL BE CONTINUOUSLY APPROPRIATED TO THE DIVISION OF CRIMINAL JUSTICE FOR THE PURPOSES OF THIS SECTION. THE DISBURSEMENT OF ANY SUCH MONEYS TO THE DESIGNATED CRIME STOPPER ORGANIZATION SHALL BE MADE BY THE DIVISION OF CRIMINAL JUSTICE WITHIN THIRTY DAYS AFTER THE DATE OF DEPOSIT IN THE CRIME STOPPER REWARD REIMBURSEMENT FUND.

(4) AS USED IN THIS SECTION, "CRIME STOPPER ORGANIZATION" HAS THE SAME MEANING AS PROVIDED IN 16-15.7-102 (1).

SECTION 3. 16-11-204 (2), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

16-11-204. Conditions of probation. (2) When granting probation, the court may, as a condition of probation, require that the defendant:

(e.6) REPAY ALL OR PART OF ANY REWARD PAID BY A CRIME STOPPER ORGANIZATION THAT LED TO THE DEFENDANT'S ARREST AND CONVICTION IN ACCORDANCE WITH ARTICLE 15.7 OF THIS TITLE;

SECTION 4. 16-11-204 (2.5), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

(2.5) The order of priority for any payments required of a defendant pursuant to

paragraph (d), (e), ~~or~~ (e.5), OR (e.6) of subsection (2) of this section shall be as follows: Restitution or reparation, support of dependents and meeting other family responsibilities, including payment of a current child support order, child support arrearage, ~~or~~ child support debt order, OR SPOUSAL MAINTENANCE, costs of court proceedings or costs of supervision of probation, ~~and~~ any fines or fees imposed by a court, AND REPAYMENT OF ALL OR PART OF ANY REWARD PAID BY A CRIME STOPPER ORGANIZATION THAT LED TO THE DEFENDANT'S ARREST AND CONVICTION.

SECTION 5. Part 2 of article 11 of title 16, Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW SECTION to read:

16-11-204.6. Repayment of crime stopper reward as a condition of probation. (1) AS A CONDITION OF EVERY SENTENCE TO PROBATION WHERE INFORMATION RECEIVED THROUGH A CRIME STOPPER ORGANIZATION LED TO THE ARREST AND FELONY CONVICTION OF A DEFENDANT, THE COURT MAY REQUIRE SUCH DEFENDANT, AS A CONDITION OF PROBATION, TO REPAY ALL OR PART OF ANY REWARD PAID BY SUCH ORGANIZATION. THE AMOUNT OF SUCH REPAYMENT SHALL NOT EXCEED THE ACTUAL REWARD PAID BY ANY CRIME STOPPER ORGANIZATION AND SHALL BE USED SOLELY FOR PAYING REWARDS. THE COURT SHALL FIX THE MANNER AND TIME OF REPAYMENT.

(2) IN THE EVENT THE DEFENDANT FAILS TO REPAY THE CRIME STOPPER REWARD IN ACCORDANCE WITH AN ORDER OF THE COURT, THE DEFENDANT SHALL BE RETURNED TO THE SENTENCING COURT AND THE COURT, UPON PROOF OF FAILURE TO PAY, MAY:

- (a) MODIFY THE AMOUNT OF THE REPAYMENT;
- (b) EXTEND THE PERIOD OF PROBATION;
- (c) ORDER THE DEFENDANT COMMITTED TO JAIL WITH WORK RELEASE PRIVILEGES;
OR
- (d) REVOKE PROBATION AND IMPOSE THE SENTENCE OTHERWISE REQUIRED BY LAW.

(3) WHEN, AS A RESULT OF A PLEA BARGAIN AGREEMENT, A DEFENDANT IS ORDERED TO REPAY A REWARD PURSUANT TO SUBSECTION (1) OF THIS SECTION, THE DEPARTMENT OR AGENCY SUPERVISING THE COLLECTION OF SUCH REPAYMENT MAY ASSESS A CHARGE OF FIFTEEN DOLLARS TO THE DEFENDANT FOR COLLECTION OF EACH BAD CHECK OR EACH BAD CHECK RECEIVED AS A REPAYMENT.

(4) ANY ORDER FOR THE REPAYMENT OF ALL OR PART OF A CRIME STOPPER REWARD AS A CONDITION OF PROBATION SHALL BE PRIORITIZED IN ACCORDANCE WITH SECTION 16-11-204 (2.5).

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

- (a) "BAD CHECK" HAS THE SAME MEANING PROVIDED IN SECTION 16-11-204.5 (3).

(b) "CRIME STOPPER ORGANIZATION" HAS THE SAME MEANING PROVIDED IN SECTION 16-15.7-102 (1).

SECTION 6. 17-24-121 (5), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

17-24-121. Venture agreements. (5) The wages of an inmate working under an agreement entered into pursuant to this section with a private person shall be distributed under guidelines established by the executive director in order to offset the cost of imprisonment and incidental expenses, pay court ordered restitution, pay the pro-rata share of child support cost as established by the department of social services, REPAY ALL OR PART OF A CRIME STOPPER REWARD ORDERED PURSUANT TO PART I OF ARTICLE 15.7 OF TITLE 16, C.R.S., and establish a savings account to assist the inmate upon release and to offset state costs at the time of release.

SECTION 7. 24-33.5-503 (1), Colorado Revised Statutes, 1988 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

24-33.5-503. Duties of division. (1) The division has the following duties:

(n) TO CARRY OUT THE DUTIES PRESCRIBED IN SECTION 16-11-101.7 (3), C.R.S.

SECTION 8. Effective date - applicability. This act shall take effect upon passage and shall apply to offenses committed on or after said date.

SECTION 9. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: June 1, 1994