

CHAPTER 269

CRIMINAL LAW AND PROCEDURE

SENATE BILL 13-246

BY SENATOR(S) Lambert, Hodge, Steadman, Aguilar, Guzman, King;
also REPRESENTATIVE(S) Levy, Duran, Gerou, Labuda, Lee, Rosenthal, Salazar, Schafer.

AN ACT

CONCERNING CREATION OF A TASK FORCE TO STUDY DISCOVERY COSTS IN CRIMINAL CASES.

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

SECTION 1. In Colorado Revised Statutes, **add** part 7 to article 9 of title 16 as follows:

**PART 7
DISCOVERY TASK FORCE**

16-9-701. Discovery task force - repeal of part. (1) (a) THERE SHALL BE A DISCOVERY TASK FORCE CONVENED TO STUDY AND MAKE RECOMMENDATIONS REGARDING CRIMINAL DISCOVERY. THE TASK FORCE CONSISTS OF:

(I) THE ATTORNEY GENERAL OR HIS OR HER DESIGNEE, WHO SHALL SERVE AS THE CHAIR OF THE TASK FORCE;

(II) THE STATE COURT ADMINISTRATOR OR HIS OR HER DESIGNEE, WHO SHALL SERVE AS THE VICE-CHAIR OF THE TASK FORCE;

(III) THE STATE PUBLIC DEFENDER OR HIS OR HER DESIGNEE;

(IV) A REPRESENTATIVE OF THE CRIMINAL DEFENSE BAR APPOINTED BY THE CHIEF JUSTICE;

(V) THREE DISTRICT ATTORNEYS APPOINTED BY THE GOVERNOR, ONE REPRESENTING AN URBAN JUDICIAL DISTRICT, ONE REPRESENTING A MID-SIZED DISTRICT, AND ONE REPRESENTING A RURAL DISTRICT;

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

- (VI) A COUNTY SHERIFF APPOINTED BY THE GOVERNOR;
- (VII) THE ALTERNATE DEFENSE COUNSEL OR HIS OR HER DESIGNEE;
- (VIII) A CHIEF OF POLICE APPOINTED BY THE GOVERNOR; AND
- (IX) A DISTRICT COURT JUDGE APPOINTED BY THE CHIEF JUSTICE.

(b) THE TASK FORCE MUST ALSO HAVE A NON-VOTING MEMBER APPOINTED BY THE GOVERNOR FROM THE OFFICE OF INFORMATION TECHNOLOGY WHO SERVES AS A TECHNOLOGY ADVISOR TO ASSIST THE TASK FORCE.

(2) THE CHAIR OF THE DISCOVERY TASK FORCE SHALL CONVENE THE FIRST MEETING OF THE TASK FORCE BY JUNE 30, 2013, AND MUST MEET AT LEAST TWICE A MONTH THEREAFTER UNTIL IT COMPLETES ITS DUTIES AS LISTED IN SUBSECTION (3) OF THIS SECTION, OR UNTIL NOVEMBER 15, 2013, WHICHEVER IS EARLIER.

(3) THE DISCOVERY TASK FORCE MUST:

(a) DETERMINE WHICH DISTRICT ATTORNEY'S OFFICES OBTAIN ALL LAW ENFORCEMENT DISCOVERABLE EVIDENCE IN AN ELECTRONIC FORMAT, WHICH DISTRICT ATTORNEY'S OFFICES WILL SOON BE ABLE TO OBTAIN ALL LAW ENFORCEMENT DISCOVERABLE EVIDENCE IN AN ELECTRONIC FORMAT, AND WHICH DISTRICT ATTORNEY'S OFFICES WILL NOT HAVE THAT ABILITY AT ANY POINT IN THE FUTURE WITHOUT ASSISTANCE;

(b) DETERMINE THE BARRIERS FOR THOSE DISTRICT ATTORNEY'S OFFICES THAT WILL NEVER BE ABLE TO OBTAIN LAW ENFORCEMENT DISCOVERABLE EVIDENCE IN AN ELECTRONIC FORMAT WITHOUT ASSISTANCE;

(c) STUDY THE FEASIBILITY OF A SINGLE STATEWIDE CRIMINAL CASE MANAGEMENT SYSTEM OR OTHER TECHNOLOGY INSERTS TO FACILITATE ELECTRONIC DISCOVERY OR ELECTRONIC REDACTION;

(d) STUDY THE APPROPRIATENESS OF A STATEWIDE STANDARDIZED LAW ENFORCEMENT REPORTING FORM THAT IS EASILY REDACTABLE;

(e) RECOMMEND OR ADDRESS SHORT-TERM NEEDS FOR LAW ENFORCEMENT AND DISTRICT ATTORNEYS TO FACILITATE GREATER USE OF ELECTRONIC DISCOVERY;

(f) SUGGEST A DEFINITION FOR THE TERM "ACTUAL COSTS" FOR PURPOSES OF REIMBURSEMENT THAT ADEQUATELY AND FAIRLY REIMBURSES THE STATE'S DISTRICT ATTORNEYS FOR THE EXPENSES FOR WHICH THE DISTRICT ATTORNEY'S OFFICES ARE RESPONSIBLE RELATED TO THE DISCOVERY PROCESS;

(g) SUGGEST AN ALTERNATIVE FUNDING PROCESS TO REIMBURSE THE DISTRICT ATTORNEYS FOR APPROPRIATE DISCOVERY COSTS WITHOUT REQUIRING THE PUBLIC DEFENDER, ALTERNATE DEFENSE COUNSEL, OR ANY INDIGENT PRO SE DEFENDANT TO PAY FOR DISCOVERY;

(h) DETERMINE WHICH EXECUTIVE OR JUDICIAL BRANCH AGENCY IS BEST SITUATED TO SERVE AS THE CONDUIT FOR STATE REIMBURSEMENT TO THE DISTRICT ATTORNEYS AND THE ATTORNEY GENERAL FOR THE ACTUAL COSTS OF DISCOVERY; AND

(i) STUDY WHETHER THERE SHOULD BE A SEPARATE RATE THAT IS CHARGED TO NONINDIGENT DEFENDANTS COMPARED TO INDIGENT DEFENDANTS.

(4) (a) THE DISCOVERY TASK FORCE SHALL PROVIDE A PRELIMINARY REPORT TO THE JOINT BUDGET COMMITTEE BY NOVEMBER 1, 2013, IF THE FINAL REPORT IS NOT COMPLETED BY THEN.

(b) THE DISCOVERY TASK FORCE SHALL REPORT TO THE JOINT BUDGET COMMITTEE AND THE JUDICIARY COMMITTEES OF THE HOUSE OF REPRESENTATIVES AND THE SENATE, OR THEIR SUCCESSOR COMMITTEES, BY JANUARY 31, 2014. THE REPORT SHALL INCLUDE RECOMMENDATIONS FOR LEGISLATION, TECHNOLOGY INSERTS, AND NON-LEGISLATIVE PROCESSES THAT WOULD IMPROVE THE CRIMINAL DISCOVERY PROCESS.

(5) THIS PART 7 IS REPEALED, EFFECTIVE JULY 1, 2014.

SECTION 2. 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: May 24, 2013