

CHAPTER 241

GOVERNMENT - STATE

SENATE BILL 14-002

BY SENATOR(S) Carroll and Cadman, King, Guzman, Aguilar, Heath, Herpin, Hodge, Jahn, Johnston, Jones, Kefalas, Kerr, Lambert, Newell, Nicholson, Rivera, Roberts, Scheffel, Schwartz, Tochtrop, Todd, Ulibarri, Zenzinger; also REPRESENTATIVE(S) Ferrandino and DelGrosso, Stephens, Szabo, Kagan, Becker, Buckner, Court, Duran, Exum, Fields, Foote, Gerou, Hamner, Kraft-Tharp, Labuda, Lebsock, Lee, McLachlan, Melton, Moreno, Murray, Pabon, Pettersen, Priola, Rosenthal, Ryden, Salazar, Schafer, Singer, Vigil, Williams, Young.

AN ACT

CONCERNING TRANSFERRING THE SAFE2TELL PROGRAM TO THE DEPARTMENT OF LAW, AND, IN CONNECTION THEREWITH, MAKING AND REDUCING APPROPRIATIONS.

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

SECTION 1. In Colorado Revised Statutes, **repeal** article 15.8 of title 16.

SECTION 2. In Colorado Revised Statutes, **add** part 6 to article 31 of title 24 as follows:

PART 6
SAFE2TELL ACT

24-31-601. Short title. THIS PART 6 SHALL BE KNOWN AND MAYBE CITED AS THE "SAFE2TELL ACT".

24-31-602. Legislative declaration. (1) THE GENERAL ASSEMBLY HEREBY FINDS AND DECLARES THAT:

(a) THE PURPOSE OF THIS PART 6 IS TO EMPOWER STUDENTS AND THE COMMUNITY BY OFFERING A COMPREHENSIVE PROGRAM OF EDUCATION, AWARENESS, AND TRAINING AND A READILY ACCESSIBLE TOOL THAT ALLOWS STUDENTS AND THE COMMUNITY TO EASILY PROVIDE ANONYMOUS INFORMATION ABOUT UNSAFE, POTENTIALLY HARMFUL, DANGEROUS, VIOLENT, OR CRIMINAL ACTIVITIES IN SCHOOLS, OR THE THREAT OF THESE ACTIVITIES, TO APPROPRIATE LAW ENFORCEMENT AND PUBLIC SAFETY AGENCIES AND SCHOOL OFFICIALS; AND

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

(b) THE ABILITY TO ANONYMOUSLY REPORT INFORMATION ABOUT UNSAFE, POTENTIALLY HARMFUL, DANGEROUS, VIOLENT, OR CRIMINAL ACTIVITIES IN SCHOOLS BEFORE OR AFTER THEY HAVE OCCURRED IS CRITICAL IN REDUCING, RESPONDING TO, AND RECOVERING FROM THESE TYPES OF EVENTS IN SCHOOLS.

(2) THE GENERAL ASSEMBLY THEREFORE FINDS THAT IT IS APPROPRIATE AND NECESSARY TO PROVIDE FOR THE ANONYMITY OF A PERSON WHO PROVIDES INFORMATION TO LAW ENFORCEMENT AND PUBLIC SAFETY AGENCIES AND SCHOOL OFFICIALS AND TO PROVIDE FOR THE CONFIDENTIALITY OF ASSOCIATED MATERIALS.

24-31-603. Definitions. AS USED IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES;

(1) "DEPARTMENT" MEANS THE DEPARTMENT OF LAW.

(2) "IN CAMERA REVIEW" MEANS AN INSPECTION OF MATERIALS BY THE COURT, IN CHAMBERS, TO DETERMINE WHAT, IF ANY MATERIALS ARE DISCOVERABLE.

(3) "MATERIALS" MEANS ANY RECORDS, REPORTS, CLAIMS, WRITINGS, DOCUMENTS, OR INFORMATION ANONYMOUSLY REPORTED OR INFORMATION RELATED TO THE SOURCE OF MATERIALS.

(4) "PROGRAM" MEANS THE SAFE2TELL PROGRAM.

24-31-604. Administration of article. THE ATTORNEY GENERAL SHALL ADMINISTER THE PROVISIONS OF THIS PART 6.

24-31-605. Delegation of duties. THE POWERS AND DUTIES VESTED IN THE ATTORNEY GENERAL BY THIS PART 6 MAY BE DELEGATED TO QUALIFIED EMPLOYEES OF THE DEPARTMENT.

24-31-606. Safe2tell program - creation - duties. (1) THERE IS CREATED, WITHIN THE DEPARTMENT, THE SAFE2TELL PROGRAM.

(2) THE PROGRAM MUST:

(a) ESTABLISH AND MAINTAIN METHODS OF ANONYMOUS REPORTING CONCERNING UNSAFE, POTENTIALLY HARMFUL, DANGEROUS, VIOLENT, OR CRIMINAL ACTIVITIES IN SCHOOLS OR THE THREAT OF THOSE ACTIVITIES;

(b) ESTABLISH METHODS AND PROCEDURES TO ENSURE THAT THE IDENTITY OF THE REPORTING PARTIES REMAINS UNKNOWN TO ALL PERSONS AND ENTITIES, INCLUDING LAW ENFORCEMENT OFFICERS AND EMPLOYEES OPERATING THE PROGRAM;

(c) ESTABLISH METHODS AND PROCEDURES SO THAT INFORMATION OBTAINED FROM A REPORTING PARTY WHO VOLUNTARILY DISCLOSES HIS OR HER IDENTITY AND VERIFIES THAT HE OR SHE IS WILLING TO BE IDENTIFIED MAY BE SHARED WITH LAW ENFORCEMENT OFFICERS, EMPLOYEES OPERATING THE PROGRAM, AND WITH SCHOOL OFFICIALS;

(d) ESTABLISH METHODS AND PROCEDURES TO ENSURE THAT A REPORTING PARTY'S IDENTITY THAT BECOMES KNOWN THROUGH ANY MEANS OTHER THAN VOLUNTARY DISCLOSURE IS NOT FURTHER DISCLOSED;

(e) PROMPTLY FORWARD INFORMATION RECEIVED BY THE PROGRAM TO THE APPROPRIATE LAW ENFORCEMENT OR PUBLIC SAFETY AGENCY OR SCHOOL OFFICIALS;

(f) TRAIN LAW ENFORCEMENT DISPATCH CENTERS, SCHOOL DISTRICTS, INDIVIDUAL SCHOOLS, AND OTHER ENTITIES DETERMINED BY THE ATTORNEY GENERAL ON APPROPRIATE AWARENESS AND RESPONSE TO SAFE2TELL TIPS; AND

(g) PROVIDE SAFE2TELL AWARENESS AND EDUCATION MATERIALS TO PARTICIPATING SCHOOLS AND SCHOOL DISTRICTS.

24-31-607. In camera review - confidentiality of materials - criminal penalty.

(1)(a) THE SAFE2TELL PROGRAM AND PERSONS IMPLEMENTING AND OPERATING THE PROGRAM SHALL NOT BE COMPELLED TO PRODUCE ANY MATERIALS EXCEPT ON THE MOTION OF A CRIMINAL DEFENDANT TO THE COURT IN WHICH THE OFFENSE IS BEING TRIED, SUPPORTED BY AN AFFIDAVIT ESTABLISHING THAT THE MATERIALS CONTAIN IMPEACHMENT EVIDENCE OR EVIDENCE THAT IS EXCULPATORY TO THE DEFENDANT IN THE TRIAL OF THAT OFFENSE.

(b) IF THE DEFENDANT'S MOTION IS GRANTED, THE COURT SHALL CONDUCT AN EX PARTE IN CAMERA REVIEW OF MATERIALS PRODUCED UNDER THE DEFENDANT'S SUBPOENA.

(c) IF THE COURT DETERMINES THAT THE PRODUCED MATERIALS CONTAIN IMPEACHMENT EVIDENCE OR EVIDENCE THAT IS EXCULPATORY TO THE DEFENDANT, THE COURT SHALL ORDER THE MATERIALS TO BE PRODUCED TO THE DEFENDANT PURSUANT TO A PROTECTIVE ORDER THAT INCLUDES, AT A MINIMUM, THE REDACTION OF THE REPORTING PARTY'S IDENTITY AND LIMITATIONS ON THE USE OF THE MATERIALS, AS NEEDED, UNLESS CONTRARY TO STATE OR FEDERAL LAW. ANY MATERIALS EXCISED PURSUANT TO A JUDICIAL ORDER FOLLOWING THE IN CAMERA REVIEW SHALL BE SEALED AND PRESERVED IN THE RECORDS OF THE COURT, TO BE MADE AVAILABLE TO THE APPELLATE COURT IN THE EVENT OF AN APPEAL. AFTER THE TIME FOR APPEAL HAS EXPIRED, THE COURT SHALL RETURN THE MATERIALS TO THE PROGRAM.

(2)(a) MATERIALS CREATED OR OBTAINED THROUGH THE IMPLEMENTATION OR OPERATION OF THE PROGRAM ARE CONFIDENTIAL, AND A PERSON SHALL NOT DISCLOSE THE MATERIAL. THE PROGRAM AND PERSONS IMPLEMENTING OR OPERATING THE PROGRAM MAY BE COMPELLED TO PRODUCE THE MATERIALS ONLY BEFORE A COURT OR OTHER TRIBUNAL AND ONLY PURSUANT TO COURT ORDER FOR AN IN CAMERA REVIEW. ANY SUCH REVIEW SHALL BE LIMITED TO AN INSPECTION OF MATERIALS THAT ARE MATERIAL TO THE SPECIFIC CASE PENDING BEFORE THE COURT. THE ATTORNEY GENERAL ACTING ON BEHALF OF THE SAFE2TELL PROGRAM SHALL HAVE STANDING IN ANY ACTION TO OPPOSE THE DISCLOSURE OF MATERIALS IN THE CUSTODY OF THE SAFE2TELL PROGRAM.

(b) A PERSON WHO KNOWINGLY DISCLOSES MATERIALS IN VIOLATION OF THE PROVISIONS OF THIS SUBSECTION (2) COMMITS A CLASS 1 MISDEMEANOR.

24-31-608. Transfer of property. (1) ON JUNE 30, 2014, ALL ITEMS OF PROPERTY, REAL AND PERSONAL, INCLUDING OFFICE FURNITURE AND FIXTURES, BOOKS, DOCUMENTS, AND RECORDS OF SAFE2TELL, AS IT EXISTED PRIOR TO SAID DATE, MAY BE TRANSFERRED TO THE DEPARTMENT OF LAW AND BECOME THE PROPERTY THEREOF; EXCEPT THAT SAFE2TELL, INC., SHALL MAINTAIN OWNERSHIP OF ALL INTELLECTUAL PROPERTY, INCLUDING TRADEMARKS AND SERVICE MARKS, OWNED BY IT PRIOR TO SUCH DATE SUBJECT TO THE PROVISIONS OF SECTION 24-31-609.

(2) ON JUNE 30, 2014, ANY MONEYS HELD BY THE SAFE2TELL NONPROFIT MAY BE TRANSFERRED TO THE SAFE2TELL CASH FUND CREATED PURSUANT TO SECTION 24-31-607.

24-31-609. License of intellectual property. COMMENCING ON JUNE 30, 2014, ALL INTELLECTUAL PROPERTY OF SAFE2TELL, INC., INCLUDING TRADEMARKS AND SERVICE MARKS, IS LICENSED TO THE DEPARTMENT OF LAW ON A NONEXCLUSIVE, PERPETUAL, PAID-UP BASIS FOR USE BY THE DEPARTMENT OF LAW IN CONNECTION WITH THE PROGRAM, INCLUDING ALL TRADEMARKS OR SERVICE MARKS DEVELOPED BY SAFE2TELL, INC., AT ANY POINT IN THE FUTURE.

24-31-610. Safe2tell cash fund - creation. (1) THERE IS CREATED IN THE STATE TREASURY THE SAFE2TELL CASH FUND, REFERRED TO IN THIS SECTION AS THE "FUND". MONEYS IN THE FUND ARE SUBJECT TO ANNUAL APPROPRIATION. THE FUND CONSISTS OF:

(a) FEES CHARGED BY THE DEPARTMENT OF LAW TO COVER THE ACTUAL COSTS OF PRODUCING AND DISTRIBUTING MANUALS AND OTHER PUBLIC AWARENESS MATERIALS;

(b) ANY REVENUES RECEIVED PURSUANT TO 24-31-108 (1) (b) (I);

(c) ANY MONEYS HELD BY THE SAFE2TELL NONPROFIT AS OF JUNE 30, 2014, THAT ARE TRANSFERRED TO THE FUND PURSUANT TO SECTION 24-31-607 (2); AND

(d) ANY MONEYS THAT MAY BE APPROPRIATED BY THE GENERAL ASSEMBLY.

(2) ALL INTEREST DERIVED FROM THE DEPOSIT AND INVESTMENT OF MONEYS IN THE FUND ARE CREDITED TO THE FUND. AT THE END OF EACH FISCAL YEAR, ALL UNEXPENDED AND UNENCUMBERED MONEYS IN THE FUND REMAIN IN THE FUND AND SHALL NOT BE CREDITED OR TRANSFERRED TO THE GENERAL FUND OR ANY OTHER FUND.

SECTION 3. In Colorado Revised Statutes, amend 22-1-126 as follows:

22-1-126. Safe2tell program. As described in ~~section 16-15.8-103, C.R.S.~~, SECTION 24-31-606, C.R.S., there is established the safe2tell program with the primary purpose of providing students and the community with the means to relay information anonymously concerning unsafe, potentially harmful, dangerous, violent, or criminal activities, or the threat of these activities, to appropriate law enforcement and public safety agencies and school officials.

SECTION 4. In Colorado Revised Statutes, 22-32-109.1, **amend** (1) (b.5) as follows:

22-32-109.1. Board of education - specific powers and duties - safe school plan - conduct and discipline code - safe school reporting requirements - school response framework - school resource officers - definitions. (1) **Definitions.** As used in this section, unless the context otherwise requires:

(b.5) "Community partners" means, collectively, local fire departments, state and local law enforcement agencies, local 911 agencies, interoperable communications providers, the safe2tell program described in ~~section 16-15.8-103, C.R.S.~~, SECTION 24-31-606, C.R.S., local emergency medical service personnel, local mental health organizations, local public health agencies, local emergency management personnel, local or regional homeland security personnel, and school resource officers.

SECTION 5. In Colorado Revised Statutes, 24-72-204, **amend** (2) (e) as follows:

24-72-204. Allowance or denial of inspection - grounds - procedure - appeal - definitions. (2) (e) Notwithstanding any provision to the contrary in subparagraph (I) of paragraph (a) of this subsection (2), the custodian shall deny the right of inspection of any materials received, made, or kept by the safe2tell program, as described in ~~section 16-15.8-103, C.R.S.~~, that are confidential pursuant to ~~section 16-15.8-104, C.R.S.~~ SECTION 24-31-606.

SECTION 6. Appropriation - adjustments to 2014 long bill. (1) For the implementation of this act, the general fund appropriation made in the annual general appropriation act to the controlled maintenance trust fund created in section 24-75-302.5 (2) (a), Colorado Revised Statutes, for the fiscal year beginning July 1, 2014, is decreased by \$266,952.

(2) In addition to any other appropriation, there is hereby appropriated, out of any moneys in the general fund, not otherwise appropriated, to the department of law, for the fiscal year beginning July 1, 2014, the sum of \$266,952 and 2.5 FTE, or so much thereof as may be necessary, to be allocated to the safe2tell program for the implementation of this act as follows:

(a) \$144,231 and 2.5 FTE for personal services;

(b) \$71,427 for operating expenses and other costs;

(c) \$2,618 for fleet vehicle management; and

(d) \$48,676 for dispatch services and text message tip reporting provided by the department of public safety.

(3) In addition to any other appropriation, there is hereby appropriated to the department of personnel, the sum of \$2,618, or so much thereof as may be necessary, for allocation to the fleet management program, for vehicle replacement lease/purchase costs related to the implementation of this act. Said sum is from reappropriated funds received from the department of law out of the appropriation

made in paragraph (c) of subsection (1) of this section.

(4) In addition to any other appropriation, there is hereby appropriated to the department of public safety, the sum of \$48,676 and 0.5 FTE, or so much thereof as may be necessary, for allocation to the Colorado state patrol communications program, for dispatch services and text message tip reporting related to the implementation of this act. Said sum is from reappropriated funds received from the department of law out of the appropriation made in paragraph (d) of subsection (1) of this section.

(5) In addition to any other appropriation, there is hereby appropriated, out of any moneys in the safe2tell cash fund created in section 24-31-610 (1), Colorado Revised Statutes, not otherwise appropriated, to the department of law, for the fiscal year beginning July 1, 2014, the sum of \$15,000, or so much thereof as may be necessary, for allocation to the safe2tell program for the implementation of this act.

SECTION 7. Act subject to petition - effective date. This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly (August 6, 2014, if adjournment sine die is on May 7, 2014); except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2014 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

Approved: May 21, 2014