

HOUSE COMMITTEE OF REFERENCE AMENDMENT
Committee on Judiciary.

HB19-1119 be amended as follows:

1 Amend printed bill, strike everything below the enacting clause and
2 substitute:

3 **"SECTION 1.** In Colorado Revised Statutes, 24-72-303, **add (4)**
4 as follows:

5 **24-72-303. Records of official actions required - open to**
6 **inspection - applicability.** (4) (a) UPON COMPLETION OF AN INTERNAL
7 INVESTIGATION, INCLUDING ANY APPEALS PROCESS, THAT EXAMINES THE
8 IN-UNIFORM OR ON-DUTY CONDUCT OF A PEACE OFFICER, AS DESCRIBED IN
9 PART 1 OF ARTICLE 2.5 OF TITLE 16, RELATED TO A SPECIFIC, IDENTIFIABLE
10 INCIDENT OF ALLEGED MISCONDUCT INVOLVING A MEMBER OF THE PUBLIC,
11 THE ENTIRE INVESTIGATION FILE, INCLUDING THE WITNESS INTERVIEWS,
12 VIDEO AND AUDIO RECORDINGS, TRANSCRIPTS, DOCUMENTARY EVIDENCE,
13 INVESTIGATIVE NOTES, AND FINAL DEPARTMENTAL DECISION IS OPEN FOR
14 PUBLIC INSPECTION UPON REQUEST; EXCEPT THAT THE CUSTODIAN MAY
15 FIRST PROVIDE THE REQUESTER WITH A SUMMARY OF THE INVESTIGATION
16 FILE AND IF, AFTER REVIEWING THE SUMMARY, THE REQUESTER REQUESTS
17 ACCESS TO THE INVESTIGATION FILE, THE CUSTODIAN SHALL PROVIDE
18 ACCESS TO THE ENTIRE INVESTIGATION FILE SUBJECT TO THE PROVISIONS
19 OF SUBSECTIONS (4)(b), (4)(c), AND (4)(d) OF THIS SECTION.

20 (b) PRIOR TO PROVIDING ACCESS TO THE INTERNAL INVESTIGATION
21 FILE PURSUANT TO SUBSECTION (4)(a) OF THIS SECTION, THE CUSTODIAN
22 SHALL REDACT OR REMOVE THE FOLLOWING INFORMATION FROM THE
23 DISCLOSED RECORDS:

24 (I) ANY PERSONAL IDENTIFYING INFORMATION AS DEFINED BY
25 SECTION 6-1-713 (2)(b);

26 (II) ANY IDENTIFYING OR CONTACT INFORMATION RELATED TO
27 CONFIDENTIAL INFORMANTS, WITNESSES, OR VICTIMS;

28 (III) THE HOME ADDRESS, PERSONAL PHONE NUMBER, AND
29 PERSONAL E-MAIL ADDRESS OF A PEACE OFFICER;

30 (IV) ANY INFORMATION PROHIBITED FOR PUBLIC RELEASE BY
31 STATE OR FEDERAL LAW; EXCEPT THAT INTERNAL INVESTIGATION
32 RECORDS EXAMINING IN-UNIFORM OR ON-DUTY CONDUCT OF A PEACE
33 OFFICER DURING AN ALLEGED INCIDENT OF OFFICE MISCONDUCT WHILE
34 INTERACTING WITH A MEMBER OF THE PUBLIC DOES NOT FALL WITHIN THE
35 DEFINITION OF "PERSONNEL FILES" IN SECTION 24-72-202 (4.5);

36 (V) ANY MEDICAL OR MENTAL HEALTH INFORMATION;

37 (VI) ANY IDENTIFYING INFORMATION RELATED TO A JUVENILE;

38 AND

39 (VII) ANY NONFINAL DISCIPLINARY RECOMMENDATIONS.

40 (c) (I) IN ADDITION TO THE INFORMATION REQUIRED TO BE
41 REDACTED PURSUANT TO SUBSECTION (4)(b) OF THIS SECTION, PRIOR TO

1 PROVIDING ACCESS TO THE INTERNAL INVESTIGATION FILE PURSUANT TO
2 SUBSECTION (4)(a) OF THIS SECTION, THE CUSTODIAN MAY ALSO REDACT
3 ONLY THE FOLLOWING FROM DISCLOSED RECORDS:

4 (A) ANY COMPELLED STATEMENTS MADE BY PEACE OFFICERS WHO
5 ARE THE SUBJECT OF A CRIMINAL INVESTIGATION OR A FILED CRIMINAL
6 CASE DIRECTLY RELATED TO CONDUCT UNDERLYING THE INTERNAL
7 INVESTIGATION;

8 (B) ANY VIDEO INTERVIEWS IF AN OFFICIAL TRANSCRIPT OF THE
9 INTERVIEW IS PRODUCED, UNLESS, AFTER RECEIVING THE TRANSCRIPT, THE
10 REQUESTER REQUESTS THE VIDEO;

11 (C) ANY VIDEO OR PHOTOGRAPH THAT RAISES SUBSTANTIAL
12 PRIVACY CONCERN FOR CRIMINAL DEFENDANTS, VICTIMS, WITNESSES, OR
13 INFORMANTS, INCLUDING VIDEO REFLECTING NUDITY, A MEDICAL
14 EMERGENCY, A MENTAL HEALTH CRISIS, A VICTIM INTERVIEW, OR THE
15 INTERIOR OF A HOME OR TREATMENT FACILITY. WHENEVER POSSIBLE, THE
16 VIDEO SHOULD BE REDACTED OR BLURRED TO PROTECT THE PRIVACY
17 INTEREST WHILE STILL ALLOWING PUBLIC RELEASE.

18 (D) THE IDENTITY OF OFFICERS WHO VOLUNTEERED INFORMATION
19 RELATED TO THE INTERNAL INVESTIGATION BUT WHO ARE NOT A SUBJECT
20 OF THE INTERNAL INVESTIGATION; AND

21 (E) SPECIFIC INFORMATION THAT WOULD REVEAL CONFIDENTIAL
22 INTELLIGENCE INFORMATION, CONFIDENTIAL SECURITY PROCEDURES OF A
23 LAW ENFORCEMENT AGENCY OR THAT, IF DISCLOSED, WOULD COMPROMISE
24 THE SAFETY OF A PEACE OFFICER, WITNESS, OR INFORMANT. HOWEVER,
25 NOTHING IN THIS SUBSECTION (4)(c)(I)(E) JUSTIFIES OR PERMITS THE
26 REDACTION OR WITHHOLDING OF INFORMATION DESCRIBING OR DEPICTING
27 USE OF FORCE BY A PEACE OFFICER ON A MEMBER OF THE PUBLIC.

28 (II) IF A RECORD CONTAINS INFORMATION REDACTED PURSUANT
29 TO THIS SUBSECTION (4)(c), THE APPLICANT MAY REQUEST A WRITTEN
30 EXPLANATION OF THE REASONS FOR THE REDACTION.

31 (d) A WITNESS, VICTIM, OR CRIMINAL DEFENDANT MAY WAIVE IN
32 WRITING THE INDIVIDUAL PRIVACY INTEREST THAT MAY BE IMPLICATED BY
33 PUBLIC RELEASE. UPON RECEIPT OF SUCH A WRITTEN WAIVER,
34 ACCCOMPANIED BY A REQUEST FOR RELEASE OF THE RECORDS, THE
35 CUSTODIAN SHALL NOT REDACT, REMOVE, OR WITHHOLD RECORDS TO
36 PROTECT THE WAIVED PRIVACY INTEREST.

37 (e) NOTWITHSTANDING THE PROVISIONS OF SUBSECTION (4)(a) OF
38 THIS SECTION, THE CUSTODIAN OF AN INTERNAL INVESTIGATION FILE AS
39 DESCRIBED IN SUBSECTION (4)(a) OF THIS SECTION MAY DENY INSPECTION
40 OF THE FILE IF THERE IS AN ONGOING CRIMINAL INVESTIGATION OR
41 CRIMINAL CASE AGAINST A PEACE OFFICER RELATED TO THE SUBJECT OF
42 THE INTERNAL INVESTIGATION. THE INVESTIGATION FILE MUST BE OPEN
43 FOR PUBLIC INSPECTION UPON THE DISMISSAL OF ALL CHARGES OR UPON

1 A SENTENCE FOR A CONVICTION.

2 (f) ANY PERSON WHO HAS BEEN DENIED ACCESS TO ANY
3 INFORMATION IN A COMPLETED INTERNAL AFFAIRS INVESTIGATION FILE
4 MAY FILE AN APPLICATION IN THE DISTRICT COURT IN THE COUNTY WHERE
5 THE RECORDS ARE LOCATED FOR AN ORDER DIRECTING THE CUSTODIAN
6 THEREOF TO SHOW CAUSE WHY THE WITHHELD OR REDACTED
7 INFORMATION SHOULD NOT BE MADE AVAILABLE TO THE APPLICANT. THE
8 COURT SHALL SET THE HEARING ON THE ORDER TO SHOW CAUSE AT THE
9 EARLIEST PRACTICAL TIME. IF THE COURT DETERMINES, BASED ON ITS
10 INDEPENDENT JUDGMENT, APPLYING DE NOVO REVIEW, THAT ANY PORTION
11 OR PORTIONS OF THE COMPLETED INTERNAL AFFAIRS INVESTIGATION FILE
12 WERE IMPROPERLY WITHHELD PURSUANT TO THIS SECTION, THE COURT
13 SHALL ORDER THE CUSTODIAN TO PROVIDE THE APPLICANT WITH A COPY
14 OF THOSE PORTIONS THAT WERE IMPROPERLY WITHHELD.

15 (g) NOTWITHSTANDING THE PROVISIONS OF SUBSECTIONS (4)(a)
16 AND (4)(e) OF THIS SECTION, THE CUSTODIAN OF AN INTERNAL
17 INVESTIGATION FILE AS DESCRIBED IN SUBSECTION (4)(a) OF THIS SECTION
18 MAY DENY INSPECTION OF THE FILE IF THE INSPECTION IS PROHIBITED BY
19 RULES PROMULGATED BY THE COLORADO SUPREME COURT OR BY A COURT
20 ORDER.

21 (h) THIS SUBSECTION (4) APPLIES TO INTERNAL INVESTIGATIONS
22 INITIATED AFTER THE EFFECTIVE DATE OF THIS SUBSECTION (4).

23 **SECTION 2.** In Colorado Revised Statutes, 24-72-305, **amend**
24 (5) as follows:

25 **24-72-305. Allowance or denial of inspection - grounds -**
26 **procedure - appeal.** (5) On the ground that disclosure would be contrary
27 to the public interest, and unless otherwise provided by law, INCLUDING
28 AS REQUIRED BY SECTION 24-72-303 (4), the custodian may deny access
29 to records of investigations conducted by or of intelligence information
30 or security procedures of any sheriff, district attorney, or police
31 department or any criminal justice investigatory files compiled for any
32 other law enforcement purpose.

33 **SECTION 3. Safety clause.** The general assembly hereby finds,
34 determines, and declares that this act is necessary for the immediate
35 preservation of the public peace, health, and safety.".

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