

SENATE COMMITTEE OF REFERENCE AMENDMENT

Committee on State, Veterans, & Military Affairs.

SB26-190 be amended as follows:

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

3 **"SECTION 1. Legislative declaration.** (1) The general
4 assembly finds and declares that:

5 (a) A peace officer's use of force that results in death requires
6 heightened transparency to maintain public trust;

7 (b) Colorado law requires a multi-agency investigation of a peace
8 officer's use of force that results in death or a peace officer's discharge of
9 a firearm that results in injury or death; and

10 (c) The family of a person who dies because of a peace officer's
11 use of force has a compelling interest in timely access to information
12 about the incident.

13 **SECTION 2.** In Colorado Revised Statutes, 24-31-901, **add** (2.8),
14 (5.5), (6.4), and (6.6) as follows:

15 **24-31-901. Definitions.**

16 As used in this part 9, unless the context otherwise requires:

17 (2.8) "LAWFUL REPRESENTATIVE" HAS THE MEANING SET FORTH
18 IN SECTION 24-4.1-302.

19 (5.5) "SIGNIFICANT OTHER" HAS THE MEANING SET FORTH IN
20 SECTION 24-4.1-302.

21 (6.4) "VICTIM" HAS THE MEANING SET FORTH IN SECTION
22 24-4.1-302.

23 (6.6) "VICTIM'S IMMEDIATE FAMILY" HAS THE MEANING SET FORTH
24 IN SECTION 24-4.1-302.

25 **SECTION 3.** In Colorado Revised Statutes, 24-31-902, **amend**
26 (2)(a) and (2)(b)(I) as follows:

27 **24-31-902. Incident recordings - release - tampering - fine.**

28 (2) (a) (I) For all incidents in which there is a complaint of peace
29 officer misconduct ~~by another peace officer, a civilian, or nonprofit~~
30 ~~organization, through notice to~~ THAT DOES NOT RESULT IN A VICTIM'S
31 DEATH, the law enforcement agency ~~involved in the alleged misconduct,~~
32 ~~the local law enforcement agency or the Colorado state patrol~~ THAT
33 EMPLOYS THE PEACE OFFICER shall release, upon request OF ANY PERSON,
34 all unedited video and audio recordings of the incident, including those
35 from body-worn cameras, dash cameras, or otherwise collected through
36 investigation, to the public within twenty-one days after ~~the local law~~
37 ~~enforcement agency or the Colorado state patrol received the request for~~
38 ~~release of the video or audio recordings~~ THE REQUEST.

39 (II) FOR ALL INCIDENTS IN WHICH THE USE OF FORCE THAT
40 RESULTS IN A VICTIM'S DEATH, THE LAW ENFORCEMENT AGENCY THAT

1 EMPLOYS THE PEACE OFFICER SHALL RELEASE, UPON REQUEST OF ANY
2 PERSON, ALL UNEDITED VIDEO AND AUDIO RECORDINGS OF THE INCIDENT,
3 INCLUDING THOSE FROM BODY-WORN CAMERAS, DASH CAMERAS, OR
4 OTHERWISE COLLECTED THROUGH INVESTIGATION, FOLLOWING THE
5 EXPIRATION OF THE TWENTY-ONE-DAY PERIOD DESCRIBED IN SUBSECTION
6 (2)(b)(I) OF THIS SECTION.

7 (III) AFTER THE COMPLETION OF THE INVESTIGATION OF THE USE
8 OF FORCE BY A PEACE OFFICER THAT RESULTS IN A VICTIM'S DEATH BY THE
9 MULTI-AGENCY TEAM DESCRIBED IN SECTION 16-2.5-302, THE MEMBERS
10 OF THE VICTIM'S IMMEDIATE FAMILY WHO RECEIVED VIDEO AND AUDIO
11 RECORDINGS OF THE INCIDENT PURSUANT TO SUBSECTION (2)(a)(II) OF
12 THIS SECTION, OR THE MEMBERS' DESIGNEE, MAY REQUEST AT NO COST
13 THE UNREDACTED, UNBLURRED, AND UNCENSORED VIDEO AND AUDIO
14 RECORDING. UPON REQUEST, THE LAW ENFORCEMENT AGENCY THAT
15 EMPLOYS THE PEACE OFFICER SHALL PROVIDE THE UNREDACTED,
16 UNBLURRED, AND UNCENSORED VIDEO AND AUDIO RECORDING TO THE
17 REQUESTING FAMILY MEMBER WITHIN TWENTY-ONE DAYS AFTER THE
18 REQUEST. NOTWITHSTANDING THE REQUIREMENT IN THIS SUBSECTION
19 (2)(a)(III) TO PROVIDE UNREDACTED, UNBLURRED, AND UNCENSORED
20 VIDEO AND AUDIO RECORDING, THE PROVIDING LAW ENFORCEMENT
21 AGENCY SHALL, AS REQUIRED IN SUBSECTION (2)(b)(II)(A) OF THIS
22 SECTION, BLUR THE RECORDING TO PROTECT SUBSTANTIAL PRIVACY
23 INTERESTS.

24 (b) (I) FOR ALL INCIDENTS IN WHICH THE USE OF FORCE BY A PEACE
25 OFFICER RESULTS IN A VICTIM'S DEATH, THE LAW ENFORCEMENT AGENCY
26 THAT EMPLOYS THE PEACE OFFICER SHALL MAKE REASONABLE EFFORTS TO
27 IDENTIFY THE VICTIM'S IMMEDIATE FAMILY AND PROVIDE all video and
28 audio recordings depicting a THE VICTIM'S death ~~must be provided upon~~
29 ~~request to the victim's spouse, parent, legal guardian, child, sibling,~~
30 ~~grandparent, grandchild, significant other, or other lawful representative,~~
31 ~~and such~~ TO EACH IDENTIFIED MEMBER OF THE VICTIM'S IMMEDIATE
32 FAMILY, UNLESS THE MEMBER DECLINES, WITHIN TWENTY-ONE DAYS
33 AFTER THE INCIDENT. THE person shall be notified of ~~his or her~~ THEIR
34 right, pursuant to section 24-4.1-302.5 (1)(j.8), to receive and review the
35 recording at least seventy-two hours prior to A public disclosure MADE
36 PURSUANT TO SUBSECTION (2)(a)(I) OF THIS SECTION. ~~A person seventeen~~
37 ~~years of age and under is considered incapacitated, unless legally~~
38 ~~emancipated.~~

39 **SECTION 4.** In Colorado Revised Statutes, **repeal and reenact,**
40 **with amendments,** part 3 of article 2.5 of title 16 as follows:

41 PART 3
42 PEACE OFFICER USE OF FORCE
43 INVESTIGATIONS AND PROCEDURES

1 **16-2.5-301. Definitions.**

2 AS USED IN THIS PART 3, UNLESS THE CONTEXT OTHERWISE
3 REQUIRES:

4 (1) "VICTIM" HAS THE MEANING SET FORTH IN SECTION 24-4.1-302.

5 (2) "VICTIM'S IMMEDIATE FAMILY" HAS THE MEANING SET FORTH
6 IN SECTION 24-4.1-302.

7 **16-3.5-302. Peace officer actions leading to injury or death**
8 **investigations - protocol - notification to victim's immediate family.**

9 (1) (a) EACH POLICE DEPARTMENT, SHERIFF'S OFFICE, AND
10 DISTRICT ATTORNEY WITHIN THE STATE SHALL MAINTAIN PROTOCOLS FOR
11 PARTICIPATING IN A MULTI-AGENCY TEAM, WHICH MUST INCLUDE AT
12 LEAST ONE OTHER POLICE DEPARTMENT OR SHERIFF'S OFFICE, OR THE
13 COLORADO BUREAU OF INVESTIGATION, IN CONDUCTING ANY
14 INVESTIGATION, EVALUATION, OR REVIEW OF AN INCIDENT INVOLVING THE
15 DISCHARGE OF A FIREARM BY A PEACE OFFICER THAT RESULTED IN INJURY
16 OR DEATH, OR OTHER USE OF FORCE BY A PEACE OFFICER THAT RESULTED
17 IN DEATH. THE LAW ENFORCEMENT AGENCIES PARTICIPATING NEED NOT
18 BE FROM THE SAME JUDICIAL DISTRICT.

19 (b) EACH LAW ENFORCEMENT AGENCY SHALL POST THE PROTOCOL
20 ON ITS WEBSITE OR, IF IT DOES NOT HAVE A WEBSITE, MAKE IT PUBLICLY
21 AVAILABLE UPON REQUEST.

22 (2) WITHIN TWENTY-FOUR HOURS AFTER AN INCIDENT OF A PEACE
23 OFFICER'S USE OF FORCE THAT RESULTS IN DEATH, THE LAW ENFORCEMENT
24 AGENCY THAT EMPLOYS THE PEACE OFFICER SHALL NOTIFY ANY PERSON
25 IN THE VICTIM'S IMMEDIATE FAMILY KNOWN TO THE EMPLOYING LAW
26 ENFORCEMENT AGENCY OF:

27 (a) THE NAMES OF ALL LAW ENFORCEMENT AGENCIES THAT
28 COMPRISE THE MULTI-AGENCY TEAM DESCRIBED IN SUBSECTION (1) OF
29 THIS SECTION THAT IS INVESTIGATING THE USE OF FORCE; AND

30 (b) THE STATUS OF THE INVESTIGATION.

31 **16-2.5-303. Extrajudicial statement concerning use of force.**

32 (1) AN ATTORNEY OR PEACE OFFICER WHO IS PARTICIPATING OR
33 HAS PARTICIPATED IN THE INVESTIGATION OR LITIGATION OF A CRIMINAL
34 MATTER INVOLVING THE USE OF FORCE BY A PEACE OFFICER THAT RESULTS
35 IN A VICTIM'S DEATH SHALL NOT MAKE AN EXTRAJUDICIAL STATEMENT
36 THAT THE ATTORNEY OR PEACE OFFICER KNOWS OR REASONABLY SHOULD
37 KNOW WILL BE DISSEMINATED BY MEANS OF PUBLIC COMMUNICATION AND
38 WILL HAVE A SUBSTANTIAL LIKELIHOOD OF MATERIALLY PREJUDICING AN
39 ADJUDICATIVE PROCEEDING IN THE MATTER; EXCEPT THAT AN ATTORNEY
40 OR PEACE OFFICER MAY STATE:

41 (a) THE CLAIM, OFFENSE, OR DEFENSE INVOLVED AND, EXCEPT
42 WHEN PROHIBITED BY LAW, THE IDENTITY OF THE PERSONS INVOLVED;

43 (b) INFORMATION CONTAINED IN A PUBLIC RECORD;

- 1 (c) THAT AN INVESTIGATION OF A MATTER IS IN PROGRESS;
2 (d) THE SCHEDULING OR RESULT OF ANY STEP IN THE
3 INVESTIGATION OR LITIGATION;
4 (e) A REQUEST FOR ASSISTANCE IN OBTAINING EVIDENCE AND
5 INFORMATION NECESSARY THERETO;
6 (f) A WARNING OF DANGER CONCERNING THE BEHAVIOR OF A
7 PERSON INVOLVED WHEN THERE IS REASON TO BELIEVE THAT THE
8 LIKELIHOOD OF SUBSTANTIAL HARM TO AN INDIVIDUAL OR TO THE PUBLIC
9 EXISTS;
10 (g) THE IDENTITY, RESIDENCE, OCCUPATION, AND FAMILY STATUS
11 OF THE ACCUSED;
12 (h) WHETHER THE ACCUSED PERSON HAS BEEN APPREHENDED AND,
13 IF NOT, INFORMATION NECESSARY TO AID IN THE APPREHENSION OF THE
14 PERSON;
15 (i) THE FACT, TIME, AND PLACE OF ARREST;
16 (j) THE IDENTITY OF THE INVESTIGATING AND ARRESTING PEACE
17 OFFICERS OR AGENCIES AND THE LENGTH OF THE INVESTIGATION; AND
18 (k) INFORMATION THAT A REASONABLE ATTORNEY WOULD
19 BELIEVE IS REQUIRED TO PROTECT A CLIENT FROM THE SUBSTANTIAL
20 UNDUE PREJUDICIAL EFFECT OF RECENT PUBLICITY THAT WAS NOT
21 INITIATED BY THE ATTORNEY OR THE ATTORNEY'S CLIENT. A STATEMENT
22 MADE PURSUANT TO THIS SUBSECTION (1)(k) MUST BE LIMITED TO
23 INFORMATION NECESSARY TO MITIGATE THE RECENT ADVERSE PUBLICITY.
24 (2) THE PROHIBITION IN SUBSECTION (1) OF THIS SECTION APPLIES
25 TO AN ATTORNEY ASSOCIATED IN A LAW FIRM WITH, OR AN ATTORNEY OR
26 A PEACE OFFICER EMPLOYED BY THE SAME GOVERNMENTAL AGENCY AS,
27 AN ATTORNEY OR PEACE OFFICER SUBJECT TO SUBSECTION (1) OF THIS
28 SECTION.

29 **SECTION 5.** In Colorado Revised Statutes, 24-4.1-302.5, **amend**
30 (1)(j.8) as follows:

31 **24-4.1-302.5. Rights afforded to victims - definitions.**

32 (1) In order to preserve and protect a victim's rights to justice and
33 due process, each victim of a crime has the following rights:

34 (j.8) The right ~~upon request~~, to obtain any incident recording as
35 described in section 24-31-902;

36 **SECTION 6.** In Colorado Revised Statutes, 20-1-114, **amend** (1)
37 as follows:

38 **20-1-114. Peace officer-involved shooting investigations -**
39 **disclosure.**

40 (1) The district attorney shall, if no criminal charges are filed
41 following the completion of an investigation pursuant to ~~section~~
42 ~~16-2.5-301, C.R.S.~~, SECTION 16-2.5-302, release a report and publicly
43 disclose the report explaining the district attorney's findings, including the

1 basis for the decision not to charge the officer with any criminal conduct.
2 The district attorney shall post the written report on its website or, if it
3 does not have a website, make it publicly available upon request.

4 **SECTION 7. Safety clause.** The general assembly finds,
5 determines, and declares that this act is necessary for the immediate
6 preservation of the public peace, health, or safety or for appropriations for
7 the support and maintenance of the departments of the state and state
8 institutions."

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