

**Second Regular Session
Seventy-fifth General Assembly
STATE OF COLORADO**

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 26-0953.03 Conrad Imel x2313

SENATE BILL 26-190

SENATE SPONSORSHIP

Coleman and Weissman,

HOUSE SPONSORSHIP

Bacon and English,

Senate Committees

State, Veterans, & Military Affairs

House Committees

A BILL FOR AN ACT

101 **CONCERNING RELEASING INFORMATION RELATED TO INCIDENTS**
102 **INVOLVING A PEACE OFFICER'S USE OF FORCE THAT RESULTS IN**
103 **DEATH.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

Under existing law, all video and audio recordings (recordings) depicting an incident of peace officer misconduct that resulted in death must be provided upon request to the victim's family. The bill clarifies that the recordings depicting an incident of a peace officer's use of force that resulted in death (incident) must be provided to the victim's family

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
*Capital letters or bold & italic numbers indicate new material to be added to existing law.
Dashes through the words or numbers indicate deletions from existing law.*

regardless of whether there is a complaint of peace officer misconduct for the incident. The bill clarifies what constitutes the incident for the purpose of releasing recordings to the victim's family. The bill requires publicly releasing incident recordings after they are released to the victim's family.

The bill sets deadlines for the victim's family to be informed about a multi-agency team investigation into an incident.

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

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

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

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

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

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

14 **24-31-901. Definitions.**

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

16 (2.8) "LAWFUL REPRESENTATIVE" HAS THE MEANING SET FORTH
17 IN SECTION 24-4.1-302.

18 (5.5) "SIGNIFICANT OTHER" HAS THE MEANING SET FORTH IN
19 SECTION 24-4.1-302.

20 (6.4) "VICTIM" HAS THE MEANING SET FORTH IN SECTION
21 24-4.1-302.

22 (6.6) "VICTIM'S IMMEDIATE FAMILY" HAS THE MEANING SET FORTH

1 IN SECTION 24-4.1-302.

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

4 **24-31-902. Incident recordings - release - tampering - fine.**

5 (2) (a) (I) For all incidents in which there is a complaint of peace
6 officer misconduct by another peace officer, a civilian, or nonprofit
7 organization, through notice to THAT DOES NOT RESULT IN A VICTIM'S
8 DEATH, the law enforcement agency involved in the alleged misconduct,
9 the local law enforcement agency or the Colorado state patrol THAT
10 EMPLOYS THE PEACE OFFICER shall release, upon request OF ANY PERSON
11 OTHER THAN A FOR-PROFIT ENTITY, all unedited video and audio
12 recordings of the incident, including those from body-worn cameras, dash
13 cameras, or otherwise collected through investigation, to the public within
14 twenty-one days after the local law enforcement agency or the Colorado
15 state patrol received the request for release of the video or audio
16 recordings THE REQUEST.

17 (II) FOR ALL INCIDENTS IN WHICH THE USE OF FORCE THAT
18 RESULTS IN A VICTIM'S DEATH, THE LAW ENFORCEMENT AGENCY THAT
19 EMPLOYS THE PEACE OFFICER SHALL RELEASE, UPON REQUEST OF ANY
20 PERSON, ALL UNEDITED VIDEO AND AUDIO RECORDINGS OF THE INCIDENT,
21 INCLUDING THOSE FROM BODY-WORN CAMERAS, DASH CAMERAS, OR
22 OTHERWISE COLLECTED THROUGH INVESTIGATION, FOLLOWING THE
23 EXPIRATION OF THE TWENTY-ONE-DAY PERIOD DESCRIBED IN SUBSECTION
24 (2)(b)(I) OF THIS SECTION.

25 (III) UPON COMPLETION OF AN INTERNAL INVESTIGATION,
26 INCLUDING ANY APPEALS PROCESS, THAT EXAMINES AN INCIDENT OF USE
27 OF FORCE BY A PEACE OFFICER THAT RESULTS IN DEATH; THE COMPLETION

1 OF THE INVESTIGATION OF A USE OF FORCE BY A PEACE OFFICER THAT
2 RESULTS IN DEATH BY THE MULTI-AGENCY TEAM DESCRIBED IN SECTION
3 16-25-302 AND THE ISSUANCE OF THE REPORT REQUIRED BY SECTION
4 20-1-114; AND THE COMPLETION OF A CRIMINAL CASE ARISING FROM THE
5 INCIDENT, INCLUDING ANY APPEALS, THE VIDEO AND AUDIO RECORDINGS
6 DEPICTING THE DEATH SHALL BE RELEASED TO THE VICTIM'S IMMEDIATE
7 FAMILY, UPON REQUEST, NOTWITHSTANDING THE REQUIREMENTS OF
8 SECTION 24-31-902 (2)(b)(III) AND SECTION 24-31-902 (2)(c).

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

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

26 PART 3

27 PEACE OFFICER USE OF FORCE

1 INVESTIGATIONS AND PROCEDURES

2 16-2.5-301. Definitions.

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

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

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

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

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

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

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

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

4 (b) THE STATUS OF THE INVESTIGATION.

5 **16-2.5-303. Extrajudicial statement concerning use of force.**

6 (1) AN ATTORNEY OR PEACE OFFICER WHO IS PARTICIPATING OR
7 HAS PARTICIPATED IN THE INVESTIGATION OR LITIGATION OF A CRIMINAL
8 MATTER INVOLVING THE USE OF FORCE BY A PEACE OFFICER THAT RESULTS
9 IN A VICTIM'S DEATH SHALL NOT MAKE AN EXTRAJUDICIAL STATEMENT
10 THAT THE ATTORNEY OR PEACE OFFICER KNOWS OR REASONABLY SHOULD
11 KNOW WILL BE DISSEMINATED BY MEANS OF PUBLIC COMMUNICATION AND
12 WILL HAVE A SUBSTANTIAL LIKELIHOOD OF MATERIALLY PREJUDICING AN
13 ADJUDICATIVE PROCEEDING IN THE MATTER; EXCEPT THAT AN ATTORNEY
14 OR PEACE OFFICER MAY STATE:

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

17 (b) INFORMATION CONTAINED IN A PUBLIC RECORD;

18 (c) THAT AN INVESTIGATION OF A MATTER IS IN PROGRESS;

19 (d) THE SCHEDULING OR RESULT OF ANY STEP IN THE
20 INVESTIGATION OR LITIGATION;

21 (e) A REQUEST FOR ASSISTANCE IN OBTAINING EVIDENCE AND
22 INFORMATION NECESSARY THERETO;

23 (f) A WARNING OF DANGER CONCERNING THE BEHAVIOR OF A
24 PERSON INVOLVED WHEN THERE IS REASON TO BELIEVE THAT THE
25 LIKELIHOOD OF SUBSTANTIAL HARM TO AN INDIVIDUAL OR TO THE PUBLIC
26 EXISTS;

27 (g) THE IDENTITY, RESIDENCE, OCCUPATION, AND FAMILY STATUS

1 OF THE ACCUSED;

2 (h) WHETHER THE ACCUSED PERSON HAS BEEN APPREHENDED AND,
3 IF NOT, INFORMATION NECESSARY TO AID IN THE APPREHENSION OF THE
4 PERSON;

5 (i) THE FACT, TIME, AND PLACE OF ARREST;

6 (j) THE IDENTITY OF THE INVESTIGATING AND ARRESTING PEACE
7 OFFICERS OR AGENCIES AND THE LENGTH OF THE INVESTIGATION; AND

8 (k) INFORMATION THAT A REASONABLE ATTORNEY WOULD
9 BELIEVE IS REQUIRED TO PROTECT A CLIENT FROM THE SUBSTANTIAL
10 UNDUE PREJUDICIAL EFFECT OF RECENT PUBLICITY THAT WAS NOT
11 INITIATED BY THE ATTORNEY OR THE ATTORNEY'S CLIENT. A STATEMENT
12 MADE PURSUANT TO THIS SUBSECTION (1)(k) MUST BE LIMITED TO
13 INFORMATION NECESSARY TO MITIGATE THE RECENT ADVERSE PUBLICITY.

14 (2) THE PROHIBITION IN SUBSECTION (1) OF THIS SECTION APPLIES
15 TO AN ATTORNEY ASSOCIATED IN A LAW FIRM WITH, OR AN ATTORNEY OR
16 A PEACE OFFICER EMPLOYED BY THE SAME GOVERNMENTAL AGENCY AS,
17 AN ATTORNEY OR PEACE OFFICER SUBJECT TO SUBSECTION (1) OF THIS
18 SECTION.

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

21 **24-4.1-302.5. Rights afforded to victims - definitions.**

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

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

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

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

3 (1) The district attorney shall, if no criminal charges are filed
4 following the completion of an investigation pursuant to section
5 16-2.5-301, C.R.S., SECTION 16-2.5-302, release a report and publicly
6 disclose the report explaining the district attorney's findings, including the
7 basis for the decision not to charge the officer with any criminal conduct.
8 The district attorney shall post the written report on its website or, if it
9 does not have a website, make it publicly available upon request.

10 **SECTION 7. Safety clause.** The general assembly finds,
11 determines, and declares that this act is necessary for the immediate
12 preservation of the public peace, health, or safety or for appropriations for
13 the support and maintenance of the departments of the state and state
14 institutions.