

CHAPTER 300

GOVERNMENT - STATE

HOUSE BILL 19-1073

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AN ACT

CONCERNING THE CREATION OF THE LAW ENFORCEMENT, PUBLIC SAFETY, AND CRIMINAL JUSTICE INFORMATION SHARING GRANT PROGRAM, AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION.

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

SECTION 1. Legislative declaration. (1) The general assembly hereby finds and declares that:

(a) Colorado's law enforcement personnel operate at an information disadvantage that diminishes their safety and increases the likelihood that community members will be mistakenly engaged;

(b) Law enforcement personnel interact daily with a wide variety of people, from law-abiding citizens to frequent offenders to individuals suffering from mental health challenges, sometimes without complete or adequate information to determine who presents a risk, who does not present a risk, and who needs mental health services;

(c) Law enforcement's information disadvantage can erode public trust when incomplete information leads to inappropriate policing actions. For example, a lack of information can result in an unnecessarily large volume of contacts during an investigation. In addition, a lack of information can lead to misinformation that spawns inaccurate "be on the lookout" notices.

(d) This information disadvantage presents issues for law enforcement personnel who are entrusted to uphold public safety while protecting the individual liberties of all people and providing innovative co-responder service models to individuals

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

with mental health challenges;

(e) A major contributing factor to this lack of information is that each law enforcement agency often has its own independent records-management systems and cannot efficiently and digitally share information between agencies;

(f) In an effort to address this information disparity, more than forty-five of Colorado's largest and busiest law enforcement agencies came together to create the Colorado information sharing consortium (CISC) in 2014 through an intergovernmental agreement;

(g) The CISC acts as a facilitator between Colorado law enforcement agencies, providing a means for secure and efficient data sharing. The CISC is governed by a member-elected board of directors, including sheriffs and police chiefs, and has signed up sixty-eight of the three hundred and thirty-three agencies that can employ certified peace officers in Colorado.

(h) Information-sharing systems are most effective when they are widely used by state and local law enforcement agencies across the state, creating a robust platform for sharing needed data and information. The more local law enforcement agencies that participate in CISC, the greater the benefit to all of its members and to the public.

(2) Therefore, the general assembly declares that it is necessary to create a grant program to provide rural and cash-strapped local law enforcement agencies with one-time grants to allow them to join the CISC information-sharing system.

SECTION 2. In Colorado Revised Statutes, **add 24-33.5-1617** as follows:

24-33.5-1617. Law enforcement, public safety, and criminal justice information sharing grant program - rules - fund created - definitions - repeal.

(1) **Definitions.** AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(a) "CISC" MEANS THE COLORADO INFORMATION SHARING CONSORTIUM CREATED THROUGH AN INTERGOVERNMENTAL AGREEMENT EFFECTIVE APRIL 7, 2014, IN ACCORDANCE WITH SECTION 29-1-203, OR ITS SUCCESSOR ORGANIZATION.

(b) "FUND" MEANS THE LAW ENFORCEMENT, PUBLIC SAFETY, AND CRIMINAL JUSTICE INFORMATION SHARING GRANT PROGRAM FUND CREATED IN SUBSECTION (5) OF THIS SECTION.

(c) "GRANT PROGRAM" MEANS THE LAW ENFORCEMENT, PUBLIC SAFETY, AND CRIMINAL JUSTICE INFORMATION SHARING GRANT PROGRAM CREATED IN SUBSECTION (2) OF THIS SECTION.

(d) "INTELLIGENCE INFORMATION" MEANS EVALUATED DATA RELEVANT TO THE IDENTIFICATION OF CRIMINAL ACTIVITY ENGAGED IN BY AN INDIVIDUAL OR ORGANIZATION REASONABLY SUSPECTED OF INVOLVEMENT IN CRIMINAL ACTIVITY THAT MEETS CRIMINAL INTELLIGENCE SYSTEM SUBMISSION CRITERIA AS SET FORTH IN PART 23 OF TITLE 28 OF THE CODE OF FEDERAL REGULATIONS.

(e) "LAW ENFORCEMENT DATA" MEANS FACTS, DETAILED INFORMATION, POLICE REPORT NARRATIVES, SUPPLEMENTAL POLICE REPORT NARRATIVES, AND OTHER TEXT-RELATED INFORMATION RELATED TO LAW ENFORCEMENT ACTIVITIES.

(f) "LOCAL LAW ENFORCEMENT AGENCY" MEANS A COUNTY SHERIFF'S OFFICE, A MUNICIPAL POLICE DEPARTMENT, OR A TOWN MARSHAL'S OFFICE.

(2) Program created - rules. (a) THERE IS HEREBY CREATED IN THE DIVISION THE LAW ENFORCEMENT, PUBLIC SAFETY, AND CRIMINAL JUSTICE INFORMATION SHARING GRANT PROGRAM TO PROVIDE GRANTS TO ASSIST LOCAL LAW ENFORCEMENT AGENCIES IN GAINING ACCESS TO CISC'S INFORMATION-SHARING SYSTEMS.

(b) GRANT RECIPIENTS MAY USE THE MONEY RECEIVED THROUGH THE GRANT PROGRAM TO PAY FOR COSTS ASSOCIATED WITH CONNECTING TO CISC'S INFORMATION-SHARING SYSTEMS, INCLUDING COMPUTER HARDWARE, SOFTWARE, OR PROGRAMMING COSTS THAT ARE NECESSARY TO ALLOW THE RECIPIENT TO SHARE LAW ENFORCEMENT DATA AND INTELLIGENCE INFORMATION THROUGH CISC.

(c) THE DIVISION SHALL ADMINISTER THE GRANT PROGRAM, AND, SUBJECT TO AVAILABLE APPROPRIATIONS, SHALL AWARD GRANTS AS PROVIDED IN THIS SECTION. SUBJECT TO AVAILABLE APPROPRIATIONS, GRANTS SHALL BE PAID OUT OF THE FUND CREATED IN SUBSECTION (5) OF THIS SECTION.

(d) NOT LATER THAN NINE MONTHS AFTER THE EFFECTIVE DATE OF THIS SECTION, THE DIRECTOR SHALL PROMULGATE SUCH RULES AS MAY BE NECESSARY TO IMPLEMENT THE GRANT PROGRAM. AT A MINIMUM, THE RULES MUST SPECIFY THE TIME FRAMES FOR APPLYING FOR GRANTS, THE FORM OF THE GRANT PROGRAM APPLICATION, THE CRITERIA FOR EVALUATING THE FINANCIAL NEED OF GRANT APPLICANTS, THE TIME FRAMES FOR DISTRIBUTING GRANT MONEY, AND REQUIREMENTS FOR REPORTS FROM GRANT RECIPIENTS.

(e) NOT LATER THAN NINE MONTHS AFTER THE EFFECTIVE DATE OF THIS SECTION, THE DIVISION SHALL BEGIN ACCEPTING APPLICATIONS IN ACCORDANCE WITH THE RULES PROMULGATED IN ACCORDANCE WITH SUBSECTION (2)(d) OF THIS SECTION.

(3) Application - criteria - awards. (a) TO RECEIVE A GRANT, A LOCAL LAW ENFORCEMENT AGENCY SHALL SUBMIT AN APPLICATION TO THE DIVISION IN ACCORDANCE WITH RULES PROMULGATED IN ACCORDANCE WITH SUBSECTION (2)(d) OF THIS SECTION.

(b) THE DIVISION SHALL REVIEW THE APPLICATIONS RECEIVED IN ACCORDANCE WITH THIS SECTION. IN AWARDING THE GRANTS, THE DIVISION SHALL CONSIDER THE FOLLOWING CRITERIA:

(I) THE FINANCIAL NEED OF THE APPLICANT, AS DETERMINED IN ACCORDANCE WITH THE RULES PROMULGATED IN ACCORDANCE WITH SUBSECTION (2)(d) OF THIS SECTION;

(II) THE APPLICANT'S COMMITMENT TO SHARE ALL ACCESSIBLE AND RELEVANT LAW ENFORCEMENT AND INTELLIGENCE INFORMATION IN THE APPLICANT'S CUSTODY;

AND

(III) THE APPLICANT'S COMMITMENT TO ASSUME FISCAL RESPONSIBILITY FOR THE ONGOING ANNUAL COSTS OF MAINTAINING DATA SHARING THROUGH CISC AFTER THE GRANT MONEY IS NO LONGER AVAILABLE.

(c) AS A CONDITION OF EACH GRANT AWARDED UNDER THIS SECTION, THE GRANT RECIPIENT AND CISC SHALL COMPLY WITH THE FOLLOWING REQUIREMENTS FOR AS LONG AS THE GRANT RECIPIENT PARTICIPATES IN INFORMATION SHARING THROUGH CISC:

(I) EACH GRANT RECIPIENT REMAINS THE CUSTODIAN OF THE LAW ENFORCEMENT DATA AND INTELLIGENCE INFORMATION THAT IT SHARES THROUGH THE CISC INFORMATION-SHARING SYSTEM FOR THE PURPOSES OF PARTS 2 AND 3 OF ARTICLE 72 OF THIS TITLE 24;

(II) IF CISC RECEIVES A REQUEST FOR RECORDS PURSUANT TO PART 2 OR PART 3 OF ARTICLE 72 OF THIS TITLE 24, IT SHALL NOT PROVIDE THE RECORDS AND SHALL REFER THE REQUESTER TO THE APPROPRIATE CUSTODIAN OF RECORDS;

(III) CISC AND EACH GRANT RECIPIENT SHALL ENSURE THAT THE INFORMATION-SHARING SYSTEMS COMPLY WITH THE CURRENT FEDERAL BUREAU OF INVESTIGATION CRIMINAL JUSTICE INFORMATION SERVICES SECURITY POLICY, IN ORDER TO ENSURE THE SECURITY OF THE LAW ENFORCEMENT DATA AND INTELLIGENCE INFORMATION SHARED BY LAW ENFORCEMENT AGENCIES;

(IV) CISC AND EACH GRANT RECIPIENT ARE PROHIBITED FROM SELLING ANY DATA OR INFORMATION SHARED THROUGH CISC'S INFORMATION-SHARING SYSTEM;

(V) CISC AND EACH GRANT RECIPIENT SHALL COMPLY WITH THE REQUIREMENTS OF 28 CFR 23, AS AMENDED;

(VI) EACH GRANT RECIPIENT SHALL NOT SHARE AND MAINTAIN CRIMINAL INTELLIGENCE INFORMATION CONCERNING AN INDIVIDUAL UNLESS THERE IS REASONABLE SUSPICION THAT THE INDIVIDUAL IS INVOLVED IN CRIMINAL CONDUCT OR ACTIVITY AND THE INFORMATION IS RELEVANT TO THAT CRIMINAL CONDUCT OR ACTIVITY;

(VII) CISC AND EACH GRANT RECIPIENT SHALL NOT COLLECT OR MAINTAIN CRIMINAL INTELLIGENCE INFORMATION ABOUT THE POLITICAL, RELIGIOUS, OR SOCIAL VIEWS, ASSOCIATIONS, OR ACTIVITIES OF ANY INDIVIDUAL OR ANY GROUP, ASSOCIATION, CORPORATION, BUSINESS, PARTNERSHIP, OR OTHER ORGANIZATION UNLESS SUCH INFORMATION DIRECTLY RELATES TO CRIMINAL CONDUCT OR ACTIVITY AND THERE IS REASONABLE SUSPICION THAT THE SUBJECT OF THE INFORMATION IS OR MAY BE INVOLVED IN CRIMINAL CONDUCT OR ACTIVITY;

(VIII) REASONABLE SUSPICION OR CRIMINAL PREDICATE IS ESTABLISHED WHEN INFORMATION EXISTS THAT ESTABLISHES SUFFICIENT FACTS TO GIVE A TRAINED LAW ENFORCEMENT OR CRIMINAL INVESTIGATIVE AGENCY OFFICER, INVESTIGATOR, OR EMPLOYEE A BASIS TO BELIEVE THAT THERE IS A REASONABLE POSSIBILITY THAT AN INDIVIDUAL OR ORGANIZATION IS INVOLVED IN A DEFINABLE CRIMINAL ACTIVITY OR

ENTERPRISE. EACH GRANT RECIPIENT IS RESPONSIBLE FOR ESTABLISHING THE EXISTENCE OF REASONABLE SUSPICION OF CRIMINAL ACTIVITY EITHER THROUGH EXAMINATION OF SUPPORTING INFORMATION SUBMITTED BY A PARTICIPATING AGENCY OR BY DELEGATION OF THIS RESPONSIBILITY TO A PROPERLY TRAINED PARTICIPATING AGENCY, WHICH IS SUBJECT TO ROUTINE INSPECTION AND AUDIT PROCEDURES ESTABLISHED BY CISC OR THE GRANT RECIPIENT.

(IX) EACH GRANT RECIPIENT SHALL NOT SHARE OR MAINTAIN INFORMATION THAT HAS BEEN OBTAINED IN VIOLATION OF ANY APPLICABLE FEDERAL, STATE, OR LOCAL LAW OR ORDINANCE. EACH GRANT RECIPIENT IS RESPONSIBLE FOR ESTABLISHING THAT NO INFORMATION IS ENTERED IN VIOLATION OF FEDERAL, STATE, OR LOCAL LAWS, EITHER THROUGH EXAMINATION OF SUPPORTING INFORMATION SUBMITTED BY A PARTICIPATING AGENCY OR BY DELEGATION OF THIS RESPONSIBILITY TO A PROPERLY TRAINED PARTICIPATING AGENCY, WHICH IS SUBJECT TO ROUTINE INSPECTION AND AUDIT PROCEDURES ESTABLISHED BY CISC OR THE GRANT RECIPIENT.

(X) CISC AND EACH GRANT RECIPIENT SHALL NOT SHARE CRIMINAL INTELLIGENCE INFORMATION EXCEPT WHERE THERE IS A NEED TO KNOW AND A RIGHT TO KNOW THE INFORMATION IN THE PERFORMANCE OF A LAW ENFORCEMENT ACTIVITY; AND

(XI) CISC AND EACH GRANT RECIPIENT SHALL NOT DISSEMINATE CRIMINAL INTELLIGENCE INFORMATION EXCEPT TO LAW ENFORCEMENT AUTHORITIES WHO AGREE TO FOLLOW PROCEDURES REGARDING INFORMATION RECEIPT, MAINTENANCE, SECURITY, AND DISSEMINATION THAT ARE CONSISTENT WITH THESE PRINCIPLES; EXCEPT THAT THIS SUBSECTION (3)(c)(XI) DOES NOT LIMIT THE DISSEMINATION OF AN ASSESSMENT OF CRIMINAL INTELLIGENCE INFORMATION TO A GOVERNMENT OFFICIAL OR TO ANY OTHER INDIVIDUAL WHEN NECESSARY TO AVOID IMMINENT DANGER TO LIFE OR PROPERTY.

(d) ANY EMPLOYEE OF THE DEPARTMENT WHO IS AFFILIATED IN ANY WAY WITH A GRANT APPLICANT IS PROHIBITED FROM PARTICIPATING IN THE ADMINISTRATION OF THE GRANT PROGRAM, INCLUDING THE EVALUATION OF GRANT APPLICATIONS AND THE AWARDING OF GRANTS.

(e) SUBJECT TO AVAILABLE APPROPRIATIONS, THE DIVISION SHALL AWARD GRANTS AS PROVIDED IN THIS SECTION. THE DIVISION SHALL ANNOUNCE GRANT AWARDS ON ITS WEBSITE WITHIN FIVE BUSINESS DAYS AFTER MAKING THE AWARDS. THE DIVISION SHALL DISTRIBUTE THE GRANT MONEY WITHIN THIRTY DAYS AFTER AWARDING THE GRANTS.

(4) **Reporting requirements.** EACH GRANTEE SHALL SUBMIT A REPORT TO THE DIVISION ON OR BEFORE JULY 30 OF EACH YEAR IN WHICH IT RECEIVES OR EXPENDS GRANT MONEY. THE REPORT MUST COMPLY WITH THE RULES PROMULGATED IN ACCORDANCE WITH SUBSECTION (2)(d) OF THIS SECTION.

(5) **Law enforcement, public safety, and criminal justice information sharing grant program fund.** (a) THE LAW ENFORCEMENT, PUBLIC SAFETY, AND CRIMINAL JUSTICE INFORMATION SHARING GRANT PROGRAM FUND IS HEREBY CREATED IN THE STATE TREASURY. THE FUND CONSISTS OF MONEY APPROPRIATED TO THE FUND

PURSUANT TO SUBSECTION (6) OF THIS SECTION AND ANY OTHER MONEY THAT THE GENERAL ASSEMBLY MAY APPROPRIATE OR TRANSFER TO THE FUND.

(b) THE STATE TREASURER SHALL CREDIT ALL INTEREST AND INCOME DERIVED FROM THE DEPOSIT AND INVESTMENT OF MONEY IN THE FUND TO THE FUND.

(c) EXCEPT AS PROVIDED IN SUBSECTION (5)(d) OF THIS SECTION, ANY UNEXPENDED AND UNENCUMBERED MONEY REMAINING IN THE FUND AT THE END OF A FISCAL YEAR REMAINS IN THE FUND AND IS NOT CREDITED TO THE GENERAL FUND.

(d) THE STATE TREASURER SHALL TRANSFER ALL UNEXPENDED AND UNENCUMBERED MONEY IN THE FUND ON JULY 1, 2022, TO THE GENERAL FUND.

(e) SUBJECT TO ANNUAL APPROPRIATION BY THE GENERAL ASSEMBLY, THE DIVISION MAY EXPEND MONEY FROM THE FUND FOR THE PURPOSE OF AWARDED GRANTS IN ACCORDANCE WITH THIS SECTION. THE DIVISION MAY USE UP TO FIVE PERCENT OF THE MONEY ANNUALLY APPROPRIATED TO THE FUND TO PAY FOR THE DIRECT AND INDIRECT COSTS THAT THE DIVISION INCURS TO ADMINISTER THE GRANT PROGRAM.

(6) **Funding for grant program.** FOR THE 2019-20 FISCAL YEAR, THE GENERAL ASSEMBLY SHALL APPROPRIATE FIVE HUNDRED THOUSAND DOLLARS TO THE FUND FROM THE MARIJUANA TAX CASH FUND CREATED IN SECTION 39-28.8-501.

(7) **Repeal.** THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2022.

SECTION 3. In Colorado Revised Statutes, 39-28.8-501, **amend** (2)(b)(IV)(N) and (2)(b)(IV)(O); and **add** (2)(b)(IV)(Q) as follows:

39-28.8-501. Marijuana tax cash fund - creation - distribution - legislative declaration - repeal. (2) (b) (IV) Subject to the limitation in subsection (5) of this section, the general assembly may annually appropriate any money in the fund for any fiscal year following the fiscal year in which it was received by the state for the following purposes:

(N) For housing, rental assistance, and supportive services, including reentry services, pursuant to section 24-32-721; ~~and~~

(O) For the development of local dually identified crossover youth plans and services as described in section 19-2-211 (2); AND

(Q) TO FUND THE LAW ENFORCEMENT, PUBLIC SAFETY, AND CRIMINAL JUSTICE INFORMATION SHARING GRANT PROGRAM CREATED IN SECTION 24-33.5-1617 FOR THE 2019-20 FISCAL YEAR. THIS SUBSECTION (2)(b)(IV)(Q) IS REPEALED, EFFECTIVE JULY 1, 2020.

SECTION 4. Appropriation. (1) For the 2019-20 state fiscal year, \$500,000 is appropriated to the law enforcement, public safety, and criminal justice information sharing grant program fund created in section 24-33.5-1617 (5)(a), C.R.S. This appropriation is from the marijuana tax cash fund created in section 39-28.8-501 (1), C.R.S. The department of public safety is responsible for the

accounting related to this appropriation.

(2) For the 2019-20 state fiscal year, \$479,947 is appropriated to the department of public safety for use by the office of preparedness. This appropriation is from reappropriated funds in the law enforcement, public safety, and criminal justice information sharing grant program fund under subsection (1) of this section and is based on an assumption that the office will require an additional 0.7 FTE. To implement this act, the office may use the appropriation for program administration.

SECTION 5. 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 28, 2019