

First Regular Session  
Seventy-third General Assembly  
STATE OF COLORADO

INTRODUCED

LLS NO. 21-0315.02 Alana Rosen x2606

SENATE BILL 21-174

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SENATE SPONSORSHIP

Cooke and Ginal,

HOUSE SPONSORSHIP

Bird and Carver,

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Senate Committees  
Judiciary

House Committees

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A BILL FOR AN ACT

101 CONCERNING ADOPTION OF WRITTEN POLICIES BY LAW ENFORCEMENT  
102 AGENCIES FOR CONSTITUTIONALLY REQUIRED PEACE OFFICER  
103 CREDIBILITY DISCLOSURE NOTIFICATIONS.

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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>.)*

The bill requires a law enforcement agency to provide a credibility disclosure notification to a district attorney's office if a peace officer's credibility is called into question by an internal investigation, an allegation, or a sustained finding. The bill outlines conduct that a law enforcement agency shall report to a district attorney's office. The law

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

enforcement agency shall also provide the credibility disclosure notification to the involved peace officer at least 7 calendar days prior to sending the credibility disclosure notification to the district attorney's office, except under specific circumstances.

The bill requires a district attorney's office to adopt written policies and procedures for receiving and maintaining credibility disclosure notification records (records) concerning peace officers. A district attorney's office shall determine whether a record must be created based on a law enforcement agency's credibility disclosure notification. The policies and procedures must include a process to notify defense attorneys or defendants of a record pursuant to rule 16 of the Colorado rules of criminal procedure, as well as a process to remove a record found to be inaccurate or false by the court or the relevant law enforcement agency.

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

2 **SECTION 1.** In Colorado Revised Statutes, **add** part 5 to article  
3 2.5 of title 16 as follows:

4 **PART 5**

5 **PEACE OFFICER CREDIBILITY**

6 **DISCLOSURE NOTIFICATIONS**

7 **16-2.5-501. Definitions.** AS USED IN THIS SECTION, UNLESS THE  
8 CONTEXT OTHERWISE REQUIRES:

9 (1) "CREDIBILITY DISCLOSURE NOTIFICATION" MEANS THE  
10 NOTIFICATION DESCRIBED IN SECTION 16-2.5-502 (1)(a).

11 (2) "LAW ENFORCEMENT AGENCY" MEANS A STATE OR LOCAL  
12 AGENCY THAT EMPLOYS PEACE OFFICERS.

13 (3) "PEACE OFFICER" MEANS A PEACE OFFICER AS DEFINED IN  
14 SECTION 24-31-901 (3) AND INCLUDES AN OFFICER, RESERVE, VOLUNTEER,  
15 OR EMPLOYEE WHO PERFORMS A LAW ENFORCEMENT FUNCTION.

16 **16-2.5-502. Peace officer credibility disclosures - policies and**  
17 **procedures - report.** (1) (a) A LAW ENFORCEMENT AGENCY SHALL  
18 NOTIFY THE DISTRICT ATTORNEY'S OFFICE IN THE LAW ENFORCEMENT

1 AGENCY'S JURISDICTION WHEN THE LAW ENFORCEMENT AGENCY INITIATES  
2 AN INTERNAL INVESTIGATION REGARDING AN ALLEGATION, OR HAS  
3 DETERMINED THERE IS A SUSTAINED FINDING, THAT A PEACE OFFICER HAS:

4 (I) KNOWINGLY MADE AN UNTRUTHFUL STATEMENT CONCERNING  
5 A MATERIAL FACT, OR KNOWINGLY OMITTED A MATERIAL FACT IN AN  
6 OFFICIAL CRIMINAL JUSTICE RECORD, WHILE TESTIFYING UNDER OATH OR  
7 DURING AN INTERNAL AFFAIRS INVESTIGATION OR ADMINISTRATIVE  
8 INVESTIGATION AND DISCIPLINARY PROCESS;

9 (II) DEMONSTRATED A PATTERN OF BIAS BASED ON RACE,  
10 RELIGION, ETHNICITY, GENDER, SEXUAL ORIENTATION, AGE, DISABILITY,  
11 NATIONAL ORIGIN, OR ANY OTHER PROTECTED CLASS;

12 (III) COMMITTED A FELONY, A CRIME INVOLVING DISHONESTY, OR  
13 HAS BEEN CHARGED IN A CRIMINAL PROCEEDING WITH A FELONY OR A  
14 CRIME INVOLVING DISHONESTY;

15 (IV) INTENTIONALLY VIOLATED THE CONSTITUTIONAL OR  
16 STATUTORY RIGHTS OF OTHERS; OR

17 (V) TAMPERED WITH OR FABRICATED EVIDENCE.

18 (b) IN ADDITION TO THE DISCLOSURES REQUIRED IN SUBSECTION  
19 (1)(a) OF THIS SECTION, A LAW ENFORCEMENT AGENCY SHALL NOTIFY THE  
20 DISTRICT ATTORNEY'S OFFICE IN THE LAW ENFORCEMENT AGENCY'S  
21 JURISDICTION WHEN A PEACE OFFICER WHO IS A POTENTIAL WITNESS IN A  
22 PENDING CRIMINAL PROSECUTION IN WHICH A CRIMINAL DEFENDANT HAS  
23 BEEN FORMALLY CHARGED IS UNDER A CONCURRENT CRIMINAL OR  
24 ADMINISTRATIVE INVESTIGATION REGARDING AN ALLEGATION RELATED  
25 TO THE PEACE OFFICER'S INVOLVEMENT IN THE PENDING CRIMINAL CASE  
26 AND, IF SUSTAINED, MUST BE DISCLOSED PURSUANT TO SUBSECTION (1)(a)  
27 OF THIS SECTION. IF THE ALLEGATION IS NOT SUBSEQUENTLY FOUND TO BE

1 SUSTAINED OR IF THE PEACE OFFICER IS EXONERATED, THE LAW  
2 ENFORCEMENT AGENCY SHALL NOTIFY THE DISTRICT ATTORNEY'S OFFICE  
3 OF THE FINDING.

4 (c) (I) THE LAW ENFORCEMENT AGENCY SHALL INCLUDE IN THE  
5 CREDIBILITY DISCLOSURE NOTIFICATION:

6 (A) THE NAME OF THE PEACE OFFICER;

7 (B) THE NAME OF THE LAW ENFORCEMENT AGENCY THAT EMPLOYS  
8 OR EMPLOYED THE PEACE OFFICER AT THE TIME OF THE INVESTIGATION OR  
9 SUSTAINED FINDING DESCRIBED IN SUBSECTION (1)(a) OF THIS SECTION;

10 AND

11 (C) THE FOLLOWING STATEMENT: "THIS NOTIFICATION IS TO  
12 INFORM YOU THAT THERE MAY BE INFORMATION IN THE LAW  
13 ENFORCEMENT AGENCY'S POSSESSION REGARDING [NAME OF PEACE  
14 OFFICER] THAT MAY AFFECT THE PEACE OFFICER'S CREDIBILITY IN COURT."

15 (II) THE LAW ENFORCEMENT AGENCY SHALL NOT PROVIDE  
16 MATERIALS FROM THE PEACE OFFICER'S PERSONNEL FILE TO THE DISTRICT  
17 ATTORNEY'S OFFICE AT THE TIME THE CREDIBILITY NOTIFICATION IS MADE  
18 TO THE DISTRICT ATTORNEY'S OFFICE.

19 (III) AFTER THE CREDIBILITY DISCLOSURE NOTIFICATION IS MADE,  
20 IF THE LAW ENFORCEMENT AGENCY LEARNS OF ADDITIONAL INFORMATION  
21 SUBJECT TO DISCLOSURE REGARDING THE PEACE OFFICER, THE LAW  
22 ENFORCEMENT AGENCY SHALL NOTIFY THE DISTRICT ATTORNEY'S OFFICE  
23 OF THE ADDITIONAL INFORMATION.

24 (IV) THE LAW ENFORCEMENT AGENCY SHALL ALSO PROVIDE THE  
25 CREDIBILITY DISCLOSURE NOTIFICATION TO THE INVOLVED PEACE OFFICER  
26 AT LEAST SEVEN CALENDAR DAYS PRIOR TO SENDING THE CREDIBILITY  
27 DISCLOSURE NOTIFICATION TO THE DISTRICT ATTORNEY'S OFFICE. THE

1 CREDIBILITY DISCLOSURE NOTIFICATION MAY BE MADE IMMEDIATELY IF A  
2 HEARING IN A PENDING CRIMINAL CASE IS IMMINENT OR IT IS DETERMINED  
3 TO BE IN THE INTEREST OF JUSTICE. IN SUCH CASES, THE CREDIBILITY  
4 DISCLOSURE NOTIFICATION MUST BE PROVIDED TO THE PEACE OFFICER  
5 WITHIN TWO CALENDAR DAYS OF THE IMMEDIATE DISCLOSURE.

6 (2) ON OR BEFORE JANUARY 1, 2022, A LAW ENFORCEMENT  
7 AGENCY SHALL IMPLEMENT POLICIES AND PROCEDURES FOR PROMPT  
8 CREDIBILITY DISCLOSURE NOTIFICATIONS, AS REQUIRED IN SUBSECTION  
9 (1)(a) OF THIS SECTION.

10 (3)(a) ON OR BEFORE JANUARY 1, 2022, EACH DISTRICT ATTORNEY  
11 SHALL ADOPT WRITTEN POLICIES AND PROCEDURES FOR:

12 (I) RECEIVING CREDIBILITY DISCLOSURE NOTIFICATIONS;

13 (II) MAINTAINING A CURRENT RECORD OF ALL CREDIBILITY  
14 DISCLOSURE NOTIFICATIONS, DISTINGUISHING BETWEEN ALLEGATIONS AND  
15 SUSTAINED FINDINGS;

16 (III) ESTABLISHING A PROCESS TO NOTIFY A DEFENSE ATTORNEY  
17 OR DEFENDANT OF CREDIBILITY DISCLOSURE NOTIFICATION RECORDS  
18 PURSUANT TO RULE 16 OF THE COLORADO RULES OF CRIMINAL  
19 PROCEDURE; AND

20 (IV) REMOVING ANY CREDIBILITY DISCLOSURE NOTIFICATION  
21 RECORDS FOUND TO BE INACCURATE OR FALSE BY THE COURT OR THE  
22 RELEVANT LAW ENFORCEMENT AGENCY.

23 (b) IF A PEACE OFFICER'S NAME IS REMOVED FROM THE DATABASE  
24 CREATED PURSUANT TO SECTION 24-31-303 (1)(r), ANY DISTRICT  
25 ATTORNEY MAY REMOVE THE PEACE OFFICER'S NAME FROM THE RELEVANT  
26 DISTRICT ATTORNEY'S CREDIBILITY DISCLOSURE NOTIFICATION RECORD  
27 UPON REQUEST OF THE PEACE OFFICER.

1           (4) EACH DISTRICT ATTORNEY SHALL REVIEW THE POLICIES AND  
2 PROCEDURES ADOPTED AND IMPLEMENTED PURSUANT TO SUBSECTION (3)  
3 OF THIS SECTION AT LEAST EVERY FIVE YEARS TO ENSURE COMPLIANCE  
4 WITH APPLICABLE FEDERAL AND STATE CASE LAW INTERPRETING *BRADY V.*  
5 *MARYLAND*, 373 U.S. 83 (1963); *GIGLIO V. UNITED STATES*, 405 U.S. 150  
6 (1972); *KYLES V. WHITLEY*, 514 U.S. 419 (1995), AND ITS PROGENY; AS  
7 WELL AS THE COLORADO RULES OF CRIMINAL PROCEDURE.

8           **SECTION 2. Act subject to petition - effective date.** This act  
9 takes effect at 12:01 a.m. on the day following the expiration of the  
10 ninety-day period after final adjournment of the general assembly; except  
11 that, if a referendum petition is filed pursuant to section 1 (3) of article V  
12 of the state constitution against this act or an item, section, or part of this  
13 act within such period, then the act, item, section, or part will not take  
14 effect unless approved by the people at the general election to be held in  
15 November 2022 and, in such case, will take effect on the date of the  
16 official declaration of the vote thereon by the governor.