

**First Regular Session  
Seventy-third General Assembly  
STATE OF COLORADO**

**REVISED**

*This Version Includes All Amendments Adopted  
on Second Reading in the Second House*

LLS NO. 21-0315.02 Alana Rosen x2606

**SENATE BILL 21-174**

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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, AND, IN CONNECTION**  
104                    **THEREWITH, MAKING AN APPROPRIATION.**

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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

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.*

HOUSE  
Amended 2nd Reading  
June 1, 2021

SENATE  
3rd Reading Unamended  
May 19, 2021

SENATE  
Amended 2nd Reading  
May 18, 2021

allegation, or a sustained finding. The bill outlines conduct that a law enforcement agency shall report to a district attorney's office. The law 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 (2)(c).

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.** (1) ON OR BEFORE JANUARY 1, 2022, EACH LAW

1 ENFORCEMENT AGENCY AND DISTRICT ATTORNEY'S OFFICE SHALL ADOPT  
2 AND IMPLEMENT WRITTEN POLICIES AND PROCEDURES CONSISTENT WITH  
3 THE STATEWIDE MODEL FOR PEACE OFFICER CREDIBILITY DISCLOSURE  
4 NOTIFICATIONS CREATED AND RECOMMENDED BY THE PEACE OFFICER  
5 CREDIBILITY DISCLOSURE NOTIFICATION COMMITTEE ESTABLISHED IN  
6 SUBSECTION (2)(a) OF THIS SECTION.

7 (2) (a) THERE IS HEREBY CREATED THE PEACE OFFICER  
8 CREDIBILITY DISCLOSURE NOTIFICATION COMMITTEE. THE PEACE OFFICER  
9 CREDIBILITY DISCLOSURE NOTIFICATION COMMITTEE MUST BE COMPRISED  
10 OF THE FOLLOWING MEMBERS AS APPOINTED BY THEIR RESPECTIVE  
11 ORGANIZATIONS:

12 (I) A REPRESENTATIVE OF THE COLORADO DISTRICT ATTORNEYS'  
13 COUNCIL;

14 (II) A REPRESENTATIVE FROM AN ORGANIZATION REPRESENTING  
15 POLICE OFFICERS;

16 (III) A REPRESENTATIVE FROM AN ORGANIZATION REPRESENTING  
17 THE CHIEFS OF POLICE;

18 (IV) A REPRESENTATIVE FROM AN ORGANIZATION REPRESENTING  
19 THE COUNTY SHERIFFS;

20 (V) A COUNTY ATTORNEY DESIGNATED BY AN ORGANIZATION  
21 REPRESENTING COUNTIES; AND

22 (VI) A CITY ATTORNEY DESIGNATED BY AN ORGANIZATION  
23 REPRESENTING MUNICIPALITIES.

24 (b) THE PEACE OFFICER CREDIBILITY DISCLOSURE NOTIFICATION  
25 COMMITTEE MUST BE CO-CHAIRD BY THE REPRESENTATIVE FROM THE  
26 COLORADO DISTRICT ATTORNEYS' COUNCIL AND THE REPRESENTATIVE  
27 FROM THE ORGANIZATION REPRESENTING PEACE OFFICERS. THE CO-CHAIRS

1 OF THE COMMITTEE SHALL SET THE DATES, TIMES, AND PROCEDURES FOR  
2 THE COMMITTEE MEETINGS AS DEEMED NECESSARY TO MEET THE  
3 REQUIREMENTS OF THIS SECTION. THE PEACE OFFICER CREDIBILITY  
4 DISCLOSURE NOTIFICATION COMMITTEE SHALL CREATE A STATEWIDE  
5 MODEL FOR PEACE OFFICER CREDIBILITY DISCLOSURE NOTIFICATIONS BY  
6 DECEMBER 1, 2021.

7 (c) THE STATEWIDE MODEL FOR PEACE OFFICER CREDIBILITY  
8 DISCLOSURE NOTIFICATION POLICIES AND PROCEDURES MUST INCLUDE,  
9 BUT NEED NOT BE LIMITED TO:

10 (I) A PROMPT NOTIFICATION FROM A LAW ENFORCEMENT AGENCY  
11 TO THE DISTRICT ATTORNEY OF ANY SUSTAINED FINDING THAT A PEACE  
12 OFFICER HAS:

13 (A) KNOWINGLY MADE AN UNTRUTHFUL STATEMENT CONCERNING  
14 A MATERIAL FACT, KNOWINGLY OMITTED A MATERIAL FACT IN AN OFFICIAL  
15 CRIMINAL JUSTICE RECORD, OR KNOWINGLY OMITTED A MATERIAL FACT  
16 WHILE TESTIFYING UNDER OATH OR DURING AN INTERNAL AFFAIRS  
17 INVESTIGATION OR ADMINISTRATIVE INVESTIGATION AND DISCIPLINARY  
18 PROCESS;

19 (B) DEMONSTRATED A [REDACTED] BIAS BASED ON RACE, RELIGION,  
20 ETHNICITY, GENDER, SEXUAL ORIENTATION, AGE, DISABILITY, NATIONAL  
21 ORIGIN, OR ANY OTHER PROTECTED CLASS;

22 [REDACTED] [REDACTED]

23 (C) TAMPERED WITH OR FABRICATED EVIDENCE; OR \_\_\_

24 (D) BEEN CONVICTED OF ANY CRIME INVOLVING DISHONESTY,  
25 BEEN CHARGED IN A CRIMINAL PROCEEDING WITH ANY FELONY OR ANY  
26 CRIME INVOLVING DISHONESTY, OR VIOLATED ANY POLICY OF THE LAW  
27 ENFORCEMENT AGENCY REGARDING DISHONESTY.

1           (II) A LAW ENFORCEMENT AGENCY'S OBLIGATION TO NOTIFY THE  
2           DISTRICT ATTORNEY'S OFFICE IN THE LAW ENFORCEMENT AGENCY'S  
3           JURISDICTION WHEN:

4           (A) A PEACE OFFICER IS A POTENTIAL WITNESS IN A PENDING  
5           CRIMINAL PROSECUTION IN WHICH A CRIMINAL DEFENDANT HAS BEEN  
6           FORMALLY CHARGED;

7           (B) THE PEACE OFFICER IS UNDER A CONCURRENT CRIMINAL OR  
8           ADMINISTRATIVE INVESTIGATION REGARDING AN ALLEGATION RELATED  
9           TO THE PEACE OFFICER'S INVOLVEMENT IN THE DEFENDANT'S PENDING  
10          CRIMINAL CASE; AND

11          (C) THE RESULT OF THE CONCURRENT CRIMINAL OR  
12          ADMINISTRATIVE INVESTIGATION, IF SUSTAINED, WOULD REQUIRE  
13          DISCLOSURE.

14          (III) A PROCESS FOR A LAW ENFORCEMENT AGENCY TO PROMPTLY  
15          NOTIFY THE DISTRICT ATTORNEY OF SUCH A FINDING; AND

16          (IV) A PROCESS TO REMOVE A PEACE OFFICER'S CREDIBILITY  
17          DISCLOSURE NOTIFICATION FROM THE DISTRICT ATTORNEY'S CREDIBILITY  
18          DISCLOSURE NOTIFICATION RECORD IF APPROPRIATE AND LAWFUL.

19          == ==

20          (d) (I) THE STATEWIDE MODEL FOR PEACE OFFICER CREDIBILITY  
21          DISCLOSURE NOTIFICATIONS ESTABLISHED IN SUBSECTION (2)(c) OF THIS  
22          SECTION MUST REQUIRE THAT A LAW ENFORCEMENT AGENCY SHALL  
23          INCLUDE IN THE CREDIBILITY DISCLOSURE NOTIFICATION:

24                (A) THE NAME OF THE PEACE OFFICER;

25                (B) THE NAME OF THE LAW ENFORCEMENT AGENCY THAT EMPLOYS  
26                OR EMPLOYED THE PEACE OFFICER AT THE TIME OF THE INVESTIGATION OR  
27                SUSTAINED FINDING DESCRIBED IN SUBSECTION (2)(c)(I) OF THIS SECTION

1 OR AN INVESTIGATION DESCRIBED IN SUBSECTION (2)(c)(II) OF THIS  
2 SECTION;

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

7 (D) THE APPLICABLE STATUTORY PROVISION IDENTIFYING THE  
8 BASIS FOR THE CREDIBILITY DISCLOSURE NOTIFICATION AS SET FORTH IN  
9 SUBSECTIONS (2)(c)(I)(A) THROUGH (2)(c)(I)(D) OF THIS SECTION.

10 (II) THE STATEWIDE MODEL FOR PEACE OFFICER CREDIBILITY  
11 DISCLOSURE NOTIFICATIONS MUST PROVIDE A PROCESS TO NOTIFY THE  
12 INVOLVED PEACE OFFICER AT LEAST SEVEN CALENDAR DAYS PRIOR TO  
13 SENDING THE CREDIBILITY DISCLOSURE NOTIFICATION TO THE DISTRICT  
14 ATTORNEY'S OFFICE, IF PRACTICABLE. \_\_\_

15 (3) \_\_\_\_\_ ON OR BEFORE FEBRUARY 1, 2022, EACH DISTRICT  
16 ATTORNEY SHALL MAKE AVAILABLE TO THE PUBLIC THE POLICIES AND  
17 PROCEDURES CREATED AND IMPLEMENTED PURSUANT TO SUBSECTION (2)  
18 OF THIS SECTION. THE POLICIES AND PROCEDURES MUST INCLUDE, BUT  
19 NEED NOT BE LIMITED TO, A PROCESS FOR A DISTRICT ATTORNEY TO:

20 (a) RECEIVE CREDIBILITY DISCLOSURE NOTIFICATIONS;

21 (b) MAINTAIN A CURRENT RECORD OF ALL CREDIBILITY  
22 DISCLOSURE NOTIFICATIONS, DISTINGUISHING BETWEEN THE CREDIBILITY  
23 DISCLOSURE NOTIFICATIONS IN SUBSECTIONS (2)(c)(I) AND (2)(c)(II) OF  
24 THIS SECTION;

25 (c) DESCRIBE HOW MEMBERS OF THE PUBLIC CAN ACCESS THE  
26 DATABASE CREATED BY THE P.O.S.T. BOARD PURSUANT TO SECTION  
27 24-31-303 (1)(r) CONCERNING PEACE OFFICERS WHO ARE SUBJECT TO

1 CREDIBILITY DISCLOSURE NOTIFICATIONS. THE PROCEDURES MUST BE  
2 POSTED ON THE DISTRICT ATTORNEY'S OR COUNTY'S WEBSITE.

3 (d) ESTABLISH A PROCESS TO TIMELY NOTIFY A DEFENSE  
4 ATTORNEY OR DEFENDANT OF CREDIBILITY DISCLOSURE NOTIFICATION  
5 RECORDS PURSUANT TO RULE 16 OF THE COLORADO RULES OF CRIMINAL  
6 PROCEDURE; AND

7 (e) REMOVE ANY CREDIBILITY DISCLOSURE NOTIFICATION  
8 RECORDS WHEN APPROPRIATE AND LAWFUL. ==

9 (4) EACH DISTRICT ATTORNEY SHALL REVIEW THE POLICIES AND  
10 PROCEDURES ADOPTED AND IMPLEMENTED PURSUANT TO SUBSECTION (3)  
11 OF THIS SECTION AT LEAST EVERY FOUR YEARS TO ENSURE COMPLIANCE  
12 WITH CONTROLLING FEDERAL AND STATE CASE LAW INTERPRETING *BRADY*  
13 *V. MARYLAND*, 373 U.S. 83 (1963); *GIGLIO V. UNITED STATES*, 405 U.S. 150  
14 (1972); *KYLES V. WHITLEY*, 514 U.S. 419 (1995), AND ITS PROGENY; AS  
15 WELL AS THE COLORADO RULES OF CRIMINAL PROCEDURE.

16 **SECTION 2.** In Colorado Revised Statutes, 24-31-303, **amend**  
17 **(1)(r) introductory portion, (1)(r)(III), and (1)(r)(IV); and add (1)(r)(V)**  
18 **as follows:**

19 **24-31-303. Duties - powers of the P.O.S.T. board.** (1) The  
20 P.O.S.T. board has the following duties:

21 (r) SUBJECT TO AVAILABLE APPROPRIATIONS, beginning on  
22 January 1, 2022, to create and maintain a database, IN A SEARCHABLE  
23 FORMAT TO BE PUBLISHED ON ITS WEBSITE, containing information related  
24 to a peace officer's:

25 (III) Decertification by the P.O.S.T. board; and

26 (IV) Termination for cause; AND

27 (V) ACTIONS AS DESCRIBED BY THE APPLICABLE STATUTORY

1 PROVISION IDENTIFYING THE BASIS FOR THE CREDIBILITY DISCLOSURE  
2 NOTIFICATION AS SET FORTH IN SECTION 16-2.5-502 (2)(c)(I).

3 **SECTION 3. Appropriation.** (1) For the 2021-22 state fiscal  
4 year, \$31,147 is appropriated to the department of public safety for use  
5 by the Colorado state patrol. This appropriation is from the Highway  
6 Users Tax Fund created in section 43-4-201 (1)(a), C.R.S., and  
7 appropriated pursuant to section 43-4-201 (3)(a)(I)(C), C.R.S. To  
8 implement this act, the division may use this appropriation as follows:

9 (a) \$24,272 for civilians, which amount is based on an assumption  
10 that the department will require an additional 0.5 FTE; and

11 (b) \$6,875 for operating expenses.

12 **SECTION 4. Act subject to petition - effective date.** This act  
13 takes effect at 12:01 a.m. on the day following the expiration of the  
14 ninety-day period after final adjournment of the general assembly; except  
15 that, if a referendum petition is filed pursuant to section 1 (3) of article V  
16 of the state constitution against this act or an item, section, or part of this  
17 act within such period, then the act, item, section, or part will not take  
18 effect unless approved by the people at the general election to be held in  
19 November 2022 and, in such case, will take effect on the date of the  
20 official declaration of the vote thereon by the governor.