

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

INTRODUCED

LLS NO. 24-0696.02 Anna Petrini x5497

HOUSE BILL 24-1372

HOUSE SPONSORSHIP

Woodrow and Herod, Amabile, Bacon, Brown, deGruy Kennedy, English, Garcia, Hernandez, Jodeh, Lindsay, Mabrey, Ortiz, Ricks, Rutinel, Vigil

SENATE SPONSORSHIP

Fields and Gonzales, Buckner, Coleman, Cutter, Hinrichsen, Rodriguez, Winter F.

House Committees
Judiciary

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING REGULATING THE USE OF PRONE RESTRAINT BY LAW**
102 **ENFORCEMENT.**

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 prohibits peace officers from using prone restraint to subdue a subject, except in cases in which the use of deadly physical force is justified. The bill requires officers who use prone restraint to immediately reposition a person to facilitate breathing once the person is in handcuffs or the person's hands are tied. The bill applies a similar prone restraint prohibition and recovery position requirement to guards

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.*

and peace officers employed in detention facilities.

The bill requires the development of a model state policy on the risk of positional asphyxia and law enforcement use of prone restraint when making arrests or preventing escapes. The bill lists elements of the model policy and directs state and local law enforcement agencies, including those that supervise detention facilities, to adopt their own written policies and training requirements based on those elements. Law enforcement agencies that have not adopted their own policies on or before July 1, 2026, must comply with the state's model policy. The bill requires reporting of policy violations.

The bill creates a private right of action against a law enforcement agency that fails to adopt prone restraint policies, train officers to adhere to those policies, or report policy violations. The bill also creates a private right of action against individual peace officers and guards employed in detention facilities who violate policies on which they've been trained, and authorizes the peace officers standards and training board to impose related disciplinary measures on peace officers.

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

2 **SECTION 1.** In Colorado Revised Statutes, 18-1-707, **amend (8);**
3 and **add (2.7)** as follows:

4 **18-1-707. Use of force by peace officers - definitions.**

5 (2.7) (a) A PEACE OFFICER SHALL NOT USE PRONE RESTRAINT, INCLUDING
6 ANY PHYSICAL OR MECHANICAL RESTRAINT, UPON A PERSON WHO IS IN A
7 PRONE POSITION, UNLESS THE PEACE OFFICER IS ALSO JUSTIFIED IN USING
8 DEADLY PHYSICAL FORCE PURSUANT TO SUBSECTION (3) OR (4.5) OF THIS
9 SECTION.

10 (b) WHEN A PEACE OFFICER USES PRONE RESTRAINT UPON
11 ANOTHER PERSON, THE PEACE OFFICER SHALL IMMEDIATELY MOVE THE
12 PERSON TO A RECOVERY POSITION TO FACILITATE BREATHING ONCE THE
13 PERSON IS IN HANDCUFFS OR THE PERSON'S HANDS ARE TIED.

14 (c) AS USED IN THIS SUBSECTION (2.7) AND IN SUBSECTION (8) OF
15 THIS SECTION:

16 (I) "MECHANICAL RESTRAINT" MEANS A PHYSICAL DEVICE USED TO

1 INVOLUNTARILY RESTRICT THE MOVEMENT OF A PERSON OR THE
2 MOVEMENT OR NORMAL FUNCTION OF A PORTION OF A PERSON'S BODY.

3 (II) "PHYSICAL RESTRAINT" MEANS THE USE OF BODILY, PHYSICAL
4 FORCE TO INVOLUNTARILY LIMIT A PERSON'S FREEDOM OF MOVEMENT.

5 (III) "PRONE POSITION" MEANS THE FRONT OR ABDOMINAL
6 SURFACE OF A BODY IS FACING DOWNWARD, INCLUDING POSITIONS IN
7 WHICH A PERSON IS LYING WITH CHEST AND ABDOMEN POSITIONED
8 DOWNWARD BUT THE PERSON'S FACE IS TURNED TO THE SIDE OR THE
9 PERSON HAS ONE SHOULDER OFF THE GROUND.

10 (IV) "PRONE RESTRAINT" MEANS A RESTRAINT IN WHICH THE
11 PERSON WHO IS BEING RESTRAINED IS SECURED OR HELD DOWN IN A PRONE
12 POSITION.

13 (V) "RECOVERY POSITION" MEANS A SITTING POSITION THAT
14 ALLOWS THE PERSON TO BREATHE UNOBSTRUCTED OR A POSITION IN
15 WHICH THE PERSON LIES ON THE PERSON'S SIDE THAT ALLOWS THE PERSON
16 TO BREATHE UNOBSTRUCTED.

17 (8) (a) A guard or peace officer employed in a detention facility
18 is justified:

19 ~~(a)~~ (I) In using deadly physical force when ~~he~~ THE GUARD OR
20 PEACE OFFICER reasonably believes ~~it~~ DEADLY FORCE IS necessary to
21 prevent the escape of a prisoner convicted of, charged with, or held for a
22 felony or confined under the maximum security rules of ~~any~~ A detention
23 facility as ~~such facility is~~ defined in subsection (9) of this section;

24 ~~(b)~~ (II) In using reasonable and appropriate physical force, but not
25 deadly physical force, in all other circumstances when and to the extent
26 that ~~he~~ THE GUARD OR PEACE OFFICER reasonably believes ~~it~~ PHYSICAL
27 FORCE IS necessary to prevent what ~~he~~ THE GUARD OR PEACE OFFICER

1 reasonably believes to be the escape of a prisoner from a detention
2 facility.

3 (b) A GUARD OR PEACE OFFICER EMPLOYED IN A DETENTION
4 FACILITY SHALL NOT USE PRONE RESTRAINT, INCLUDING A PHYSICAL OR
5 MECHANICAL RESTRAINT UPON ANOTHER PERSON WHO IS IN A PRONE
6 POSITION, UNLESS THE GUARD OR PEACE OFFICER IS ALSO JUSTIFIED IN
7 USING DEADLY PHYSICAL FORCE PURSUANT TO SUBSECTION (8)(a)(I) OF
8 THIS SECTION.

9 (c) WHEN A GUARD OR PEACE OFFICER EMPLOYED IN A DETENTION
10 FACILITY USES PRONE RESTRAINT UPON ANOTHER PERSON, THE GUARD OR
11 PEACE OFFICER SHALL IMMEDIATELY MOVE THE PERSON TO A RECOVERY
12 POSITION TO FACILITATE BREATHING ONCE THE PERSON IS IN HANDCUFFS
13 OR THE PERSON'S HANDS ARE TIED.

14 **SECTION 2.** In Colorado Revised Statutes, **add** 24-31-907 as
15 follows:

16 **24-31-907. Physical restraint policy - private right of action -**
17 **report - definitions.** (1) (a) AS USED IN THIS SECTION, UNLESS THE
18 CONTEXT OTHERWISE REQUIRES:

19 (I) "GUARD" MEANS A GUARD OR PEACE OFFICER EMPLOYED IN A
20 DETENTION FACILITY PURSUANT TO SECTION 18-1-707 (8).

21 (II) "LAW ENFORCEMENT AGENCY" OR "AGENCY" MEANS A STATE
22 OR LOCAL LAW ENFORCEMENT AGENCY IN COLORADO, INCLUDING AN
23 AGENCY THAT SUPERVISES DETENTION FACILITIES PURSUANT TO SECTION
24 18-1-707 (8).

25 (b) ON OR BEFORE JULY 1, 2025, THE DEPARTMENT OF PUBLIC
26 SAFETY SHALL CREATE A MODEL STATE POLICY ON LAW ENFORCEMENT
27 USE OF PHYSICAL RESTRAINT WHEN MAKING AN ARREST OR PREVENTING

1 AN ESCAPE AND ON THE RISK OF POSITIONAL ASPHYXIA. AT A MINIMUM,
2 THE MODEL STATE POLICY MUST INCORPORATE THE PRONE RESTRAINT
3 PROHIBITIONS DESCRIBED IN SECTION 18-1-707 AND MUST REQUIRE PEACE
4 OFFICERS, AS DEFINED IN SECTION 24-31-901, AND GUARDS TO:

5 (I) AS SOON AS THE PERSON IS HANDCUFFED OR THE PERSON'S
6 HANDS ARE TIED, REPOSITION THE PERSON OUT OF THE PRONE POSITION;

7 (II) ASK THE PERSON IF THE PERSON HAS USED DRUGS RECENTLY
8 OR SUFFERS FROM A CARDIAC OR RESPIRATORY DISEASE OR CONDITIONS
9 SUCH AS ASTHMA, BRONCHITIS, OR EMPHYSEMA;

10 (III) MONITOR THE PERSON CAREFULLY AND OBTAIN MEDICAL
11 TREATMENT, IF NEEDED;

12 (IV) RECOGNIZE BREATHING DIFFICULTIES OR LOSS OF
13 CONSCIOUSNESS, AND IMMEDIATELY TRANSPORT THE PERSON TO THE
14 EMERGENCY ROOM OR CALL FOR AN EMERGENCY MEDICAL TEAM UNIT IF
15 SIGNS OF BREATHING DIFFICULTY OR LOSS OF CONSCIOUSNESS ARE
16 OBSERVED;

17 (V) OBTAIN NECESSARY MEDICAL TREATMENT FOR THE PERSON;
18 AND

19 (VI) IF THE PERSON IS TRANSPORTED TO A DETENTION FACILITY,
20 INFORM THE CUSTODIANS OF PREEXISTING CARDIAC OR RESPIRATORY
21 MEDICAL CONDITIONS OR THAT THE PERSON REQUESTED OR NEEDED
22 MEDICAL TREATMENT BECAUSE OF RESPIRATORY DIFFICULTY OR LOSS OF
23 CONSCIOUSNESS.

24 (c) (I) ON OR BEFORE JULY 1, 2026, ALL LAW ENFORCEMENT
25 AGENCIES IN THE STATE SHALL ADOPT AND PROVIDE THEIR PEACE
26 OFFICERS OR GUARDS TRAINING ON A WRITTEN POLICY THAT, AT A
27 MINIMUM, INCORPORATES THE PRONE RESTRAINT PROHIBITIONS

1 DESCRIBED IN SECTION 18-1-707 AND REQUIRES PEACE OFFICERS AND
2 GUARDS TO COMPLY WITH THE REQUIREMENTS SET FORTH IN SUBSECTIONS
3 (1)(b)(I) TO (1)(b)(VI) OF THIS SECTION.

4 (II) A LAW ENFORCEMENT AGENCY THAT HAS NOT ADOPTED ITS
5 OWN WRITTEN POLICY PURSUANT TO SUBSECTION (1)(c) OF THIS SECTION
6 AND IMPLEMENTED OFFICER TRAINING ON ITS OWN POLICY ON OR BEFORE
7 JULY 1, 2026, SHALL ADOPT, COMPLY WITH, AND IMPLEMENT TRAINING ON
8 THE MODEL STATE POLICY DESCRIBED IN SUBSECTION (1)(b) OF THIS
9 SECTION BEGINNING ON JULY 1, 2026.

10 (2) (a) A PARTY INJURED BY A PEACE OFFICER OR GUARD IN
11 COLORADO HAS A PRIVATE RIGHT OF ACTION AGAINST A LAW
12 ENFORCEMENT AGENCY THAT FAILS TO:

13 (I) ADOPT AND ENFORCE A WRITTEN POLICY PURSUANT TO
14 SUBSECTION (1) OF THIS SECTION;

15 (II) BEGIN TRAINING THE AGENCY'S PEACE OFFICERS OR GUARDS
16 ON THE WRITTEN POLICY ADOPTED PURSUANT TO SUBSECTION (1) OF THIS
17 SECTION WITHIN SIX MONTHS AFTER THE POLICY'S ADOPTION; OR

18 (III) REPORT, PURSUANT TO SECTION 24-31-903 (2)(f), INCIDENTS
19 OF THE AGENCY'S PEACE OFFICERS VIOLATING PROVISIONS OF THE WRITTEN
20 POLICY ADOPTED PURSUANT TO SUBSECTION (1) OF THIS SECTION.

21 (b) A PARTY INJURED BY A PEACE OFFICER OR GUARD IN
22 COLORADO HAS A PRIVATE RIGHT OF ACTION AGAINST AN INDIVIDUAL
23 PEACE OFFICER OR GUARD WHO HAS BEEN TRAINED ON A WRITTEN POLICY
24 ADOPTED PURSUANT TO SUBSECTION (1) OF THIS SECTION AND WHO,
25 UNDER COLOR OF LAW, VIOLATES THE POLICY. AN INDIVIDUAL PEACE
26 OFFICER OR GUARD IS LIABLE TO THE INJURED PARTY FOR LEGAL OR
27 EQUITABLE RELIEF OR OTHER APPROPRIATE RELIEF.

1 (3) (a) STATUTORY IMMUNITIES AND STATUTORY LIMITATIONS ON
2 LIABILITY, DAMAGES, OR ATTORNEY FEES DO NOT APPLY TO CLAIMS
3 BROUGHT PURSUANT TO THIS SECTION.

4 (b) THE "COLORADO GOVERNMENTAL IMMUNITY ACT", ARTICLE
5 10 OF THIS TITLE 24, DOES NOT APPLY TO CLAIMS BROUGHT PURSUANT TO
6 THIS SECTION.

7 (c) QUALIFIED IMMUNITY IS NOT A DEFENSE TO LIABILITY
8 PURSUANT TO THIS SECTION.

9 (d) IN ANY ACTION BROUGHT PURSUANT TO THIS SECTION, A COURT
10 SHALL AWARD REASONABLE ATTORNEY FEES AND COSTS TO A PREVAILING
11 PLAINTIFF. IN ACTIONS FOR INJUNCTIVE RELIEF, A COURT SHALL DEEM A
12 PLAINTIFF TO HAVE PREVAILED IF THE PLAINTIFF'S SUIT WAS A
13 SUBSTANTIAL FACTOR OR SIGNIFICANT CATALYST IN OBTAINING THE
14 RESULTS SOUGHT BY THE LITIGATION. WHEN A JUDGMENT IS ENTERED IN
15 FAVOR OF A DEFENDANT, THE COURT MAY AWARD REASONABLE COSTS
16 AND ATTORNEY FEES TO THE DEFENDANT FOR DEFENDING ANY CLAIMS THE
17 COURT FINDS FRIVOLOUS.

18 (e) (I) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE
19 EMPLOYER OF A PEACE OFFICER OR GUARD SHALL INDEMNIFY ITS OFFICERS
20 OR GUARDS FOR ANY LIABILITY INCURRED BY THE OFFICER OR GUARD AND
21 FOR ANY JUDGMENT OR SETTLEMENT ENTERED AGAINST THE OFFICER OR
22 GUARD FOR CLAIMS ARISING PURSUANT TO THIS SECTION; EXCEPT THAT,
23 IF THE OFFICER'S OR GUARD'S EMPLOYER DETERMINES ON A CASE-BY-CASE
24 BASIS THAT THE OFFICER OR GUARD DID NOT ACT UPON A GOOD-FAITH AND
25 REASONABLE BELIEF THAT THE ACTION WAS LAWFUL, THEN THE OFFICER
26 OR GUARD IS PERSONALLY LIABLE AND SHALL NOT BE INDEMNIFIED BY THE
27 OFFICER'S OR GUARD'S EMPLOYER FOR FIVE PERCENT OF THE JUDGMENT OR

1 SETTLEMENT OR TWENTY-FIVE THOUSAND DOLLARS, WHICHEVER IS LESS.

2 (II) NOTWITHSTANDING ANY PROVISION OF THIS SECTION TO THE
3 CONTRARY, IF THE OFFICER'S OR GUARD'S PORTION OF THE JUDGMENT IS
4 UNCOLLECTIBLE FROM THE OFFICER OR GUARD, THE OFFICER'S OR GUARD'S
5 EMPLOYER OR INSURANCE SHALL SATISFY THE FULL AMOUNT OF THE
6 JUDGMENT OR SETTLEMENT. A PUBLIC ENTITY DOES NOT HAVE TO
7 INDEMNIFY AN OFFICER OR GUARD IF THE OFFICER OR GUARD WAS
8 CONVICTED OF A CRIMINAL VIOLATION FOR THE CONDUCT FROM WHICH
9 THE CLAIM ARISES UNLESS THE OFFICER'S OR GUARD'S EMPLOYER WAS A
10 CAUSAL FACTOR IN THE VIOLATION THROUGH ITS ACTION OR INACTION.

11 (f) (I) AN EMPLOYER SHALL NOT:

12 (A) PREEMPTIVELY DETERMINE WHETHER A PEACE OFFICER ACTED
13 IN GOOD FAITH BEFORE SUCH ACTION IN QUESTION HAS OCCURRED; OR

14 (B) PROVIDE A DETERMINATION THAT A PEACE OFFICER IS DEEMED
15 TO HAVE ACTED IN GOOD FAITH UNTIL COMPLETION OF A DOCUMENTED
16 INVESTIGATION CONDUCTED BY THE PEACE OFFICER'S EMPLOYER.

17 (II) IF A PERSON BELIEVES THAT A PEACE OFFICER'S EMPLOYER HAS
18 VIOLATED SUBSECTION (3)(f)(I) OF THIS SECTION, THE PERSON SHALL
19 SUBMIT A COMPLAINT TO THE P.O.S.T. BOARD, CREATED IN SECTION
20 24-31-302, WHICH SHALL REFER THE COMPLAINT TO AN ADMINISTRATIVE
21 LAW JUDGE TO DETERMINE WHETHER A VIOLATION OCCURRED. THE
22 ADMINISTRATIVE LAW JUDGE SHALL NOTIFY THE P.O.S.T. BOARD CHAIR
23 OF A FINDING THAT A VIOLATION OF SUBSECTION (3)(f)(I) OF THIS SECTION
24 OCCURRED. IF A VIOLATION IS FOUND, THE P.O.S.T. BOARD SHALL NOT
25 PROVIDE MONEY FROM THE P.O.S.T. CASH FUND, AS CREATED IN SECTION
26 24-31-303 (2)(b), TO THE EMPLOYER FOR ONE FULL YEAR AFTER THE DATE
27 OF THE FINDING.

1 (III) FOR THE PURPOSES OF THIS SUBSECTION (3)(f), AN EMPLOYER
2 INCLUDES THE ELECTED SHERIFF, CHIEF OF POLICE, CITY OR TOWN
3 ADMINISTRATOR, COUNTY ADMINISTRATOR, MAYOR, CITY OR TOWN
4 COUNCIL, COUNTY COMMISSION, OR ANY OTHER PUBLIC BODY WITH
5 FORMAL SUPERVISION AND OVERSIGHT OF A LAW ENFORCEMENT AGENCY.

6 (g) A CIVIL ACTION PURSUANT TO THIS SECTION MUST BE FILED
7 WITHIN TWO YEARS AFTER THE CAUSE OF ACTION ACCRUES.

8 **SECTION 3.** In Colorado Revised Statutes, 24-31-903, **add** (2)(f)
9 as follows:

10 **24-31-903. Division of criminal justice report.** (2) Beginning
11 April 1, 2022, the Colorado state patrol and each local law enforcement
12 agency that employs peace officers shall report to the division of criminal
13 justice the following using data-collection methods developed for this
14 purpose by the division of criminal justice in conjunction with the
15 Colorado bureau of investigation and local law enforcement agencies:

16 (f) ALL INSTANCES WHEN A PEACE OFFICER VIOLATES PROVISIONS
17 OF THE WRITTEN POLICY ADOPTED PURSUANT TO SECTION 24-31-907 (1).

18 **SECTION 4.** In Colorado Revised Statutes, 24-31-904, **add** (5)
19 as follows:

20 **24-31-904. Peace officer certification discipline.** (5) FOR
21 PURPOSES OF THIS SECTION, THE USE OF PRONE RESTRAINT IN VIOLATION
22 OF SECTION 18-1-707 CONSTITUTES UNLAWFUL PHYSICAL FORCE.

23 **SECTION 5. Safety clause.** The general assembly finds,
24 determines, and declares that this act is necessary for the immediate
25 preservation of the public peace, health, or safety or for appropriations for
26 the support and maintenance of the departments of the state and state
27 institutions.