First Regular Session Seventy-fifth General Assembly STATE OF COLORADO

PREAMENDED

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

LLS NO. 25-0700.01 Owen Hatch x2698

HOUSE BILL 25-1114

HOUSE SPONSORSHIP

Carter,

SENATE SPONSORSHIP

Gonzales J.,

House Committees

Senate Committees

Judiciary

A BILL FOR AN ACT

101 CONCERNING ALLOWING THE DEFENSE TO REVIEW A TANGIBLE OBJECT 102 IN PREPARATION FOR A CRIMINAL TRIAL.

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 grants a right for defense counsel to review a tangible object related to a criminal case at least 35 days before a trial and create confidential work product following their review. Law enforcement officers and other state officials are prohibited from recording the defense's review of the tangible object.

1	Be it enacted by the General Assembly of the State of Colorado:
2	SECTION 1. In Colorado Revised Statutes, add part 8 to article
3	9 of title 16 as follows:
4	PART 8
5	DEFENSE ACCESS TO PHYSICAL EVIDENCE
6	16-9-801. Viewing and inspecting objects held in evidence.
7	(1) (a) THE DEFENSE HAS THE RIGHT TO VIEW AND INSPECT ANY TANGIBLE
8	OBJECT HELD BY LAW ENFORCEMENT IN CONNECTION WITH A CASE AT ANY
9	LOCATION OPERATED BY OR UNDER CONTRACT WITH THE LAW
10	ENFORCEMENT AGENCY AS SOON AS PRACTICABLE, BUT NO LATER THAN
11	THIRTY-FIVE DAYS BEFORE TRIAL. AFTER THE DEFENSE MAKES A REQUEST
12	TO THE LAW ENFORCEMENT AGENCY THAT POSSESSES A TANGIBLE ITEM
13	HELD IN CONNECTION WITH A CASE, THE AGENCY SHALL ALLOW THE
14	DEFENSE TO VIEW AND INSPECT THE ITEM. A LAW ENFORCEMENT
15	REPRESENTATIVE SHALL BE PRESENT TO DOCUMENT THE CHAIN OF
16	CUSTODY AND ENSURE THE INTEGRITY OF THE EVIDENCE.
17	(b) When inspecting the tangible item, the defense must
18	HAVE THE OPPORTUNITY TO HAVE CONFIDENTIAL CONVERSATIONS AND
19	CREATE CONFIDENTIAL WORK PRODUCT.
20	(c) If LAW ENFORCEMENT RECORDS EVIDENCE VIEWING OR
21	HANDLING BY THE PROSECUTION OR THE DEFENSE, THE RECORDING MUST
22	BE FOR THE PURPOSE OF ENSURING THE CHAIN OF CUSTODY, INTEGRITY, OR
23	SAFETY OF THE EVIDENCE HELD BY THE LAW ENFORCEMENT AGENCY. IF
24	LAW ENFORCEMENT RECORDS, BY AUDIO OR VISUAL MEANS, ANY
25	EVIDENCE VIEWING OR HANDLING AT ANY LOCATION OPERATED BY OR
26	UNDER CONTRACT WITH THE LAW ENFORCEMENT AGENCY, LAW
27	ENEOD CEMENT CHALL DROVIDE NOTICE THAT A DECORDING WAS MADE TO

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1	THE PROSECUTING AUTHORITY, WHO SHALL PROVIDE A COPY OF THE
2	NOTICE IN DISCOVERY TO THE DEFENSE. THE RECORDING SHALL NOT BE
3	PLACED IN DISCOVERY OR REVIEWED BY LAW ENFORCEMENT, THE
4	PROSECUTION, OR THE DEFENSE UNLESS ORDERED BY THE COURT WHEN A
5	GOOD FAITH ISSUE THAT THE EVIDENCE VIEWING AFFECTED THE INTEGRITY
6	OF THE EVIDENCE IS RAISED BY ANY PARTY. IF THE COURT ALLOWS ACCESS
7	TO THE RECORDING, THE COURT MAY ENTER PROTECTIVE ORDERS AS
8	NECESSARY TO PROTECT ANY PARTIES CONVERSATIONS OR WORK
9	PRODUCT.
10	(2) Upon the request by either the defense or the
11	PROSECUTING AUTHORITY, AND SUBJECT TO CONSTITUTIONAL
12	LIMITATIONS, THE COURT MAY ISSUE ORDERS RELATING TO THE EVIDENCE
13	VIEWING BY THE PROSECUTION OR DEFENSE BASED ON THE INDIVIDUAL
14	CIRCUMSTANCES OF THE EVIDENCE OR THE CASE AT ISSUE CONSISTENT
15	WITH THIS SECTION, THE COLORADO RULES OF CRIMINAL PROCEDURE, AND
16	OTHER APPLICABLE LAW.
17	(3) This section does not limit the ability of the defense to
18	REQUEST DEFENSE TESTING OR THE COURT'S ABILITY TO CONDUCT A
19	HEARING RELATED TO THE REQUEST.
20	(4) This section does not apply to the inspection, viewing,
21	AND EXAMINATION OF SEXUALLY EXPLOITATIVE MATERIAL PURSUANT TO
22	SECTION 16-9-601.
23	SECTION 2. In Colorado Revised Statutes, 24-31-902, add
24	(1)(a)(II)(E) as follows:
25	24-31-902. Incident recordings - release - tampering - fine.
26	(1) (a) (II) (E) NOTWITHSTANDING ANY OTHER PROVISION OF THIS
27	SECTION, A PEACE OFFICER SHALL NOT ACTIVATE A BODY-WORN CAMERA
28	OR DASH CAMERA AND CAPTURE, VIEW, OR OTHERWISE RECORD THE

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1	DEFENSE VIEWING, INSPECTING, OR DISCUSSING THE VIEWING OR
2	INSPECTION OF A TANGIBLE OBJECT HELD IN CONNECTION WITH A
3	CRIMINAL CASE. WHEN THE DEFENSE VIEWS OR INSPECTS EVIDENCE
4	PURSUANT TO SECTION 16-9-801, IT IS NOT AN INTERACTION WITH THE
5	PUBLIC INITIATED BY THE PEACE OFFICER, AND THE DEFENSE, INCLUDING
6	MEMBERS OF THE DEFENSE TEAM, ARE NOT MEMBERS OF THE PUBLIC. IT IS
7	ALSO NOT FOR THE PURPOSE OF ENFORCING THE LAW OR INVESTIGATING
8	POSSIBLE VIOLATIONS OF THE LAW.
9	SECTION 3. Effective date. This act takes effect July 1, 2025.
10	SECTION 4. 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.

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