

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

REVISED

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

LLS NO. 25-0700.01 Owen Hatch x2698

HOUSE BILL 25-1114

HOUSE SPONSORSHIP

Carter and Espenoza, Bacon, Duran, Lindsay

SENATE SPONSORSHIP

Gonzales J. and Weissman,

House Committees
Judiciary

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.

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.

SENATE
Amended 2nd Reading
March 6, 2025

HOUSE
3rd Reading Unamended
February 18, 2025

HOUSE
Amended 2nd Reading
February 14, 2025

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 DESIGNATED AND OPERATED BY OR UNDER CONTRACT WITH THE
10 LAW ENFORCEMENT AGENCY AS SOON AS PRACTICABLE, BUT NO LATER
11 THAN THIRTY-FIVE DAYS BEFORE TRIAL. AFTER THE DEFENSE MAKES A
12 REQUEST TO THE LAW ENFORCEMENT AGENCY THAT POSSESSES A
13 TANGIBLE ITEM HELD IN CONNECTION WITH A CASE, THE AGENCY SHALL
14 ALLOW THE DEFENSE TO VIEW AND INSPECT THE ITEM. A LAW
15 ENFORCEMENT REPRESENTATIVE SHALL BE PRESENT TO DOCUMENT THE
16 CHAIN OF 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

1 ENFORCEMENT SHALL PROVIDE NOTICE THAT A RECORDING WAS MADE TO
2 THE PROSECUTING AUTHORITY, WHO SHALL PROVIDE A COPY OF THE
3 NOTICE IN DISCOVERY TO THE DEFENSE. THE RECORDING SHALL NOT BE
4 PLACED IN DISCOVERY OR REVIEWED BY LAW ENFORCEMENT, EXCEPT AS
5 PROVIDED IN SUBSECTION (1)(d) OF THIS SECTION; THE PROSECUTION; OR
6 THE DEFENSE UNLESS ORDERED BY THE COURT WHEN A GOOD FAITH ISSUE
7 THAT THE EVIDENCE VIEWING AFFECTED THE INTEGRITY OF THE EVIDENCE
8 IS RAISED BY ANY PARTY. IF THE COURT ALLOWS ACCESS TO THE
9 RECORDING, THE COURT MAY ENTER PROTECTIVE ORDERS AS NECESSARY
10 TO PROTECT ANY PARTIES' CONVERSATIONS OR WORK PRODUCT.

11 (d) LAW ENFORCEMENT MAY VIEW A RECORDING OF AN EVIDENCE
12 VIEWING BY THE PROSECUTION OR DEFENSE AS NECESSARY TO PROPERLY
13 ORGANIZE, CATALOGUE, MAINTAIN, OR OTHERWISE PROPERLY STORE THE
14 RECORDING IF THE REVIEW IS NOT FOR THE PURPOSE OF REVIEWING THE
15 PROSECUTION'S OR DEFENSE'S PREPARATION OR STRATEGY FOR TRIAL.
16 LAW ENFORCEMENT MAY ALSO VIEW A RECORDING OF AN EVIDENCE
17 VIEWING AS AUTHORIZED BY A COURT ORDER.

18 (2) UPON THE REQUEST BY EITHER THE DEFENSE OR THE
19 PROSECUTING AUTHORITY, AND SUBJECT TO CONSTITUTIONAL
20 LIMITATIONS, THE COURT MAY ISSUE ORDERS RELATING TO THE EVIDENCE
21 VIEWING BY THE PROSECUTION OR DEFENSE BASED ON THE INDIVIDUAL
22 CIRCUMSTANCES OF THE EVIDENCE OR THE CASE AT ISSUE CONSISTENT
23 WITH THIS SECTION, THE COLORADO RULES OF CRIMINAL PROCEDURE, AND
24 OTHER APPLICABLE LAW.

25 (3) THIS SECTION DOES NOT LIMIT THE ABILITY OF THE DEFENSE TO
26 REQUEST DEFENSE TESTING OR THE COURT'S ABILITY TO CONDUCT A
27 HEARING RELATED TO THE REQUEST.

1 (4) THIS SECTION DOES NOT APPLY TO THE INSPECTION, VIEWING,
2 ANDEXAMINATION OF SEXUALLY EXPLOITATIVE MATERIAL PURSUANT TO
3 SECTION 16-9-601.

4 SECTION 2. In Colorado Revised Statutes, 24-31-902, add
5 (1)(a)(II)(E) as follows:

6 24-31-902. Incident recordings - release - tampering - fine.

7 (1) (a) (II) (E) NOTWITHSTANDING ANY OTHER PROVISION OF THIS
8 SECTION, A PEACE OFFICER SHALL NOT ACTIVATE A BODY-WORN CAMERA
9 OR DASH CAMERA AND CAPTURE, VIEW, OR OTHERWISE RECORD THE
10 DEFENSE VIEWING, INSPECTING, OR DISCUSSING THE VIEWING OR
11 INSPECTION OF A TANGIBLE OBJECT HELD IN CONNECTION WITH A
12 CRIMINAL CASE. WHEN THE DEFENSE VIEWS OR INSPECTS EVIDENCE
13 PURSUANT TO SECTION 16-9-801, IT IS NOT AN INTERACTION WITH THE
14 PUBLIC INITIATED BY THE PEACE OFFICER, AND THE DEFENSE, INCLUDING
15 MEMBERS OF THE DEFENSE TEAM, ARE NOT MEMBERS OF THE PUBLIC. IT IS
16 ALSO NOT FOR THE PURPOSE OF ENFORCING THE LAW OR INVESTIGATING
17 POSSIBLE VIOLATIONS OF THE LAW.

18 SECTION 3. Effective date. This act takes effect July 1, 2025.

19 SECTION 4. Safety clause. The general assembly finds,
20 determines, and declares that this act is necessary for the immediate
21 preservation of the public peace, health, or safety or for appropriations for
22 the support and maintenance of the departments of the state and state
23 institutions.