

CHAPTER 5

CRIMINAL LAW AND PROCEDURE

HOUSE BILL 94-1276

BY REPRESENTATIVES Owen, Agler, Anderson, Chlouber, Martin, Hagedorn, Jerke, and Lawrence;
also SENATORS Rizzuto, Cassidy, Johnson, Norton, and Ruddick.

AN ACT

CONCERNING A STATEWIDE INSTANT CRIMINAL BACKGROUND CHECK SYSTEM IN CONNECTION WITH THE TRANSFER OF HANDGUNS IN THIS STATE, AND MAKING AN APPROPRIATION IN CONNECTION THEREWITH.

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

SECTION 1. Title 12, Colorado Revised Statutes, 1991 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW ARTICLE to read:

ARTICLE 26.5

Handguns - Statewide Instant Criminal Background Check System

12-26.5-101. Short title. THIS ARTICLE SHALL BE KNOWN AND MAY BE CITED AS THE "INSTANT CRIMINAL BACKGROUND CHECK SYSTEM ACT".

12-26.5-102. Definitions. AS USED IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

- (1) "BUREAU" MEANS THE COLORADO BUREAU OF INVESTIGATION IN THE DEPARTMENT OF PUBLIC SAFETY AND CREATED PURSUANT TO ARTICLE 33.5 OF TITLE 24, C.R.S.
- (2) "HANDGUN" MEANS:
 - (a) A FIREARM THAT HAS A SHORT STOCK AND IS DESIGNED TO BE HELD AND FIRED BY THE USE OF A SINGLE HAND; AND
 - (b) ANY COMBINATION OF PARTS FROM WHICH SUCH FIREARM CAN BE ASSEMBLED.

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

(3) "FIREARM" HAS THE SAME MEANING AS SET FORTH IN THE FEDERAL "GUN CONTROL ACT OF 1968", 18 U.S.C. SEC. 921.

(4) "LICENSED COLLECTOR" HAS THE SAME MEANING AS SET FORTH IN THE FEDERAL "GUN CONTROL ACT OF 1968", 18 U.S.C. SEC. 921.

(5) "TRANSFER" MEANS THE SALE OR DELIVERY OF ANY HANDGUN IN THIS STATE BY A TRANSFEROR, AS SUCH TERM IS DEFINED IN SUBSECTION (7) OF THIS SECTION, TO A TRANSFEREE, AS SUCH TERM IS DEFINED IN SUBSECTION (6) OF THIS SECTION.

(6) "TRANSFEREE" MEANS ANY PERSON TO WHOM A TRANSFEROR, AS SUCH TERM IS DEFINED IN SUBSECTION (7) OF THIS SECTION, WISHES TO SELL OR DELIVER A HANDGUN.

(7) "TRANSFEROR" MEANS ANY FIREARM IMPORTER, MANUFACTURER, OR DEALER WHO IS LICENSED BY THE FEDERAL BUREAU OF ALCOHOL, TOBACCO, AND FIREARMS, IN ACCORDANCE WITH THE FEDERAL "GUN CONTROL ACT OF 1968" AND IS ENGAGED IN THE TRANSFER OF HANDGUNS IN THIS STATE.

12-26.5-103. Transfer of handguns - duty of transferors - collection of fee - duty of bureau. (1) ON AND AFTER FEBRUARY 28, 1994, A TRANSFEROR SHALL NOT TRANSFER A HANDGUN TO ANY PERSON WHO:

(a) IS PROHIBITED UNDER LOCAL, STATE, OR FEDERAL LAW FROM PURCHASING, RECEIVING, OR POSSESSING A HANDGUN;

(b) HAS BEEN CONVICTED OF ANY OF THE CRIMES DESCRIBED IN SUBPARAGRAPHS (I) TO (VIII) OF THIS PARAGRAPH (b), INVOLVING THE USE OF FORCE AGAINST A SPOUSE, A FORMER SPOUSE, OR A CHILD:

(I) FIRST DEGREE ASSAULT, AS DESCRIBED IN SECTION 18-3-202, C.R.S.;

(II) SECOND DEGREE ASSAULT, AS DESCRIBED IN SECTION 18-3-203, C.R.S.;

(III) THIRD DEGREE ASSAULT, AS DESCRIBED IN SECTION 18-3-204, C.R.S.;

(IV) FIRST DEGREE SEXUAL ASSAULT, AS DESCRIBED IN SECTION 18-3-402, C.R.S.;

(V) SECOND DEGREE SEXUAL ASSAULT, AS DESCRIBED IN SECTION 18-3-403, C.R.S.;

(VI) THIRD DEGREE SEXUAL ASSAULT, AS DESCRIBED IN SECTION 18-3-404, C.R.S.;

(VII) SEXUAL ASSAULT ON A CHILD, AS DESCRIBED IN SECTION 18-3-405, C.R.S.;

(VIII) CHILD ABUSE, AS DESCRIBED IN SECTION 18-6-401, C.R.S.;

(c) IS SUBJECT TO A RESTRAINING ORDER TO PREVENT DOMESTIC ABUSE ISSUED PURSUANT TO SECTIONS 14-4-102 OR 14-4-103, C.R.S., OR IS SUBJECT TO A RESTRAINING ORDER ISSUED PURSUANT TO SECTION 18-1-1001, C.R.S., IN CONNECTION WITH CHARGES BROUGHT AGAINST THE TRANSFEREE FOR ANY OF THE

CRIMES DESCRIBED IN SUBPARAGRAPHS (I) TO (VIII) OF PARAGRAPH (b) OF THIS SUBSECTION (1).

(1.5) FOR THE PURPOSES OF PARAGRAPH (b) OF SUBSECTION (1) OF THIS SECTION, "CONVICTION" MEANS A PLEA OF GUILTY, OR A VERDICT OF GUILTY BY A JUDGE OR JURY, AND INCLUDES A PLEA OF NO CONTEST ACCEPTED BY THE COURT.

(2) ON AND AFTER FEBRUARY 28, 1994, A TRANSFEROR SHALL NOT TRANSFER A HANDGUN TO ANY PERSON, OTHER THAN ANOTHER TRANSFEROR OR LICENSED COLLECTOR, UNTIL THE TRANSFEROR COMPLETES EACH OF THE FOLLOWING:

(a) PROVIDES TO AND OBTAINS FROM THE TRANSFEREE A FORM ADOPTED BY THE BUREAU WHICH REQUESTS INFORMATION FROM THE TRANSFEREE INCLUDING, BUT NOT LIMITED TO, THE TRANSFEREE'S NAME, DATE OF BIRTH, GENDER, RACE, AND SOCIAL SECURITY NUMBER OR OTHER ACCEPTABLE IDENTIFICATION NUMBER;

(b) INSPECTS PROPER IDENTIFICATION OF THE TRANSFEREE. A DEFINITION OF PROPER IDENTIFICATION SHALL BE DETERMINED BY THE BUREAU. SUCH IDENTIFICATION MAY INCLUDE A FORM CONTAINING A PHOTOGRAPH OF THE TRANSFEREE;

(c) COLLECTS A FEE FROM THE TRANSFEREE FOR THE PURPOSE OF PROCESSING THE CRIMINAL HISTORY INSTANT CHECK OF THE TRANSFEREE IN ACCORDANCE WITH SECTION 12-26.5-104. THE BUREAU SHALL ESTABLISH THE FEE IN ACCORDANCE WITH SECTION 12-26.5-107.

(d) (I) (A) REQUESTS THE BUREAU TO CONDUCT AN INSTANT CHECK OF ANY INFORMATION CONCERNING THE TRANSFEREE THAT HAS BEEN REPORTED AND IS REFLECTED IN THE BUREAU'S COMPUTERIZED DATA BASE SYSTEM AS OF THE DATE OF THE REQUEST; AND

(B) RECEIVES A UNIQUE APPROVAL NUMBER FOR THE INQUIRY FROM THE BUREAU AND RECORDS THE DATE AND THE APPROVAL NUMBER ON THE FORM COMPLETED BY THE TRANSFEREE.

(II) THE REQUEST MADE BY THE TRANSFEROR TO THE BUREAU IN ACCORDANCE WITH SUB-SUBPARAGRAPH (A) OF SUBPARAGRAPH (I) OF THIS PARAGRAPH (d) SHALL BE MADE BY MEANS OF A TOLL-FREE TELEPHONE CALL.

(3) (a) A TRANSFEROR IS NOT REQUIRED TO COMPLY WITH SUBPARAGRAPH (II) OF PARAGRAPH (d) OF SUBSECTION (2) OF THIS SECTION WHEN:

(I) TELEPHONE SERVICES ARE INTERRUPTED DUE TO A HURRICANE, TORNADO, FLOOD, OR OTHER NATURAL DISASTER, WAR, INVASION, INSURRECTION, RIOT, OR OTHER BONA FIDE EMERGENCY;

(II) TELEPHONE SERVICES ARE UNAVAILABLE DUE TO ANY OTHER REASON BEYOND THE CONTROL OF THE TRANSFEROR.

(b) UNDER THE CIRCUMSTANCES DESCRIBED IN PARAGRAPH (a) OF THIS SUBSECTION (3), A TRANSFEROR SHALL NOT TRANSFER A HANDGUN FOR THIRTY HOURS

OR UNTIL TELEPHONE SERVICE IS AVAILABLE, WHICHEVER OCCURS SOONER. A TRANSFEROR SHALL COMPLETE A BUREAU FORM CONCERNING A SALE MADE PURSUANT TO THIS PARAGRAPH (b) AND SHALL SUBMIT A REPORT TO THE BUREAU WITHIN TWENTY-FOUR HOURS.

(4) IF A PERSON IS DENIED AN APPROVAL NUMBER TO PURCHASE, RECEIVE, OR POSSESS A HANDGUN AS A RESULT OF THE PROCEDURES SET FORTH IN SECTION 12-26.5-104, THE TRANSFEROR SHALL PROVIDE THE TRANSFEREE WITH WRITTEN INFORMATION PREPARED BY THE BUREAU, IN ACCORDANCE WITH SECTION 12-26.5-104 (9), CONCERNING THE PROCEDURE BY WHICH THE TRANSFEREE MAY REQUEST A REVIEW OF THE BUREAU'S DECISION AND A REVIEW OF THE CRIMINAL HISTORY RECORDS.

12-26.5-104. Statewide instant criminal background check system - duties of bureau. (1) THE BUREAU SHALL BE RESPONSIBLE FOR ADMINISTERING A STATEWIDE INSTANT CRIMINAL BACKGROUND CHECK SYSTEM IN CONNECTION WITH THE TRANSFER OF HANDGUNS IN THIS STATE.

(2) (a) UPON RECEIPT OF A REQUEST FOR A CRIMINAL HISTORY RECORD CHECK FROM A TRANSFEROR IN ACCORDANCE WITH SECTION 12-26.5-103 (2) (d), THE BUREAU, DURING THE TRANSFEROR'S CALL OR WITHIN TWENTY-FOUR HOURS IF SUBSECTION (4) OF THIS SECTION APPLIES, SHALL REVIEW ITS CRIMINAL HISTORY RECORDS TO DETERMINE IF THE TRANSFEREE:

(I) IS PROHIBITED FROM PURCHASING, RECEIVING, OR POSSESSING A HANDGUN UNDER LOCAL, STATE, OR FEDERAL LAW;

(II) HAS BEEN ARRESTED FOR OR CHARGED WITH A CRIME FOR WHICH THE TRANSFEREE, IF CONVICTED, WOULD BE PROHIBITED FROM PURCHASING, RECEIVING, OR POSSESSING A HANDGUN;

(III) IS THE SUBJECT OF AN INFORMATION OR A FELONY COMPLAINT ALLEGING THAT THE TRANSFEREE HAS COMMITTED A CRIME PUNISHABLE BY IMPRISONMENT FOR A TERM THAT EXCEEDS ONE YEAR;

(IV) HAS BEEN CONVICTED OF ANY OF THE CRIMES DESCRIBED IN SUB-SUBPARAGRAPHS (A) TO (H) OF THIS SUBPARAGRAPH (IV), INVOLVING THE USE OF FORCE AGAINST A SPOUSE, A FORMER SPOUSE, OR A CHILD:

(A) FIRST DEGREE ASSAULT, AS DESCRIBED IN SECTION 18-3-202, C.R.S.;

(B) SECOND DEGREE ASSAULT, AS DESCRIBED IN SECTION 18-3-203, C.R.S.;

(C) THIRD DEGREE ASSAULT, AS DESCRIBED IN SECTION 18-3-204, C.R.S.;

(D) FIRST DEGREE SEXUAL ASSAULT, AS DESCRIBED IN SECTION 18-3-402, C.R.S.;

(E) SECOND DEGREE SEXUAL ASSAULT, AS DESCRIBED IN SECTION 18-3-403, C.R.S.;

(F) THIRD DEGREE SEXUAL ASSAULT, AS DESCRIBED IN SECTION 18-3-404, C.R.S.;

(G) SEXUAL ASSAULT ON A CHILD, AS DESCRIBED IN SECTION 18-3-405, C.R.S.;

(H) CHILD ABUSE, AS DESCRIBED IN SECTION 18-6-401, C.R.S.;

(V) IS SUBJECT TO A RESTRAINING ORDER TO PREVENT DOMESTIC ABUSE ISSUED PURSUANT TO SECTIONS 14-4-102 OR 14-4-103, C.R.S., OR IS SUBJECT TO A RESTRAINING ORDER ISSUED PURSUANT TO SECTION 18-1-1001, C.R.S., IN CONNECTION WITH CHARGES BROUGHT AGAINST THE TRANSFEREE FOR ANY OF THE CRIMES DESCRIBED IN SUB-SUBPARAGRAPHS (A) TO (H) OF SUBPARAGRAPH (IV) OF THIS PARAGRAPH (a).

(a.5) FOR THE PURPOSES OF SUBPARAGRAPH (IV) OF PARAGRAPH (a) OF THIS SUBSECTION (2), "CONVICTION" MEANS A PLEA OF GUILTY, OR A VERDICT OF GUILTY BY A JUDGE OR JURY, AND INCLUDES A PLEA OF NO CONTEST ACCEPTED BY THE COURT.

(b) THE BUREAU SHALL DETERMINE AS QUICKLY AS POSSIBLE WHETHER THE TRANSFEREE IS PROHIBITED FROM PURCHASING, RECEIVING, OR POSSESSING A HANDGUN.

(3) (a) (I) IF A REVIEW IN ACCORDANCE WITH PARAGRAPH (a) OF SUBSECTION (2) OF THIS SECTION INDICATES THAT ANY OF THE ITEMS DESCRIBED IN THAT PARAGRAPH APPLY TO THE TRANSFEREE, THE BUREAU SHALL PROVIDE A NONAPPROVAL NUMBER TO THE TRANSFEROR.

(II) IF THE BUREAU ISSUES A NONAPPROVAL NUMBER ON THE BASIS OF A RECORD THAT DOES NOT INCLUDE DISPOSITIONAL INFORMATION, THE TRANSFEREE MAY SEEK REVIEW OF THE BUREAU'S DETERMINATION IN ACCORDANCE WITH SUBSECTION (9) OF THIS SECTION.

(b) IF A REVIEW IN ACCORDANCE WITH PARAGRAPH (a) OF SUBSECTION (2) OF THIS SECTION INDICATES THAT NONE OF THE ITEMS DESCRIBED IN THAT PARAGRAPH APPLY TO THE TRANSFEREE, THE BUREAU SHALL PROVIDE AN APPROVAL NUMBER TO THE TRANSFEROR.

(4) IN THE EVENT OF ANY SCHEDULED COMPUTER DOWNTIME, ELECTRONIC FAILURE, OR SIMILAR PROBLEM THAT DELAYS THE BUREAU'S ABILITY TO RESPOND DURING A TRANSFEROR'S PHONE CALL, THE BUREAU SHALL IMMEDIATELY NOTIFY THE TRANSFEROR OF THE REASON FOR AND ESTIMATED LENGTH OF ANY DELAY. AFTER PROVIDING SUCH NOTIFICATION, THE BUREAU SHALL, AS SOON AS POSSIBLE BUT AT LEAST WITHIN TWENTY-FOUR HOURS, EITHER INFORM THE TRANSFEROR THAT ITS RECORDS DEMONSTRATE THAT THE TRANSFEREE IS PROHIBITED FROM PURCHASING, RECEIVING, OR POSSESSING A HANDGUN UNDER SECTION 12-26.5-103 (1) OR PROVIDE THE TRANSFEROR WITH A UNIQUE APPROVAL NUMBER.

(5) UNLESS NOTIFIED WITHIN TWENTY-FOUR HOURS THAT THE TRANSFER IS PROHIBITED, AND WITHOUT REGARD AS TO WHETHER THE BUREAU HAS PROVIDED A UNIQUE APPROVAL NUMBER, THE TRANSFEROR MAY COMPLETE THE TRANSFER AND SHALL NOT BE DEEMED IN VIOLATION OF THIS ARTICLE.

(6) (a) ANY RECORDS CONTAINING ANY OF THE INFORMATION SET FORTH IN SECTION 12-26.5-103 (2) (a) PERTAINING TO A TRANSFEREE WHO THE BUREAU

DETERMINES IS NOT PROHIBITED FROM PURCHASING, RECEIVING, OR POSSESSING A HANDGUN UNDER LOCAL, STATE, OR FEDERAL LAW, WHICH RECORDS ARE CREATED OR MAINTAINED BY THE BUREAU TO CONDUCT THE CRIMINAL HISTORY RECORD CHECK REQUIRED BY THIS ARTICLE, SHALL BE CONFIDENTIAL, AND THE BUREAU AND ALL OF ITS EMPLOYEES OR AGENTS SHALL NOT DISCLOSE ANY INFORMATION CONTAINED THEREIN TO ANY PERSON OR TO ANOTHER AGENCY.

(b) THE BUREAU SHALL DESTROY ANY RECORD CREATED OR OBTAINED FOR THE PURPOSES OF THIS ARTICLE AS SOON AS POSSIBLE AFTER THE BUREAU COMMUNICATES AN APPROVAL NUMBER TO THE TRANSFEROR. THE BUREAU SHALL NOT RETAIN A RECORD FOR MORE THAN FORTY-EIGHT HOURS AFTER THE DAY ON WHICH THE BUREAU APPROVES THE TRANSFEROR'S REQUEST.

(c) THE BUREAU MAY MAINTAIN RECORDS OF THE NATIONAL CRIME INFORMATION CENTER TRANSACTIONS TO THE EXTENT REQUIRED BY FEDERAL LAW AND MAY MAINTAIN A LOG OF DATES OF REQUESTS FOR CRIMINAL HISTORY RECORDS CHECKS, UNIQUE APPROVAL AND NONAPPROVAL NUMBERS, LICENSE IDENTIFICATION NUMBERS, AND TRANSACTION NUMBERS CORRESPONDING TO SUCH DATES FOR A PERIOD OF NO MORE THAN TWO YEARS UNLESS OTHERWISE PROHIBITED BY FEDERAL LAW, IN WHICH CASE THE BUREAU MAY MAINTAIN RECORDS ONLY FOR SO LONG AS PERMITTED UNDER FEDERAL LAW.

(d) EXCEPT AS OTHERWISE PROVIDED BY PARAGRAPH (e) OF THIS SUBSECTION (6), IF AN APPLICANT IS DENIED AN APPROVAL NUMBER TO PURCHASE, RECEIVE, OR POSSESS A HANDGUN AS A RESULT OF ANY INFORMATION OBTAINED PURSUANT TO THE CRIMINAL BACKGROUND CHECK SYSTEM, SUCH INFORMATION SHALL NOT BE USED AGAINST THAT INDIVIDUAL FOR ANY OTHER PURPOSES, INCLUDING BUT NOT LIMITED TO THE DENIAL OF EMPLOYMENT OPPORTUNITIES.

(e) IF THE BUREAU PROVIDES A TRANSFEROR WITH A NON-APPROVAL NUMBER FOR A TRANSFEREE, THE BUREAU SHALL IMMEDIATELY NOTIFY THE LOCAL LAW ENFORCEMENT AGENCY WHERE THE TRANSFEREE RESIDES AND THE LOCAL LAW ENFORCEMENT AGENCY OF THE TRANSFEROR'S PLACE OF BUSINESS OF THE NON-APPROVAL NUMBER. IN ADDITION, THE BUREAU SHALL PROVIDE THE LAW ENFORCEMENT AGENCIES WITH ANY CRIMINAL BACKGROUND INFORMATION AND ANY INFORMATION PROVIDED BY THE TRANSFEROR CONCERNING THE TRANSFEREE.

(7) NOTHING IN THIS ARTICLE SHALL BE CONSTRUED TO ALLOW THE BUREAU TO MAINTAIN RECORDS CONTAINING THE NAMES OF PURCHASERS OR TRANSFEREES WHO RECEIVE UNIQUE APPROVAL NUMBERS OR TO MAINTAIN RECORDS OF FIREARM TRANSACTIONS.

(8) THE BUREAU SHALL PROVIDE A TOLL-FREE TELEPHONE NUMBER THAT IS OPERATIONAL EVERY DAY OF THE WEEK, TWELVE HOURS A DAY, FOR THE PURPOSE OF RESPONDING TO REQUESTS FROM TRANSFERORS IN ACCORDANCE WITH THIS SECTION. THE BUREAU SHALL EMPLOY AND TRAIN SUCH PERSONNEL AS ARE NECESSARY TO ADMINISTER THE PROVISIONS OF THIS SECTION.

(9) (a) ANY PERSON WHO IS DENIED AN APPROVAL NUMBER TO PURCHASE, RECEIVE, OR POSSESS A HANDGUN AS A RESULT OF THE PROCEDURES ESTABLISHED BY THIS SECTION MAY REQUEST A REVIEW OF THE BUREAU'S DECISION AND A CRIMINAL

HISTORY RECORDS REVIEW IN ACCORDANCE WITH THE RULES ADOPTED BY THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF PUBLIC SAFETY. THE EXECUTIVE DIRECTOR SHALL INCLUDE A RULE THAT REQUIRES THE BUREAU TO PREPARE WRITTEN INSTRUCTIONS FOR THE REVIEW, WHICH INSTRUCTIONS SHALL BE PROVIDED TO THE TRANSFEREE BY THE TRANSFEROR IN ACCORDANCE WITH SECTION 12-26.5-103 (4).

(b) WHEN DISPOSITIONAL INFORMATION INDICATING A TRANSFEREE IS NOT PROHIBITED FROM PURCHASING, RECEIVING, OR POSSESSING A HANDGUN IS NOT INCLUDED IN THE BUREAU'S RECORDS, IT IS THE TRANSFEREE'S RESPONSIBILITY TO OBTAIN AND PROVIDE THE DISPOSITIONAL INFORMATION TO THE BUREAU BEFORE THE BUREAU MAY RELEASE AN APPROVAL NUMBER TO THE TRANSFEROR.

(10) THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF PUBLIC SAFETY SHALL ADOPT RULES TO ENSURE THE PROPER MAINTENANCE, CONFIDENTIALITY, AND SECURITY OF ALL RECORDS AND DATA PROVIDED PURSUANT TO THIS ARTICLE. THE EXECUTIVE DIRECTOR SHALL FOLLOW THE RECOMMENDATIONS MADE BY THE DIRECTOR OF THE BUREAU IN ADOPTING RULES PURSUANT TO THIS SECTION.

12-26.5-105. Unlawful act - criminal and civil penalties - immunities. (1) IT IS UNLAWFUL FOR:

(a) ANY TRANSFEREE TO WILLFULLY AND KNOWINGLY PROVIDE FALSE INFORMATION OR FALSE OR FRAUDULENT IDENTIFICATION IN CONNECTION WITH A TRANSFER MADE PURSUANT TO THIS ARTICLE;

(b) ANY TRANSFEROR, OR EMPLOYEE OR AGENT OF A TRANSFEROR, TO VIOLATE THE PROVISIONS OF THIS ARTICLE;

(c) ANY PERSON TO KNOWINGLY ACQUIRE A HANDGUN FOR A PERSON WHO IS PROHIBITED BY LOCAL, STATE, OR FEDERAL LAW FROM PURCHASING, RECEIVING, OR POSSESSING A HANDGUN;

(d) ANY TRANSFEROR TO REQUEST CRIMINAL HISTORY RECORD INFORMATION UNDER FALSE PRETENSES OR TO WILLFULLY AND INTENTIONALLY DISSEMINATE CRIMINAL HISTORY RECORD INFORMATION TO ANY PERSON OTHER THAN THE SUBJECT OF SUCH INFORMATION;

(e) ANY AGENT OR EMPLOYEE, OR FORMER AGENT OR EMPLOYEE, OF THE BUREAU TO INTENTIONALLY VIOLATE THE PROVISIONS OF THIS ARTICLE.

(2) ANY PERSON WHO VIOLATES THE PROVISIONS OF SUBSECTION (1) OF THIS SECTION COMMITS A CLASS 1 MISDEMEANOR AND SHALL BE PUNISHED AS PROVIDED IN SECTION 18-1-106, C.R.S.

(3) ANY LAW ENFORCEMENT AGENCY, INCLUDING THE BUREAU, THE STATE JUDICIAL DEPARTMENT, OR ANY COURT OF THIS STATE OR ANY OF ITS POLITICAL SUBDIVISIONS, THAT ACTS IN GOOD FAITH IN COMPLYING WITH THE PROVISIONS OF THIS ARTICLE OR ANY EMPLOYEE OR AGENT OF SUCH ENTITIES WHO ACTS IN GOOD FAITH IN COMPLYING WITH THE PROVISIONS OF THIS ARTICLE SHALL NOT BE SUBJECT TO ANY CIVIL OR CRIMINAL LIABILITY OR REGULATORY SANCTION THEREFOR.

(4) ANY TRANSFEROR WHO COMPLIES WITH THE PROVISIONS OF THIS ARTICLE SHALL NOT BE SUBJECT TO ANY CIVIL OR CRIMINAL LIABILITY OR REGULATORY SANCTION THEREFOR.

12-26.5-106. Persons exempt as transferees - transferors. (1) THE PROVISIONS OF THIS ARTICLE THAT APPLY TO TRANSFERORS OR TRANSFEREES SHALL NOT APPLY TO:

(a) ANY LOCAL, STATE, OR FEDERAL LAW ENFORCEMENT OFFICER OR AGENT, WHEN THE TRANSFER IS MADE TO THE OFFICER OR AGENT FOR OFFICIAL LAW ENFORCEMENT PURPOSES;

(b) ANY LICENSED COLLECTOR.

12-26.5-107. Fees - fines - collection - cash fund created - allocation of moneys from fund. (1) THE DIRECTOR OF THE BUREAU SHALL ESTABLISH A FEE TO BE CHARGED TO A TRANSFEROR EACH TIME THE TRANSFEROR MAKES A REQUEST USING THE STATEWIDE INSTANT CRIMINAL BACKGROUND CHECK SYSTEM IN ACCORDANCE WITH SECTION 12-26.5-103. THE TRANSFEROR SHALL COLLECT THE FEE FROM THE TRANSFEREE IN ACCORDANCE WITH SECTION 12-26.5-103 (2) (c). THE DIRECTOR SHALL ESTABLISH A FEE THAT IS SUFFICIENT TO COVER THE DIRECT AND INDIRECT COSTS ASSOCIATED WITH IMPLEMENTING THIS ARTICLE.

(2) ANY FEE COLLECTED PURSUANT TO SUBSECTION (1) OF THIS SECTION OR ANY FINE COLLECTED PURSUANT TO SECTION 12-26.5-105 (3) SHALL BE TRANSMITTED TO THE STATE TREASURER WHO SHALL CREDIT THE SAME TO THE STATEWIDE INSTANT CRIMINAL BACKGROUND CHECK CASH FUND, REFERRED TO IN THIS ARTICLE AS THE "FUND", WHICH FUND IS HEREBY CREATED. ANY INTEREST DERIVED FROM THE DEPOSIT AND INVESTMENT OF MONEYS IN THE FUND SHALL BE CREDITED TO THE FUND. ALL MONEYS IN THE FUND SHALL BE SUBJECT TO APPROPRIATION BY THE GENERAL ASSEMBLY FOR THE DIRECT AND INDIRECT COSTS OF IMPLEMENTING THE PROVISIONS OF THIS ARTICLE.

12-26.5-108. General assembly's intent to comply with federal law. (1) IT IS THE GENERAL ASSEMBLY'S INTENT THAT THE PROVISIONS OF THIS ARTICLE BE IMPLEMENTED IN A MANNER THAT IS CONSISTENT WITH THE FEDERAL "BRADY HANDGUN VIOLENCE PREVENTION ACT", AND ANY FEDERAL RULES ADOPTED PURSUANT TO THE ACT.

(2) IT IS THE GENERAL ASSEMBLY'S FURTHER INTENT THAT THE BUREAU ACT AS THE AUTHORIZED GOVERNMENT OFFICIAL FOR THE PURPOSE OF IMPLEMENTING THIS ARTICLE IN ACCORDANCE WITH THE FEDERAL LAW.

(3) NOTHING IN THIS ARTICLE SHALL BE CONSTRUED TO ALLOW A TRANSFEROR TO COMPLY WITH THE FEDERAL "BRADY HANDGUN VIOLENCE PREVENTION ACT" IN ANY MANNER OTHER THAN THAT SET FORTH IN THIS ARTICLE.

12-26.5-109. Repeal of article. THIS ARTICLE IS REPEALED EFFECTIVE FEBRUARY 28, 1999, WHICH IS THE DATE OF THE IMPLEMENTATION OF THE FEDERAL NATIONAL INSTANT CRIMINAL BACKGROUND CHECK SYSTEM IN ACCORDANCE WITH THE FEDERAL "BRADY HANDGUN VIOLENCE PREVENTION ACT", WHICH PROVIDES FOR ACCESS TO

NATIONAL CRIMINAL HISTORY INFORMATION AND REQUIRES NATIONAL CRIMINAL HISTORY CHECKS OF TRANSFEREES TO WHOM A FIREARM MAY BE TRANSFERRED.

SECTION 2. 24-33.5-412 (1), Colorado Revised Statutes, 1988 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

24-33.5-412. Functions of bureau - legislative review. (1) The bureau has the following authority:

(1) TO CARRY OUT THE DUTIES SET FORTH IN ARTICLE 26.5 OF TITLE 12, C.R.S., CONCERNING THE STATEWIDE INSTANT CRIMINAL BACKGROUND CHECK SYSTEM IN CONNECTION WITH THE TRANSFER OF HANDGUNS.

SECTION 3. Appropriation - loan authorized. (1) (a) In addition to any other appropriation heretofore made for the current fiscal year, there is hereby appropriated, out of any moneys in the statewide instant criminal background check cash fund created by section 12-26.5-107, Colorado Revised Statutes, not otherwise appropriated, to the department of public safety for allocation to the Colorado bureau of investigation, the sum of one hundred five thousand six hundred sixty-nine dollars (\$105,669) and 2.0 FTE, or so much thereof as may be necessary, for the implementation of this act.

(b) For the purpose of implementing this act prior to sufficient moneys becoming available in the statewide instant criminal background check cash fund, the department of public safety is authorized to borrow moneys from the general fund pursuant to section 24-75-203, C.R.S., during the fiscal year beginning July 1, 1993, in an amount up to the amount appropriated in paragraph (a) of this subsection (1). The advanced moneys shall be transferred and credited to the statewide instant criminal background check cash fund. As moneys become available to the cash fund, any moneys borrowed from the general fund shall be repaid from the cash fund, without interest.

(2) In addition to any other appropriation, there is hereby appropriated, out of any moneys in the statewide instant criminal background check cash fund created by section 12-26.5-107, Colorado Revised Statutes, not otherwise appropriated, to the department of public safety for allocation to the Colorado bureau of investigation, for the fiscal year beginning July 1, 1994, the sum of one hundred eighty-seven thousand nine hundred eighty-five dollars (\$187,985) and 6.0 FTE, or so much thereof as may be necessary, for the implementation of this act.

SECTION 4. Effective date - applicability. This act shall take effect upon passage and shall apply to the sale or delivery of any handgun in this state on or after said date.

SECTION 5. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: February 26, 1994