

CHAPTER 252

GOVERNMENT - STATE

SENATE BILL 95-031

BY SENATORS Perlmutter, Alexander, Bishop, Blickensderfer, Casey, Coffman, Feeley, Gallagher, Hopper, Johnson, Mares, Matsunaka, Meiklejohn, Norton, Pascoe, L. Powers, R. Powers, Rupert, Schroeder, Weddig, Weissmann, and Wham; also REPRESENTATIVES Adkins, DeGette, Friednash, George, Kerns, Knox, Snyder, and Swenson.

AN ACT**CONCERNING THE CREATION OF A WITNESS PROTECTION PROGRAM, AND MAKING AN APPROPRIATION THEREFOR.**

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

SECTION 1. Part 1 of article 33.5 of title 24, Colorado Revised Statutes, 1988 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW SECTION to read:

24-33.5-106. Witness protection board - creation - witness protection program - witness protection fund. (1) THERE IS HEREBY CREATED IN THE DEPARTMENT OF PUBLIC SAFETY THE WITNESS PROTECTION BOARD, WHICH SHALL CONSIST OF THE ATTORNEY GENERAL, THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF PUBLIC SAFETY, AND THE EXECUTIVE DIRECTOR OF THE COLORADO DISTRICT ATTORNEYS COUNCIL OR THEIR RESPECTIVE DESIGNEES.

(2) THE WITNESS PROTECTION BOARD SHALL EXERCISE ITS POWERS AND PERFORM ITS DUTIES AND FUNCTIONS AS IF THE SAME WERE TRANSFERRED TO THE DEPARTMENT OF PUBLIC SAFETY BY A **TYPE 1** TRANSFER, AS SUCH TRANSFER IS DEFINED IN THE "ADMINISTRATIVE ORGANIZATION ACT OF 1968", ARTICLE 1 OF THIS TITLE.

(3) THE BOARD SHALL CREATE A WITNESS PROTECTION PROGRAM THROUGH WHICH THE BOARD MAY FUND OR PROVIDE FOR THE SECURITY AND PROTECTION OF A PROSECUTION WITNESS OR POTENTIAL PROSECUTION WITNESS IN AN OFFICIAL PROCEEDING OR INVESTIGATION THAT INVOLVES GREAT PUBLIC INTEREST OR IN WHICH THE BOARD DETERMINES THAT AN OFFENSE SUCH AS INTIMIDATING A WITNESS AS DESCRIBED IN SECTION 18-8-704 OR 18-8-705, C.R.S., TAMPERING WITH A WITNESS AS DESCRIBED IN SECTION 18-8-707, C.R.S., OR RETALIATING AGAINST A WITNESS AS

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

DESCRIBED IN SECTION 18-8-706, C.R.S., IS LIKELY TO BE COMMITTED. THE BOARD MAY ALSO FUND OR PROVIDE FOR THE SECURITY AND PROTECTION OF THE IMMEDIATE FAMILY OF, OR A PERSON OTHERWISE CLOSELY ASSOCIATED WITH, SUCH WITNESS OR POTENTIAL WITNESS IF THE FAMILY OR PERSON MAY ALSO BE ENDANGERED.

(4) IN CONNECTION WITH THE SECURITY AND PROTECTION OF A WITNESS, A POTENTIAL WITNESS, OR AN IMMEDIATE FAMILY MEMBER OR CLOSE ASSOCIATE OF A WITNESS OR POTENTIAL WITNESS, THE BOARD MAY FUND ANY ACTION THE BOARD DETERMINES TO BE NECESSARY TO PROTECT SUCH PERSON FROM BODILY INJURY OR TO ASSURE THE PERSON'S HEALTH, SAFETY, AND WELFARE FOR AS LONG AS, IN THE JUDGMENT OF THE BOARD, SUCH DANGER EXISTS. IN AN EMERGENCY SITUATION REQUIRING IMMEDIATE ATTENTION, ANY MEMBER OF THE BOARD IS AUTHORIZED TO DISTRIBUTE AN AMOUNT NOT TO EXCEED FIVE HUNDRED DOLLARS IN ORDER TO PROTECT A WITNESS, A POTENTIAL WITNESS, OR AN IMMEDIATE FAMILY MEMBER OR CLOSE ASSOCIATE OF A WITNESS OR POTENTIAL WITNESS.

(5) ANY DISTRICT ATTORNEY OR THE ATTORNEY GENERAL MAY REQUEST FUNDING FROM THE BOARD FOR THE PURPOSE OF PROVIDING WITNESS SECURITY AND PROTECTION, OR FOR CONTRACTING OR ARRANGING FOR SECURITY PROVIDED BY OTHER LOCAL, STATE, OR FEDERAL AGENCIES SUCH AS THE UNITED STATES MARSHAL'S SERVICE. REQUESTS SHALL BE MADE AND APPROVED IN A TIMELY AND EQUITABLE MANNER AS ESTABLISHED BY THE BOARD.

(6) ANY MONEYS DISTRIBUTED BY THE BOARD SHALL BE MADE FROM THE WITNESS PROTECTION FUND, WHICH FUND IS HEREBY CREATED IN THE STATE TREASURY. THE GENERAL ASSEMBLY MAY MAKE APPROPRIATIONS FROM THE GENERAL FUND FOR PURPOSES OF THE WITNESS PROTECTION PROGRAM WHEN THE WITNESS PROTECTION BOARD DEMONSTRATES THAT THERE IS A NEED TO REPLENISH THE FUND. IN ORDER TO RECEIVE CONSIDERATION FOR ADDITIONAL APPROPRIATIONS TO THE WITNESS PROTECTION FUND, THE WITNESS PROTECTION BOARD SHALL SUBMIT INFORMATION TO THE GENERAL ASSEMBLY DETAILING HOW MUCH MONEY HAS BEEN ALLOCATED OUT OF THE FUND IN THE PRIOR YEAR, HOW MANY WITNESSES HAVE RECEIVED WITNESS SECURITY AND PROTECTION FROM ALLOCATIONS OUT OF THE FUND, AND HOW MANY REQUESTS FOR WITNESS SECURITY AND PROTECTION ARE ANTICIPATED IN THE NEXT FISCAL YEAR. THE DEPARTMENT OF PUBLIC SAFETY IS AUTHORIZED TO ACCEPT, RECEIVE, USE, AND EXPEND GIFTS, GRANTS, DONATIONS, SERVICES, OR ASSISTANCE FROM ANY SOURCE TO PROVIDE FOR THE SECURITY OR PROTECTION OF A WITNESS AS SPECIFIED IN THIS SECTION. ALL INTEREST DERIVED FROM THE DEPOSIT AND INVESTMENT OF MONEYS IN THE FUND SHALL BE CREDITED TO THE FUND. AT THE END OF ANY FISCAL YEAR, ALL UNEXPENDED AND UNENCUMBERED MONEYS IN THE FUND SHALL REMAIN THEREIN AND SHALL NOT BE CREDITED OR TRANSFERRED TO THE GENERAL FUND OR ANY OTHER FUND.

(7) THE STATE, THE WITNESS PROTECTION BOARD, AND THE INDIVIDUAL BOARD MEMBERS SHALL NOT BE LIABLE FOR INJURY OR DAMAGES IN ANY CIVIL ACTION BROUGHT BY OR ON BEHALF OF ANY PERSON WHO WAS PROVIDED OR DENIED SECURITY AND PROTECTION PURSUANT TO THIS SECTION.

SECTION 2. 24-1-128.6, Colorado Revised Statutes, 1988 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

24-1-128.6. Department of public safety - creation. (5) THE WITNESS PROTECTION BOARD, CREATED BY SECTION 24-33.5-106, SHALL EXERCISE ITS POWERS AND PERFORM ITS DUTIES AND FUNCTIONS AS IF THE SAME WERE TRANSFERRED BY A **TYPE 1** TRANSFER TO THE DEPARTMENT OF PUBLIC SAFETY.

SECTION 3. Appropriation. In addition to any other appropriation, there is hereby appropriated, out of any moneys in the general fund not otherwise appropriated, to the department of public safety for allocation to the witness protection fund, created in section 24-33.5-106, Colorado Revised Statutes, for the fiscal year beginning July 1, 1995, the sum of two hundred fifty thousand dollars (\$250,000), or so much thereof as may be necessary, for the implementation of this act.

SECTION 4. 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: June 5, 1995