

CHAPTER 178

CRIMINAL LAW AND PROCEDURE

HOUSE BILL 03-1251

BY REPRESENTATIVE(S) Boyd, Borodkin, Butcher, Carroll, Cerbo, Coleman, Frangas, Garcia, Hodge, Hoppe, Jahn, Larson, Madden, Marshall, May M., McCluskey, McFadyen, Merrifield, Paccione, Ragsdale, Romanoff, Salazar, Stafford, Stengel, Tochtrop, Vigil, Weissmann, and Williams S.;
also SENATOR(S) Cairns, Andrews, Arnold, Groff, Hanna, Hillman, and Nichol.

AN ACT**CONCERNING THE CREATION OF THE AUTO THEFT PREVENTION AUTHORITY.**

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

SECTION 1. Part 1 of article 5 of title 42, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

42-5-112. Automobile theft prevention authority - board - creation - duties - rules - fund - repeal. (1) THERE IS HEREBY CREATED IN THE DEPARTMENT OF PUBLIC SAFETY THE AUTOMOBILE THEFT PREVENTION AUTHORITY, REFERRED TO IN THIS SECTION AS THE "AUTHORITY". UNDER THE AUTHORITY, A LAW ENFORCEMENT AGENCY OR OTHER QUALIFIED APPLICANT MAY APPLY FOR GRANTS TO ASSIST IN IMPROVING AND SUPPORTING AUTOMOBILE THEFT PREVENTION PROGRAMS OR PROGRAMS FOR THE ENFORCEMENT OR PROSECUTION OF AUTOMOBILE THEFT CRIMES THROUGH STATEWIDE PLANNING AND COORDINATION.

(2) (a) THERE IS HEREBY CREATED THE AUTOMOBILE THEFT PREVENTION BOARD, REFERRED TO IN THIS SECTION AS THE "BOARD", WHICH SHALL CONSIST OF NINE MEMBERS AS FOLLOWS:

(I) THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF PUBLIC SAFETY, OR THE EXECUTIVE DIRECTOR'S DESIGNEE;

(II) THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF REVENUE, OR THE EXECUTIVE DIRECTOR'S DESIGNEE; AND

(III) SEVEN MEMBERS APPOINTED BY THE GOVERNOR AS FOLLOWS:

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

(A) THREE REPRESENTATIVES OF INSURANCE COMPANIES WHO ARE AUTHORIZED TO ISSUE MOTOR VEHICLE INSURANCE POLICIES PURSUANT TO PART 7 OF ARTICLE 4 OF TITLE 10, C.R.S.;

(B) TWO REPRESENTATIVES OF LAW ENFORCEMENT;

(C) A REPRESENTATIVE OF A STATEWIDE ASSOCIATION OF DISTRICT ATTORNEYS; AND

(D) A REPRESENTATIVE OF THE PUBLIC WHO MAY ALSO BE A REPRESENTATIVE OF A CONSUMER GROUP.

(b) THE GOVERNOR SHALL APPOINT MEMBERS OF THE BOARD WITHIN THIRTY DAYS AFTER THE GOVERNOR RECEIVES NOTIFICATION PURSUANT TO SUBSECTION (5) OF THIS SECTION THAT MONEYS IN THE FUND EXCEED THE SUM OF THREE HUNDRED THOUSAND DOLLARS. THE APPOINTED MEMBERS OF THE BOARD SHALL SERVE TERMS OF SIX YEARS; EXCEPT THAT, OF THE MEMBERS FIRST APPOINTED PURSUANT TO SUB-SUBPARAGRAPH (A) OF SUBPARAGRAPH (III) OF PARAGRAPH (a) OF THIS SUBSECTION (2), THE GOVERNOR SHALL SELECT ONE MEMBER WHO SHALL SERVE AN INITIAL TERM OF FOUR YEARS AND ONE MEMBER WHO SHALL SERVE AN INITIAL TERM OF TWO YEARS. OF THE MEMBERS FIRST APPOINTED PURSUANT TO SUB-SUBPARAGRAPH (B) OF SUBPARAGRAPH (III) OF PARAGRAPH (a) OF THIS SUBSECTION (2), THE GOVERNOR SHALL SELECT ONE MEMBER WHO SHALL SERVE AN INITIAL TERM OF TWO YEARS. THE MEMBER FIRST APPOINTED PURSUANT TO SUB-SUBPARAGRAPH (C) OF SUBPARAGRAPH (III) OF PARAGRAPH (a) OF THIS SUBSECTION (2) SHALL SERVE AN INITIAL TERM OF FOUR YEARS. NO APPOINTED MEMBER SHALL SERVE MORE THAN TWO CONSECUTIVE SIX-YEAR TERMS.

(c) THE MEMBERS OF THE BOARD SHALL SERVE WITHOUT COMPENSATION; EXCEPT THAT THE MEMBERS OF THE BOARD SHALL BE REIMBURSED FROM MONEYS IN THE FUND CREATED IN SUBSECTION (4) OF THIS SECTION FOR THEIR ACTUAL AND NECESSARY EXPENSES INCURRED IN THE PERFORMANCE OF THEIR DUTIES PURSUANT TO THIS SECTION.

(3) (a) THE BOARD SHALL SOLICIT AND REVIEW APPLICATIONS FOR GRANTS PURSUANT TO THIS SECTION. THE BOARD MAY AWARD GRANTS FOR ONE TO THREE YEARS. THE BOARD SHALL GIVE PRIORITY TO APPLICATIONS REPRESENTING MULTI-JURISDICTIONAL PROGRAMS. EACH APPLICATION, AT A MINIMUM, SHALL DESCRIBE THE TYPE OF THEFT PREVENTION, ENFORCEMENT, PROSECUTION, OR OFFENDER REHABILITATION PROGRAM TO BE IMPLEMENTED. SUCH PROGRAMS MAY INCLUDE, BUT NEED NOT BE LIMITED TO:

(I) MULTI-AGENCY LAW ENFORCEMENT AND NATIONAL INSURANCE CRIME BUREAU TASK FORCE PROGRAMS USING PROACTIVE INVESTIGATIVE METHODS TO REDUCE THE INCIDENTS OF MOTOR VEHICLE THEFT AND RELATED CRIMES AND TO INCREASE THE APPREHENSION OF MOTOR VEHICLE THIEVES AND PERSONS WHO ATTEMPT TO DEFRAUD INSURANCE COMPANIES IN ORDER TO:

(A) DIRECT PROACTIVE INVESTIGATIVE AND ENFORCEMENT EFFORTS TOWARD THE REDUCTION OF MOTOR VEHICLE THEFTS;

(B) INCREASE RECOVERIES OF STOLEN MOTOR VEHICLES, INCLUDING FARM AND CONSTRUCTION EQUIPMENT; AND

(C) INCREASE THE ARRESTS OF PERPETRATORS;

(II) PROGRAMS THAT ENGAGE IN CRIME PREVENTION EFFORTS, ACTIVITIES, AND PUBLIC AWARENESS CAMPAIGNS THAT ARE INTENDED TO REDUCE THE PUBLIC'S VICTIMIZATION BY MOTOR VEHICLE THEFT, FRAUD, AND RELATED CRIMES;

(III) PROGRAMS THAT PROVIDE OR DEVELOP SPECIALIZED TRAINING FOR MOTOR VEHICLE THEFT INVESTIGATIONS PERSONNEL, INCLUDING BUT NOT LIMITED TO LAW ENFORCEMENT PERSONNEL, COUNTY TITLE AND REGISTRATION CLERKS, DIVISION OF REVENUE TITLE CLERKS, AND PORT-OF-ENTRY OFFICIALS, IN ORDER TO ENHANCE KNOWLEDGE, SKILLS, PROCEDURES, AND SYSTEMS TO DETECT, PREVENT, AND COMBAT MOTOR VEHICLE THEFT AND FRAUD AND RELATED CRIMES;

(IV) PROGRAMS TO PROVIDE FOR THE SUPPORT AND MAINTENANCE OF ONE OR MORE DEDICATED PROSECUTORS WHO HAVE THE SPECIFIC MISSION AND EXPERTISE TO PROVIDE LEGAL GUIDANCE AND PROSECUTORIAL CONTINUITY TO COMPLEX CRIMINAL CASES ARISING FROM THE ACTIVITIES OF A MULTI-AGENCY LAW ENFORCEMENT PROGRAM; AND

(V) PROGRAMS TO PREVENT FUTURE CRIMINAL BEHAVIOR BY FIRST TIME OFFENDERS WHO HAVE BEEN CHARGED, CONVICTED, OR ADJUDICATED FOR MOTOR VEHICLE THEFT.

(b) SUBJECT TO AVAILABLE MONEYS, THE BOARD SHALL APPROVE GRANTS PURSUANT TO THIS SECTION. IN SELECTING GRANT RECIPIENTS, THE BOARD, TO THE EXTENT POSSIBLE, SHALL ENSURE THAT GRANTS ARE AWARDED TO LAW ENFORCEMENT AGENCIES OR OTHER QUALIFIED APPLICANTS IN A VARIETY OF GEOGRAPHIC AREAS OF THE STATE. THE BOARD SHALL NOT REQUIRE AS A CONDITION OF RECEIPT OF A GRANT THAT AN AGENCY, POLITICAL SUBDIVISION, OR OTHER QUALIFIED APPLICANT PROVIDE ANY ADDITIONAL MONEYS TO OPERATE AN AUTOMOBILE THEFT PREVENTION PROGRAM OR A PROGRAM FOR THE ENFORCEMENT OR PROSECUTION OF AUTOMOBILE THEFT CRIMES.

(c) SUBJECT TO AVAILABLE MONEYS, THE BOARD MAY APPOINT A DIRECTOR FOR THE AUTHORITY WHO MAY EMPLOY SUCH STAFF AS MAY BE NECESSARY TO OPERATE AND ADMINISTER THE AUTHORITY.

(d) NO MORE THAN EIGHT PERCENT OF THE MONEYS IN THE FUND CREATED PURSUANT TO SUBSECTION (4) OF THIS SECTION MAY BE USED FOR OPERATIONAL OR ADMINISTRATIVE EXPENSES OF THE AUTHORITY.

(e) THE FTE AUTHORIZATION FOR ANY STAFF NECESSARY TO SUPPORT THE AUTHORITY SHALL BE ELIMINATED SHOULD SUFFICIENT MONEYS FROM GIFTS, GRANTS, OR DONATIONS NO LONGER BE AVAILABLE FOR THE AUTHORITY.

(f) THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF PUBLIC SAFETY SHALL PROMULGATE RULES FOR THE ADMINISTRATION OF THIS SECTION, INCLUDING BUT NOT

LIMITED TO:

(I) REQUIREMENTS FOR AN ENTITY OTHER THAN A LAW ENFORCEMENT AGENCY TO BE A QUALIFIED APPLICANT;

(II) APPLICATION PROCEDURES BY WHICH LAW ENFORCEMENT AGENCIES OR OTHER QUALIFIED APPLICANTS MAY APPLY FOR GRANTS PURSUANT TO THIS SECTION;

(III) THE CRITERIA FOR SELECTING THOSE AGENCIES OR OTHER QUALIFIED APPLICANTS THAT SHALL RECEIVE GRANTS AND THE CRITERIA FOR DETERMINING THE AMOUNT TO BE GRANTED TO THE SELECTED AGENCIES OR APPLICANTS AND THE DURATION OF THE GRANTS; AND

(IV) PROCEDURES FOR REVIEWING THE SUCCESS OF THE PROGRAMS THAT RECEIVE GRANTS PURSUANT TO THIS SECTION.

(g) ON OR BEFORE DECEMBER 1, 2006, ANY LAW ENFORCEMENT AGENCY OR OTHER QUALIFIED APPLICANT THAT RECEIVES A GRANT PURSUANT TO THIS SECTION SHALL SUBMIT A REPORT TO THE BOARD CONCERNING THE IMPLEMENTATION OF THE PROGRAM FUNDED THROUGH THE GRANT.

(h) ON OR BEFORE FEBRUARY 1, 2007, THE BOARD SHALL REPORT TO THE JUDICIARY COMMITTEES OF THE SENATE AND THE HOUSE OF REPRESENTATIVES ON THE IMPLEMENTATION OF THE PROGRAMS RECEIVING GRANTS PURSUANT TO THIS SECTION AND THE AUTHORITY. THE REPORT SHALL INCLUDE BUT NEED NOT BE LIMITED TO:

(I) THE NUMBER AND GEOGRAPHIC JURISDICTION OF LAW ENFORCEMENT AGENCIES OR OTHER QUALIFIED APPLICANTS THAT RECEIVED GRANTS UNDER THE AUTHORITY AND THE AMOUNT AND DURATION OF THE GRANTS;

(II) THE EFFECT THAT THE PROGRAMS THAT RECEIVED GRANTS HAD ON THE NUMBER OF AUTOMOBILE THEFTS IN AREAS OF THE STATE; AND

(III) RECOMMENDATIONS FOR LEGISLATIVE CHANGES TO ASSIST IN THE PREVENTION, ENFORCEMENT, AND PROSECUTION OF AUTOMOBILE-THEFT-RELATED CRIMINAL ACTIVITIES.

(4) (a) THE DEPARTMENT OF PUBLIC SAFETY IS AUTHORIZED TO ACCEPT GIFTS, GRANTS, OR DONATIONS FROM PRIVATE OR PUBLIC SOURCES FOR THE PURPOSES OF THIS SECTION. ALL PRIVATE AND PUBLIC FUNDS RECEIVED THROUGH GIFTS, GRANTS, OR DONATIONS SHALL BE TRANSMITTED TO THE STATE TREASURER, WHO SHALL CREDIT THE SAME TO THE COLORADO AUTO THEFT PREVENTION CASH FUND, WHICH FUND IS HEREBY CREATED AND REFERRED TO IN THIS SECTION AS THE "FUND". THE MONEYS IN THE FUND SHALL BE SUBJECT TO ANNUAL APPROPRIATION BY THE GENERAL ASSEMBLY FOR THE DIRECT AND INDIRECT COSTS ASSOCIATED WITH THE IMPLEMENTATION OF THIS SECTION. ANY MONEYS IN THE FUND NOT EXPENDED FOR THE PURPOSE OF THIS SECTION MAY BE INVESTED BY THE STATE TREASURER AS PROVIDED IN SECTION 24-36-113, C.R.S. ALL INTEREST AND INCOME DERIVED FROM THE INVESTMENT AND DEPOSIT OF MONEYS IN THE FUND SHALL BE CREDITED TO THE FUND. ANY UNEXPENDED AND UNENCUMBERED MONEYS REMAINING IN THE FUND AT THE END OF ANY FISCAL YEAR SHALL REMAIN IN THE FUND AND SHALL NOT BE

CREDITED OR TRANSFERRED TO THE GENERAL FUND OR ANY OTHER FUND.

(b) IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT THE DEPARTMENT OF PUBLIC SAFETY NOT BE REQUIRED TO SOLICIT GIFTS, GRANTS, OR DONATIONS FROM ANY SOURCE FOR THE PURPOSES OF THIS SECTION AND THAT NO GENERAL FUND MONEYS BE USED TO PAY FOR GRANTS AWARDED PURSUANT TO THIS SECTION OR FOR ANY EXPENSES OF THE AUTHORITY.

(5) (a) THE STATE TREASURER SHALL NOTIFY THE GOVERNOR AND THE EXECUTIVE DIRECTORS OF THE DEPARTMENTS OF PUBLIC SAFETY AND REVENUE THE FIRST TIME THAT THE MONEYS IN THE FUND REACH OR EXCEED THE SUM OF THREE HUNDRED THOUSAND DOLLARS.

(b) IF BY JUNE 1, 2008, MONEYS IN THE FUND HAVE NEVER REACHED OR EXCEEDED THREE HUNDRED THOUSAND DOLLARS, THE STATE TREASURER SHALL RETURN FROM THE FUND TO THE GRANTEE OR DONEE THE AMOUNT OF ALL GIFTS, GRANTS, OR DONATIONS. IF GIFTS, GRANTS, AND DONATIONS ARE RETURNED PURSUANT TO THIS PARAGRAPH (b), ON JULY 1, 2008, THE TREASURER SHALL TRANSFER TO THE GENERAL FUND ANY INTEREST OR INCOME EARNED ON MONEYS IN THE FUND.

(6) (a) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2008.

(b) PRIOR TO SAID REPEAL, THE BOARD CREATED PURSUANT TO SUBSECTION (2) OF THIS SECTION SHALL BE REVIEWED AS PROVIDED FOR IN SECTION 24-34-104, C.R.S.

SECTION 2. Part 6 of article 4 of title 10, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

10-4-616. Auto theft prevention authority. (1) EACH INSURER THAT ISSUES A POLICY PURSUANT TO THIS PART 6 OR PART 7 OF THIS ARTICLE MAY PAY TO THE STATE TREASURER FOR DEPOSIT IN THE AUTO THEFT PREVENTION CASH FUND CREATED IN SECTION 42-5-112 (4), C.R.S., AN AMOUNT THAT THE INSURER DEEMS APPROPRIATE TOWARD THE SUPPORT OF THE AUTO THEFT PREVENTION AUTHORITY BASED UPON THE NUMBER OF MOTOR VEHICLES INSURED BY THE INSURER. SUCH PAYMENTS MAY BE MADE IN TWO INSTALLMENTS AS FOLLOWS:

(a) ON OR BEFORE JANUARY 31, 2004, AND ON OR BEFORE EACH JANUARY 31 THEREAFTER; AND

(b) ON OR BEFORE JULY 31, 2004, AND ON OR BEFORE EACH JULY 31 THEREAFTER.

SECTION 3. 24-34-104 (39) (b), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBPARAGRAPH to read:

24-34-104. General assembly review of regulatory agencies and functions for termination, continuation, or reestablishment. (39) (b) The following agencies, functions, or both, shall terminate on July 1, 2008:

(XVI) THE AUTOMOBILE THEFT PREVENTION BOARD CREATED IN SECTION 42-5-112, C.R.S.

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: April 22, 2003