

CHAPTER 408

GOVERNMENT - STATE

HOUSE BILL 07-1272

BY REPRESENTATIVE(S) Rice, King, Borodkin, Buescher, Carroll T., Frangas, Gardner B., Gibbs, Green, Hicks, Hodge, Jahn, Kerr J., Labuda, Marshall, Massey, McFadyen, McGihon, McNulty, Mitchell V., Primavera, Roberts, Romanoff, Stafford, Summers, Todd, and Weissmann;
 also SENATOR(S) Morse, Boyd, Fitz-Gerald, Groff, Isgar, Keller, Mitchell S., Penry, Romer, Shaffer, Veiga, Ward, Williams, and Windels.

AN ACT

CONCERNING THE ON-GOING INVESTIGATION OF HOMICIDE CASES, AND, IN CONNECTION THEREWITH, CREATING A COLD CASE TEAM IN THE COLORADO BUREAU OF INVESTIGATION, AND MAKING AN APPROPRIATION THEREFOR.

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

SECTION 1. Part 4 of article 33.5 of title 24, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

24-33.5-425. Cold case homicide team. (1) THERE IS HEREBY CREATED A COLD CASE HOMICIDE TEAM IN THE BUREAU, REFERRED TO IN THIS SECTION AS THE "TEAM".

(2) (a) THE TEAM SHALL DEVELOP A DATABASE THAT SHALL CONTAIN INFORMATION RELATED TO EACH HOMICIDE INVESTIGATION THAT IS OPEN IN A COLORADO JURISDICTION FOR MORE THAN THREE YEARS FROM THE DATE OF THE COMMISSION OF THE CRIME AND WAS COMMITTED SINCE 1970. THE BUREAU SHALL ADOPT RULES THAT SPECIFY THE INFORMATION THAT SHALL BE COLLECTED AND MAINTAINED IN THE DATABASE, INCLUDING THE INFORMATION REQUIRED PURSUANT TO PARAGRAPH (b) OF SUBSECTION (3) OF THIS SECTION.

(b) EACH LAW ENFORCEMENT AGENCY IN THE STATE SHALL PROVIDE THE INFORMATION REQUIRED FOR INCLUSION IN THE DATABASE FOR EACH HOMICIDE INVESTIGATION THAT IS OPEN IN A COLORADO JURISDICTION FOR MORE THAN THREE YEARS FROM THE DATE OF THE COMMISSION OF THE CRIME AND WAS COMMITTED SINCE 1970. THE LAW ENFORCEMENT AGENCY SHALL MAINTAIN THE PHYSICAL

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

EVIDENCE AND INVESTIGATION FILE FOR EACH SUCH CASE UNLESS OTHERWISE AGREED BY THE LAW ENFORCEMENT AGENCY AND THE BUREAU.

(3) (a) THE TEAM MAY PROVIDE ASSISTANCE TO LOCAL LAW ENFORCEMENT AGENCIES, UPON REQUEST AND WITHIN EXISTING APPROPRIATIONS, ON HOMICIDE INVESTIGATIONS. IF THE TEAM DECLINES TO PROVIDE ASSISTANCE TO A LOCAL LAW ENFORCEMENT AGENCY AFTER A REQUEST IS MADE PURSUANT TO THIS SUBSECTION (3), THE TEAM SHALL PROVIDE THE LOCAL LAW ENFORCEMENT AGENCY WITH A WRITTEN EXPLANATION FOR ITS DECISION, WHICH MAY INCLUDE BUT NEED NOT BE LIMITED TO LACK OF RESOURCES AND SHALL INCLUDE THE WRITTEN EXPLANATION IN THE DATABASE CREATED IN SUBSECTION (2) OF THIS SECTION.

(b) A FAMILY MEMBER OF A HOMICIDE VICTIM MAY REQUEST THAT THE LOCAL LAW ENFORCEMENT AGENCY INVESTIGATING THE HOMICIDE ASK THE TEAM FOR ASSISTANCE IN INVESTIGATING THE HOMICIDE. THE LOCAL LAW ENFORCEMENT AGENCY SHALL DECIDE WHETHER TO ASK THE TEAM FOR ASSISTANCE. WITHIN THIRTY DAYS AFTER RECEIVING A REQUEST FROM A FAMILY MEMBER, THE LOCAL LAW ENFORCEMENT AGENCY SHALL NOTIFY THE FAMILY MEMBER WHETHER IT WILL SEEK THE ASSISTANCE OF THE TEAM. IF THE LOCAL LAW ENFORCEMENT AGENCY DECIDES NOT TO SEEK THE ASSISTANCE OF THE TEAM, IT SHALL INFORM THE FAMILY MEMBER OF ITS REASONS FOR THE DECISION IN WRITING AND PROVIDE THAT SAME INFORMATION IN WRITING TO THE BUREAU FOR INCLUSION IN THE DATABASE CREATED IN SUBSECTION (2) OF THIS SECTION. IF THE LOCAL LAW ENFORCEMENT AGENCY DECIDES TO SEEK THE ASSISTANCE OF THE TEAM, IT SHALL CONTACT THE TEAM AND REQUEST THE ASSISTANCE. WITHIN THIRTY DAYS AFTER RECEIVING A REQUEST FROM A LOCAL LAW ENFORCEMENT AGENCY, THE TEAM SHALL NOTIFY THE LOCAL LAW ENFORCEMENT AGENCY REGARDING WHETHER IT WILL OFFER ASSISTANCE TO THE LOCAL LAW ENFORCEMENT AGENCY. IF THE TEAM DECIDES NOT TO OFFER ASSISTANCE TO THE LOCAL LAW ENFORCEMENT AGENCY, IT SHALL INFORM THE LOCAL LAW ENFORCEMENT AGENCY OF THE REASONS FOR ITS DECISION IN WRITING AND INCLUDE THOSE REASONS IN THE DATABASE CREATED IN SUBSECTION (2) OF THIS SECTION.

SECTION 2. Part 1 of article 33.5 of title 24, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

24-33.5-109. Cold case task force - creation - rules - repeal. (1) (a) THERE IS HEREBY CREATED IN THE DEPARTMENT OF PUBLIC SAFETY THE COLD CASE TASK FORCE, REFERRED TO IN THIS SECTION AS THE "TASK FORCE", TO REVIEW GENERAL COLD CASE HOMICIDE INVESTIGATION TACTICS AND PRACTICES.

(b) THE TASK FORCE 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 2** TRANSFER, AS SUCH TRANSFER IS DEFINED IN THE "ADMINISTRATIVE ORGANIZATION ACT OF 1968", ARTICLE 1 OF THIS TITLE.

(2) THE TASK FORCE SHALL CONSIST OF FIFTEEN MEMBERS, AS FOLLOWS:

(a) THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF PUBLIC SAFETY, OR HIS OR HER DESIGNEE, WHO SHALL CHAIR THE TASK FORCE;

(b) THE ATTORNEY GENERAL, OR HIS OR HER DESIGNEE;

(c) THREE DISTRICT ATTORNEYS, OR THEIR DESIGNEES, WHO SHALL BE APPOINTED BY THE EXECUTIVE DIRECTOR OF THE COLORADO DISTRICT ATTORNEYS COUNCIL, ONE OF WHOM SHALL BE FROM AN URBAN JUDICIAL DISTRICT, ONE OF WHOM SHALL BE FROM A SUBURBAN JUDICIAL DISTRICT, AND ONE OF WHOM SHALL BE FROM A RURAL JUDICIAL DISTRICT;

(d) TWO MEMBERS WHO REPRESENT A STATEWIDE VICTIMS ADVOCACY ORGANIZATION AND WHO SHALL BE APPOINTED BY THE GOVERNOR;

(e) ONE SHERIFF AND ONE POLICE CHIEF WHO SHALL BE APPOINTED BY THE SPEAKER OF THE HOUSE OF REPRESENTATIVES;

(f) ONE SHERIFF AND ONE POLICE CHIEF WHO SHALL BE APPOINTED BY THE PRESIDENT OF THE SENATE;

(g) TWO REPRESENTATIVES FROM VICTIMS' FAMILIES WHO SHALL BE APPOINTED BY THE SPEAKER OF THE HOUSE OF REPRESENTATIVES; AND

(h) TWO REPRESENTATIVES FROM VICTIMS' FAMILIES WHO SHALL BE APPOINTED BY THE PRESIDENT OF THE SENATE.

(3) (a) THE THIRTEEN APPOINTED MEMBERS OF THE TASK FORCE SHALL SERVE TERMS OF THREE YEARS; EXCEPT THAT THE MEMBERS FIRST APPOINTED BY THE SPEAKER OF THE HOUSE OF REPRESENTATIVES AND THE PRESIDENT OF THE SENATE SHALL EACH SERVE A TWO-YEAR TERM.

(b) THE MEMBERS SHALL BE APPOINTED BY THEIR APPOINTING AUTHORITY WITHIN THIRTY DAYS AFTER THE EFFECTIVE DATE OF THIS SECTION. AN APPOINTED MEMBER SHALL NOT SERVE MORE THAN TWO CONSECUTIVE FULL TERMS, IN ADDITION TO ANY PARTIAL TERM. IN THE EVENT OF A VACANCY IN AN APPOINTED POSITION BY DEATH, RESIGNATION, REMOVAL FOR MISCONDUCT, INCOMPETENCE, OR NEGLIGENCE OF DUTY, OR OTHERWISE, THE APPOINTING AUTHORITY SHALL APPOINT A MEMBER WITHIN SIXTY DAYS TO FILL THE POSITION FOR THE REMAINDER OF THE UNEXPIRED TERM.

(4) THE MEMBERS OF THE TASK FORCE SHALL SERVE WITHOUT COMPENSATION BUT ARE ENTITLED TO REIMBURSEMENT FOR ACTUAL AND NECESSARY EXPENSES INCURRED IN THE PERFORMANCE OF THEIR DUTIES PURSUANT TO THIS SECTION.

(5) THE TASK FORCE SHALL MEET AT LEAST FOUR TIMES A YEAR BEGINNING OCTOBER 1, 2007.

(6) THE TASK FORCE SHALL REVIEW COLD CASE HOMICIDE INVESTIGATION STRATEGIES AND PRACTICES AND MAKE RECOMMENDATIONS ON BEST PRACTICES.

(7) MEMBERS OF THE TASK FORCE, EMPLOYEES, AND CONSULTANTS SHALL BE IMMUNE FROM SUIT IN ANY CIVIL ACTION BASED UPON ANY OFFICIAL ACT PERFORMED IN GOOD FAITH PURSUANT TO THIS SECTION.

(8) ON OR BEFORE OCTOBER 1, 2008, AND ANNUALLY EACH YEAR THEREAFTER,

THE TASK FORCE SHALL REPORT TO THE JUDICIARY COMMITTEES OF THE SENATE AND THE HOUSE OF REPRESENTATIVES, OR ANY SUCCESSOR COMMITTEES, ON THE IMPLEMENTATION OF THIS SECTION.

(9) (a) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2012.

(b) PRIOR TO SAID REPEAL, THE TASK FORCE SHALL BE REVIEWED AS PROVIDED IN SECTION 24-34-104.

SECTION 3. 24-34-104 (43), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

24-34-104. General assembly review of regulatory agencies and functions for termination, continuation, or reestablishment. (43) The following agencies, functions, or both, shall terminate on July 1, 2012:

(d) THE COLD CASE TASK FORCE CREATED IN SECTION 24-33.5-109.

SECTION 4. 24-1-128.6, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

24-1-128.6. Department of public safety - creation. (7) THE COLD CASE TASK FORCE, CREATED IN SECTION 24-33.5-109, SHALL EXERCISE ITS POWERS AND PERFORM ITS DUTIES AND FUNCTIONS AS IF THE SAME WERE TRANSFERRED BY A **TYPE 2** TRANSFER TO THE DEPARTMENT OF PUBLIC SAFETY.

SECTION 5. Appropriation - adjustments to the 2007 long bill. (1) 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 Colorado bureau of investigation, for the creation of a cold case unit, for the fiscal year beginning July 1, 2007, the sum of sixty-seven thousand eight hundred twenty-two dollars (\$67,822) and 1.0 FTE, or so much thereof as may be necessary, for the implementation of this act.

(2) For the implementation of this act, the appropriation made in section 21 of the annual general appropriation act for the fiscal year beginning July 1, 2007, shall be adjusted as follows: The general fund appropriation to the controlled maintenance trust fund is decreased by sixty-seven thousand eight hundred twenty-two dollars (\$67,822).

SECTION 6. 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 1, 2007