

CHAPTER 38

EDUCATION - UNIVERSITIES AND COLLEGES

HOUSE BILL 08-1106

BY REPRESENTATIVE(S) Carroll T., King, Buescher, Gagliardi, Garza-Hicks, Kerr J., Massey, Rose, Stafford, Stephens, Todd, Labuda, McFadyen, Summers, and Witwer;
also SENATOR(S) Tupa, Boyd, Gibbs, Penry, Shaffer, Tapia, Veiga, and Williams.

AN ACT**CONCERNING PEACE OFFICERS EMPLOYED BY INSTITUTIONS OF HIGHER EDUCATION.**

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

SECTION 1. 16-2.5-102, Colorado Revised Statutes, is amended to read:

16-2.5-102. Certified peace officer - P.O.S.T. certification required. The following peace officers shall meet all the standards imposed by law on a peace officer and shall be certified by the peace officer standards and training board, referred to in this article as the "P.O.S.T. board": A chief of police; a police officer; a sheriff; an undersheriff; a deputy sheriff; a Colorado state patrol officer; a town marshal; a deputy town marshal; a reserve police officer; a reserve deputy sheriff; a reserve deputy town marshal; the director of the Colorado bureau of investigation; a ~~security~~ POLICE officer OR RESERVE POLICE OFFICER employed by a state institution of higher education; a Colorado wildlife officer; a Colorado parks and recreation officer; a Colorado police administrator or police officer employed by the Colorado mental health institute at Pueblo; an attorney general criminal investigator; a community parole officer; a public transit officer; and the department of corrections inspector general.

SECTION 2. 16-2.5-110 (1) (b), (2), (3.5), and (5), Colorado Revised Statutes, are amended to read:

16-2.5-110. Reserve police officer - reserve deputy sheriff - reserve deputy town marshal - definitions. (1) (b) "Reserve officer" means a person authorized by a city, city and county, town, ~~or~~ county, OR STATE INSTITUTION OF HIGHER EDUCATION within this state to act as a reserve police officer, reserve deputy sheriff, or reserve town marshal for certain specific and limited periods of time while the

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

person is authorized to be on duty and acting at the express direction or under the direct supervision of a fully P.O.S.T.-certified peace officer pursuant to ~~sections~~ SECTION 16-2.5-103, 16-2.5-105, ~~and~~ 16-2.5-108, OR 16-2.5-120. A reserve officer is a peace officer while engaged in the performance of his or her duties whose authority shall be limited to the authority granted by his or her authorizing agency.

(2) A city, city and county, town, ~~or~~ county, OR STATE INSTITUTION OF HIGHER EDUCATION assigning duties to a reserve officer beyond those duties included in the P.O.S.T. board training shall assume the responsibility for ensuring that the reserve officer is adequately trained for the duties. Any expenses associated with the additional training shall be authorized by the city, city and county, town, ~~or~~ county, OR STATE INSTITUTION OF HIGHER EDUCATION. If the jurisdiction allows or requires the reserve officer to carry or use a firearm while on duty, the reserve officer shall be certified for firearms proficiency with the same frequency and subject to the same requirements as a P.O.S.T.-certified peace officer in the jurisdiction. A reserve officer who does not comply with the training requirements set forth in this subsection (2) is not authorized to enforce the laws of the state of Colorado.

(3.5) If a police chief, sheriff, or town marshal determines that a reserve officer has been adequately trained to perform a law-enforcement function that the police chief, sheriff, or town marshal is required to perform, the police chief, sheriff, or town marshal may allow the reserve officer to perform the function either in uniform or in civilian clothes, whichever is appropriate.

(5) A reserve officer may be compensated for his or her time during a declared emergency or during a time of special need. In all other circumstances, a reserve officer shall serve without compensation, but may be reimbursed at the discretion of the city, city and county, town, ~~or~~ county, OR STATE INSTITUTION OF HIGHER EDUCATION benefitting from the services of the reserve officer for any authorized out-of-pocket expenses incurred in the course of his or her duties. The city, city and county, town, ~~or~~ county, OR STATE INSTITUTION OF HIGHER EDUCATION shall pay the cost of workers' compensation benefits for injuries incurred by a reserve officer while on duty and while acting within the scope of his or her assigned duties. A reserve officer is an authorized volunteer for purposes of article 10 of title 24, C.R.S.

SECTION 3. 16-2.5-120, Colorado Revised Statutes, is amended to read:

16-2.5-120. Colorado state higher education security officer. A Colorado state higher education security officer employed by a state institution of higher education pursuant to sections 24-7-101 to ~~24-7-105~~, 24-7-106, C.R.S., is a peace officer whose authority shall include the enforcement of all laws of the state of Colorado and who ~~shall~~ MAY be certified by the P.O.S.T. board.

SECTION 4. Part 1 of article 2.5 of title 16, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

16-2.5-148. Colorado state higher education police officer. A COLORADO STATE HIGHER EDUCATION POLICE OFFICER EMPLOYED BY A STATE INSTITUTION OF HIGHER EDUCATION PURSUANT TO SECTIONS 24-7.5-101 TO 24-7.5-105, C.R.S., IS A PEACE OFFICER WHOSE AUTHORITY SHALL INCLUDE THE ENFORCEMENT OF ALL LAWS

OF THE STATE OF COLORADO AND WHO SHALL BE CERTIFIED BY THE P.O.S.T. BOARD.

SECTION 5. Article 7 of title 24, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

24-7-100.2. Legislative declaration. (1) THE GENERAL ASSEMBLY HEREBY FINDS THAT THE EFFORTS OF SECURITY OFFICERS EMPLOYED BY INSTITUTIONS OF HIGHER EDUCATION TO PROTECT THE PERSONS AND PROPERTY OF THEIR ENVIRONMENTS ARE IMPORTANT ELEMENTS OF EFFECTIVE PUBLIC SAFETY MANAGEMENT.

(2) THE GENERAL ASSEMBLY ACKNOWLEDGES THE OPERATIONAL AND ENVIRONMENTAL ACUMEN OF SECURITY OFFICERS OF INSTITUTIONS OF HIGHER EDUCATION REGARDING THEIR FACILITIES AND THE IMPORTANCE OF INCLUDING REPRESENTATIVES OF THE INSTITUTIONS IN EMERGENCY PREPAREDNESS PLANNING AND TRAINING EFFORTS CONDUCTED BY LOCAL LAW ENFORCEMENT AGENCIES AND EMERGENCY PLANNING AGENCIES INTENDED TO REDUCE THE LIKELIHOOD OF, AND DEVELOP EFFECTIVE RESPONSES TO, EMERGENCY SITUATIONS OCCURRING AT THEIR FACILITIES.

(3) THE GENERAL ASSEMBLY HEREBY ENCOURAGES ONGOING COOPERATION EFFORTS AMONG LOCAL LAW ENFORCEMENT AGENCIES, EMERGENCY PLANNING AGENCIES, AND THE SECURITY OFFICERS OF INSTITUTIONS OF HIGHER EDUCATION REGARDING EMERGENCY PREPAREDNESS AND RESPONSE PLANNING AND TRAINING AND DEVELOPMENT OF COMMUNICATION CAPABILITIES SUPPORTING EFFECTIVE COORDINATION AMONG THESE GROUPS DURING EMERGENCIES.

SECTION 6. 24-7-101, Colorado Revised Statutes, is amended to read:

24-7-101. State institutions authorized to employ security officers. The institutions, agencies, and departments of state government, including any institution of higher education, are hereby authorized to employ security officers to protect the property of the institution, agency, or department employing ~~such~~ THE officer and to perform ~~such~~ other police, SECURITY, and administrative functions as may be deemed necessary.

SECTION 7. 24-7-102, Colorado Revised Statutes, is amended to read:

24-7-102. Supervision and control. The security officers employed pursuant to this article shall be under the control and supervision of the governing authority or head of the employing state institution. The governing authorities or heads of the state institutions, agencies, and departments shall provide appropriate credentials for ~~such~~ THE officers. The employing institution, department, or agency may permit its security officers THAT HAVE BEEN DESIGNATED AS PEACE OFFICERS PURSUANT TO SECTION 16-2.5-101, C.R.S., to hold and receive such other law enforcement commissions or appointments as are appropriate to carry out their duties.

SECTION 8. 24-7-103 (1), Colorado Revised Statutes, is amended to read:

24-7-103. Powers conferred. (1) Security officers employed and commissioned pursuant to this article, THAT HAVE BEEN DESIGNATED AS PEACE OFFICERS PURSUANT

TO SECTION 16-2.5-101, C.R.S., when operating on state owned or leased property, are hereby granted all the powers conferred by law upon peace officers to carry weapons and to make arrests.

SECTION 9. 24-7-104, Colorado Revised Statutes, is amended to read:

24-7-104. State property not exempt from local law enforcement. Nothing in this article shall be construed to exempt state property from the authority of law enforcement agencies within whose jurisdiction the state property is located; except that representatives of such THE law enforcement agencies shall coordinate their official actions on state property with the appropriate security officers OR POLICE OFFICERS, except when emergency circumstances preclude such coordination.

SECTION 10. Article 7 of title 24, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

24-7-106. Peace officer standards and training board evaluation and recommendation - legislative authorization of peace officer status required. NOTWITHSTANDING OTHER PROVISIONS OF THIS ARTICLE, A PERSON OR GROUP OF PERSONS EMPLOYED AS SECURITY OFFICERS OR GUARDS BY ANY INSTITUTION, AGENCY, OR DEPARTMENT OF STATE GOVERNMENT, INCLUDING ANY INSTITUTION OF HIGHER EDUCATION, SHALL NOT BE DESIGNATED AS PEACE OFFICERS, AFTER JUNE 3, 2004, WITHOUT COMPLETING THE PEACE OFFICER STANDARDS AND TRAINING BOARD PROCESSES DESCRIBED IN SECTIONS 16-2.5-201 AND 16-2.5-202, C.R.S., AND OBTAINING THE LEGISLATIVE AUTHORIZATION DESCRIBED IN SECTION 16-2.5-101, C.R.S.

SECTION 11. Title 24, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW ARTICLE to read:

ARTICLE 7.5
Colorado Higher Education Police Officers

24-7.5-101. State institutions of higher education authorized to employ police officers. THE STATE INSTITUTIONS OF HIGHER EDUCATION ARE AUTHORIZED TO EMPLOY POLICE OFFICERS TO PROVIDE LAW ENFORCEMENT AND PROPERTY PROTECTION FOR THE INSTITUTION EMPLOYING THE OFFICERS AND TO PERFORM OTHER POLICE, EMERGENCY PLANNING, COMMUNITY SAFETY, AND ADMINISTRATIVE FUNCTIONS AS MAY BE DEEMED NECESSARY.

24-7.5-102. Supervision and control. STATE HIGHER EDUCATION POLICE OFFICERS EMPLOYED PURSUANT TO THIS ARTICLE SHALL BE UNDER THE SUPERVISION AND CONTROL OF THE GOVERNING BOARD OF THE EMPLOYING STATE INSTITUTION OF HIGHER EDUCATION OR ITS DESIGNEE. THE GOVERNING BOARD OR HEAD OF THE STATE INSTITUTION OF HIGHER EDUCATION SHALL PROVIDE INSTITUTIONAL POLICE COMMISSIONS AND OTHER APPROPRIATE CREDENTIALS FOR THE POLICE OFFICERS. THE EMPLOYING INSTITUTION MAY PERMIT ITS POLICE OFFICERS TO HOLD AND RECEIVE OTHER LAW ENFORCEMENT COMMISSIONS OR APPOINTMENTS AS ARE APPROPRIATE TO CARRY OUT THEIR DUTIES.

24-7.5-103. Powers conferred. (1) STATE HIGHER EDUCATION POLICE OFFICERS

EMPLOYED AND COMMISSIONED PURSUANT TO THIS ARTICLE, WHEN OPERATING ON PROPERTY OWNED OR LEASED BY THE STATE INSTITUTION OF HIGHER EDUCATION, ARE GRANTED ALL THE POWERS CONFERRED BY LAW UPON PEACE OFFICERS TO CARRY WEAPONS AND MAKE ARRESTS.

(2) WHEN NOT ON PROPERTY OWNED OR LEASED BY THE STATE INSTITUTION OF HIGHER EDUCATION, STATE HIGHER EDUCATION POLICE OFFICERS SHALL NOT HAVE ANY GREATER AUTHORITY THAN THAT CONFERRED UPON PEACE OFFICERS BY SECTION 16-3-110, C.R.S.

24-7.5-104. State institution of higher education property not exempt from local law enforcement. NOTHING IN THIS ARTICLE SHALL BE CONSTRUED TO EXEMPT THE PROPERTY OF A STATE INSTITUTION OF HIGHER EDUCATION FROM THE AUTHORITY OF LAW ENFORCEMENT AGENCIES WITHIN WHOSE JURISDICTION THE PROPERTY IS LOCATED; EXCEPT THAT REPRESENTATIVES OF THE LAW ENFORCEMENT AGENCIES SHALL COORDINATE THEIR OFFICIAL ACTIONS ON THE PROPERTY WITH THE APPROPRIATE HIGHER EDUCATION POLICE OFFICERS, EXCEPT WHEN EMERGENCY CIRCUMSTANCE PRECLUDE SUCH COORDINATION.

24-7.5-105. Officers' qualifications. STATE HIGHER EDUCATION POLICE OFFICERS SHALL BE AT LEAST TWENTY-ONE YEARS OF AGE AND SHALL POSSESS OTHER QUALIFICATIONS AS MAY BE SPECIFIED BY THE STATE PERSONNEL DIRECTOR, INCLUDING CONTINUING TRAINING AS MAY BE PRESCRIBED BY THE DIRECTOR. STATE HIGHER EDUCATION POLICE OFFICERS SHALL BE CERTIFIED BY THE PEACE OFFICER STANDARDS AND TRAINING BOARD.

SECTION 12. 24-31-302 (3), Colorado Revised Statutes, is amended to read:

24-31-302. Creation of board. (3) The P.O.S.T. board shall consist of twenty members. The chairperson of the P.O.S.T. board shall be the attorney general, and the board shall annually elect from its members a vice-chairperson. The other members shall be the special agent in charge of the Denver division of the federal bureau of investigation, the executive director of the department of public safety, one local government representative, six active chiefs of police from municipalities of this state OR STATE INSTITUTIONS OF HIGHER EDUCATION, six active sheriffs from counties of this state, three active peace officers with a rank of sergeant or below, and one lay member. The governor shall appoint the chiefs of police, sheriffs, peace officers, the lay member, and the local government representative as members of the board for terms of three years per appointment. If any chief of police, sheriff, peace officer, lay member, or local government representative vacates such office during the term for which appointed to the P.O.S.T. board, a vacancy on the board shall exist. Any vacancy shall be filled by appointment by the governor for the unexpired term.

SECTION 13. 29-5-103, Colorado Revised Statutes, is amended to read:

29-5-103. Assignment of police officers or deputy sheriffs for temporary duty. The chief of police or person performing the functions thereof of any town, city, or city and county OR OF ANY STATE INSTITUTION OF HIGHER EDUCATION EMPLOYING PEACE OFFICERS IN ACCORDANCE WITH SECTION 16-2.5-120, C.R.S., or the sheriff of any county may in his OR HER discretion, upon request of the chief of

police or person exercising the functions thereof in any other town, city, or city and county OR ANY OTHER STATE INSTITUTION OF HIGHER EDUCATION EMPLOYING A PEACE OFFICER IN ACCORDANCE WITH SECTION 16-2.5-120, C.R.S., or the sheriff of any other county, assign police officers or deputies under his OR HER control, together with any equipment he OR SHE deems proper, to perform temporary duty within the jurisdiction of the requesting chief of police or sheriff and under the direction and command of ~~such~~ THE requesting chief of police or sheriff; but the chief of police or sheriff ~~so~~ assigning ~~such~~ THE officers or deputies may provide that ~~such~~ THE officers or deputies shall be under the immediate command of a superior officer designated by ~~such~~ THE assigning chief of police or sheriff, which superior officer shall be under the direct supervision and command of the requesting chief of police or sheriff. Nothing contained in THIS SECTION OR sections 29-5-104 to 29-5-110 shall be construed to limit the power of any town, city, ~~or~~ city and county, OR STATE INSTITUTION OF HIGHER EDUCATION EMPLOYING PEACE OFFICERS IN ACCORDANCE WITH SECTION 16-2.5-120, C.R.S., to prohibit or limit by ordinance the exercise by a chief of police or sheriff of the discretion granted in sections 29-5-103 to 29-5-110.

SECTION 14. 29-5-104, Colorado Revised Statutes, is amended to read:

29-5-104. Request for temporary assignment of police officers or deputy sheriffs - authority. (1) The chief of police, or person performing the functions thereof, of any town, city, or city and county OR OF A STATE INSTITUTION OF HIGHER EDUCATION EMPLOYING A PEACE OFFICER IN ACCORDANCE WITH SECTION 16-2.5-120, C.R.S., and the sheriff of any county may, when in his OR HER opinion the same is required to quell disturbances or riots or in any other situation wherein he OR SHE deems that an emergency exists within his OR HER jurisdiction, request the chief of police or person performing the function thereof of any other city, town, or city and county OR AT ANOTHER STATE INSTITUTION OF HIGHER EDUCATION EMPLOYING PEACE OFFICERS IN ACCORDANCE WITH SECTION 16-2.5-120, C.R.S., or the sheriff of any other county to assign officers or deputy sheriffs under their respective commands to perform temporary duty within the jurisdiction of ~~such~~ THE requesting chief of police or sheriff and under the direction and control of ~~such~~ THE requesting chief of police or sheriff under ~~such~~ THE terms and conditions as shall be agreed upon between the requesting and assigning chiefs of police or sheriffs. ~~Such~~ THE officers or deputy sheriffs shall, while so assigned and performing duties subject to the direction and control of the requesting chief of police or sheriff, have the same power within the jurisdiction of the requesting chief of police or sheriff as do regular officers or deputies, as the case may be, of ~~such~~ THE requesting chief of police or sheriff.

(2) Where, under the provisions of section 29-1-206, a county, ~~or~~ municipality, OR STATE INSTITUTION OF HIGHER EDUCATION, in this state enters into an intergovernmental agreement for reciprocal law enforcement with a bordering county or with a municipality within a bordering county that is located in another state, the law enforcement agency head of either county or municipality OR OF THE STATE INSTITUTION OF HIGHER EDUCATION may, pursuant to the provisions of ~~such~~ THE intergovernmental agreement, request the law enforcement agency head of the other county or municipality OR STATE INSTITUTION OF HIGHER EDUCATION to assign deputy sheriffs or other peace officers to perform law enforcement duties within the jurisdiction of ~~such~~ THE requesting law enforcement agency head and under ~~such~~

THE terms and conditions as are stated in the intergovernmental agreement. Prior to ~~such~~ THE assignment, ~~such~~ THE deputy sheriffs or other peace officers shall obtain recognition as peace officers in this state as provided for in section 29-1-206. ~~Such~~ THE deputy sheriffs or other peace officers shall, while so assigned and performing duties subject to the direction and control of the requesting law enforcement agency head, have the same power within the jurisdiction of the requesting law enforcement agency head as do regular deputies or other peace officers of ~~such~~ THE requesting law enforcement agency head.

SECTION 15. 29-5-108, Colorado Revised Statutes, is amended to read:

29-5-108. Liability of requesting jurisdiction. During the time that a ~~police officer~~ POLICE OFFICER, deputy sheriff, or firefighter of a town, city, city and county, county, or fire protection district OR OF A STATE INSTITUTION OF HIGHER EDUCATION EMPLOYING A PEACE OFFICER IN ACCORDANCE WITH SECTION 16-2.5-120, C.R.S., is assigned to temporary duty within the jurisdiction of another town, city, city and county, county, or fire protection district, OR OF ANOTHER STATE INSTITUTION OF HIGHER EDUCATION EMPLOYING A PEACE OFFICER IN ACCORDANCE WITH SECTION 16-2.5-120, C.R.S., as provided in sections 29-5-103 to 29-5-107, any liability ~~which~~ THAT accrues under the provisions of article 10 of title 24, C.R.S., on account of the negligent or otherwise tortious act of ~~any such~~ THE police officer, deputy sheriff, or firefighter while performing ~~such~~ THE duty shall be imposed upon the requesting town, city, city and county, county, ~~or~~ fire protection district OR STATE INSTITUTION OF HIGHER EDUCATION, and not upon the assigning jurisdiction.

SECTION 16. 29-5-109, Colorado Revised Statutes, is amended to read:

29-5-109. Workers' compensation coverage. The coverage of any police officer, deputy sheriff, or firefighter of any town, city, city and county, county, or fire protection district OR OF ANY STATE INSTITUTION OF HIGHER EDUCATION EMPLOYING PEACE OFFICERS IN ACCORDANCE WITH SECTION 16-2.5-120, C.R.S., under the "Workers' Compensation Act of Colorado", ARTICLES 40 TO 47 OF TITLE 8, C.R.S., shall not be affected by reason of the performance of temporary duties in a requesting town, city, city and county, county, ~~or~~ fire protection district, OR STATE INSTITUTION OF HIGHER EDUCATION under the provisions of sections 29-5-103 to 29-5-107, and ~~such~~ THE police officers, deputy sheriffs, and firefighters shall remain covered by such workers' compensation insurance while performing ~~such~~ THE temporary duty as fully as if they were performing their regular duties within the assigning jurisdiction.

SECTION 17. 29-5-110, Colorado Revised Statutes, is amended to read:

29-5-110. Pension fund payments. If any police officer, deputy sheriff, or firefighter of any town, city, city and county, county, or fire protection district OR OF ANY STATE INSTITUTION OF HIGHER EDUCATION EMPLOYING PEACE OFFICERS IN ACCORDANCE WITH SECTION 16-2.5-120, C.R.S., should become disabled or be killed by reason of the performance of temporary duty within the jurisdiction of another town, city, city and county, county, ~~or~~ fire protection district, OR STATE INSTITUTION OF HIGHER EDUCATION, as provided in sections 29-5-103 to 29-5-107, and ~~such~~ THE disability would entitle him or her or ~~such~~ HIS OR HER death would entitle his or her survivor to payment from any police or firefighters' OR EMPLOYEE

pension fund of the town, city, city and county, county, ~~or~~ fire protection district, OR STATE INSTITUTION OF HIGHER EDUCATION assigning him or her to temporary duty in another ~~such~~ jurisdiction, had the injury occurred during the performance of his or her duties within the assigning town, city, city and county, county, ~~or~~ fire protection district, OR STATE INSTITUTION OF HIGHER EDUCATION, ~~such~~ THE police officer, deputy sheriff, or firefighter, or his or her survivor, shall be entitled to the same payment from the pension fund of the assigning town, city, city and county, county, ~~or~~ fire protection district, OR STATE INSTITUTION OF HIGHER EDUCATION, as he or she would have been entitled to receive if the injury or death had occurred within the assigning town, city, city and county, county, ~~or~~ fire protection district, OR STATE INSTITUTION OF HIGHER EDUCATION, and he or she shall NOT be entitled to receive ~~no~~ A payment from any police or firefighters' OR EMPLOYEE pension fund of the jurisdiction in which he or she performed ~~such~~ THE temporary duties.

SECTION 18. 29-5-111 (1), Colorado Revised Statutes, is amended to read:

29-5-111. Liability of peace officers. (1) Notwithstanding the doctrines of sovereign immunity and respondeat superior, a city, town, county, OR city and county or other political subdivision of the state OR A STATE INSTITUTION OF HIGHER EDUCATION EMPLOYING PEACE OFFICERS IN ACCORDANCE WITH SECTION 16-2.5-120, C.R.S., shall indemnify its paid peace officers and reserve officers, as defined in section 16-2.5-110, C.R.S., while ~~such~~ THE PEACE OFFICERS AND reserve officers are on duty for any liability incurred by them and for any judgment, except a judgment for exemplary damages, entered against them for torts committed within the scope of their employment if the person claiming damages serves ~~such~~ THE political subdivision OR STATE INSTITUTION OF HIGHER EDUCATION with a copy of the summons within ten days from the date when a copy of the summons is served on ~~such~~ THE peace officer OR RESERVE OFFICER. In no event shall any such political subdivision OR STATE INSTITUTION OF HIGHER EDUCATION be required so to indemnify its peace officers in excess of one hundred thousand dollars for one person in any single occurrence or three hundred thousand dollars for two or more persons for any single occurrence; except that, in such instance no indemnity shall be allowed for any person in excess of one hundred thousand dollars. It is the duty of the city, town, county, city and county, or other political subdivision AND OF THE STATE INSTITUTION OF HIGHER EDUCATION to provide the defense handled by the legal staff of the public entity or by other counsel, in the discretion of the public entity, for ~~any such~~ THE peace officer in such claim or civil action. However, in the event that the court determines that a reserve officer, as defined in section 16-2.5-110, C.R.S., incurred ~~such~~ THE liability while acting outside the scope of his or her assigned duties or that ~~such~~ THE reserve officer acted in a willful and wanton manner in incurring ~~such~~ THE liability, the court shall order ~~such~~ THE reserve officer to reimburse the political subdivision OR THE STATE INSTITUTION OF HIGHER EDUCATION for reasonable costs and reasonable attorney fees expended for the defense of ~~such~~ THE reserve officer. With the approval of the governing body of the city, town, county, city and county, or other political subdivision OR OF THE STATE INSTITUTION OF HIGHER EDUCATION, ~~such~~ THE claim or civil action may be settled or compromised. A city, town, county, city and county, or other political subdivision OR A STATE INSTITUTION OF HIGHER EDUCATION may carry liability insurance to insure itself and its peace officers. If ~~such~~ THE political subdivision OR STATE INSTITUTION OF HIGHER EDUCATION purchases insurance ~~which~~ THAT provides substantial coverage for ~~such~~ THE peace officers with a policy limitation

of at least one hundred thousand dollars for one person in any single occurrence and three hundred thousand dollars for two or more persons for any single occurrence, except that in such instance no indemnity shall be allowed for any person in excess of one hundred thousand dollars, then ~~such~~ THE political subdivision OR STATE INSTITUTION OF HIGHER EDUCATION shall be liable under this section to indemnify ~~any such~~ THE peace officers only to the extent of the limits and for such torts as are covered by the policy and only to the extent of the coverage of the policy. Nothing in this section shall be deemed to condone the conduct of any peace officer who uses excessive force or who violates the statutory or constitutional rights of any person.

SECTION 19. 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: March 18, 2008