

CHAPTER 32

CRIMINAL LAW AND PROCEDURE

HOUSE BILL 11-1073

BY REPRESENTATIVE(S) Barker, Duran, Ferrandino, Fields, Fischer, Gardner B., Gerou, Kerr J., Lee, Nikkel, Schafer S., Scott, Stephens, Waller, Wilson;
also SENATOR(S) Morse, Guzman, King S., Newell, Nicholson.

AN ACT**CONCERNING PEACE OFFICER DESIGNATION FOR UNITED STATES MARSHALS.**

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

SECTION 1. 16-2.5-147, Colorado Revised Statutes, is amended to read:

16-2.5-147. Federal special agents. (1) A special agent of the federal bureau of investigation or the United States bureau of alcohol, tobacco, firearms, and explosives, A DEPUTY OR SPECIAL DEPUTY UNITED STATES MARSHAL, or an officer of the federal protective service of the United States department of homeland security immigration and customs enforcement, in any jurisdiction within the state of Colorado, is a peace officer whose authority is limited as provided in this section. The special agent, DEPUTY OR SPECIAL DEPUTY, or officer is authorized to act in the following circumstances:

(a) The SPECIAL agent, DEPUTY OR SPECIAL DEPUTY, or officer is:

(I) Responding to a nonfederal felony or misdemeanor that has been committed in the presence of the special agent, DEPUTY OR SPECIAL DEPUTY, or officer;

(II) Responding to an emergency situation in which the special agent, DEPUTY OR SPECIAL DEPUTY, or officer has probable cause to believe that a nonfederal felony or misdemeanor involving injury or threat of injury to a person or property has been, or is being, committed, and immediate action is required to prevent escape, serious bodily injury, or destruction of property;

(III) Rendering assistance at the request of a Colorado peace officer; or

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

(IV) Effecting an arrest or providing assistance as part of a bona fide task force or joint investigation with Colorado peace officers; and

(b) The agent, DEPUTY OR SPECIAL DEPUTY, or officer acts in accordance with the rules and regulations of his or her employing agency.

(2) A special agent of the federal bureau of investigation or the United States bureau of alcohol, tobacco, firearms, and explosives, A DEPUTY OR SPECIAL DEPUTY UNITED STATES MARSHAL, or an officer of the federal protective service of the United States department of homeland security immigration and customs enforcement is a person who is employed by the United States government, assigned to the federal bureau of investigation, the United States bureau of alcohol, tobacco, firearms, and explosives, THE UNITED STATES MARSHAL SERVICE, or the federal protective service of the United States department of homeland security immigration and customs enforcement, empowered to effect an arrest with or without a warrant for violations of the United States code, and authorized to carry a firearm and use deadly force in the performance of the special agent's, DEPUTY'S OR SPECIAL DEPUTY'S, or officer's official duties as a federal law enforcement officer.

(3) Upon effecting an arrest under the authority of this section, a special agent of the federal bureau of investigation or the United States bureau of alcohol, tobacco, firearms, and explosives, A DEPUTY OR SPECIAL DEPUTY UNITED STATES MARSHAL, or an officer of the federal protective service of the United States department of homeland security immigration and customs enforcement shall immediately surrender custody of the arrested individual to a Colorado peace officer.

(4) This section does not impose liability on or require indemnification or create a waiver of sovereign immunity by the state of Colorado for any action performed under this section by a special agent of the federal bureau of investigation or the United States bureau of alcohol, tobacco, firearms, and explosives, A DEPUTY OR SPECIAL DEPUTY UNITED STATES MARSHAL, or an officer of the federal protective service of the United States department of homeland security immigration and customs enforcement.

(5) Nothing in this section shall be construed to expand the authority of federal law enforcement officers to initiate or conduct an independent investigation into violations of Colorado law.

SECTION 2. Act subject to petition - effective date. This act shall take effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly (August 10, 2011, if adjournment sine die is on May 11, 2011); except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part shall not take effect unless approved by the people at the general election to be held in November 2012 and shall take effect on the date of the official declaration of the vote thereon by the governor.

Approved: March 18, 2011