An Act

SENATE BILL 20-217

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also REPRESENTATIVE(S) Herod and Gonzales-Gutierrez, Garnett, Buckner, Coleman, Exum, Jackson, Melton, Benavidez, Buentello, Caraveo, Duran, Jaquez Lewis, Tipper, Valdez A., Valdez D., Arndt, Becker, Bird, Cutter, Esgar, Froelich, Gray, Hooton, Kennedy, Kipp, Kraft-Tharp, Lontine, McCluskie, McLachlan, Michaelson Jenet, Mullica, Roberts, Singer, Sirota, Snyder, Sullivan, Titone, Weissman, Woodrow, Young, Landgraf.

CONCERNING MEASURES TO ENHANCE LAW ENFORCEMENT INTEGRITY, AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION.

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

SECTION 1. Legislative declaration. The general assembly hereby finds and declares that the provisions of Senate Bill 20-217, enacted at the second regular session of the seventy-second general assembly, are matters of statewide concern.

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

SECTION 2. In Colorado Revised Statutes, **add** part 9 to article 31 of title 24 as follows:

PART 9
LAW ENFORCEMENT INTEGRITY

24-31-901. Definitions. AS USED IN THIS PART 9, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "CONTACTS" MEANS AN INTERACTION WITH AN INDIVIDUAL, WHETHER OR NOT THE PERSON IS IN A MOTOR VEHICLE, INITIATED BY A PEACE OFFICER, WHETHER CONSENSUAL OR NONCONSENSUAL, FOR THE PURPOSE OF ENFORCING THE LAW OR INVESTIGATING POSSIBLE VIOLATIONS OF THE LAW. "CONTACTS" DO NOT INCLUDE ROUTINE INTERACTIONS WITH THE PUBLIC AT THE POINT OF ENTRY OR EXIT FROM A CONTROLLED AREA.

(2) "DEMOGRAPHIC INFORMATION" MEANS RACE, ETHNICITY, SEX, AND APPROXIMATE AGE.

(3) "PEACE OFFICER" MEANS ANY PERSON EMPLOYED BY A POLITICAL SUBDIVISION OF THE STATE REQUIRED TO BE CERTIFIED BY THE P.O.S.T. BOARD PURSUANT TO SECTION 16-2.5-102, A COLORADO STATE PATROL OFFICER AS DESCRIBED IN SECTION 16-2.5-114, AND ANY NONCERTIFIED DEPUTY SHERIFF AS DESCRIBED IN SECTION 16-2.5-103 (2).

(4) "PHYSICAL FORCE" MEANS THE APPLICATION OF PHYSICAL TECHNIQUES OR TACTICS, CHEMICAL AGENTS, OR WEAPONS TO ANOTHER PERSON.

(5) "SERIOUS BODILY INJURY" HAS THE SAME MEANING AS IN SECTION 18-1-901 (3)(p).

(6) "TAMPER" MEANS TO INTENTIONALLY DAMAGE, DISABLE, DISLODGE, OR OBSTRUCT THE SIGHT OR SOUND OR OTHERWISE IMPAIR FUNCTIONALITY OF THE BODY-WORN CAMERA OR TO INTENTIONALLY DAMAGE, DELETE, OR FAIL TO UPLOAD SOME OR ALL PORTIONS OF THE VIDEO AND AUDIO.

24-31-902. Incident recordings - release - tampering - fine. (1) (a) (I) BY JULY 1, 2023, ALL LOCAL LAW ENFORCEMENT AGENCIES IN

THE STATE AND THE COLORADO STATE PATROL SHALL PROVIDE BODY-WORN CAMERAS FOR EACH PEACE OFFICER OF THE LAW ENFORCEMENT AGENCY WHO INTERACTS WITH MEMBERS OF THE PUBLIC. LAW ENFORCEMENT AGENCIES MAY SEEK FUNDING PURSUANT TO SECTION 24-33.5-519.

(II) (A) EXCEPT AS PROVIDED IN SUBSECTION (1)(a)(II)(B) OR (1)(a)(II)(C) OF THIS SECTION, A PEACE OFFICER SHALL WEAR AND ACTIVATE A BODY-WORN CAMERA OR DASH CAMERA, IF THE PEACE OFFICER'S VEHICLE IS EQUIPPED WITH A DASH CAMERA, WHEN RESPONDING TO A CALL FOR SERVICE OR DURING ANY INTERACTION WITH THE PUBLIC INITIATED BY THE PEACE OFFICER, WHETHER CONSENSUAL OR NONCONSENSUAL, FOR THE PURPOSE OF ENFORCING THE LAW OR INVESTIGATING POSSIBLE VIOLATIONS OF THE LAW.

(B) A PEACE OFFICER MAY TURN OFF A BODY-WORN CAMERA TO AVOID RECORDING PERSONAL INFORMATION THAT IS NOT CASE RELATED; WHEN WORKING ON AN UNRELATED ASSIGNMENT; WHEN THERE IS A LONG BREAK IN THE INCIDENT OR CONTACT THAT IS NOT RELATED TO THE INITIAL INCIDENT; AND IN ADMINISTRATIVE, TACTICAL, AND MANAGEMENT DISCUSSIONS.

(C) A PEACE OFFICER DOES NOT NEED TO WEAR OR ACTIVATE A BODY-WORN CAMERA IF THE PEACE OFFICER IS WORKING UNDERCOVER.

(D) THE PROVISIONS OF THIS SUBSECTION (1)(a)(II) DO NOT APPLY TO JAIL PEACE OFFICERS OR STAFF OF A LOCAL LAW ENFORCEMENT AGENCY IF THE JAIL HAS VIDEO CAMERAS; EXCEPT THAT THIS SUBSECTION (1)(a)(II) APPLIES TO JAIL PEACE OFFICERS WHEN PERFORMING A TASK THAT REQUIRES AN ANTICIPATED USE OF FORCE, INCLUDING CELL EXTRACTIONS AND RESTRAINT CHAIRS. THE PROVISIONS OF THIS SUBSECTION (1)(a)(II) ALSO DO NOT APPLY TO THE CIVILIAN OR ADMINISTRATIVE STAFF OF THE COLORADO STATE PATROL OR A LOCAL LAW ENFORCEMENT AGENCY, THE EXECUTIVE DETAIL OF THE COLORADO STATE PATROL, AND PEACE OFFICERS WORKING IN A COURTROOM.

(III) IF A PEACE OFFICER FAILS TO ACTIVATE A BODY-WORN CAMERA OR DASH CAMERA AS REQUIRED BY THIS SECTION OR TAMPERS WITH BODY-WORN- OR DASH-CAMERA FOOTAGE OR OPERATION WHEN REQUIRED TO ACTIVATE THE CAMERA, THERE IS A PERMISSIVE INFERENCE IN ANY INVESTIGATION OR LEGAL PROCEEDING, EXCLUDING CRIMINAL PROCEEDINGS

AGAINST THE PEACE OFFICER, THAT THE MISSING FOOTAGE WOULD HAVE REFLECTED MISCONDUCT BY THE PEACE OFFICER. IF A PEACE OFFICER FAILS TO ACTIVATE OR REACTIVATE HIS OR HER BODY-WORN CAMERA AS REQUIRED BY THIS SECTION OR TAMPERS WITH BODY-WORN OR DASH CAMERA FOOTAGE OR OPERATION WHEN REQUIRED TO ACTIVATE THE CAMERA, ANY STATEMENTS SOUGHT TO BE INTRODUCED IN A PROSECUTION THROUGH THE PEACE OFFICER RELATED TO THE INCIDENT THAT WERE NOT RECORDED DUE TO THE PEACE OFFICER'S FAILURE TO ACTIVATE OR REACTIVATE THE BODY-WORN CAMERA AS REQUIRED BY THIS SECTION OR IF THE STATEMENT WAS NOT RECORDED BY OTHER MEANS CREATES A REBUTTABLE PRESUMPTION OF INADMISSIBILITY. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THIS SUBSECTION (1)(a)(III) DOES NOT APPLY IF THE BODY-WORN CAMERA WAS NOT ACTIVATED DUE TO A MALFUNCTION OF THE BODY-WORN CAMERA AND THE PEACE OFFICER WAS NOT AWARE OF THE MALFUNCTION, OR WAS UNABLE TO RECTIFY IT, PRIOR TO THE INCIDENT, PROVIDED THAT THE LAW ENFORCEMENT AGENCY'S DOCUMENTATION SHOWS THE PEACE OFFICER CHECKED THE FUNCTIONALITY OF THE BODY-WORN CAMERA AT THE BEGINNING OF HIS OR HER SHIFT.

(IV) (A) IN ADDITION TO ANY CRIMINAL LIABILITY AND PENALTY UNDER THE LAW, IF A COURT, ADMINISTRATIVE LAW JUDGE, HEARING OFFICER, OR A FINAL DECISION IN AN INTERNAL INVESTIGATION FINDS THAT A PEACE OFFICER INTENTIONALLY FAILED TO ACTIVATE A BODY-WORN CAMERA OR DASH CAMERA OR TAMPERED WITH ANY BODY-WORN OR DASH CAMERA, EXCEPT AS PERMITTED IN THIS SECTION, THE PEACE OFFICER'S EMPLOYER SHALL IMPOSE DISCIPLINE UP TO AND INCLUDING TERMINATION, TO THE EXTENT PERMITTED BY APPLICABLE CONSTITUTIONAL AND STATUTORY PERSONNEL LAWS AND CASE LAW.

(B) IN ADDITION TO ANY CRIMINAL LIABILITY AND PENALTY UNDER THE LAW, IF A COURT, ADMINISTRATIVE LAW JUDGE, HEARING OFFICER, OR A FINAL DECISION IN AN INTERNAL INVESTIGATION FINDS THAT A PEACE OFFICER INTENTIONALLY FAILED TO ACTIVATE A BODY-WORN CAMERA OR DASH CAMERA OR TAMPERED WITH ANY BODY-WORN OR DASH CAMERA, EXCEPT AS PERMITTED IN THIS SECTION, WITH THE INTENT TO CONCEAL UNLAWFUL OR INAPPROPRIATE ACTIONS OR OBSTRUCT JUSTICE, THE P.O.S.T. BOARD SHALL SUSPEND THE PEACE OFFICER'S CERTIFICATION FOR A PERIOD OF NOT LESS THAN ONE YEAR AND THE SUSPENSION MAY ONLY BE LIFTED WITHIN THE PERIOD OF THE SUSPENSION IF THE PEACE OFFICER IS EXONERATED BY A COURT.

(C) IN ADDITION TO ANY CRIMINAL LIABILITY AND PENALTY UNDER THE LAW, IF A COURT, ADMINISTRATIVE LAW JUDGE, HEARING OFFICER, OR A FINAL DECISION IN AN INTERNAL INVESTIGATION FINDS THAT A PEACE OFFICER INTENTIONALLY FAILED TO ACTIVATE A BODY-WORN CAMERA OR DASH CAMERA OR TAMPERED WITH ANY BODY-WORN OR DASH CAMERA, EXCEPT AS PERMITTED IN THIS SECTION, WITH THE INTENT TO CONCEAL UNLAWFUL OR INAPPROPRIATE ACTIONS, OR OBSTRUCT JUSTICE, IN AN INCIDENT RESULTING IN A CIVILIAN DEATH, THE P.O.S.T. BOARD SHALL PERMANENTLY REVOKE THE PEACE OFFICER'S CERTIFICATION AND THE REVOCATION MAY ONLY BE OVERTURNED IF THE PEACE OFFICER IS EXONERATED BY A COURT.

(b) A LOCAL LAW ENFORCEMENT AGENCY AND THE COLORADO STATE PATROL SHALL ESTABLISH AND FOLLOW A RETENTION SCHEDULE FOR BODY-WORN CAMERA RECORDINGS IN COMPLIANCE WITH COLORADO STATE ARCHIVES RULES AND DIRECTION.

(2) (a) FOR ALL INCIDENTS IN WHICH THERE IS A COMPLAINT OF PEACE OFFICER MISCONDUCT BY ANOTHER PEACE OFFICER, A CIVILIAN, OR NONPROFIT ORGANIZATION, THROUGH NOTICE TO THE LAW ENFORCEMENT AGENCY INVOLVED IN THE ALLEGED MISCONDUCT, THE LOCAL LAW ENFORCEMENT AGENCY OR THE COLORADO STATE PATROL SHALL RELEASE ALL UNEDITED VIDEO AND AUDIO RECORDINGS OF THE INCIDENT, INCLUDING THOSE FROM BODY-WORN CAMERAS, DASH CAMERAS, OR OTHERWISE COLLECTED THROUGH INVESTIGATION, TO THE PUBLIC WITHIN TWENTY-ONE DAYS AFTER THE LOCAL LAW ENFORCEMENT AGENCY OR THE COLORADO STATE PATROL RECEIVED THE COMPLAINT OF MISCONDUCT.

(b) (I) ALL VIDEO AND AUDIO RECORDINGS DEPICTING A DEATH MUST BE PROVIDED UPON REQUEST TO THE VICTIM'S SPOUSE, PARENT, LEGAL GUARDIAN, CHILD, SIBLING, GRANDPARENT, GRANDCHILD, SIGNIFICANT OTHER, OR OTHER LAWFUL REPRESENTATIVE, AND SUCH PERSON SHALL BE NOTIFIED OF HIS OR HER RIGHT, PURSUANT TO SECTION 24-4.1-302.5 (1)(j.8), TO RECEIVE AND REVIEW THE RECORDING AT LEAST SEVENTY-TWO HOURS PRIOR TO PUBLIC DISCLOSURE. A PERSON SEVENTEEN YEARS OF AGE AND UNDER IS CONSIDERED INCAPACITATED, UNLESS LEGALLY EMANCIPATED.

(II) (A) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION, ANY VIDEO THAT RAISES SUBSTANTIAL PRIVACY CONCERNS FOR CRIMINAL DEFENDANTS, VICTIMS, WITNESSES, JUVENILES, OR INFORMANTS, INCLUDING

VIDEO DEPICTING NUDITY; A SEXUAL ASSAULT; A MEDICAL EMERGENCY; PRIVATE MEDICAL INFORMATION; A MENTAL HEALTH CRISIS; A VICTIM INTERVIEW; A MINOR, INCLUDING ANY IMAGES OR INFORMATION THAT MIGHT UNDERMINE THE REQUIREMENT TO KEEP CERTAIN JUVENILE RECORDS CONFIDENTIAL; ANY PERSONAL INFORMATION OTHER THAN THE NAME OF ANY PERSON NOT ARRESTED, CITED, CHARGED, OR ISSUED A WRITTEN WARNING, INCLUDING A GOVERNMENT-ISSUED IDENTIFICATION NUMBER, DATE OF BIRTH, ADDRESS, OR FINANCIAL INFORMATION; SIGNIFICANTLY EXPLICIT AND GRUESOME BODILY INJURY, UNLESS THE INJURY WAS CAUSED BY A PEACE OFFICER; OR THE INTERIOR OF A HOME OR TREATMENT FACILITY, SHALL BE REDACTED OR BLURRED TO PROTECT THE SUBSTANTIAL PRIVACY INTEREST WHILE STILL ALLOWING PUBLIC RELEASE. UNREDACTED FOOTAGE SHALL NOT BE RELEASED WITHOUT THE WRITTEN AUTHORIZATION OF THE VICTIM OR, IF THE VICTIM IS DECEASED OR INCAPACITATED, THE WRITTEN AUTHORIZATION OF THE VICTIM'S NEXT OF KIN. A PERSON SEVENTEEN YEARS OF AGE AND UNDER IS CONSIDERED INCAPACITATED, UNLESS LEGALLY EMANCIPATED.

(B) IF REDACTION OR BLURRING IS INSUFFICIENT TO PROTECT THE SUBSTANTIAL PRIVACY INTEREST, THE LOCAL LAW ENFORCEMENT AGENCY OR THE COLORADO STATE PATROL SHALL, UPON REQUEST, RELEASE THE VIDEO TO THE VICTIM OR, IF THE VICTIM IS DECEASED OR INCAPACITATED, TO THE VICTIM'S SPOUSE, PARENT, LEGAL GUARDIAN, CHILD, SIBLING, GRANDPARENT, GRANDCHILD, SIGNIFICANT OTHER, OR OTHER LAWFUL REPRESENTATIVE WITHIN TWENTY DAYS AFTER RECEIPT OF THE COMPLAINT OF MISCONDUCT. IN CASES IN WHICH THE RECORDING IS NOT RELEASED TO THE PUBLIC PURSUANT TO THIS SUBSECTION (2)(b)(II)(B), THE LOCAL LAW ENFORCEMENT AGENCY SHALL NOTIFY THE PERSON WHOSE PRIVACY INTEREST IS IMPLICATED, IF CONTACT INFORMATION IS KNOWN, WITHIN TWENTY DAYS AFTER RECEIPT OF THE COMPLAINT OF MISCONDUCT, AND INFORM THE PERSON OF HIS OR HER RIGHT TO WAIVE THE PRIVACY INTEREST.

(C) A WITNESS, VICTIM, OR CRIMINAL DEFENDANT MAY WAIVE IN WRITING THE INDIVIDUAL PRIVACY INTEREST THAT MAY BE IMPLICATED BY PUBLIC RELEASE. UPON RECEIPT OF A WRITTEN WAIVER OF THE APPLICABLE PRIVACY INTEREST, ACCOMPANIED BY A REQUEST FOR RELEASE, THE LAW ENFORCEMENT AGENCY MAY NOT REDACT OR WITHHOLD RELEASE TO PROTECT THAT PRIVACY INTEREST. THE HEARING SHALL BE CONSIDERED A CRITICAL STAGE PURSUANT TO SECTION 24-4.1-302 AND GIVES VICTIMS THE RIGHT TO BE HEARD PURSUANT TO 24-4.1-302.5.

(III) ANY VIDEO THAT WOULD SUBSTANTIALLY INTERFERE WITH OR JEOPARDIZE AN ACTIVE OR ONGOING INVESTIGATION MAY BE WITHHELD FROM THE PUBLIC; EXCEPT THAT THE VIDEO SHALL BE RELEASED NO LATER THAN FORTY-FIVE DAYS FROM THE DATE OF THE ALLEGATION OF MISCONDUCT. IN ALL CASES WHEN RELEASE OF A VIDEO IS DELAYED IN RELIANCE ON THIS SUBSECTION (2)(b)(III), THE PROSECUTING ATTORNEY SHALL PREPARE A WRITTEN EXPLANATION OF THE INTERFERENCE OR JEOPARDY THAT JUSTIFIES THE DELAYED RELEASE, CONTEMPORANEOUS WITH THE REFUSAL TO RELEASE THE VIDEO. UPON RELEASE OF THE VIDEO, THE PROSECUTING ATTORNEY SHALL RELEASE THE WRITTEN EXPLANATION TO THE PUBLIC.

(c) IF CRIMINAL CHARGES HAVE BEEN FILED AGAINST ANY PARTY TO THE INCIDENT, THAT PARTY MUST FILE ANY CONSTITUTIONAL OBJECTION TO RELEASE OF THE RECORDING IN THE PENDING CRIMINAL CASE BEFORE THE TWENTY-ONE-DAY PERIOD EXPIRES. ONLY IN CASES IN WHICH THERE IS A PENDING CRIMINAL INVESTIGATION OR PROSECUTION OF A PARTY TO THE INCIDENT, THE TWENTY-ONE-DAY PERIOD SHALL BEGIN FROM THE DATE OF APPOINTMENT OF COUNSEL, THE FILING OF AN ENTRY OF APPEARANCE BY COUNSEL, OR THE ELECTION TO PROCEED PRO SE BY THE DEFENDANT IN THE CRIMINAL PROSECUTION MADE ON THE RECORD BEFORE A JUDGE. IF THE DEFENDANT ELECTS TO PROCEED PRO SE IN THE CRIMINAL CASE, THE COURT SHALL ADVISE THE DEFENDANT OF THE TWENTY-ONE-DAY DEADLINE FOR THE DEFENDANT TO FILE ANY CONSTITUTIONAL OBJECTION TO RELEASE OF THE RECORDING IN THE PENDING CRIMINAL CASE AS PART OF THE COURT'S ADVISEMENT. THE COURT SHALL HOLD A HEARING ON ANY OBJECTION NO LATER THAN SEVEN DAYS AFTER IT IS FILED AND ISSUE A RULING NO LATER THAN THREE DAYS AFTER THE HEARING.

24-31-903. Division of criminal justice report. (1) BEGINNING JULY 1, 2023, THE DIVISION OF CRIMINAL JUSTICE IN THE DEPARTMENT OF PUBLIC SAFETY SHALL CREATE AN ANNUAL REPORT INCLUDING ALL OF THE INFORMATION THAT IS REPORTED TO THE DIVISION PURSUANT TO SUBSECTION (2) OF THIS SECTION, AGGREGATED AND BROKEN DOWN BY THE LAW ENFORCEMENT AGENCY THAT EMPLOYS PEACE OFFICERS, ALONG WITH THE UNDERLYING DATA.

(2) BEGINNING JANUARY 1, 2023, THE COLORADO STATE PATROL AND EACH LOCAL LAW ENFORCEMENT AGENCY THAT EMPLOYS PEACE OFFICERS SHALL REPORT TO THE DIVISION OF CRIMINAL JUSTICE:

(a) ALL USE OF FORCE BY ITS PEACE OFFICERS THAT RESULTS IN DEATH OR SERIOUS BODILY INJURY, INCLUDING:

(I) THE DATE, TIME, AND LOCATION OF THE USE OF FORCE;

(II) THE PERCEIVED DEMOGRAPHIC INFORMATION OF THE PERSON CONTACTED, PROVIDED THAT THE IDENTIFICATION OF THESE CHARACTERISTICS IS BASED ON THE OBSERVATION AND PERCEPTION OF THE PEACE OFFICER MAKING THE CONTACT AND OTHER AVAILABLE DATA;

(III) THE NAMES OF ALL PEACE OFFICERS WHO WERE AT THE SCENE, IDENTIFIED BY WHETHER THE PEACE OFFICER WAS INVOLVED IN THE USE OF FORCE OR NOT; EXCEPT THAT THE IDENTITY OF OTHER PEACE OFFICERS AT THE SCENE NOT DIRECTLY INVOLVED IN THE USE OF FORCE SHALL BE IDENTIFIED BY THE OFFICER'S IDENTIFICATION NUMBER ISSUED BY THE P.O.S.T. BOARD UNLESS THE PEACE OFFICER IS CHARGED CRIMINALLY OR IS A DEFENDANT TO A CIVIL SUIT AS A RESULT ARISING FROM THE USE OF FORCE;

(IV) THE TYPE OF FORCE USED, THE SEVERITY AND NATURE OF THE INJURY, WHETHER THE PEACE OFFICER SUFFERED PHYSICAL INJURY, AND THE SEVERITY OF THE PEACE OFFICER'S INJURY;

(V) WHETHER THE PEACE OFFICER WAS ON DUTY AT THE TIME OF THE USE OF FORCE;

(VI) WHETHER A PEACE OFFICER UNHOLSTERED A WEAPON DURING THE INCIDENT;

(VII) WHETHER A PEACE OFFICER DISCHARGED A FIREARM DURING THE INCIDENT;

(VIII) WHETHER THE USE OF FORCE RESULTED IN A LAW ENFORCEMENT AGENCY INVESTIGATION AND THE RESULT OF THE INVESTIGATION; AND

(IX) WHETHER THE USE OF FORCE RESULTED IN A CITIZEN COMPLAINT AND THE RESOLUTION OF THAT COMPLAINT;

(b) ALL INSTANCES WHEN A PEACE OFFICER RESIGNED WHILE UNDER

INVESTIGATION FOR VIOLATING DEPARTMENT POLICY;

(c) ALL DATA RELATING TO CONTACTS CONDUCTED BY ITS PEACE OFFICERS, INCLUDING:

(I) THE PERCEIVED DEMOGRAPHIC INFORMATION OF THE PERSON CONTACTED PROVIDED THAT THE IDENTIFICATION OF THESE CHARACTERISTICS IS BASED ON THE OBSERVATION AND PERCEPTION OF THE PEACE OFFICER MAKING THE CONTACT AND OTHER AVAILABLE DATA;

(II) WHETHER THE CONTACT WAS A TRAFFIC STOP;

(III) THE TIME, DATE, AND LOCATION OF THE CONTACT;

(IV) THE DURATION OF THE CONTACT;

(V) THE REASON FOR THE CONTACT;

(VI) THE SUSPECTED CRIME;

(VII) THE RESULT OF THE CONTACT, SUCH AS:

(A) NO ACTION, WARNING, CITATION, PROPERTY SEIZURE, OR ARREST;

(B) IF A WARNING OR CITATION WAS ISSUED, THE WARNING PROVIDED OR VIOLATION CITED;

(C) IF AN ARREST WAS MADE, THE OFFENSE CHARGED;

(D) IF THE CONTACT WAS A TRAFFIC STOP, THE INFORMATION COLLECTED, WHICH IS LIMITED TO THE DRIVER;

(VIII) THE ACTIONS TAKEN BY THE PEACE OFFICER DURING THE CONTACT, INCLUDING BUT NOT LIMITED TO WHETHER:

(A) THE PEACE OFFICER ASKED FOR CONSENT TO SEARCH THE PERSON, AND, IF SO, WHETHER CONSENT WAS PROVIDED;

(B) THE PEACE OFFICER SEARCHED THE PERSON OR ANY PROPERTY,

AND, IF SO, THE BASIS FOR THE SEARCH AND THE TYPE OF CONTRABAND OR EVIDENCE DISCOVERED, IF ANY;

(C) THE PEACE OFFICER SEIZED ANY PROPERTY AND, IF SO, THE TYPE OF PROPERTY THAT WAS SEIZED AND THE BASIS FOR SEIZING THE PROPERTY;

(D) A PEACE OFFICER UNHOLSTERED A WEAPON DURING THE CONTACT; AND

(E) A PEACE OFFICER DISCHARGED A FIREARM DURING THE CONTACT;

(d) ALL INSTANCES OF UNANNOUNCED ENTRY INTO A RESIDENCE, WITH OR WITHOUT A WARRANT, INCLUDING:

(I) THE DATE, TIME, AND LOCATION OF THE USE OF UNANNOUNCED ENTRY;

(II) THE PERCEIVED DEMOGRAPHIC INFORMATION OF THE SUBJECT OF THE UNANNOUNCED ENTRY, PROVIDED THAT THE IDENTIFICATION OF THESE CHARACTERISTICS IS BASED ON THE OBSERVATION AND PERCEPTION OF THE PEACE OFFICER MAKING THE ENTRY AND OTHER AVAILABLE DATA;

(III) WHETHER A PEACE OFFICER UNHOLSTERED A WEAPON DURING THE UNANNOUNCED ENTRY; AND

(IV) WHETHER A PEACE OFFICER DISCHARGED A FIREARM DURING THE UNANNOUNCED ENTRY.

(3) THE COLORADO STATE PATROL AND LOCAL LAW ENFORCEMENT AGENCIES SHALL NOT REPORT THE NAME, ADDRESS, SOCIAL SECURITY NUMBER, OR OTHER UNIQUE PERSONAL IDENTIFYING INFORMATION OF THE SUBJECT OF THE USE OF FORCE, VICTIM OF THE OFFICIAL MISCONDUCT, OR PERSONS CONTACTED, SEARCHED, OR SUBJECTED TO A PROPERTY SEIZURE. NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY, THE DATA REPORTED PURSUANT TO THIS SECTION IS AVAILABLE TO THE PUBLIC PURSUANT TO SUBSECTION (4) OF THIS SECTION.

(4) THE DIVISION OF CRIMINAL JUSTICE SHALL MAINTAIN A STATEWIDE DATABASE WITH DATA COLLECTED PURSUANT TO THIS SECTION, IN A SEARCHABLE FORMAT, AND PUBLISH THE DATABASE ON ITS WEBSITE.

(5) THE COLORADO STATE PATROL AND ANY LOCAL LAW ENFORCEMENT AGENCY THAT FAILS TO MEET ITS REPORTING REQUIREMENTS PURSUANT TO THIS SECTION IS SUBJECT TO THE SUSPENSION OF ITS FUNDING BY ITS APPROPRIATING AUTHORITY.

24-31-904. Revoke peace officer certification after conviction. NOTWITHSTANDING ANY PROVISION OF LAW, IF ANY PEACE OFFICER IS CONVICTED OF OR PLEADS GUILTY OR NOLO CONTENDERE TO A CRIME INVOLVING THE UNLAWFUL USE OR THREATENED USE OF PHYSICAL FORCE, A CRIME INVOLVING THE FAILURE TO INTERVENE IN THE USE OF UNLAWFUL FORCE, OR IS FOUND CIVILLY LIABLE FOR THE USE OF UNLAWFUL PHYSICAL FORCE, OR IS FOUND CIVILLY LIABLE FOR FAILURE TO INTERVENE IN THE USE OF UNLAWFUL FORCE, THE P.O.S.T. BOARD SHALL PERMANENTLY REVOKE THE PEACE OFFICER'S CERTIFICATION. THE P.O.S.T. BOARD SHALL NOT, UNDER ANY CIRCUMSTANCES, REINSTATE THE PEACE OFFICER'S CERTIFICATION OR GRANT NEW CERTIFICATION TO THE PEACE OFFICER UNLESS THE PEACE OFFICER IS EXONERATED BY A COURT. THE P.O.S.T. BOARD SHALL RECORD EACH DECERTIFIED PEACE OFFICER IN THE DATABASE CREATED PURSUANT TO SECTION 24-31-303 (1)(r).

24-31-905. Prohibited law enforcement action in response to protests. (1) IN RESPONSE TO A PROTEST OR DEMONSTRATION, A LAW ENFORCEMENT AGENCY AND ANY PERSON ACTING ON BEHALF OF THE LAW ENFORCEMENT AGENCY SHALL NOT:

(a) DISCHARGE KINETIC IMPACT PROJECTILES AND ALL OTHER NON- OR LESS-LETHAL PROJECTILES IN A MANNER THAT TARGETS THE HEAD, PELVIS, OR BACK;

(b) DISCHARGE KINETIC IMPACT PROJECTILES INDISCRIMINATELY INTO A CROWD; OR

(c) USE CHEMICAL AGENTS OR IRRITANTS, INCLUDING PEPPER SPRAY AND TEAR GAS, PRIOR TO ISSUING AN ORDER TO DISPERSE IN A SUFFICIENT MANNER TO ENSURE THE ORDER IS HEARD AND REPEATED IF NECESSARY, FOLLOWED BY SUFFICIENT TIME AND SPACE TO ALLOW COMPLIANCE WITH THE ORDER.

SECTION 3. In Colorado Revised Statutes, **add** 13-21-131 as follows:

13-21-131. Civil action for deprivation of rights - definition. (1) A PEACE OFFICER, AS DEFINED IN SECTION 24-31-901 (3), EMPLOYED BY A LOCAL GOVERNMENT WHO, UNDER COLOR OF LAW, SUBJECTS OR CAUSES TO BE SUBJECTED, INCLUDING FAILING TO INTERVENE, ANY OTHER PERSON TO THE DEPRIVATION OF ANY INDIVIDUAL RIGHTS THAT CREATE BINDING OBLIGATIONS ON GOVERNMENT ACTORS SECURED BY THE BILL OF RIGHTS, ARTICLE II OF THE STATE CONSTITUTION, IS LIABLE TO THE INJURED PARTY FOR LEGAL OR EQUITABLE RELIEF OR ANY OTHER APPROPRIATE RELIEF.

(2) (a) STATUTORY IMMUNITIES AND STATUTORY LIMITATIONS ON LIABILITY, DAMAGES, OR ATTORNEY FEES DO NOT APPLY TO CLAIMS BROUGHT PURSUANT TO THIS SECTION. THE "COLORADO GOVERNMENTAL IMMUNITY ACT", ARTICLE 10 OF TITLE 24, DOES NOT APPLY TO CLAIMS BROUGHT PURSUANT TO THIS SECTION.

(b) QUALIFIED IMMUNITY IS NOT A DEFENSE TO LIABILITY PURSUANT TO THIS SECTION.

(3) IN ANY ACTION BROUGHT PURSUANT TO THIS SECTION, A COURT SHALL AWARD REASONABLE ATTORNEY FEES AND COSTS TO A PREVAILING PLAINTIFF. IN ACTIONS FOR INJUNCTIVE RELIEF, A COURT SHALL DEEM A PLAINTIFF TO HAVE PREVAILED IF THE PLAINTIFF'S SUIT WAS A SUBSTANTIAL FACTOR OR SIGNIFICANT CATALYST IN OBTAINING THE RESULTS SOUGHT BY THE LITIGATION. WHEN A JUDGMENT IS ENTERED IN FAVOR OF A DEFENDANT, THE COURT MAY AWARD REASONABLE COSTS AND ATTORNEY FEES TO THE DEFENDANT FOR DEFENDING ANY CLAIMS THE COURT FINDS FRIVOLOUS.

(4) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, A PEACE OFFICER'S EMPLOYER SHALL INDEMNIFY ITS PEACE OFFICERS FOR ANY LIABILITY INCURRED BY THE PEACE OFFICER AND FOR ANY JUDGMENT OR SETTLEMENT ENTERED AGAINST THE PEACE OFFICER FOR CLAIMS ARISING PURSUANT TO THIS SECTION; EXCEPT THAT, IF THE PEACE OFFICER'S EMPLOYER DETERMINES THAT THE OFFICER DID NOT ACT UPON A GOOD FAITH AND REASONABLE BELIEF THAT THE ACTION WAS LAWFUL, THEN THE PEACE OFFICER IS PERSONALLY LIABLE AND SHALL NOT BE INDEMNIFIED BY THE PEACE OFFICER'S EMPLOYER FOR FIVE PERCENT OF THE JUDGMENT OR SETTLEMENT OR TWENTY-FIVE THOUSAND DOLLARS, WHICHEVER IS LESS. NOTWITHSTANDING ANY PROVISION OF THIS SECTION TO THE CONTRARY, IF THE PEACE OFFICER'S PORTION OF THE JUDGMENT IS UNCOLLECTIBLE FROM THE PEACE OFFICER, THE PEACE OFFICER'S EMPLOYER OR INSURANCE SHALL

SATISFY THE FULL AMOUNT OF THE JUDGMENT OR SETTLEMENT. A PUBLIC ENTITY DOES NOT HAVE TO INDEMNIFY A PEACE OFFICER IF THE PEACE OFFICER WAS CONVICTED OF A CRIMINAL VIOLATION FOR THE CONDUCT FROM WHICH THE CLAIM ARISES.

(5) A CIVIL ACTION PURSUANT TO THIS SECTION MUST BE COMMENCED WITHIN TWO YEARS AFTER THE CAUSE OF ACTION ACCRUES.

SECTION 4. In Colorado Revised Statutes, 18-1-703, **amend** (1) introductory portion and (1)(b) as follows:

18-1-703. Use of physical force - special relationships. (1) The use of physical force upon another person ~~which~~ THAT would otherwise constitute an offense is justifiable and not criminal under any of the following circumstances:

(b) A superintendent or other authorized official of a jail, prison, or correctional institution may, in order to maintain order and discipline, use OBJECTIVELY reasonable and appropriate physical force when and to the extent that he OR SHE reasonably believes it necessary to maintain order and discipline, but he OR SHE may use deadly physical force only when he OR SHE OBJECTIVELY reasonably believes ~~it necessary to prevent death or serious bodily injury~~ THE INMATE POSES AN IMMEDIATE THREAT TO THE PERSON USING DEADLY FORCE OR ANOTHER PERSON.

SECTION 5. In Colorado Revised Statutes, 18-1-707, **repeal and reenact, with amendments,** (1), (2), (2.5), (3), and (4); and **add** (4.5) as follows:

18-1-707. Use of force by peace officers - definition. (1) PEACE OFFICERS, IN CARRYING OUT THEIR DUTIES, SHALL APPLY NONVIOLENT MEANS, WHEN POSSIBLE, BEFORE RESORTING TO THE USE OF PHYSICAL FORCE. A PEACE OFFICER MAY USE PHYSICAL FORCE ONLY IF NONVIOLENT MEANS WOULD BE INEFFECTIVE IN EFFECTING AN ARREST, PREVENTING AN ESCAPE, OR PREVENTING AN IMMINENT THREAT OF SERIOUS BODILY INJURY OR DEATH TO THE PEACE OFFICER OR ANOTHER PERSON.

(2) WHEN PHYSICAL FORCE IS USED, A PEACE OFFICER SHALL:

(a) NOT USE DEADLY PHYSICAL FORCE TO APPREHEND A PERSON WHO

IS SUSPECTED OF ONLY A MINOR OR NONVIOLENT OFFENSE;

(b) USE ONLY A DEGREE OF FORCE CONSISTENT WITH THE MINIMIZATION OF INJURY TO OTHERS;

(c) ENSURE THAT ASSISTANCE AND MEDICAL AID ARE RENDERED TO ANY INJURED OR AFFECTED PERSONS AS SOON AS PRACTICABLE; AND

(d) ENSURE THAT ANY IDENTIFIED RELATIVES OR NEXT OF KIN OF PERSONS WHO HAVE SUSTAINED SERIOUS BODILY INJURY OR DEATH ARE NOTIFIED AS SOON AS PRACTICABLE.

(2.5) (a) A PEACE OFFICER IS PROHIBITED FROM USING A CHOKEHOLD UPON ANOTHER PERSON.

(b) (I) FOR THE PURPOSES OF THIS SUBSECTION (2.5), "CHOKEHOLD" MEANS A METHOD BY WHICH A PERSON APPLIES SUFFICIENT PRESSURE TO A PERSON TO MAKE BREATHING DIFFICULT OR IMPOSSIBLE AND INCLUDES BUT IS NOT LIMITED TO ANY PRESSURE TO THE NECK, THROAT, OR WINDPIPE THAT MAY PREVENT OR HINDER BREATHING OR REDUCE INTAKE OF AIR.

(II) "CHOKEHOLD" ALSO MEANS APPLYING PRESSURE TO A PERSON'S NECK ON EITHER SIDE OF THE WINDPIPE, BUT NOT TO THE WINDPIPE ITSELF, TO STOP THE FLOW OF BLOOD TO THE BRAIN VIA THE CAROTID ARTERIES.

(3) A PEACE OFFICER IS JUSTIFIED IN USING DEADLY PHYSICAL FORCE TO MAKE AN ARREST ONLY WHEN ALL OTHER MEANS OF APPREHENSION ARE UNREASONABLE GIVEN THE CIRCUMSTANCES AND:

(a) THE ARREST IS FOR A FELONY INVOLVING CONDUCT INCLUDING THE USE OR THREATENED USE OF DEADLY PHYSICAL FORCE;

(b) THE SUSPECT POSES AN IMMEDIATE THREAT TO THE PEACE OFFICER OR ANOTHER PERSON;

(c) THE FORCE EMPLOYED DOES NOT CREATE A SUBSTANTIAL RISK OF INJURY TO OTHER PERSONS.

(4) A PEACE OFFICER SHALL IDENTIFY HIMSELF OR HERSELF AS A PEACE OFFICER AND GIVE A CLEAR VERBAL WARNING OF HIS OR HER INTENT

TO USE FIREARMS OR OTHER DEADLY PHYSICAL FORCE, WITH SUFFICIENT TIME FOR THE WARNING TO BE OBSERVED, UNLESS TO DO SO WOULD UNDULY PLACE PEACE OFFICERS AT RISK OF INJURY, WOULD CREATE A RISK OF DEATH OR INJURY TO OTHER PERSONS.

(4.5) NOTWITHSTANDING ANY OTHER PROVISION IN THIS SECTION, A PEACE OFFICER IS JUSTIFIED IN USING DEADLY FORCE IF THE PEACE OFFICER HAS AN OBJECTIVELY REASONABLE BELIEF THAT A LESSER DEGREE OF FORCE IS INADEQUATE AND THE PEACE OFFICER HAS OBJECTIVELY REASONABLE GROUNDS TO BELIEVE, AND DOES BELIEVE, THAT HE OR ANOTHER PERSON IS IN IMMINENT DANGER OF BEING KILLED OR OF RECEIVING SERIOUS BODILY INJURY.

SECTION 6. In Colorado Revised Statutes, 18-8-802, **add** (1.5) as follows:

18-8-802. Duty to report use of force by peace officers - duty to intervene. (1.5) (a) A PEACE OFFICER SHALL INTERVENE TO PREVENT OR STOP ANOTHER PEACE OFFICER FROM USING PHYSICAL FORCE THAT EXCEEDS THE DEGREE OF FORCE PERMITTED, IF ANY, BY SECTION 18-1-707, IN PURSUANCE OF THE OTHER PEACE OFFICER'S LAW ENFORCEMENT DUTIES IN CARRYING OUT AN ARREST OF ANY PERSON, PLACING ANY PERSON UNDER DETENTION, TAKING ANY PERSON INTO CUSTODY, BOOKING ANY PERSON, OR IN THE PROCESS OF CROWD CONTROL OR RIOT CONTROL, WITHOUT REGARD FOR CHAIN OF COMMAND.

(b) (I) A PEACE OFFICER WHO INTERVENES AS REQUIRED BY SUBSECTION (1.5) (a) OF THIS SECTION SHALL REPORT THE INTERVENTION TO HIS OR HER IMMEDIATE SUPERVISOR.

(II) AT A MINIMUM, THE REPORT REQUIRED BY THIS SUBSECTION (1.5)(b) MUST INCLUDE THE DATE, TIME, AND PLACE OF THE OCCURRENCE; THE IDENTITY, IF KNOWN, AND DESCRIPTION OF THE PARTICIPANTS; AND A DESCRIPTION OF THE INTERVENTION ACTIONS TAKEN. THIS REPORT SHALL BE MADE IN WRITING WITHIN TEN DAYS OF THE OCCURRENCE OF THE USE OF SUCH FORCE AND SHALL BE APPENDED TO ALL OTHER REPORTS OF THE INCIDENT.

(c) A MEMBER OF A LAW ENFORCEMENT AGENCY SHALL NOT DISCIPLINE OR RETALIATE IN ANY WAY AGAINST A PEACE OFFICER FOR

INTERVENING AS REQUIRED BY SUBSECTION (1.5) (a) OF THIS SECTION, OR FOR REPORTING UNCONSTITUTIONAL CONDUCT, OR FOR FAILING TO FOLLOW WHAT THE OFFICER REASONABLY BELIEVES IS AN UNCONSTITUTIONAL DIRECTIVE.

(d) ANY PEACE OFFICER WHO FAILS TO INTERVENE TO PREVENT THE USE OF UNLAWFUL FORCE AS PRESCRIBED IN THIS SUBSECTION (1.5) COMMITS A CLASS 1 MISDEMEANOR. NOTHING IN THIS SUBSECTION (1.5) SHALL PROHIBIT OR DISCOURAGE PROSECUTION OF ANY OTHER CRIMINAL OFFENSE RELATED TO FAILURE TO INTERVENE, INCLUDING A HIGHER CHARGE, IF SUPPORTED BY THE EVIDENCE.

(e) WHEN AN ADMINISTRATIVE LAW JUDGE OR INTERNAL INVESTIGATION FINDS THAT A PEACE OFFICER FAILED TO INTERVENE TO PREVENT THE USE OF UNLAWFUL PHYSICAL FORCE AS PRESCRIBED IN THIS SUBSECTION (1.5), THIS FINDING MUST BE PRESENTED TO THE DISTRICT ATTORNEY SO THAT HE OR SHE CAN DETERMINE WHETHER CHARGES SHOULD BE FILED PURSUANT TO SUBSECTION (1.5)(d) OF THIS SECTION. HOWEVER, NOTHING IN THIS SUBSECTION (1.5)(e) PROHIBITS THE DISTRICT ATTORNEY FROM CHARGING AN OFFICER WITH FAILURE TO INTERVENE BEFORE THE CONCLUSION OF ANY INTERNAL INVESTIGATION.

(f) IN ADDITION TO ANY CRIMINAL LIABILITY AND PENALTY UNDER THE LAW, WHEN AN ADMINISTRATIVE LAW JUDGE HEARING OFFICER, OR INTERNAL INVESTIGATION FINDS THAT A PEACE OFFICER FAILED TO INTERVENE AS REQUIRED BY SUBSECTION (1.5)(a) OF THIS SECTION IN AN INCIDENT RESULTING IN SERIOUS BODILY INJURY OR DEATH TO ANY PERSON, THE PEACE OFFICER'S EMPLOYER SHALL SUBJECT THE PEACE OFFICER TO DISCIPLINE, UP TO AND INCLUDING TERMINATION, TO THE EXTENT PERMITTED BY APPLICABLE CONSTITUTIONAL AND STATUTORY PERSONNEL LAWS AND CASE LAW, AND THE P.O.S.T. BOARD SHALL PERMANENTLY DECERTIFY THE PEACE OFFICER UPON RECEIPT OF NOTICE OF THE PEACE OFFICER'S DISCIPLINE. THE REVOCATION MAY ONLY BE OVERTURNED IF THE PEACE OFFICER IS EXONERATED BY A COURT.

(g) IN A CASE IN WHICH THE PROSECUTION CHARGES A PEACE OFFICER WITH OFFENSES RELATED TO AND BASED UPON THE USE OF EXCESSIVE FORCE BUT DOES NOT FILE CHARGES AGAINST ANY OTHER PEACE OFFICER OR OFFICERS WHO WERE AT THE SCENE DURING THE USE OF FORCE, THE DISTRICT ATTORNEY SHALL PREPARE A WRITTEN REPORT EXPLAINING

THE DISTRICT ATTORNEY'S BASIS FOR THE DECISION NOT TO CHARGE ANY OTHER PEACE OFFICER WITH ANY CRIMINAL CONDUCT AND SHALL PUBLICLY DISCLOSE THE REPORT TO THE PUBLIC; EXCEPT THAT IF DISCLOSURE OF THE REPORT WOULD SUBSTANTIALLY INTERFERE WITH OR JEOPARDIZE AN ONGOING CRIMINAL INVESTIGATION, THE DISTRICT ATTORNEY MAY DELAY PUBLIC DISCLOSURE FOR UP TO FORTY-FIVE DAYS. THE DISTRICT ATTORNEY SHALL POST THE WRITTEN REPORT ON ITS WEBSITE OR, IF IT DOES NOT HAVE A WEBSITE, MAKE IT PUBLICLY AVAILABLE UPON REQUEST. NOTHING IN THIS SECTION IS INTENDED TO PROHIBIT OR DISCOURAGE CRIMINAL PROSECUTION OF AN OFFICER WHO FAILED TO INTERVENE FOR CONDUCT IN WHICH THE FACTS SUPPORT A CRIMINAL CHARGE, INCLUDING UNDER A COMPLICITY THEORY, OR FOR AN INCHOATE OFFENSE.

SECTION 7. In Colorado Revised Statutes, 18-1-707, **add** (10) as follows:

18-1-707. Use of physical force in making an arrest or in preventing an escape - definitions -repeal. (10) (a) EACH LAW ENFORCEMENT AGENCY IN THE STATE SHALL TRAIN ITS PEACE OFFICERS ON THE PROVISIONS OF SUBSECTIONS (1) TO (4.5) OF THIS SECTION, SECTION 18-1-703 (1)(b), AND SECTION 18-8-802 (1.5) AS ENACTED IN SENATE BILL 20-217, ENACTED IN 2020, PRIOR TO THE PROVISIONS BECOMING EFFECTIVE ON SEPTEMBER 1, 2020.

(b) THIS SUBSECTION (10) IS REPEALED, EFFECTIVE JANUARY 1, 2021.

SECTION 8. In Colorado Revised Statutes, 20-1-114, **amend** (2) as follows:

20-1-114. Peace officer-involved death investigations - disclosure. (2) If the district attorney refers the matter under investigation to the grand jury, the district attorney shall release a statement at the time the matter is referred to the grand jury disclosing the general purpose of the grand jury's investigation. If no true bill is returned, the grand jury ~~may~~ SHALL issue AND PUBLISH a report. ~~pursuant to section 16-5-205.5, C.R.S.~~

SECTION 9. In Colorado Revised Statutes, 24-31-101, **add** (3) and (4) as follows:

24-31-101. Powers and duties of attorney general. (3) THE

ATTORNEY GENERAL MAY BRING A CIVIL ACTION TO ENFORCE THE PROVISIONS OF SECTION 24-31-113.

(4) THE ATTORNEY GENERAL MAY BRING A CIVIL ACTION TO ENFORCE THE PROVISIONS OF SECTION 24-31-307 (2) OR A CRIMINAL ACTION TO ENFORCE THE PROVISIONS OF SECTION 24-31-307 (3).

SECTION 10. In Colorado Revised Statutes, 24-31-303, **amend** (1)(l), (1)(p), and (1)(q); and **add** (1)(r) as follows:

24-31-303. Duties - powers of the P.O.S.T. board. (1) The P.O.S.T. board has the following duties:

(l) To promulgate rules deemed necessary by the board concerning annual in-service training requirements for certified peace officers, including but not limited to evaluation of the training program and processes to ensure substantial compliance by law enforcement agencies, ~~and~~ departments, AND INDIVIDUAL PEACE OFFICERS;

(p) To develop a community outreach program that informs the public of the role and duties of the P.O.S.T. board; ~~and~~

(q) To develop a recruitment program that creates a diversified applicant pool for appointments to the P.O.S.T. board and the subject matter expertise committees; AND

(r) BEGINNING ON JANUARY 1, 2022, TO CREATE AND MAINTAIN A DATABASE CONTAINING INFORMATION RELATED TO A PEACE OFFICER'S:

(I) UNTRUTHFULNESS;

(II) REPEATED FAILURE TO FOLLOW P.O.S.T. BOARD TRAINING REQUIREMENTS;

(III) DECERTIFICATION BY THE P.O.S.T. BOARD; AND

(IV) TERMINATION FOR CAUSE.

SECTION 11. In Colorado Revised Statutes, 24-4.1-302, **add** (2)(w) as follows:

24-4.1-302. Definitions. As used in this part 3, and for no other purpose, including the expansion of the rights of any defendant:

(2) "Critical stages" means the following stages of the criminal justice process:

(w) A HEARING HELD PURSUANT TO SECTION 24-31-902 (2)(c).

SECTION 12. In Colorado Revised Statutes, 24-4.1-302.5, **amend** (1)(d)(VII) and (1)(d)(VIII); and **add** (1)(d)(IX) and (1)(j.8) as follows:

24-4.1-302.5. Rights afforded to victims - definitions. (1) In order to preserve and protect a victim's rights to justice and due process, each victim of a crime has the following rights:

(d) The right to be heard at any court proceeding:

(VII) Involving a subpoena for records concerning the victim's medical history, mental health, education, or victim compensation, or any other records that are privileged pursuant to section 13-90-107; ~~C.R.S.; or~~

(VIII) Involving a petition for expungement as described in section 19-1-306; OR

(IX) INVOLVING A HEARING AS DESCRIBED IN SECTION 24-31-902 (2)(c).

(j.8) THE RIGHT, UPON REQUEST, TO OBTAIN ANY INCIDENT RECORDING AS DESCRIBED IN SECTION 24-31-902;

SECTION 13. In Colorado Revised Statutes, **add** 24-31-113 as follows:

24-31-113. Public integrity - patterns and practices. IT IS UNLAWFUL FOR ANY GOVERNMENTAL AUTHORITY, OR ANY AGENT THEREOF, OR ANY PERSON ACTING ON BEHALF OF A GOVERNMENTAL AUTHORITY, TO ENGAGE IN A PATTERN OR PRACTICE OF CONDUCT BY PEACE OFFICERS OR BY OFFICIALS OR EMPLOYEES OF ANY GOVERNMENTAL AGENCY THAT DEPRIVES PERSONS OF RIGHTS, PRIVILEGES, OR IMMUNITIES SECURED OR PROTECTED BY THE CONSTITUTION OR LAWS OF THE UNITED STATES OR THE STATE OF

COLORADO. WHENEVER THE ATTORNEY GENERAL HAS REASONABLE CAUSE TO BELIEVE THAT A VIOLATION OF THIS SECTION HAS OCCURRED, THE ATTORNEY GENERAL, FOR OR IN THE NAME OF THE STATE OF COLORADO, MAY IN A CIVIL ACTION OBTAIN ANY AND ALL APPROPRIATE RELIEF TO ELIMINATE THE PATTERN OR PRACTICE. BEFORE FILING SUIT, THE ATTORNEY GENERAL SHALL NOTIFY THE GOVERNMENT AUTHORITY OR ANY AGENT THEREOF, AND PROVIDE IT WITH THE FACTUAL BASIS THAT SUPPORTS HIS OR HER REASONABLE CAUSE TO BELIEVE A VIOLATION OCCURRED. UPON RECEIPT OF THE FACTUAL BASIS, THE GOVERNMENT AUTHORITY, OR ANY AGENT THEREOF, HAS SIXTY DAYS TO CHANGE OR ELIMINATE THE IDENTIFIED PATTERN OR PRACTICE. IF THE IDENTIFIED PATTERN OR PRACTICE IS NOT CHANGED OR ELIMINATED AFTER SIXTY DAYS, THE ATTORNEY GENERAL MAY FILE A CIVIL LAWSUIT.

SECTION 14. In Colorado Revised Statutes, 24-31-305, **add** (2.7) as follows:

24-31-305. Certification - issuance - renewal - revocation - rules - definition. (2.7) THE P.O.S.T. BOARD MAY REVOKE THE CERTIFICATION OF A PEACE OFFICER WHO FAILS TO SATISFACTORILY COMPLETE PEACE OFFICER TRAINING REQUIRED BY THE P.O.S.T. BOARD. PRIOR TO REVOKING THE PEACE OFFICER'S CERTIFICATION, THE P.O.S.T. BOARD SHALL NOTIFY THE PEACE OFFICER OF HIS OR HER FAILURE TO COMPLETE THE TRAINING REQUIRED BY THE P.O.S.T. BOARD AND GIVE THE PEACE OFFICER THIRTY CALENDAR DAYS TO SATISFACTORILY COMPLETE THE PEACE OFFICER TRAINING REQUIRED BY THE P.O.S.T. BOARD.

SECTION 15. In Colorado Revised Statutes, **amend** 24-31-307 as follows:

24-31-307. Enforcement. (1) The P.O.S.T. board shall have the power to ~~direct the attorney general to enforce the provisions of this part 3 through an action in district court for injunctive or other appropriate relief against~~ PROMULGATE RULES FOR ENFORCEMENT OF THIS PART 3.

(2) THE ATTORNEY GENERAL MAY ENFORCE THE PROVISIONS OF THIS PART 3 THROUGH AN ACTION IN DISTRICT COURT FOR INJUNCTIVE OR OTHER APPROPRIATE RELIEF AGAINST:

(a) Any individual undertaking or attempting to undertake any duties

as a peace officer or a reserve peace officer in this state in violation of this part 3; and

(b) Any agency permitting any individual to undertake or attempt to undertake any duties as a peace officer or a reserve peace officer in this state under the auspices of such agency in violation of this part 3.

(3) THE ATTORNEY GENERAL MAY BRING CRIMINAL CHARGES FOR VIOLATIONS OF THIS PART 3 IF VIOLATION IS WILLFUL OR WANTON, OR IMPOSE FINES, AS SET IN P.O.S.T. BOARD RULE, UPON ANY INDIVIDUAL OFFICER OR AGENCY FOR FAILURE TO COMPLY WITH THIS PART 3 OR ANY RULE PROMULGATED UNDER THIS PART 3.

~~(2)~~ (4) The attorney general shall be entitled to recover reasonable attorney fees and costs against the defendant in any enforcement action under this part 3, if the attorney general prevails.

SECTION 16. In Colorado Revised Statutes, 24-31-309, **amend** (4)(a); and **add** (3.5) as follows:

24-31-309. Profiling - officer identification - training. (3.5) A PEACE OFFICER SHALL HAVE A LEGAL BASIS FOR MAKING A CONTACT, WHETHER CONSENSUAL OR NONCONSENSUAL, FOR THE PURPOSE OF ENFORCING THE LAW OR INVESTIGATING POSSIBLE VIOLATIONS OF THE LAW. AFTER MAKING A CONTACT, A PEACE OFFICER, AS DEFINED IN SECTION 24-31-901 (3), SHALL REPORT TO THE PEACE OFFICER'S EMPLOYING AGENCY:

(a) THE PERCEIVED DEMOGRAPHIC INFORMATION OF THE PERSON CONTACTED, PROVIDED THAT THE IDENTIFICATION OF THESE CHARACTERISTICS IS BASED ON THE OBSERVATION AND PERCEPTION OF THE PEACE OFFICER MAKING THE CONTACT AND OTHER AVAILABLE DATA;

(b) WHETHER THE CONTACT WAS A TRAFFIC STOP;

(c) THE TIME, DATE, AND LOCATION OF THE CONTACT;

(d) THE DURATION OF THE CONTACT;

(e) THE REASON FOR THE CONTACT;

(f) THE SUSPECTED CRIME;

(g) THE RESULT OF THE CONTACT, SUCH AS:

(I) NO ACTION, WARNING, CITATION, PROPERTY SEIZURE, OR ARREST;

(II) IF A WARNING OR CITATION WAS ISSUED, THE WARNING PROVIDED OR VIOLATION CITED;

(III) IF AN ARREST WAS MADE, THE OFFENSE CHARGED;

(IV) IF THE CONTACT WAS A TRAFFIC STOP, THE INFORMATION COLLECTED, WHICH IS LIMITED TO THE DRIVER;

(h) THE ACTIONS TAKEN BY THE PEACE OFFICER DURING THE CONTACT, INCLUDING BUT NOT LIMITED TO WHETHER:

(I) THE PEACE OFFICER ASKED FOR CONSENT TO SEARCH THE PERSON, VEHICLE, OR OTHER PROPERTY, AND, IF SO, WHETHER CONSENT WAS PROVIDED;

(II) THE PEACE OFFICER SEARCHED THE PERSON OR ANY PROPERTY, AND, IF SO, THE BASIS FOR THE SEARCH AND THE TYPE OF CONTRABAND OR EVIDENCE DISCOVERED, IF ANY;

(III) THE PEACE OFFICER SEIZED ANY PROPERTY, AND, IF SO, THE TYPE OF PROPERTY THAT WAS SEIZED AND THE BASIS FOR SEIZING THE PROPERTY;

(IV) A PEACE OFFICER UNHOLSTERED A WEAPON DURING THE CONTACT; AND

(V) A PEACE OFFICER DISCHARGED A FIREARM DURING THE CONTACT.

(4) (a) A peace officer certified pursuant to this part 3 shall provide, without being asked, ~~his or her~~ THE PEACE OFFICER'S business card to any person whom the peace officer has detained in a traffic stop but has not cited or arrested. The business card ~~shall~~ MUST include identifying information about the peace officer, including but not limited to the peace

officer's name, division, precinct, and badge or other identification number; ~~and~~ a telephone number that may be used, if necessary, to report any comments, positive or negative, regarding the traffic stop; AND INFORMATION ABOUT HOW TO FILE A COMPLAINT RELATED TO THE CONTACT. The identity of the reporting person and the report of any such comments that ~~constitutes~~ CONSTITUTE a complaint ~~shall~~ MUST initially be kept confidential by the receiving law enforcement agency, to the extent permitted by law. The receiving law enforcement agency shall be permitted to obtain some identifying information regarding the complaint to allow initial processing of the complaint. If it becomes necessary for the further processing of the complaint for the complainant to disclose ~~his or her~~ THE COMPLAINANT'S identity, the complainant shall do so or, at the option of the receiving law enforcement agency, the complaint may be dismissed.

SECTION 17. Appropriation. (1) For the 2020-21 state fiscal year, $617,478 is appropriated to the department of public safety for use by the Colorado state patrol. This appropriation is from the highway users tax fund created in section 43-4-201 (1)(a), C.R.S. To implement this act, the patrol may use this appropriation as follows:

(a) $50,288 for civilians, which amount is based on an assumption that the patrol will require an additional 1.0 FTE;

(b) $7,550 for operating expenses;

(c) $463,700 for information technology asset maintenance; and

(d) $95,940 for the purchase of legal services.

(2) For the 2020-21 state fiscal year, $95,940 is appropriated to the department of law. This appropriation is from reappropriated funds received from the department of public safety under subsection (1)(d) of this section and is based on an assumption that the department of law will require an additional 0.5 FTE. To implement this act, the department of law may use this appropriation to provide legal services for the department of public safety.

SECTION 18. Effective date. This act takes effect upon passage; except that:

(1) Section 24-31-902, Colorado Revised Statutes, as enacted in section 2 of this act, takes effect July 1, 2023;

(2) Section 4 of this act takes effect September 1, 2020; and

(3) Section 5 of this act takes effect September 1, 2020; except that section 18-1-707 (2.5) and (3), Colorado Revised Statutes, as enacted in section 5 of this act, takes effect upon passage.

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, or safety.

Leroy M. Garcia
PRESIDENT OF
THE SENATE

KC Becker
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Cindi L. Markwell
SECRETARY OF
THE SENATE

Robin Jones
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

APPROVED June 19th, 2020 at 9:53 AM
(Date and Time)

Jared S. Polis
GOVERNOR OF THE STATE OF COLORADO