

First Regular Session
Sixty-eighth General Assembly
STATE OF COLORADO

REVISED

*This Version Includes All Amendments Adopted
on Second Reading in the Second House*

LLS NO. 11-0660.01 Christy Chase

HOUSE BILL 11-1195

HOUSE SPONSORSHIP

Gardner B., Ryden

SENATE SPONSORSHIP

Newell,

House Committees

Judiciary

Finance

Appropriations

Senate Committees

Judiciary

Finance

Appropriations

A BILL FOR AN ACT

101 CONCERNING THE VOLUNTARY LICENSURE OF PRIVATE
102 INVESTIGATORS, AND MAKING AN APPROPRIATION THEREFOR.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

The bill permits a private investigator in Colorado to obtain a voluntary license from the director of the division of registrations in the department of regulatory agencies (director) if the private investigator:

- ! Is at least 21 years of age;
- ! Is lawfully present in the United States;

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.

Capital letters indicate new material to be added to existing statute.

Dashes through the words indicate deletions from existing statute.

SENATE
Am ended 2nd Reading
May 6, 2011

HOUSE
3rd Reading Unam ended
April 11, 2011

HOUSE
Am ended 2nd Reading
April 8, 2011

- ! Has not been convicted of a felony or, within the previous 10 years, of a class 1 misdemeanor;
- ! Has at least 4,000 hours of verifiable, applicable experience as a private investigator within the previous 5 years or 2,000 hours of experience plus an amount of education as determined by the director;
- ! Has knowledge and understanding of the laws affecting the activities of licensed private investigators in this state, as attested to in a sworn, notarized affidavit submitted to the director with the application;
- ! Obtains a fingerprint-based criminal history record check;
- ! Pays the required fee; and
- ! Submits a current photograph and any applicable business registration documentation.

A private investigator who does not obtain a license is prohibited from holding himself or herself out as, or using the title of, "licensed private investigator".

The bill grants a licensed private investigator access to the following records, unredacted by the custodians of the records:

- ! State, county, and municipal court records pertaining to criminal, civil, and domestic cases;
- ! Records in the custody of a county clerk and recorder, including real and personal property records, voter records, marriage records, and motor vehicle records;
- ! Records of or in the custody of a county tax assessor;
- ! Records in the custody of the state registrar of vital statistics, including records of birth, death, marriage, and divorce;
- ! Records in the custody of the secretary of state, including voter records; corporate or business filings; "Uniform Commercial Code" filings; bingo, raffle, and notary public filings; and lobbyist filings;
- ! Law enforcement records other than those records pertaining to ongoing or active law enforcement investigations; and
- ! State and local government records relating to professional, occupational, or business licenses, registrations, or certifications.

The bill requires the department of revenue to establish procedures for a licensed private investigator seeking access to motor vehicle records to work with department personnel to identify specific motor vehicle records for disclosure to the licensed private investigator for a permitted use. Additionally, custodians of records are not required to release a person's social security number to a licensed private investigator unless otherwise required by law or court order.

The functions of the director pertaining to the licensure of private investigators is subject to sunset review and repeal on September 1, 2016.

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

2 **SECTION 1.** Title 12, Colorado Revised Statutes, is amended BY
3 THE ADDITION OF A NEW ARTICLE to read:

4 **ARTICLE 58.5**

5 **Private Investigators**

6 **12-58.5-101. Short title.** THIS ARTICLE SHALL BE KNOWN AND
7 MAY BE CITED AS THE "PRIVATE INVESTIGATORS VOLUNTARY LICENSURE
8 ACT".

9 **12-58.5-102. Legislative declaration.** THE GENERAL ASSEMBLY
10 HEREBY FINDS THAT IN ORDER TO PROTECT THE CITIZENS OF THE STATE
11 AND ALLOW PRIVATE INVESTIGATORS ACCESS TO PUBLIC RECORDS, IT IS
12 IMPORTANT TO CREATE A LICENSURE PROGRAM TO ALLOW QUALIFIED
13 PRIVATE INVESTIGATORS, AT THEIR OPTION, TO OBTAIN A STATE-ISSUED
14 LICENSE TO CONDUCT PRIVATE INVESTIGATIONS.

15 **12-58.5-103. Definitions.** AS USED IN THIS ARTICLE, UNLESS THE
16 CONTEXT OTHERWISE REQUIRES:

17 (1) "APPLICANT" MEANS A PRIVATE INVESTIGATOR WHO APPLIES
18 FOR AN INITIAL OR RENEWAL LICENSE PURSUANT TO THIS ARTICLE.

19 (2) "DIRECTOR" MEANS THE DIRECTOR OF THE DIVISION OR THE
20 DIRECTOR'S DESIGNEE.

21 (3) "DIVISION" MEANS THE DIVISION OF REGISTRATIONS IN THE
22 DEPARTMENT OF REGULATORY AGENCIES.

23 (4) "LICENSED PRIVATE INVESTIGATOR" MEANS A PRIVATE
24 INVESTIGATOR LICENSED BY THE DIRECTOR PURSUANT TO THIS ARTICLE.

25 (5) "PRIVATE INVESTIGATION" MEANS AN INVESTIGATION FOR THE

1 PURPOSE OF OBTAINING INFORMATION PERTAINING TO:

2 (a) A CRIME, WRONGFUL ACT, OR THREAT AGAINST THE UNITED
3 STATES OR ANY STATE OR TERRITORY OF THE UNITED STATES;

4 (b) THE IDENTITY, REPUTATION, CHARACTER, HABITS, CONDUCT,
5 BUSINESS OCCUPATION, HONESTY, INTEGRITY, CREDIBILITY, KNOWLEDGE,
6 TRUSTWORTHINESS, EFFICIENCY, LOYALTY, ACTIVITY, MOVEMENTS,
7 WHEREABOUTS, AFFILIATIONS, ASSOCIATIONS, OR TRANSACTIONS OF A
8 PERSON OR GROUP OF PERSONS;

9 (c) THE CREDIBILITY OF WITNESSES OR OTHER PERSONS;

10 (d) THE WHEREABOUTS OF MISSING PERSONS;

11 (e) THE DETERMINATION OF THE OWNERS OF ABANDONED
12 PROPERTY;

13 (f) THE CAUSES AND ORIGIN OF, OR RESPONSIBILITY FOR, A FIRE,
14 LIBEL, SLANDER, A LOSS, AN ACCIDENT, DAMAGE, OR AN INJURY TO A
15 PERSON OR TO REAL OR PERSONAL PROPERTY;

16 (g) THE BUSINESS OF SECURING EVIDENCE TO BE USED BEFORE AN
17 INVESTIGATORY COMMITTEE OR BOARD OF AWARD OR ARBITRATION OR IN
18 THE PREPARATION FOR OR IN A CIVIL OR CRIMINAL TRIAL;

19 (h) THE BUSINESS OF LOCATING PERSONS WHO HAVE BECOME
20 DELINQUENT IN THEIR LAWFUL DEBTS, EITHER WHEN HIRED BY AN
21 INDIVIDUAL OR COLLECTION AGENCY OR THROUGH DIRECT PURCHASE OF
22 THE DEBT FROM A FINANCIAL INSTITUTION OR ENTITY OWNING THE DEBT
23 OR JUDGMENT.

24 (6) (a) "PRIVATE INVESTIGATOR" MEANS A PERSON WHO, FOR
25 CONSIDERATION, ENGAGES IN BUSINESS OR ACCEPTS EMPLOYMENT TO
26 CONDUCT PRIVATE INVESTIGATIONS.

27 (b) "PRIVATE INVESTIGATOR" DOES NOT INCLUDE:

- 1 (I) A COLLECTION AGENCY, AS DEFINED IN SECTION 12-14-103;
- 2 (II) A PERSON CONDUCTING AN INVESTIGATION ON THE PERSON'S
- 3 OWN BEHALF, OR AN EMPLOYEE CONDUCTING AN INVESTIGATION ON
- 4 BEHALF OF THE EMPLOYER;
- 5 (III) AN EMPLOYEE OR INDEPENDENT CONTRACTOR OF AN
- 6 ATTORNEY LICENSED TO PRACTICE LAW IN THIS STATE;
- 7 (IV) A CERTIFIED PEACE OFFICER OF A LAW ENFORCEMENT
- 8 AGENCY OPERATING IN HIS OR HER OFFICIAL CAPACITY;
- 9 (V) A CONSUMER REPORTING AGENCY, AS DEFINED IN SECTION
- 10 12-14-103;
- 11 (VI) A CERTIFIED PUBLIC ACCOUNTANT CERTIFIED OR AUTHORIZED
- 12 TO PROVIDE ACCOUNTING SERVICES IN THE STATE PURSUANT TO ARTICLE
- 13 2 OF THIS TITLE AND ANY EMPLOYEE OR AFFILIATE OF AN ACCOUNTING
- 14 FIRM REGISTERED PURSUANT TO SECTION 12-2-117;
- 15 (VII) AN INVESTIGATOR EMPLOYED BY A PUBLIC OR
- 16 GOVERNMENTAL AGENCY;
- 17 (VIII) A JOURNALIST OR GENEALOGIST; OR
- 18 (IX) A PERSON SERVING PROCESS.

19 **12-58.5-104. Voluntary license - title protection - penalty.**

20 (1) (a) BY JULY 1, 2012, A PRIVATE INVESTIGATOR CONDUCTING PRIVATE

21 INVESTIGATIONS IN THIS STATE WHO MEETS THE REQUIREMENTS OF

22 SECTION 12-58.5-105 MAY OBTAIN A LICENSE FROM THE DIRECTOR. ONLY

23 A PRIVATE INVESTIGATOR WHO OBTAINS A LICENSE PURSUANT TO SECTION

24 12-58.5-105 SHALL HOLD HIMSELF OR HERSELF OUT AS, OR USE THE TITLE

25 OF, A "LICENSED PRIVATE INVESTIGATOR".

26 (b) NOTHING IN THIS ARTICLE REQUIRES A PRIVATE INVESTIGATOR

27 ENGAGING IN PRIVATE INVESTIGATIONS IN THIS STATE TO OBTAIN A

1 LICENSE UNDER THIS ARTICLE, BUT A PRIVATE INVESTIGATOR WHO IS NOT
2 SO LICENSED SHALL NOT REFER TO HIMSELF OR HERSELF AS A "LICENSED
3 PRIVATE INVESTIGATOR".

4 (2) ANY PERSON WHO HOLDS HIMSELF OR HERSELF OUT AS OR USES
5 THE TITLE "LICENSED PRIVATE INVESTIGATOR" WITHOUT AN ACTIVE
6 LICENSE ISSUED UNDER THIS ARTICLE COMMITS A CLASS 2 MISDEMEANOR
7 AND SHALL BE PUNISHED AS PROVIDED IN SECTION 18-1.3-501, C.R.S., FOR
8 THE FIRST OFFENSE, AND, FOR THE SECOND OR ANY SUBSEQUENT OFFENSE,
9 COMMITS A CLASS 1 MISDEMEANOR AND SHALL BE PUNISHED AS PROVIDED
10 IN SECTION 18-1.3-501, C.R.S.

11 **12-58.5-105. Private investigator voluntary license -**
12 **qualifications - fees - renewal.** (1) UPON APPLICATION IN THE FORM
13 AND MANNER DETERMINED BY THE DIRECTOR, PAYMENT OF THE REQUIRED
14 FEE, SUBMISSION OF A CURRENT PHOTOGRAPH OF THE APPLICANT AND
15 BUSINESS REGISTRATION DOCUMENTATION AS REQUIRED BY SUBSECTION
16 (3) OF THIS SECTION, AND SATISFACTION OF THE REQUIREMENTS OF
17 SUBSECTION (2) OF THIS SECTION, THE DIRECTOR SHALL ISSUE AN INITIAL
18 OR RENEWAL LICENSE TO AN APPLICANT WHO PROVIDES EVIDENCE
19 SATISFACTORY TO THE DIRECTOR THAT HE OR SHE:

20 (a) IS AT LEAST TWENTY-ONE YEARS OF AGE;

21 (b) IS LAWFULLY PRESENT IN THE UNITED STATES;

22 == ==

23 (c) (I) HAS AT LEAST FOUR THOUSAND HOURS OF VERIFIABLE,
24 APPLICABLE EXPERIENCE, AS DETERMINED BY THE DIRECTOR WITHIN THE
25 FIVE YEARS IMMEDIATELY PRECEDING THE DATE OF APPLICATION; OR

26 (II) HAS AT LEAST TWO THOUSAND HOURS OF VERIFIABLE,
27 APPLICABLE EXPERIENCE, AS DETERMINED BY THE DIRECTOR, WITHIN THE

1 FIVE YEARS IMMEDIATELY PRECEDING THE DATE OF APPLICATION PLUS AN
2 AMOUNT OF POSTSECONDARY EDUCATION DETERMINED BY THE DIRECTOR;
3 AND

4 (d) HAS KNOWLEDGE AND UNDERSTANDING OF THE STATUTES AND
5 RULES AFFECTING THE ETHICS AND ACTIVITIES OF LICENSED PRIVATE
6 INVESTIGATORS IN THIS STATE.

7 (2) IN ADDITION TO THE REQUIREMENTS OF SUBSECTION (1) OF THIS
8 SECTION, EACH LICENSE APPLICANT SHALL HAVE HIS OR HER FINGERPRINTS
9 TAKEN BY A LOCAL LAW ENFORCEMENT AGENCY FOR THE PURPOSE OF
10 OBTAINING A FINGERPRINT-BASED CRIMINAL HISTORY RECORD CHECK.
11 THE APPLICANT IS REQUIRED TO SUBMIT PAYMENT BY CERTIFIED CHECK OR
12 MONEY ORDER FOR THE FINGERPRINTS AND FOR THE ACTUAL COSTS OF THE
13 RECORD CHECK AT THE TIME THE FINGERPRINTS ARE SUBMITTED TO THE
14 COLORADO BUREAU OF INVESTIGATION. UPON RECEIPT OF FINGERPRINTS
15 AND RECEIPT OF THE PAYMENT FOR COSTS, THE COLORADO BUREAU OF
16 INVESTIGATION SHALL CONDUCT A STATE AND NATIONAL
17 FINGERPRINT-BASED CRIMINAL HISTORY RECORD CHECK UTILIZING
18 RECORDS OF THE COLORADO BUREAU OF INVESTIGATION AND THE
19 FEDERAL BUREAU OF INVESTIGATION AND SHALL FORWARD THE RESULTS
20 OF THE CRIMINAL HISTORY RECORD CHECK TO THE DIRECTOR.

21 (3) IF AN APPLICANT HAS REGISTERED AS A BUSINESS ENTITY WITH
22 THE SECRETARY OF STATE, AT THE TIME OF APPLICATION FOR A LICENSE
23 THE APPLICANT SHALL PROVIDE DOCUMENTATION TO THE DIRECTOR THAT
24 THE APPLICANT'S BUSINESS REGISTRATION IS CURRENT AND IN GOOD
25 STANDING WITH THE SECRETARY OF STATE.

26 (4) AN APPLICANT FOR LICENSURE SHALL PAY LICENSE, RENEWAL,
27 AND REINSTATEMENT FEES ESTABLISHED BY THE DIRECTOR PURSUANT TO

1 SECTION 24-34-105, C.R.S. ALL LICENSES SHALL BE RENEWED OR
2 REINSTATED PURSUANT TO A SCHEDULE ESTABLISHED BY THE DIRECTOR
3 AND PURSUANT TO SECTION 24-34-102 (8), C.R.S. IF A PERSON FAILS TO
4 RENEW HIS OR HER LICENSE PURSUANT TO THE SCHEDULE ESTABLISHED BY
5 THE DIRECTOR, THE LICENSE EXPIRES AND THE PERSON SHALL NOT HOLD
6 HIMSELF OR HERSELF OUT AS A LICENSED PRIVATE INVESTIGATOR UNTIL HE
7 OR SHE PAYS THE APPROPRIATE FEES TO REINSTATE THE LICENSE.

8
9 **12-58.5-106. Director may promulgate rules.** IN ADDITION TO
10 ALL OTHER POWERS AND DUTIES CONFERRED OR IMPOSED UPON THE
11 DIRECTOR BY THIS ARTICLE OR BY ANY OTHER LAW, THE DIRECTOR MAY
12 PROMULGATE RULES PURSUANT TO SECTION 24-4-103, C.R.S., TO
13 IMPLEMENT THIS ARTICLE.

14 **12-58.5-107. Disciplinary actions - grounds for discipline.**

15 (1) THE DIRECTOR MAY DENY, SUSPEND, REVOKE, OR PLACE ON
16 PROBATION A PRIVATE INVESTIGATOR'S LICENSE IF THE APPLICANT:

17 (a) VIOLATES ANY ORDER OF THE DIRECTOR OR ANY PROVISION OF
18 THIS ARTICLE OR OF RULES ESTABLISHED UNDER THIS ARTICLE;

19 (b) FAILS TO MEET THE REQUIREMENTS OF SECTION 12-58.5-105 OR
20 USES FRAUD, MISREPRESENTATION, OR DECEIT IN APPLYING FOR OR
21 ATTEMPTING TO APPLY FOR A LICENSE;

22 (c) IS CONVICTED OF OR HAS ENTERED A PLEA OF GUILTY OR NOLO
23 CONTENDERE TO A FELONY, TO AN OFFENSE, THE UNDERLYING FACTUAL
24 BASIS OF WHICH HAS BEEN FOUND BY THE COURT TO INVOLVE UNLAWFUL
25 SEXUAL BEHAVIOR, DOMESTIC VIOLENCE, AS DEFINED IN SECTION
26 18-6-800.3 (1), C.R.S., OR STALKING, AS DEFINED IN SECTION 18-3-602,
27 C.R.S.; OR TO VIOLATION OF A PROTECTION ORDER, AS DEFINED IN

1 SECTION 18-6-803.5, C.R.S. IN CONSIDERING THE DISCIPLINARY ACTION,
2 THE DIRECTOR SHALL BE GOVERNED BY THE PROVISIONS OF SECTION
3 24-5-101, C.R.S., IN CONSIDERING THE CONVICTION OR PLEA;

4 (d) HAS BEEN SUBJECT TO DISCIPLINE RELATED TO THE PRACTICE
5 OF PRIVATE INVESTIGATIONS IN ANOTHER JURISDICTION. EVIDENCE OF
6 DISCIPLINARY ACTION IN ANOTHER JURISDICTION IS PRIMA FACIE EVIDENCE
7 FOR DENIAL OF A LICENSE OR OTHER DISCIPLINARY ACTION IF THE
8 VIOLATION WOULD BE GROUNDS FOR DISCIPLINARY ACTION IN THIS STATE.

9 (2) THE DIRECTOR MAY ADOPT RULES ESTABLISHING FINES THAT
10 HE OR SHE MAY IMPOSE ON A LICENSEE, WHICH RULES MUST INCLUDE A
11 GRADUATED FINE STRUCTURE, WITH A MAXIMUM ALLOWABLE FINE OF NOT
12 MORE THAN THREE THOUSAND DOLLARS PER VIOLATION. THE DIRECTOR
13 SHALL TRANSMIT ANY FINES HE OR SHE COLLECTS FROM A LICENSEE TO
14 THE STATE TREASURER FOR DEPOSIT IN THE GENERAL FUND.

15 (3) THE DIRECTOR NEED NOT FIND THAT THE ACTIONS THAT ARE
16 GROUNDS FOR DISCIPLINE WERE WILLFUL BUT MAY CONSIDER WHETHER
17 THE ACTIONS WERE WILLFUL WHEN DETERMINING THE NATURE OF
18 DISCIPLINARY SANCTIONS TO BE IMPOSED.

19 (4) (a) THE DIRECTOR MAY COMMENCE A PROCEEDING TO
20 DISCIPLINE A LICENSEE WHEN THE DIRECTOR HAS REASONABLE GROUNDS
21 TO BELIEVE THAT THE LICENSEE HAS COMMITTED AN ACT ENUMERATED IN
22 THIS SECTION.

23 (b) IN ANY PROCEEDING HELD UNDER THIS SECTION, THE DIRECTOR
24 MAY ACCEPT AS EVIDENCE OF GROUNDS FOR DISCIPLINARY ACTION ANY
25 DISCIPLINARY ACTION TAKEN AGAINST A LICENSEE IN ANOTHER
26 JURISDICTION IF THE VIOLATION THAT PROMPTED THE DISCIPLINARY
27 ACTION IN THE OTHER JURISDICTION WOULD BE GROUNDS FOR

1 DISCIPLINARY ACTION UNDER THIS ARTICLE.

2 (5) THE DIRECTOR SHALL CONDUCT DISCIPLINARY PROCEEDINGS
3 IN ACCORDANCE WITH ARTICLE 4 OF TITLE 24, C.R.S., AND THE DIRECTOR
4 OR ADMINISTRATIVE LAW JUDGE APPOINTED BY THE DIRECTOR PURSUANT
5 TO PARAGRAPH (c) OF SUBSECTION (6) OF THIS SECTION SHALL CONDUCT
6 THE HEARING AND OPPORTUNITY FOR REVIEW PURSUANT TO THAT
7 ARTICLE. THE DIRECTOR HAS THE AUTHORITY TO EXERCISE ALL POWERS
8 AND DUTIES CONFERRED BY THIS ARTICLE DURING THE DISCIPLINARY
9 PROCEEDINGS.

10 (6) (a) THE DIRECTOR MAY REQUEST THE ATTORNEY GENERAL TO
11 SEEK AN INJUNCTION, IN ANY COURT OF COMPETENT JURISDICTION, TO
12 ENJOIN A PERSON FROM COMMITTING AN ACT PROHIBITED BY THIS
13 ARTICLE. WHEN SEEKING AN INJUNCTION UNDER THIS PARAGRAPH (a),
14 THE ATTORNEY GENERAL IS NOT REQUIRED TO ALLEGE OR PROVE THE
15 INADEQUACY OF ANY REMEDY AT LAW OR THAT SUBSTANTIAL OR
16 IRREPARABLE DAMAGE IS LIKELY TO RESULT FROM A CONTINUED
17 VIOLATION OF THIS ARTICLE.

18 (b) (I) THE DIRECTOR MAY INVESTIGATE, HOLD HEARINGS, AND
19 GATHER EVIDENCE IN ALL MATTERS RELATED TO THE EXERCISE AND
20 PERFORMANCE OF THE POWERS AND DUTIES OF THE DIRECTOR.

21 (II) IN ORDER TO AID THE DIRECTOR IN ANY HEARING OR
22 INVESTIGATION INSTITUTED PURSUANT TO THIS SECTION, THE DIRECTOR OR
23 AN ADMINISTRATIVE LAW JUDGE APPOINTED PURSUANT TO PARAGRAPH (c)
24 OF THIS SUBSECTION (6) MAY ADMINISTER OATHS, TAKE AFFIRMATIONS OF
25 WITNESSES, AND ISSUE SUBPOENAS COMPELLING THE ATTENDANCE OF
26 WITNESSES AND THE PRODUCTION OF ALL RELEVANT RECORDS, PAPERS,
27 BOOKS, DOCUMENTARY EVIDENCE, AND MATERIALS IN ANY HEARING,

1 INVESTIGATION, ACCUSATION, OR OTHER MATTER BEFORE THE DIRECTOR
2 OR AN ADMINISTRATIVE LAW JUDGE.

3 (III) UPON FAILURE OF ANY WITNESS OR LICENSEE TO COMPLY
4 WITH A SUBPOENA OR PROCESS, THE DISTRICT COURT OF THE COUNTY IN
5 WHICH THE SUBPOENAED PERSON OR LICENSEE RESIDES OR CONDUCTS
6 BUSINESS, UPON APPLICATION BY THE DIRECTOR WITH NOTICE TO THE
7 SUBPOENAED PERSON OR LICENSEE, MAY ISSUE TO THE PERSON OR
8 LICENSEE AN ORDER REQUIRING THE PERSON OR LICENSEE TO APPEAR
9 BEFORE THE DIRECTOR; TO PRODUCE THE RELEVANT PAPERS, BOOKS,
10 RECORDS, DOCUMENTARY EVIDENCE, OR MATERIALS IF SO ORDERED; OR
11 TO GIVE EVIDENCE TOUCHING THE MATTER UNDER INVESTIGATION OR IN
12 QUESTION. IF THE PERSON OR LICENSEE FAILS TO OBEY THE ORDER OF THE
13 COURT, THE COURT MAY HOLD THE PERSON OR LICENSEE IN CONTEMPT OF
14 COURT.

15 (c) THE DIRECTOR MAY APPOINT AN ADMINISTRATIVE LAW JUDGE
16 PURSUANT TO PART 10 OF ARTICLE 30 OF TITLE 24, C.R.S., TO CONDUCT
17 HEARINGS, TAKE EVIDENCE, MAKE FINDINGS, AND REPORT SUCH FINDINGS
18 TO THE DIRECTOR.

19 (7) (a) THE DIRECTOR, THE DIRECTOR'S STAFF, A PERSON ACTING
20 AS A WITNESS OR CONSULTANT TO THE DIRECTOR, A WITNESS TESTIFYING
21 IN A PROCEEDING AUTHORIZED UNDER THIS ARTICLE, OR A PERSON WHO
22 LODGES A COMPLAINT PURSUANT TO THIS ARTICLE IS IMMUNE FROM
23 LIABILITY IN A CIVIL ACTION BROUGHT AGAINST HIM OR HER FOR ACTS
24 OCCURRING WHILE ACTING IN HIS OR HER CAPACITY AS DIRECTOR, STAFF,
25 CONSULTANT, OR WITNESS, RESPECTIVELY, IF THE INDIVIDUAL WAS ACTING
26 IN GOOD FAITH WITHIN THE SCOPE OF HIS OR HER RESPECTIVE CAPACITY,
27 MADE A REASONABLE EFFORT TO OBTAIN THE FACTS OF THE MATTER AS TO

1 WHICH HE OR SHE ACTED, AND ACTED IN THE REASONABLE BELIEF THAT
2 THE ACTION TAKEN BY HIM OR HER WAS WARRANTED BY THE FACTS.

3 (b) A PERSON PARTICIPATING IN GOOD FAITH IN MAKING A
4 COMPLAINT OR REPORT OR IN AN INVESTIGATIVE OR ADMINISTRATIVE
5 PROCEEDING PURSUANT TO THIS SECTION IS IMMUNE FROM ANY CIVIL OR
6 CRIMINAL LIABILITY THAT OTHERWISE MIGHT RESULT BY REASON OF THE
7 PARTICIPATION.

8 (8) A FINAL ACTION OF THE DIRECTOR IS SUBJECT TO JUDICIAL
9 REVIEW BY THE COURT OF APPEALS PURSUANT TO SECTION 24-4-106 (11),
10 C.R.S. THE DIRECTOR MAY INSTITUTE A JUDICIAL PROCEEDING IN
11 ACCORDANCE WITH SECTION 24-4-106, C.R.S., TO ENFORCE AN ORDER OF
12 THE DIRECTOR.

13 (9) WHEN A COMPLAINT OR AN INVESTIGATION DISCLOSES AN
14 INSTANCE OF MISCONDUCT THAT, IN THE OPINION OF THE DIRECTOR,
15 WARRANTS FORMAL ACTION, THE DIRECTOR SHALL NOT RESOLVE THE
16 COMPLAINT BY A DEFERRED SETTLEMENT, ACTION, JUDGMENT, OR
17 PROSECUTION.

18 (10) (a) IF IT APPEARS TO THE DIRECTOR, BASED UPON CREDIBLE
19 EVIDENCE AS PRESENTED IN A WRITTEN COMPLAINT, THAT A LICENSEE IS
20 ACTING IN A MANNER THAT IS AN IMMINENT THREAT TO THE HEALTH AND
21 SAFETY OF THE PUBLIC, OR A PERSON IS HOLDING HIMSELF OR HERSELF OUT
22 AS OR IS USING THE TITLE "LICENSED PRIVATE INVESTIGATOR" WITHOUT
23 HAVING OBTAINED A LICENSE, THE DIRECTOR MAY ISSUE AN ORDER TO
24 CEASE AND DESIST THE ACTIVITY. THE DIRECTOR SHALL SET FORTH IN THE
25 ORDER THE STATUTES AND RULES ALLEGED TO HAVE BEEN VIOLATED, THE
26 FACTS ALLEGED TO HAVE CONSTITUTED THE VIOLATION, AND THE
27 REQUIREMENT THAT ALL UNLAWFUL ACTS OR UNREGISTERED PRACTICES

1 IMMEDIATELY CEASE.

2 (b) WITHIN TEN DAYS AFTER SERVICE OF THE ORDER TO CEASE AND
3 DESIST PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (10), THE
4 RESPONDENT MAY REQUEST A HEARING ON THE QUESTION OF WHETHER
5 ACTS OR PRACTICES IN VIOLATION OF THIS ARTICLE HAVE OCCURRED. THE
6 DIRECTOR OR ADMINISTRATIVE LAW JUDGE, AS APPLICABLE, SHALL
7 CONDUCT THE HEARING PURSUANT TO SECTIONS 24-4-104 AND 24-4-105,
8 C.R.S.

9 (11) (a) IF IT APPEARS TO THE DIRECTOR, BASED UPON CREDIBLE
10 EVIDENCE AS PRESENTED IN A WRITTEN COMPLAINT, THAT A PERSON HAS
11 VIOLATED ANY OTHER PORTION OF THIS ARTICLE, IN ADDITION TO ANY
12 SPECIFIC POWERS GRANTED PURSUANT TO THIS ARTICLE, THE DIRECTOR
13 MAY ISSUE TO THE PERSON AN ORDER TO SHOW CAUSE AS TO WHY THE
14 DIRECTOR SHOULD NOT ISSUE A FINAL ORDER DIRECTING THE PERSON TO
15 CEASE AND DESIST FROM THE UNLAWFUL ACT OR UNREGISTERED
16 PRACTICE.

17 (b) THE DIRECTOR SHALL PROMPTLY NOTIFY THE PERSON AGAINST
18 WHOM AN ORDER TO SHOW CAUSE HAS BEEN ISSUED PURSUANT TO
19 PARAGRAPH (a) OF THIS SUBSECTION (11) OF THE ISSUANCE OF THE ORDER
20 AND SHALL INCLUDE IN THE NOTICE A COPY OF THE ORDER, THE FACTUAL
21 AND LEGAL BASIS FOR THE ORDER, AND THE DATE SET BY THE DIRECTOR
22 FOR A HEARING ON THE ORDER. THE DIRECTOR MAY SERVE THE NOTICE ON
23 THE PERSON AGAINST WHOM THE ORDER HAS BEEN ISSUED BY PERSONAL
24 SERVICE, BY FIRST-CLASS, POSTAGE-PREPAID UNITED STATES MAIL, OR IN
25 ANOTHER MANNER AS MAY BE PRACTICABLE. PERSONAL SERVICE OR
26 MAILING OF AN ORDER OR DOCUMENT PURSUANT TO THIS PARAGRAPH (b)
27 CONSTITUTES NOTICE OF THE ORDER TO THE PERSON.

1 (c) (I) THE DIRECTOR SHALL HOLD THE HEARING ON AN ORDER TO
2 SHOW CAUSE NO SOONER THAN TEN AND NO LATER THAN FORTY-FIVE
3 CALENDAR DAYS AFTER THE DATE OF TRANSMISSION OR SERVICE OF THE
4 NOTIFICATION BY THE DIRECTOR AS PROVIDED IN PARAGRAPH (b) OF THIS
5 SUBSECTION (11). THE DIRECTOR MAY CONTINUE THE HEARING BY
6 AGREEMENT OF ALL PARTIES BASED UPON THE COMPLEXITY OF THE
7 MATTER, NUMBER OF PARTIES TO THE MATTER, AND LEGAL ISSUES
8 PRESENTED IN THE MATTER, BUT IN NO EVENT SHALL THE DIRECTOR HOLD
9 THE HEARING LATER THAN SIXTY CALENDAR DAYS AFTER THE DATE OF
10 TRANSMISSION OR SERVICE OF THE NOTIFICATION.

11 (II) IF A PERSON AGAINST WHOM AN ORDER TO SHOW CAUSE HAS
12 BEEN ISSUED PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (11) DOES
13 NOT APPEAR AT THE HEARING, THE DIRECTOR MAY PRESENT EVIDENCE
14 THAT NOTIFICATION WAS PROPERLY SENT OR SERVED ON THE PERSON
15 PURSUANT TO PARAGRAPH (b) OF THIS SUBSECTION (11) AND SUCH OTHER
16 EVIDENCE RELATED TO THE MATTER AS THE DIRECTOR DEEMS
17 APPROPRIATE. THE DIRECTOR SHALL ISSUE THE ORDER WITHIN TEN DAYS
18 AFTER THE DIRECTOR'S DETERMINATION RELATED TO REASONABLE
19 ATTEMPTS TO NOTIFY THE RESPONDENT, AND THE ORDER BECOMES FINAL
20 AS TO THAT PERSON BY OPERATION OF LAW. THE HEARING MUST BE
21 CONDUCTED PURSUANT TO SECTIONS 24-4-104 AND 24-4-105, C.R.S.

22 (III) IF THE DIRECTOR REASONABLY FINDS THAT THE PERSON
23 AGAINST WHOM THE ORDER TO SHOW CAUSE WAS ISSUED IS ACTING OR
24 HAS ACTED WITHOUT THE REQUIRED REGISTRATION, OR HAS OR IS ABOUT
25 TO ENGAGE IN ACTS OR PRACTICES CONSTITUTING VIOLATIONS OF THIS
26 ARTICLE, THE DIRECTOR MAY ISSUE A FINAL CEASE-AND-DESIST ORDER
27 DIRECTING THE PERSON TO CEASE AND DESIST FROM FURTHER UNLAWFUL

1 ACTS OR PRACTICES.

2 (IV) THE DIRECTOR SHALL PROVIDE NOTICE, IN THE MANNER SET
3 FORTH IN PARAGRAPH (b) OF THIS SUBSECTION (11), OF THE FINAL
4 CEASE-AND-DESIST ORDER WITHIN TEN CALENDAR DAYS AFTER THE
5 HEARING CONDUCTED PURSUANT TO THIS PARAGRAPH (c) TO EACH PERSON
6 AGAINST WHOM THE FINAL ORDER HAS BEEN ISSUED. THE FINAL ORDER
7 ISSUED PURSUANT TO SUBPARAGRAPH (III) OF THIS PARAGRAPH (c) IS
8 EFFECTIVE WHEN ISSUED AND IS A FINAL ORDER FOR PURPOSES OF JUDICIAL
9 REVIEW.

10 (12) IF IT APPEARS TO THE DIRECTOR, BASED UPON CREDIBLE
11 EVIDENCE PRESENTED TO THE DIRECTOR, THAT A PERSON HAS ENGAGED OR
12 IS ABOUT TO ENGAGE IN AN ACT OR PRACTICE CONSTITUTING A VIOLATION
13 OF THIS ARTICLE, A RULE PROMULGATED PURSUANT TO THIS ARTICLE, OR
14 AN ORDER ISSUED PURSUANT TO THIS ARTICLE; OR AN ACT OR PRACTICE
15 CONSTITUTING GROUNDS FOR ADMINISTRATIVE SANCTION PURSUANT TO
16 THIS ARTICLE, THE DIRECTOR MAY ENTER INTO A STIPULATION WITH THE
17 PERSON.

18 (13) IF A PERSON FAILS TO COMPLY WITH A FINAL
19 CEASE-AND-DESIST ORDER OR A STIPULATION, THE DIRECTOR MAY
20 REQUEST THE ATTORNEY GENERAL OR THE DISTRICT ATTORNEY FOR THE
21 JUDICIAL DISTRICT IN WHICH THE ALLEGED VIOLATION EXISTS TO BRING,
22 AND IF SO REQUESTED THE ATTORNEY SHALL BRING, SUIT FOR A
23 TEMPORARY RESTRAINING ORDER AND FOR INJUNCTIVE RELIEF TO
24 PREVENT ANY FURTHER OR CONTINUED VIOLATION OF THE FINAL ORDER.

25 (14) A PERSON AGGRIEVED BY THE FINAL CEASE-AND-DESIST
26 ORDER MAY SEEK JUDICIAL REVIEW OF THE DIRECTOR'S DETERMINATION
27 OR OF THE DIRECTOR'S FINAL ORDER AS PROVIDED IN SUBSECTION (8) OF

1 THIS SECTION.

2 (15) (a) WHEN A COMPLAINT OR INVESTIGATION DISCLOSES AN
3 INSTANCE OF MISCONDUCT THAT, IN THE OPINION OF THE DIRECTOR, DOES
4 NOT WARRANT FORMAL ACTION BY THE DIRECTOR BUT THAT SHOULD NOT
5 BE DISMISSED AS BEING WITHOUT MERIT, A LETTER OF ADMONITION MAY
6 BE ISSUED AND SENT, BY CERTIFIED MAIL, TO THE LICENSED PRIVATE
7 INVESTIGATOR.

8 (b) WHEN THE DIRECTOR SENDS A LETTER OF ADMONITION TO A
9 LICENSED PRIVATE INVESTIGATOR, THE DIRECTOR SHALL ADVISE THE
10 PRIVATE INVESTIGATOR THAT HE OR SHE HAS THE RIGHT TO REQUEST IN
11 WRITING, WITHIN TWENTY DAYS AFTER RECEIPT OF THE LETTER, THAT
12 FORMAL DISCIPLINARY PROCEEDINGS BE INITIATED TO ADJUDICATE THE
13 PROPRIETY OF THE CONDUCT UPON WHICH THE LETTER OF ADMONITION IS
14 BASED.

15 (c) IF THE LICENSED PRIVATE INVESTIGATOR TIMELY REQUESTS
16 ADJUDICATION, THE DIRECTOR SHALL VACATE THE LETTER OF
17 ADMONITION AND PROCESS THE MATTER BY MEANS OF FORMAL
18 DISCIPLINARY PROCEEDINGS.

19 (16) WHEN A COMPLAINT OR INVESTIGATION DISCLOSES AN
20 INSTANCE OF CONDUCT THAT DOES NOT WARRANT FORMAL ACTION BY THE
21 DIRECTOR AND, IN THE OPINION OF THE DIRECTOR, THE COMPLAINT
22 SHOULD BE DISMISSED, BUT THE DIRECTOR HAS NOTICED INDICATIONS OF
23 POSSIBLE ERRANT CONDUCT BY THE LICENSED PRIVATE INVESTIGATOR
24 THAT COULD LEAD TO SERIOUS CONSEQUENCES IF NOT CORRECTED, THE
25 DIRECTOR MAY SEND THE LICENSED PRIVATE INVESTIGATOR A
26 CONFIDENTIAL LETTER OF CONCERN.

27 ==

1 **12-58.5-108. Revocation.** A PERSON WHOSE LICENSE IS REVOKED
2 IS INELIGIBLE TO APPLY FOR A LICENSE UNDER THIS ARTICLE FOR AT LEAST
3 TWO YEARS AFTER THE DATE OF REVOCATION OF THE LICENSE. THE
4 DIRECTOR SHALL TREAT A SUBSEQUENT APPLICATION FOR LICENSURE
5 FROM A PERSON WHOSE LICENSE WAS REVOKED AS AN APPLICATION FOR
6 A NEW LICENSE UNDER THIS ARTICLE.

7 **12-58.5-109. Fees - cash fund.** THE DIVISION SHALL TRANSMIT
8 ALL FEES COLLECTED PURSUANT TO THIS ARTICLE TO THE STATE
9 TREASURER, WHO SHALL CREDIT THE FEES TO THE DIVISION OF
10 REGISTRATIONS CASH FUND CREATED PURSUANT TO SECTION 24-34-105
11 (2) (b), C.R.S. THE GENERAL ASSEMBLY SHALL MAKE ANNUAL
12 APPROPRIATIONS FROM THE DIVISION OF REGISTRATIONS CASH FUND FOR
13 EXPENDITURES OF THE DIVISION INCURRED IN THE PERFORMANCE OF ITS
14 DUTIES UNDER THIS ARTICLE.

15 **12-58.5-110. Repeal of article - review of functions.** THIS
16 ARTICLE IS REPEALED, EFFECTIVE SEPTEMBER 1, 2016. PRIOR TO ITS
17 REPEAL, THE POWERS, DUTIES, AND FUNCTIONS OF THE DIRECTOR
18 REGARDING THE LICENSURE OF PRIVATE INVESTIGATORS AS SPECIFIED IN
19 THIS ARTICLE SHALL BE REVIEWED AS PROVIDED IN SECTION 24-34-104,
20 C.R.S.

21 **SECTION 2.** 24-34-104 (47.5), Colorado Revised Statutes, is
22 amended BY THE ADDITION OF A NEW PARAGRAPH to read:

23 **24-34-104. General assembly review of regulatory agencies**
24 **and functions for termination, continuation, or reestablishment.**

25 (47.5) The following agencies, functions, or both, shall terminate on
26 September 1, 2016:

27 (c) THE VOLUNTARY LICENSING OF PRIVATE INVESTIGATORS BY

1 THE DIRECTOR OF THE DIVISION OF REGISTRATIONS IN ACCORDANCE WITH
2 ARTICLE 58.5 OF TITLE 12, C.R.S.

3 **SECTION 3. Appropriation.** (1) In addition to any other
4 appropriation, there is hereby appropriated, out of any moneys in the
5 Colorado bureau of investigation identification unit fund created in
6 section 24-33.5-426, Colorado Revised Statutes, not otherwise
7 appropriated, to the department of public safety, for allocation to the
8 Colorado bureau of investigation, for the Colorado crime information
9 center, identification, for the fiscal year beginning July 1, 2011, the sum
10 of nineteen thousand seven hundred fifty dollars (\$19,750) cash funds, or
11 so much thereof as may be necessary, for the implementation of this act.

12 (2) In addition to any other appropriation, there is hereby
13 appropriated, out of any moneys in the division of registrations cash fund
14 created in section 24-34-105 (2) (b) (I), Colorado Revised Statutes, not
15 otherwise appropriated, to the department of regulatory agencies, for
16 allocation to the executive director's office, for legal services, for the
17 fiscal year beginning July 1, 2011, the sum of seven thousand three
18 hundred thirty-seven dollars (\$7,337) cash funds, or so much thereof as
19 may be necessary, for the implementation of this act.

20 (3) In addition to any other appropriation, there is hereby
21 appropriated, out of any moneys in the division of registrations cash fund
22 created in section 24-34-105 (2) (b) (I), Colorado Revised Statutes, not
23 otherwise appropriated, to the department of regulatory agencies, for
24 allocation to the division of registrations, for the fiscal year beginning
25 July 1, 2011, the sum of seventy-five thousand one hundred ninety-six
26 dollars (\$75,196) cash funds and 1.0 FTE, or so much thereof as may be
27 necessary, for the implementation of this act.

1 (4) In addition to any other appropriation, there is hereby
2 appropriated to the department of law, for the fiscal year beginning July
3 1, 2011, the sum of seven thousand three hundred thirty-seven dollars
4 (\$7,337), or so much thereof as may be necessary, for the provision of
5 legal services to the department of regulatory agencies related to the
6 implementation of this act. Said sum shall be from reappropriated funds
7 received from the department of regulatory agencies out of the
8 appropriation made in subsection (2) of this section.

9 **SECTION 4. Act subject to petition - effective date.** This act
10 shall take effect at 12:01 a.m. on the day following the expiration of the
11 ninety-day period after final adjournment of the general assembly (August
12 10, 2011, if adjournment sine die is on May 11, 2011); except that, if a
13 referendum petition is filed pursuant to section 1 (3) of article V of the
14 state constitution against this act or an item, section, or part of this act
15 within such period, then the act, item, section, or part shall not take effect
16 unless approved by the people at the general election to be held in
17 November 2012 and shall take effect on the date of the official
18 declaration of the vote thereon by the governor.