

**Second Regular Session
Seventy-fourth General Assembly
STATE OF COLORADO**

ENGROSSED

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

LLS NO. 24-0945.02 Michael Dohr x4347

HOUSE BILL 24-1460

HOUSE SPONSORSHIP

Herod and Bacon, deGruy Kennedy

SENATE SPONSORSHIP

(None),

House Committees
Judiciary

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING MEASURES TO STRENGTHEN RESPONSES TO LAW**
102 **ENFORCEMENT MISCONDUCT.**

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://leg.colorado.gov>.)

The bill requires a law enforcement agency (agency) that receives an allegation of misconduct, criminal conduct, or other unprofessional conduct regarding a peace officer employed by the agency to investigate the allegation. If a peace officer receives an allegation of misconduct, criminal conduct, or other unprofessional conduct (misconduct) or is reasonably aware of the misconduct of another peace officer, the peace

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing law.
Dashes through the words or numbers indicate deletions from existing law.

HOUSE
Amended 2nd Reading
May 2, 2024

officer shall report the allegation to the subject of the allegation's employing agency. A peace officer who fails to make the report commits a class 2 misdemeanor. A person who makes an allegation has a private right of action if the allegation is not investigated.

The bill clarifies that patterns and practices investigations may also be related to deprivation of rights by a peace officer against another peace officer.

Current law requires agencies to report certain information regarding officers' misconduct to a database maintained by the P.O.S.T. board. The attorney general may audit the reports made to the database to verify reporting compliance. The bill requires the attorney general to accept reports of non-reporting to the database and requires those reports to be investigated within available resources.

Current law requires unedited video and audio recordings of incidents of alleged misconduct to be released the public upon request. The bill states that a law enforcement agency shall not charge a fee to the requestor related to releasing the recording.

Current law provides a peace officer with whistle-blower protection. The bill allows a peace officer who is subject to whistle-blower discipline a private right of action against the officer's employing agency.

The bill requires each agency to retain all reports regarding allegations of misconduct and all investigation files, notes, and reports related to those reports. The bill also requires the investigating agency to provide a copy of the investigation file to the subject of the investigation after the investigation is completed.

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

2 **SECTION 1. Legislative declaration.** (1) The general assembly
3 finds and declares that:

4 (a) In 2020, the general assembly adopted part 9 to article 31 of
5 title 24, law enforcement integrity, to address accountability standards for
6 peace officers if they engage in misconduct when interacting with our
7 communities;

8 (b) To further protect our communities, accountability standards
9 must also extend to internal misconduct within law enforcement agencies
10 to ensure a supportive environment for existing and future peace officers;

1 (c) Law enforcement professionals have a duty to serve and
2 protect communities with integrity and honor, which extends to the
3 treatment of the honorable peace officers who internally report
4 misconduct by their peers;

5 (d) Due to the number of peace officers who have come forward
6 detailing misconduct they have endured from fellow officers, followed by
7 targeted social and professional retaliation they have received from peers
8 and supervisors, the general assembly declares that enhancing workplace
9 protections in law enforcement agencies is a matter of statewide concern;

10 (e) The state has a duty to strengthen safeguards to ensure a safe
11 and equitable workplace environment for all law enforcement officials so
12 they are better supported in upholding proper law enforcement as a matter
13 of public health and safety;

14 (f) In an effort to incentivize the integrity of peace officers during
15 internal investigations, the state must protect government employees from
16 any adverse action taken in response to a whistleblower's actions;

17 (g) By protecting whistleblowers from retaliation, it is the intent
18 of the general assembly that the protection will lead to an increase in
19 peace officer retention and quality of work as officers continue to protect
20 and serve our communities; and

21 (h) To further explore methods to better support peace officers in
22 the work environment, the conversation must continue in a formal
23 working group.

24 (2) Therefore, the general assembly requests that the executive
25 committee of the legislative council appoint a working group to continue
26 the important conversation regarding protecting law enforcement
27 whistleblowers.

1 **SECTION 2.** In Colorado Revised Statutes, 24-31-305, **amend**
2 (2)(a) as follows:

3 **24-31-305. Certification - issuance - renewal - revocation -**
4 **rules - definition.** (2) (a) THE P.O.S.T. BOARD SHALL SUSPEND OR
5 REVOKE a certification issued pursuant to subsection (1) or (1.3) of this
6 section or section 24-31-308 ~~shall be suspended or revoked by the~~
7 ~~P.O.S.T. board~~ if the certificate holder has been convicted of a felony at
8 any time; ~~or~~ has been convicted on or after July 1, 2001, of any
9 misdemeanor or misdemeanors described in subsection (1.5) of this
10 section; HAS RETALIATED AGAINST OR CAUSED A PEACE OFFICER'S
11 EMPLOYER TO RETALIATE AGAINST ANOTHER PEACE OFFICER WHO
12 DISCLOSED INFORMATION ABOUT A PEACE OFFICER WHO EITHER
13 ALLEGEDLY ENDANGERED PUBLIC HEALTH OR SAFETY, ALLEGEDLY
14 VIOLATED LAW OR POLICY, OR ALLEGEDLY RETALIATED AGAINST ANOTHER
15 OFFICER FOR DISCLOSING THAT INFORMATION; or has otherwise failed to
16 meet the certification requirements established by the board. FOR
17 PURPOSES OF THIS SUBSECTION (2)(a), "RETALIATE" HAS THE SAME
18 MEANING AS DESCRIBED IN SECTION 24-31-906 (1).

19 **SECTION 3.** In Colorado Revised Statutes, 24-31-902, **amend**
20 (2)(a) and (2)(b)(III) as follows:

21 **24-31-902. Incident recordings - release - tampering - fine.**
22 (2) (a) For all incidents in which there is AN OFFICER-INVOLVED
23 SHOOTING OR a complaint of peace officer misconduct by another peace
24 officer, a civilian, or nonprofit organization, through notice to the law
25 enforcement agency involved in THE OFFICER-INVOLVED SHOOTING OR the
26 alleged misconduct, the local law enforcement agency or the Colorado
27 state patrol shall release, upon request, all unedited video and audio

1 recordings of the incident, including those from body-worn cameras, dash
2 cameras, or otherwise collected through investigation, to the public within
3 twenty-one days after the local law enforcement agency or the Colorado
4 state patrol received the request for release of the video or audio
5 recordings. NOTWITHSTANDING THE PROVISIONS OF SECTIONS 24-72-205
6 AND 24-72-306, THE LAW ENFORCEMENT AGENCY SHALL NOT CHARGE A
7 FEE TO THE REQUESTOR RELATED TO RELEASING THE UNEDITED VIDEO AND
8 AUDIO RECORDINGS OF AN INCIDENT.

9 (b) (III) Any video that would substantially interfere with or
10 jeopardize an active or ongoing investigation may be withheld from the
11 public; except that the video shall be released no later than forty-five days
12 from the date of the OFFICER-INVOLVED SHOOTING OR THE allegation of
13 misconduct; except that in a case in which the only offenses charged are
14 statutory traffic infractions, the release of the video may be delayed
15 pursuant to rule 8 of the Colorado rules for traffic infractions. In all cases
16 when release of a video is delayed in reliance on this subsection
17 (2)(b)(III), the prosecuting attorney shall prepare a written explanation of
18 the interference or jeopardy that justifies the delayed release,
19 contemporaneous with the refusal to release the video. Upon release of
20 the video, the prosecuting attorney shall release the written explanation
21 to the public.

22 **SECTION 4.** In Colorado Revised Statutes, 24-31-906, **amend**
23 (1) and (3) as follows:

24 **24-31-906. Retaliation against whistleblower officers**
25 **prohibited.** (1) DUE TO THE STRONG PUBLIC POLICY INTERESTS
26 PROTECTED BY PROHIBITING RETALIATION AGAINST WHISTLEBLOWERS, a
27 peace officer's employer or the employer's agent shall not discharge,

1 discipline, demote, deny a promotion, transfer or reassign, discriminate
2 against, harass, SUSPEND, CREATE A HOSTILE WORK ENVIRONMENT,
3 SUBJECT TO CORRECTIVE ACTION OR REPRIMAND, POORLY EVALUATE, LAY
4 OFF, REDUCE WORK HOURS, ADVERSELY AFFECT FUTURE EMPLOYMENT
5 OPPORTUNITIES, or threaten a peace officer's employment ANY OF THE
6 ABOVE ACTIONS OR OTHERWISE DISCRIMINATE IN TERMS, CONDITIONS, OR
7 PRIVILEGES OF EMPLOYMENT because the peace officer disclosed
8 information that shows:

- 9 (a) ~~A~~ AN ALLEGED danger to public health or safety; ~~or~~
10 (b) ~~A~~ AN ALLEGED violation of law or policy committed by
11 another peace officer; OR

12 (c) EVIDENCE OF RETALIATION AGAINST ANOTHER PEACE OFFICER.

13 (3) (a) A LAW ENFORCEMENT AGENCY SHALL APPROPRIATELY
14 DISCIPLINE an employee or agent of a THE law enforcement agency that
15 WHO knowingly or intentionally violates subsection (1) of this section.
16 ~~shall be disciplined appropriately by the law enforcement agency.~~

17 (b) A PEACE OFFICER WHO WAS SUBJECT TO RETALIATION MAY USE
18 EVIDENCE OF THE RETALIATION IN ORDER TO APPEAL OR REMEDIATE ANY
19 ADVERSE EMPLOYMENT ACTION DESCRIBED IN SUBSECTION (1) OF THIS
20 SECTION. IF A PEACE OFFICER PROVES BY A PREPONDERANCE OF THE
21 EVIDENCE THAT THE PEACE OFFICER WAS RETALIATED AGAINST IN
22 VIOLATION OF SUBSECTION (1) OF THIS SECTION, THE PEACE OFFICER'S
23 EMPLOYING AGENCY SHALL REMEDIATE THE ADVERSE ACTION, INCLUDING
24 REINSTATEMENT. IF THE ADVERSE ACTION INVOLVED THE REVOCATION OR
25 SUSPENSION OF P.O.S.T. CERTIFICATION, THE LAW ENFORCEMENT AGENCY
26 SHALL NOTIFY THE P.O.S.T. BOARD THAT THE PROCEDURES PROMULGATED
27 PURSUANT TO SECTION 24-31-305 (2)(b) MUST BE INITIATED SINCE THE

1 REVOCATION OR SUSPENSION RESULTED FROM RETALIATORY CONDUCT.

2 **SECTION 5. Safety clause.** The general assembly finds,
3 determines, and declares that this act is necessary for the immediate
4 preservation of the public peace, health, or safety or for appropriations for
5 the support and maintenance of the departments of the state and state
6 institutions.