

**Second Regular Session  
Sixty-seventh General Assembly  
STATE OF COLORADO**

**PREAMENDED**

*This Unofficial Version Includes Committee  
Amendments Not Yet Adopted on Second Reading*

LLS NO. 10-0243.01 Esther van Mourik

**SENATE BILL 10-084**

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**SENATE SPONSORSHIP**

**Tochtrop,** Carroll M.

**HOUSE SPONSORSHIP**

**Gagliardi,**

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**Senate Committees**

Judiciary

Appropriations

**House Committees**

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**A BILL FOR AN ACT**

101     **CONCERNING THE CREATION OF A COLORADO PEACE OFFICERS' BILL**  
102     **OF RIGHTS.**

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**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>.)*

While individual law enforcement agencies in the state may have adopted civil service systems or may be a part of a collective bargaining process that establishes rights of peace officers, there is no consistency among state and local governments who hire peace officers for law

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.*

enforcement duties (employing agencies). The bill establishes minimum standards that all employing agencies must provide to peace officers as part of their employment regarding:

- ! A peace officer's ability to engage in political activity;
- ! Entry of adverse comments in a peace officer's personnel records;
- ! Participation in employee organizations;
- ! Bringing suit arising out of the performance of a peace officer's duties;
- ! Truth verification tests;
- ! Public statements regarding internal investigations;
- ! Tests of blood, breath, or urine;
- ! Arrest quotas;
- ! Internal noncriminal investigations;
- ! Predisciplinary administrative hearings;
- ! Availability of a third-party review of major disciplinary decisions; and
- ! Discipline.

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

2 **SECTION 1.** Article 2.5 of title 16, Colorado Revised Statutes,  
3 **is amended BY THE ADDITION OF A NEW PART to read:**

4 **PART 3**

5 **COLORADO PEACE OFFICERS' BILL OF RIGHTS**

6 **16-2.5-301. Legislative declaration.** THE GENERAL ASSEMBLY  
7 **HEREBY FINDS AND DECLARES THAT THE RIGHTS AND PROTECTIONS TO**  
8 **PEACE OFFICERS AFFORDED IN THIS PART 3 CONSTITUTE A MATTER OF**  
9 **STATEWIDE CONCERN.**

10 **16-2.5-302. Colorado peace officers' bill of rights - minimum**  
11 **rights established.** (1) **NOTWITHSTANDING ANY PROVISION OF STATE OR**  
12 **LOCAL LAW TO THE CONTRARY, AND NOTWITHSTANDING ANY APPLICABLE**  
13 **CIVIL SERVICE SYSTEM OR COLLECTIVE BARGAINING AGREEMENT ALREADY**  
14 **IN PLACE THROUGH THE APPLICABLE EMPLOYING AGENCY, ALL PEACE**  
15 **OFFICERS SHALL HAVE AS A MINIMUM THE RIGHTS SET FORTH IN THIS PART**

1 3.

2 (2) THIS PART 3 SHALL NOT DIMINISH OR IMPAIR ANY LEGAL  
3 RIGHTS POSSESSED BY INDIVIDUAL PEACE OFFICERS BY LAW OR UNDER AN  
4 EXISTING CIVIL SERVICE SYSTEM OF THE PEACE OFFICER'S EMPLOYING  
5 AGENCY OR ANY APPLICABLE COLLECTIVE BARGAINING AGREEMENT.

6 **16-2.5-303. Definitions.** AS USED IN THIS PART 3, UNLESS THE  
7 CONTEXT OTHERWISE REQUIRES:

8 (1) "DECIDING AUTHORITY" MEANS THE PERSON WHO DECIDES ON  
9 DISCIPLINARY ACTION FOR A PEACE OFFICER AND MAY INCLUDE, BUT IS  
10 NOT LIMITED TO, THE PEACE OFFICER'S IMMEDIATE SUPERVISOR OR THE  
11 CHIEF LAW ENFORCEMENT OFFICER OF THE EMPLOYING AGENCY.

12 (2) "EMPLOYING AGENCY" MEANS THE STATE OR THE GOVERNING  
13 BODY OF ANY STATUTORY OR HOME RULE MUNICIPALITY OR COUNTY  
14 EMPLOYING A PEACE OFFICER FOR LAW ENFORCEMENT DUTIES, OR ANY  
15 AUTHORIZED REPRESENTATIVE THEREOF.

16 (3) "MAJOR DISCIPLINARY ACTION" MEANS ANY ACTION BY AN  
17 EMPLOYING AGENCY THAT WOULD RESULT IN A SUSPENSION WITHOUT PAY  
18 OF MORE THAN FORTY HOURS, A DEMOTION, OR TERMINATION.

19 (4) "PEACE OFFICER" MEANS ANY PEACE OFFICER AS DESCRIBED IN  
20 SECTION 16-2.5-101.

21 (5) "REPRESENTATIVE" MEANS EITHER AN ATTORNEY LICENSED IN  
22 THE STATE OR A PERSON WHO ADVISES OR COUNSELS A PEACE OFFICER  
23 WHO IS EITHER FROM A POLICE ASSOCIATION, THE FRATERNAL ORDER OF  
24 POLICE, OR A LEGAL DEFENSE PLAN OF WHICH THE PEACE OFFICER IS A  
25 MEMBER.

26 **16-2.5-304. Entry of adverse comment in personnel records.**  
27 NO EMPLOYING AGENCY MAY INSERT INTO A PEACE OFFICER'S PERSONNEL

1 FILE OR ANY FILE USED FOR PERSONNEL PURPOSES BY THE EMPLOYING  
2 AGENCY ANY ADVERSE COMMENT OR MATERIAL UNLESS THE PEACE  
3 OFFICER HAS AN OPPORTUNITY TO REVIEW THE COMMENT OR MATERIAL,  
4 TO RECEIVE A COPY THEREOF, TO RESPOND TO THE COMMENT OR  
5 MATERIAL IN WRITING, AND TO HAVE SUCH RESPONSE PLACED IN THE  
6 PEACE OFFICER'S PERSONNEL FILE. THE PEACE OFFICER SHALL  
7 ACKNOWLEDGE SUCH REVIEW BY SIGNING THE COMMENT OR MATERIAL.  
8 THE PEACE OFFICER'S SIGNATURE ONLY INDICATES THAT THE PEACE  
9 OFFICER IS AWARE OF SUCH COMMENT. THE INSERTION OF SUCH ADVERSE  
10 COMMENT OR MATERIAL INTO THE PEACE OFFICER'S FILE MAY BE MADE IF  
11 THE PEACE OFFICER, AFTER REVIEWING THE COMMENT OR MATERIAL,  
12 REFUSES TO SIGN THE COMMENT OR MATERIAL. THE REFUSAL SHALL BE  
13 NOTED ON THE SUBJECT DOCUMENT AND ACKNOWLEDGED BY THE PEACE  
14 OFFICER. A PEACE OFFICER SHALL HAVE THIRTY DAYS AFTER THE DATE OF  
15 HIS OR HER SIGNATURE TO FILE A WRITTEN RESPONSE TO ANY ADVERSE  
16 COMMENT OR MATERIAL ENTERED INTO HIS OR HER PERSONNEL FILE.  
17 SUCH WRITTEN RESPONSE SHALL BE ATTACHED TO AND ACCOMPANY THE  
18 ADVERSE COMMENT OR MATERIAL.

19 **16-2.5-305. Right to participate in employee organizations. A**  
20 PEACE OFFICER MAY FORM, JOIN, SUPPORT, OR PARTICIPATE IN ANY  
21 EMPLOYEE ORGANIZATION OR ITS LAWFUL ACTIVITIES. THE EMPLOYING  
22 AGENCY MAY NOT RETALIATE OR DISCRIMINATE IN ANY MANNER AGAINST  
23 A PEACE OFFICER WHO JOINS OR ADVOCATES FOR ANY EMPLOYEE  
24 ORGANIZATION OR FORMATION THEREOF. THE EMPLOYING AGENCY SHALL  
25 HONOR A SIGNED DUES PAYROLL DEDUCTION OF AN INDIVIDUAL PEACE  
26 OFFICER FOR PAYMENT OF DUES TO AN EMPLOYEE ORGANIZATION  
27 DESIGNATED THEREON.

1           **16-2.5-306. Right to a predisciplinary administrative meeting.**

2           PRIOR TO ARRIVING AT A DECISION TO IMPOSE MAJOR DISCIPLINARY  
3           ACTION, THE DECIDING AUTHORITY, OR HIS OR HER DESIGNEE, SHALL  
4           PROVIDE THE PEACE OFFICER WITH AN OPPORTUNITY TO BE HEARD BY THE  
5           DECIDING AUTHORITY REGARDING THE CONDUCT OR INCIDENT THAT  
6           FORMS THE BASIS OF THE CONTEMPLATED DISCIPLINE AND TO OFFER THE  
7           PEACE OFFICER'S PERSPECTIVE ON THE APPROPRIATE LEVEL OF DISCIPLINE,  
8           IF ANY, TO BE IMPOSED. THE PEACE OFFICER SHALL BE PROVIDED WRITTEN  
9           NOTIFICATION OF THE MEETING, WHICH SHALL INCLUDE A SUMMARY  
10          DESCRIPTION OF THE ALLEGED CONDUCT THAT FORMS THE BASIS OF THE  
11          CONTEMPLATED DISCIPLINE AND THAT IDENTIFIES THE POLICIES OF THE  
12          EMPLOYER THAT ARE ALLEGED TO HAVE BEEN VIOLATED. IN THE EVENT  
13          THAT RECOMMENDATIONS HAVE BEEN RECEIVED BY THE DECIDING  
14          AUTHORITY THAT ADDRESS WHETHER CERTAIN ALLEGED POLICY  
15          VIOLATIONS SHOULD BE SUSTAINED OR THAT SUGGEST THE APPROPRIATE  
16          DISCIPLINE TO BE IMPOSED FOR SUCH SUSTAINED VIOLATIONS, THE  
17          DECIDING AUTHORITY SHALL PROVIDE A COPY OF ALL SUCH  
18          RECOMMENDATIONS TO THE PEACE OFFICER. BOTH THE WRITTEN NOTICE  
19          AND COPIES OF ANY AND ALL RECOMMENDATIONS MADE IN CONNECTION  
20          THEREWITH SHALL BE PROVIDED TO THE PEACE OFFICER NO LESS THAN  
21          TWENTY-FOUR HOURS PRIOR TO THE MEETING.

22           **16-2.5-307. Right to appeal major disciplinary action through**  
23           **a due process hearing - minimum standards for due process hearing.**

24           (1) (a) EACH EMPLOYING AGENCY SHALL ESTABLISH A FAIR AND  
25           IMPARTIAL SYSTEM THAT PERMITS APPEAL OF MAJOR DISCIPLINARY  
26           ACTION THROUGH A HEARING PROCESS THAT, AT A MINIMUM, COMPORTS  
27           WITH THE DUE PROCESS PROCEDURES DESCRIBED IN SECTION 24-4-105,

1 C.R.S.

2 (b) THE DUE PROCESS HEARING SHALL BE CONDUCTED BY A  
3 HEARING OFFICIAL. FOR PURPOSES OF THIS SECTION, "HEARING OFFICIAL"  
4 MEANS A PERSON OR A GROUP OF PERSONS MUTUALLY AGREED UPON BY  
5 THE EMPLOYING AGENCY AND PEACE OFFICER. "HEARING OFFICIAL"  
6 INCLUDES AN ARBITRATOR, ADMINISTRATIVE LAW JUDGE, OR OTHER  
7 INDEPENDENT, UNBIASED, AND IMPARTIAL PERSON OR, WHERE  
8 APPLICABLE, THE STATE PERSONNEL BOARD.

9 (c) THE PEACE OFFICER SHALL HAVE THE RIGHT TO A  
10 REPRESENTATIVE DURING THE DUE PROCESS HEARING AND SHALL BE  
11 ENTITLED TO ALL DUE PROCESS RIGHTS INHERENT IN A FAIR HEARING.

12 (d) THE HEARING OFFICIAL MAY SUSTAIN, MODIFY, OR REVERSE  
13 THE IMPOSITION OF MAJOR DISCIPLINARY ACTION OR ANY CHARGES  
14 AGAINST A PEACE OFFICER. THE HEARING OFFICIAL MAY NOT IMPOSE  
15 GREATER MAJOR DISCIPLINARY ACTION AGAINST A PEACE OFFICER THAN  
16 THE MAJOR DISCIPLINARY ACTION ORIGINALLY IMPOSED.

17 (e) (I) ANY DECISION, ORDER, OR ACTION BY THE HEARING  
18 OFFICIAL AS RESULT OF THE DUE PROCESS HEARING SHALL BE IN WRITING  
19 AND SHALL BE ACCOMPANIED BY FINDINGS OF FACT AND CONCLUSIONS OF  
20 LAW. THE FINDINGS OF FACT AND CONCLUSIONS OF LAW SHALL CONSIST  
21 OF A CONCISE STATEMENT CONCERNING EACH ISSUE PRESENTED IN THE  
22 HEARING.

23 (II) A DECISION BY THE HEARING OFFICIAL THAT THE MAJOR  
24 DISCIPLINARY ACTION IS NOT SUSTAINED SHALL SERVE TO TERMINATE THE  
25 DISCIPLINARY PROCEEDING.

26 (III) IF THE HEARING OFFICIAL DECIDES THAT THE MAJOR  
27 DISCIPLINARY ACTION IS SUSTAINED, THE HEARING OFFICIAL SHALL THEN

1 REVIEW THE EVIDENCE RECEIVED CONCERNING THE PEACE OFFICER'S PAST  
2 JOB PERFORMANCE AND OTHER RELEVANT INFORMATION, AS DETERMINED  
3 BY THE HEARING OFFICIAL, AND CONSIDER THIS INFORMATION IN  
4 DETERMINING THE APPROPRIATENESS OF THE DISCIPLINE IMPOSED.

5 (f) DECISIONS OF THE HEARING OFFICIAL SHALL BE BINDING UPON  
6 THE EMPLOYING AGENCY AND THE PEACE OFFICER UNLESS MODIFIED OR  
7 REVERSED BY A COURT OF COMPETENT JURISDICTION.

8 (g) AFTER A DUE PROCESS HEARING, A COPY OF A WRITTEN  
9 DECISION, ORDER, OR ACTION AND THE ACCOMPANYING FINDINGS SHALL  
10 BE DELIVERED TO THE PEACE OFFICER OR THE PEACE OFFICER'S  
11 REPRESENTATIVE.

12 (h) THE COST OF THE DUE PROCESS HEARING AND ANY FEES OF THE  
13 HEARING OFFICIAL SHALL BE BORNE EQUALLY BY THE PEACE OFFICER AND  
14 THE EMPLOYING AGENCY.

15 (2) ANY PEACE OFFICER WHO HAS COMPLETED A REASONABLE  
16 INITIAL NEW HIRE PROBATIONARY PERIOD, AS DEFINED BY THE EMPLOYING  
17 AGENCY, SHALL HAVE THE RIGHT TO APPEAL ANY DECISION TO IMPOSE  
18 MAJOR DISCIPLINARY ACTION AGAINST THE PEACE OFFICER THROUGH A  
19 DUE PROCESS HEARING ESTABLISHED PURSUANT TO SUBSECTION (1) OF  
20 THIS SECTION.

21 **16-2.5-308. Discipline.** NO DISCIPLINARY ACTION SHALL BE  
22 TAKEN WITHOUT JUST CAUSE.

23 **SECTION 2. Applicability.** This act shall apply to all peace  
24 officers employed or hired on or after the effective date of this act.

25 **SECTION 3. Safety clause.** The general assembly hereby finds,  
26 determines, and declares that this act is necessary for the immediate  
27 preservation of the public peace, health, and safety.