

Second Regular Session
Seventy-first General Assembly
STATE OF COLORADO

PREAMENDED

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

LLS NO. 18-0867.01 Michael Dohr x4347

HOUSE BILL 18-1404

HOUSE SPONSORSHIP

Coleman,

SENATE SPONSORSHIP

Marble and Lundberg,

House Committees

Judiciary

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING PUBLIC DISCLOSURE OF A COMPLETED PEACE OFFICER
102 INTERNAL INVESTIGATION FILE.**

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 makes an internal investigation file (file) of a peace officer for in-uniform or on-duty conduct that involves a member of the public subject to an open records request. The bill requires some information to be redacted before complying with the open records request. The bill allows the custodian of the file to first provide a summary of the file to the requestor and then allows the requestor access

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

to the file after the requester has reviewed the summary. Under the bill, a custodian of a file in which there is an ongoing criminal case can deny inspection of the file. The file becomes open for inspection after all the charges are dismissed or the defendant is sentenced.

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

2 **SECTION 1.** In Colorado Revised Statutes, 24-72-303, **add (4)**
3 as follows:

4 **24-72-303. Records of official actions required - open to**
5 **inspection - definition.** (4) (a) UPON COMPLETION OF AN INTERNAL
6 INVESTIGATION THAT EXAMINES THE IN-UNIFORM OR ON-DUTY CONDUCT
7 OF A PEACE OFFICER, AS DESCRIBED IN PART 1 OF ARTICLE 2.5 OF TITLE 16,
8 RELATED TO A SPECIFIC, IDENTIFIABLE INCIDENT OF ALLEGED MISCONDUCT
9 INVOLVING A MEMBER OF THE PUBLIC, THE ENTIRE INVESTIGATION FILE,
10 INCLUDING THE WITNESS INTERVIEWS, VIDEO AND AUDIO RECORDINGS,
11 TRANSCRIPTS, DOCUMENTARY EVIDENCE, ■■■ AND FINAL DEPARTMENTAL
12 DECISION, IS OPEN FOR PUBLIC INSPECTION UPON REQUEST; EXCEPT THAT
13 THE CUSTODIAN MAY FIRST PROVIDE THE REQUESTER WITH A SUMMARY OF
14 THE INVESTIGATION FILE AND IF, AFTER REVIEWING THE SUMMARY, THE
15 REQUESTER REQUESTS ACCESS TO THE INVESTIGATION FILE, THE
16 CUSTODIAN SHALL PROVIDE ACCESS TO THE ENTIRE INVESTIGATION FILE
17 SUBJECT TO THE PROVISIONS OF SUBSECTIONS (4)(b), (4)(c), (4)(d), AND
18 (4)(e) OF THIS SECTION.

19 (b) PRIOR TO PROVIDING ACCESS TO THE INTERNAL INVESTIGATION
20 FILE PURSUANT TO SUBSECTION (4)(a) OF THIS SECTION, THE CUSTODIAN
21 SHALL REDACT THE FOLLOWING INFORMATION FROM THE DISCLOSED
22 RECORDS:

23 (I) ALL SOCIAL SECURITY NUMBERS, TAX IDENTIFICATION

1 NUMBERS, BANK ACCOUNT NUMBERS, AND CREDIT CARD NUMBERS;

2 (II) ANY IDENTIFYING OR CONTACT INFORMATION RELATED TO

3 CONFIDENTIAL INFORMANTS;

4 (III) ANY IDENTIFYING OR CONTACT INFORMATION OF AN ALLEGED

5 VICTIM OF A SEX OFFENSE;

6 (IV) THE HOME ADDRESS, PERSONAL PHONE NUMBER, AND

7 PERSONAL E-MAIL ADDRESS OF A PEACE OFFICER;

8 (V) ANY INFORMATION PROHIBITED FOR PUBLIC RELEASE BY STATE

9 OR FEDERAL LAW;

10 (VI) ANY PERSONAL IDENTIFYING INFORMATION;

11 (VII) ANY MEDICAL OR MENTAL HEALTH INFORMATION;

12 (VIII) ANY IDENTIFYING INFORMATION RELATED TO A JUVENILE;

13 (IX) ANY CONTACT INFORMATION FOR WITNESSES;

14 (X) ANY VIDEO INTERVIEWS IF AN OFFICIAL TRANSCRIPT OF THE

15 INTERVIEW IS PRODUCED;

16 (XI) ANY VIDEO THAT RAISES SUBSTANTIAL PRIVACY CONCERNs;

17 AND

18 (XII) ANY NONFINAL DISCIPLINARY RECOMMENDATIONS.

19 (c) (I) IN ADDITION TO THE INFORMATION REQUIRED TO BE

20 REDACTED PURSUANT TO SUBSECTION (4)(b) OF THIS SECTION, PRIOR TO

21 PROVIDING ACCESS TO THE INTERNAL INVESTIGATION FILE PURSUANT TO

22 SUBSECTION (4)(a) OF THIS SECTION, THE CUSTODIAN MAY ALSO REDACT

23 ONLY THE FOLLOWING FROM DISCLOSED RECORDS:

24 (A) SPECIFIC INFORMATION THAT WOULD REVEAL CONFIDENTIAL

25 INTELLIGENCE INFORMATION OR SECURITY PROCEDURES OF A LAW

26 ENFORCEMENT AGENCY;

27 (B) SPECIFIC INFORMATION THAT WOULD, IF DISCLOSED,

1 COMPROMISE THE SAFETY OF A PEACE OFFICER, WITNESS, OR INFORMANT;
2 AND

3 (C) SPECIFIC INFORMATION RELATED TO PUBLIC SAFETY THAT IS
4 UNIQUE TO THE INDIVIDUAL CASE THAT WOULD BE CONTRARY TO THE
5 PUBLIC INTEREST TO RELEASE. IF A RECORD CONTAINS INFORMATION
6 REDACTED PURSUANT TO THIS SUBSECTION (4)(c)(I)(C), THE CUSTODIAN
7 SHALL REDACT THE LEAST AMOUNT OF INFORMATION POSSIBLE THAT IS
8 RELATED TO PUBLIC SAFETY TO PROTECT THE PUBLIC INTEREST.

9 (II) IF A RECORD CONTAINS INFORMATION REDACTED PURSUANT
10 TO THIS SUBSECTION (4)(c), THE APPLICANT MAY REQUEST A WRITTEN
11 EXPLANATION OF THE REASONS FOR THE REDACTION.

12 (d) NOTWITHSTANDING THE PROVISIONS OF SUBSECTION (4)(a) OF
13 THIS SECTION, THE CUSTODIAN OF AN INTERNAL INVESTIGATION FILE AS
14 DESCRIBED IN SUBSECTION (4)(a) OF THIS SECTION MAY DENY INSPECTION
15 OF THE FILE IF THERE IS AN ONGOING RELATED CRIMINAL CASE. THE
16 INVESTIGATION FILE MUST BE OPEN FOR PUBLIC INSPECTION UPON THE
17 DISMISSAL OF ALL CHARGES OR UPON A SENTENCE FOR A CONVICTION.

18 (e) NOTWITHSTANDING THE PROVISIONS OF SUBSECTIONS (4)(a)
19 AND (4)(d) OF THIS SECTION, THE CUSTODIAN OF AN INTERNAL
20 INVESTIGATION FILE AS DESCRIBED IN SUBSECTION (4)(a) OF THIS SECTION
21 MAY DENY INSPECTION OF THE FILE IF THE INSPECTION IS PROHIBITED BY
22 RULES PROMULGATED BY THE SUPREME COURT OR BY A COURT ORDER.

23 (f) SELF-INCriminating STATEMENTS MADE BY AN OFFICER
24 DURING AN INTERNAL INVESTIGATION, OR THE FRUITS THEREOF, MAY NOT
25 BE USED AGAINST AN OFFICER IN ANY CRIMINAL PROCEEDING.

26 (g) FOR PURPOSES OF THIS SUBSECTION (4), "PERSONAL
27 IDENTIFYING INFORMATION" MEANS A SOCIAL SECURITY NUMBER; A

1 PERSONAL IDENTIFICATION NUMBER; A PASSWORD; A PASS CODE; AN
2 OFFICIAL STATE OR GOVERNMENT-ISSUED DRIVER'S LICENSE OR
3 IDENTIFICATION CARD NUMBER; A GOVERNMENT PASSPORT NUMBER;
4 BIOMETRIC DATA; AN EMPLOYER, STUDENT, OR MILITARY IDENTIFICATION
5 NUMBER; OR A FINANCIAL TRANSACTION DEVICE.

6 **SECTION 2.** In Colorado Revised Statutes, 24-72-305, **amend**
7 (5) as follows:

8 **24-72-305. Allowance or denial of inspection - grounds -**
9 **procedure - appeal.** (5) On the ground that disclosure would be contrary
10 to the public interest, and unless otherwise provided by law, INCLUDING
11 AS REQUIRED BY SECTION 24-72-303 (4), the custodian may deny access
12 to records of investigations conducted by or of intelligence information
13 or security procedures of any sheriff, district attorney, or police
14 department or any criminal justice investigatory files compiled for any
15 other law enforcement purpose.

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