

**First Regular Session  
Seventy-third General Assembly  
STATE OF COLORADO**

**INTRODUCED**

LLS NO. 21-0747.02 Jacob Baus x2173

**SENATE BILL 21-183**

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**SENATE SPONSORSHIP**

**Lundeen**, Cooke, Gardner

**HOUSE SPONSORSHIP**

**(None)**,

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**Senate Committees**

State, Veterans, & Military Affairs

**House Committees**

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**A BILL FOR AN ACT**

101      **CONCERNING THE MODIFICATION OF MEASURES TO ENSURE LAW**  
102      **ENFORCEMENT ACCOUNTABILITY.**

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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://leg.colorado.gov>.)*

The bill permits a civil action for deprivation of rights against a peace officer to be brought against a Colorado state patrol officer or Colorado bureau of investigation agent.

The bill amends certain standards concerning use of force by a peace officer.

The bill defines "intervene", for the purpose of a peace officer's

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.

duty to intervene. Furthermore, it amends the requirements that constitute a class 1 misdemeanor for failure of the duty to intervene.

The bill requires that any suspension or revocation of a peace officer's certification is not effective until the peace officer has exhausted all internal, contractual, and legal rights to review, challenge, and appeal the underlying finding or decision.

The bill includes agents employed by the Colorado bureau of investigation to the definition of "peace officers" for purposes of body-worn camera requirements.

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

2 **SECTION 1.** In Colorado Revised Statutes, 13-21-131, **amend**  
3 (1) as follows:

4 **13-21-131. Civil action for deprivation of rights.** (1) A peace  
5 officer, as defined in section 24-31-901 (3), ~~employed by a local~~  
6 ~~government~~ who, under color of law, subjects or causes to be subjected,  
7 including failing to intervene, any other person to the deprivation of any  
8 individual rights that create binding obligations on government actors  
9 secured by the bill of rights, article II of the state constitution, is liable to  
10 the injured party for legal or equitable relief or any other appropriate  
11 relief.

12 **SECTION 2.** In Colorado Revised Statutes, 18-1-707, **amend** (1),  
13 (2)(b), and (3)(b) as follows:

14 **18-1-707. Use of force by peace officers - definitions - repeal.**

15 (1) Peace officers, in carrying out their duties, shall apply nonviolent  
16 means, when possible, before resorting to the use of physical force. A  
17 peace officer may use physical force only if nonviolent means would be  
18 ineffective in effecting an arrest, preventing an escape, or preventing ~~an~~  
19 ~~imminent threat of serious bodily injury or death to~~ ANOTHER PERSON  
20 FROM USING UNLAWFUL PHYSICAL FORCE AGAINST the peace officer or

1 another person.

2 (2) When physical force is used, a peace officer shall:

3 (b) Use only ~~a~~ THE MINIMUM degree of force ~~consistent with the~~  
4 ~~minimization of~~ NECESSARY IN ORDER TO MINIMIZE injury to ~~others~~ THE  
5 PERSON SUBJECT TO SUCH FORCE;

6 (3) A peace officer is justified in using deadly physical force to  
7 make an arrest only when all other means of apprehension are  
8 unreasonable given the circumstances and:

9 (b) The suspect poses an ~~immediate~~ IMMINENT threat to the peace  
10 officer or another person;

11 **SECTION 3.** In Colorado Revised Statutes, **amend** 18-8-801 as  
12 follows:

13 **18-8-801. Definitions.** As used in this part 8, unless the context  
14 otherwise requires:

15 (1) "INTERVENE" MEANS A PEACE OFFICER, WHILE ENGAGED IN AN  
16 OFFICIAL CAPACITY, ACTS TO PREVENT ANOTHER PEACE OFFICER FROM  
17 SUBJECTING A PERSON TO EXCESSIVE FORCE.

18 ~~(1)~~ (2) "Materially false statement" has the meaning set out in  
19 section 18-8-501 (1).

20 ~~(2)~~ (3) "Peace officer" has the meaning set out in section  
21 16-2.5-101. ~~C.R.S.~~

22 **SECTION 4.** In Colorado Revised Statutes, 18-8-802, **amend**  
23 (1.5)(d) and (1.5)(f) as follows:

24 **18-8-802. Duty to report use of force by peace officers - duty**  
25 **to intervene.** (1.5) (d) Any peace officer who OBSERVES THE USE OF  
26 UNLAWFUL FORCE, KNOWS THAT THE FORCE ANOTHER PEACE OFFICE IS  
27 USING OR IS ABOUT TO USE IS UNLAWFUL, HAS A REASONABLE

1 OPPORTUNITY TO ACT TO PREVENT THE HARM FROM OCCURRING, AND fails  
2 to intervene to prevent the use of unlawful force as prescribed in this  
3 subsection (1.5) commits a class 1 misdemeanor. Nothing in this  
4 subsection (1.5) shall prohibit or discourage prosecution of any other  
5 criminal offense related to failure to intervene, including a higher charge,  
6 if supported by the evidence.

7 (f) In addition to any criminal liability and penalty under the law,  
8 when an administrative law judge, hearing officer, or internal  
9 investigation finds that a peace officer failed to intervene as required by  
10 subsection (1.5)(a) of this section in an incident resulting in serious bodily  
11 injury or death to any person, the peace officer's employer shall subject  
12 the peace officer to discipline, up to and including termination, to the  
13 extent permitted by applicable constitutional and statutory personnel laws  
14 and case law, and the P.O.S.T. board shall permanently ~~decertify~~ REVOKE  
15 the peace ~~officer~~ OFFICER'S CERTIFICATION upon receipt of notice of the  
16 peace officer's discipline. ~~The revocation may only be overturned if the~~  
17 ~~peace officer is exonerated by a court.~~ THE REVOCATION IS NOT EFFECTIVE  
18 UNTIL THE PEACE OFFICER HAS EXHAUSTED ALL INTERNAL, CONTRACTUAL,  
19 AND LEGAL RIGHTS TO REVIEW, CHALLENGE, AND APPEAL THE  
20 UNDERLYING FINDING OR DECISION DESCRIBED IN THIS SUBSECTION  
21 (1.5)(f).

22 **SECTION 5.** In Colorado Revised Statutes, 24-31-303, **amend**  
23 (1)(q) and (1)(r); and **add** (1)(s) as follows:

24 **24-31-303. Duties - powers of the P.O.S.T. board - definition.**

25 (1) The P.O.S.T. board has the following duties:

26 (q) To develop a recruitment program that creates a diversified  
27 applicant pool for appointments to the P.O.S.T. board and the subject

1 matter expertise committees; ~~and~~

2 (r) (I) Beginning on January 1, 2022, to create and maintain a

3 database containing information related to a peace officer's:

4 ~~(H)~~ (A) Untruthfulness;

5 ~~(H)~~ (B) Repeated failure to follow P.O.S.T. board training

6 requirements;

7 ~~(H)~~ (C) Decertification by the P.O.S.T. board; and

8 ~~(H)~~ (D) Termination for cause.

9 (II) FOR PURPOSES OF THIS SUBSECTION (1)(r), "UNTRUTHFULNESS"

10 MEANS A PEACE OFFICER MADE AN UNTRUTHFUL STATEMENT CONCERNING

11 A MATERIAL FACT OR KNOWINGLY OMITTED A MATERIAL FACT ON AN

12 OFFICIAL CRIMINAL JUSTICE RECORD, WHILE TESTIFYING UNDER OATH, OR

13 DURING AN INTERNAL AFFAIRS INVESTIGATION OR ADMINISTRATIVE

14 INVESTIGATION AND DISCIPLINARY PROCESS.

15 (s) BY JANUARY 1, 2022, ADOPT PROCEDURES THROUGH WHICH A

16 PEACE OFFICER MAY SEEK A REVIEW OF THE PEACE OFFICER'S STATUS IN

17 THE DATABASE CREATED PURSUANT TO SUBSECTION (1)(r) OF THIS

18 SECTION BASED ON THE PEACE OFFICER'S PRESENTATION OF NEW EVIDENCE

19 OR CIRCUMSTANCES NOT PREVIOUSLY PROVIDED TO SHOW THE PEACE

20 OFFICER'S RECORD MAY BE REMOVED FROM THE DATABASE.

21 **SECTION 6.** In Colorado Revised Statutes, 24-31-309, **amend**

22 (2), (3.5) introductory portion, and (3.5)(h)(IV) as follows:

23 **24-31-309. Profiling - officer identification - training -**

24 **definitions. (2) Definitions.** For purposes of this section, UNLESS THE

25 CONTEXT OTHERWISE REQUIRES:

26 (a) "CONTACT" MEANS AN INTERACTION WITH AN INDIVIDUAL WHO

27 IS THE SUBJECT OF AN INVESTIGATION OF A POSSIBLE VIOLATION OF THE

1 LAW, WHETHER OR NOT THE PERSON IS IN A MOTOR VEHICLE. "CONTACT"  
2 IS INITIATED BY A PEACE OFFICER, WHETHER CONSENSUAL OR  
3 NONCONSENSUAL, FOR THE PURPOSE OF ENFORCING THE LAW OR  
4 INVESTIGATING A POSSIBLE VIOLATION OF THE LAW. "CONTACT" DOES NOT  
5 INCLUDE A ROUTINE INTERACTION WITH THE PUBLIC AT THE POINT OF  
6 ENTRY OR EXIT FROM A CONTROLLED AREA OR A NON-INVESTIGATORY  
7 AND CONSENSUAL INTERACTION WITH THE PUBLIC.

8 (b) "Profiling" means the practice of relying solely on race,  
9 ethnicity, gender, national origin, language, religion, sexual orientation,  
10 gender identity, age, or disability in:

11 (a) (I) Determining the existence of probable cause to place in  
12 custody or arrest an individual or in constituting a reasonable and  
13 articulable suspicion that an offense has been or is being committed so as  
14 to justify the detention of an individual or the investigatory stop of a  
15 vehicle; or

16 (b) (II) Determining the scope, substance, or duration of an  
17 investigation or law enforcement activity to which a person will be  
18 subjected.

19 (3.5) A peace officer shall have a legal basis for making a contact.  
20 ~~whether consensual or nonconsensual, for the purpose of enforcing the~~  
21 ~~law or investigating possible violations of the law.~~ After making a  
22 contact, a peace officer, as defined in section 24-31-901 (3), shall report  
23 to the peace officer's employing agency:

24 (h) The actions taken by the peace officer during the contact,  
25 including but not limited to whether:

26 (IV) A peace officer unholstered a ~~weapon~~ FIREARM during the  
27 contact; and

1           **SECTION 7.** In Colorado Revised Statutes, 24-31-901, **amend**  
2     (1) and (3); and **add** (2.5) as follows:

3           **24-31-901. Definitions.** As used in this part 9, unless the context  
4     otherwise requires:

5           (1)   ~~"Contacts"~~ "CONTACT" means an interaction with an  
6     individual WHO IS THE SUBJECT OF AN INVESTIGATION OF A POSSIBLE  
7     VIOLATION OF THE LAW, whether or not the person is in a motor vehicle.  
8     "CONTACT" IS initiated by a peace officer, whether consensual or  
9     nonconsensual, for the purpose of enforcing the law or investigating A  
10    possible ~~violations~~ VIOLATION of the law. ~~"Contacts" do~~ "CONTACT" DOES  
11    not include A routine ~~interactions~~ INTERACTION with the public at the  
12    point of entry or exit from a controlled area OR A NON-INVESTIGATORY  
13    AND CONSENSUAL INTERACTION WITH THE PUBLIC.

14          (2.5) "LAW ENFORCEMENT AGENCY" MEANS AN ENTITY THAT  
15    EMPLOYS A PEACE OFFICER AS DEFINED IN SUBSECTION (3) OF THIS  
16    SECTION.

17          (3) "Peace officer" means any person employed by a political  
18    subdivision of the state required to be certified by the P.O.S.T. board  
19    pursuant to section 16-2.5-102, a Colorado state patrol officer as  
20    described in section 16-2.5-114, A COLORADO BUREAU OF INVESTIGATION  
21    AGENT, and any noncertified deputy sheriff as described in section  
22    16-2.5-103 (2).

23           **SECTION 8.** In Colorado Revised Statutes, 24-31-902, **amend**  
24    **as they will become effective July 1, 2023,** (1)(a)(I), (1)(a)(II)(A),  
25    (1)(a)(II)(D), (1)(a)(III), (1)(a)(IV)(B), (1)(a)(IV)(C), (1)(b), (2)(a), and  
26    (2)(b)(II)(B); and **add** (1)(a)(II)(B.5) as follows:

27           **24-31-902. Incident recordings - release - tampering - fine.**

1 (1) (a) (I) By July 1, 2023, all ~~local~~ law enforcement agencies ~~in the state~~  
2 ~~and the Colorado state patrol~~ shall provide body-worn cameras for each  
3 peace officer of the law enforcement agency who interacts with members  
4 of the public. Law enforcement agencies may seek funding pursuant to  
5 section 24-33.5-519.

6 (II) (A) Except as provided in subsection (1)(a)(II)(B),  
7 ***(1)(a)(II)(B.5)***, or (1)(a)(II)(C) of this section, a peace officer shall wear  
8 and activate a body-worn camera or dash camera, if the peace officer's  
9 vehicle is equipped with a dash camera, when responding to a call for  
10 service or during any interaction with the public initiated by the peace  
11 officer, whether consensual or nonconsensual, for the purpose of  
12 enforcing the law or investigating possible violations of the law.

13 (B.5) A PEACE OFFICER MAY TURN OFF A BODY-WORN CAMERA IF  
14 REQUESTED BY A PERSON WHOM THE PEACE OFFICER REASONABLY  
15 BELIEVES IS A VICTIM OR A WITNESS AND IF THE REQUEST IS DOCUMENTED  
16 ON THE BODY-WORN CAMERA RECORDING OR ON A STATEMENT SIGNED BY  
17 THE REQUESTOR. THE PEACE OFFICER SHALL DOCUMENT THE REASON FOR  
18 THE REQUEST FROM THE VICTIM OR WITNESS TO TURN OFF THE  
19 BODY-WORN CAMERA IF A REASON IS GIVEN.

20 (D) The provisions of this subsection (1)(a)(II) do not apply to jail  
21 peace officers or staff of a ~~local~~ law enforcement agency if the jail has  
22 video cameras; except that this subsection (1)(a)(II) applies to jail peace  
23 officers when performing a task that requires an anticipated use of force,  
24 including cell extractions and restraint chairs. The provisions of this  
25 subsection (1)(a)(II) also do not apply to the civilian or administrative  
26 staff of the ~~Colorado state patrol~~ or a ~~local~~ law enforcement agency, the  
27 executive detail of the Colorado state patrol, and peace officers working



1 in a courtroom.

2 (III) If a peace officer fails to activate a body-worn camera or  
3 dash camera as required by this section or tampers with body-worn or  
4 dash-camera footage or operation when required to activate the camera,  
5 there is a permissive inference in any investigation or legal proceeding,  
6 excluding criminal proceedings against the peace officer, that the missing  
7 footage would have reflected misconduct by the peace officer. If a peace  
8 officer INTENTIONALLY fails to activate or reactivate ~~his or her~~ THE PEACE  
9 OFFICER'S body-worn camera as required by this section or tampers with  
10 body-worn or dash camera footage or operation when required to activate  
11 the camera, any statements sought to be introduced in a prosecution  
12 through the peace officer related to the incident that were not recorded  
13 due to the peace officer's INTENTIONAL failure to activate or reactivate the  
14 body-worn camera as required by this section or if the statement was not  
15 recorded by other means creates a rebuttable presumption of  
16 inadmissibility. Notwithstanding any other provision of law, this  
17 subsection (1)(a)(III) does not apply if the body-worn camera was not  
18 activated due TO AN UNFORESEEABLE EMERGENCY OR EXIGENT  
19 CIRCUMSTANCE THAT WAS NOT CAUSED BY THE PEACE OFFICER, OR to a  
20 malfunction of the body-worn camera and the peace officer was not  
21 aware of the malfunction, or was unable to rectify it, prior to the incident,  
22 provided that the law enforcement agency's documentation shows the  
23 peace officer checked the functionality of the body-worn camera at the  
24 beginning of ~~his or her~~ THE PEACE OFFICER'S shift.

25 (IV) (B) In addition to any criminal liability and penalty under the  
26 law, if a court, administrative law judge, hearing officer, or a final  
27 decision in an internal investigation finds that a peace officer intentionally

1 failed to activate a body-worn camera or dash camera or tampered with  
2 any body-worn or dash camera, except as permitted in this section, with  
3 the intent to conceal unlawful or inappropriate actions or obstruct justice,  
4 the P.O.S.T. board shall suspend the peace officer's certification for a  
5 period of not less than one year. ~~and the suspension may only be lifted~~  
6 ~~within the period of the suspension if the peace officer is exonerated by~~  
7 ~~a court~~ THE SUSPENSION IS NOT EFFECTIVE UNTIL THE PEACE OFFICER HAS  
8 EXHAUSTED ALL INTERNAL, CONTRACTUAL, AND LEGAL RIGHTS TO  
9 REVIEW, CHALLENGE, AND APPEAL THE UNDERLYING FINDING OR DECISION  
10 DESCRIBED IN THIS SUBSECTION (1)(a)(IV)(B).

11 (C) In addition to any criminal liability and penalty under the law,  
12 if a court, administrative law judge, hearing officer, or a final decision in  
13 an internal investigation finds that a peace officer intentionally failed to  
14 activate a body-worn camera or dash camera or tampered with any  
15 body-worn or dash camera, except as permitted in this section, with the  
16 intent to conceal unlawful or inappropriate actions, or obstruct justice, in  
17 an incident resulting in a civilian death, the P.O.S.T. board shall  
18 permanently revoke the peace officer's certification. ~~and the revocation~~  
19 ~~may only be overturned if the peace officer is exonerated by a court.~~ THE  
20 REVOCATION IS NOT EFFECTIVE UNTIL THE PEACE OFFICER HAS EXHAUSTED  
21 ALL INTERNAL, CONTRACTUAL, AND LEGAL RIGHTS TO REVIEW,  
22 CHALLENGE, AND APPEAL THE UNDERLYING FINDING OR DECISION  
23 DESCRIBED IN THIS SUBSECTION (1)(a)(IV)(C).

24 (b) A ~~local~~ law enforcement agency ~~and the Colorado state patrol~~  
25 shall establish and follow a retention schedule for body-worn camera  
26 recordings in compliance with Colorado state archives rules and direction.

27 (2) (a) For all incidents in which there is a complaint of peace

1 officer misconduct by another peace officer, a civilian, or nonprofit  
2 organization, through notice to the law enforcement agency involved in  
3 the alleged misconduct, the ~~local~~ law enforcement agency ~~or the Colorado~~  
4 ~~state patrol~~ shall release all unedited video and audio recordings of the  
5 incident, including those from body-worn cameras, dash cameras, or  
6 otherwise collected through investigation, to the public within twenty-one  
7 days after the ~~local~~ law enforcement agency ~~or the Colorado state patrol~~  
8 received the complaint of misconduct.

9 (b) (II) (B) If redaction or blurring is insufficient to protect the  
10 substantial privacy interest, the ~~local~~ law enforcement agency ~~or the~~  
11 ~~Colorado state patrol~~ shall, upon request, release the video to the victim  
12 or, if the victim is deceased or incapacitated, to the victim's spouse,  
13 parent, legal guardian, child, sibling, grandparent, grandchild, significant  
14 other, or other lawful representative within twenty days after receipt of  
15 the complaint of misconduct. In cases in which the recording is not  
16 released to the public pursuant to this subsection (2)(b)(II)(B), the ~~local~~  
17 law enforcement agency shall notify the person whose privacy interest is  
18 implicated, if contact information is known, within twenty days after  
19 receipt of the complaint of misconduct, and inform the person of his or  
20 her right to waive the privacy interest.

21 **SECTION 9.** In Colorado Revised Statutes, 24-31-903, **amend**  
22 (2) introductory portion, (2)(a)(VI), (2)(c)(VIII)(D), (3), and (5) as  
23 follows:

24 **24-31-903. Division of criminal justice report.** (2) Beginning  
25 January 1, 2023, ~~the Colorado state patrol and each local~~ law enforcement  
26 agency that employs peace officers shall report to the division of criminal  
27 justice:

1 (a) All use of force by its peace officers that results in death or  
2 serious bodily injury, including:

3 (VI) Whether a peace officer unholstered a ~~weapon~~ FIREARM  
4 during the incident;

5 (c) All data relating to contacts conducted by its peace officers,  
6 including:

7 (VIII) The actions taken by the peace officer during the contact,  
8 including but not limited to whether:

9 (D) A peace officer unholstered a ~~weapon~~ FIREARM during the  
10 contact; and

11 (3) ~~The Colorado state patrol and local~~ law enforcement agencies  
12 shall not report the name, address, social security number, or other unique  
13 personal identifying information of the subject of the use of force, victim  
14 of the official misconduct, or persons contacted, searched, or subjected  
15 to a property seizure. Notwithstanding any provision of law to the  
16 contrary, the data reported pursuant to this section is available to the  
17 public pursuant to subsection (4) of this section.

18 (5) ~~The Colorado state patrol and any local~~ A law enforcement  
19 agency that fails to meet its reporting requirements pursuant to this  
20 section is subject to the suspension of its funding by its appropriating  
21 authority.

22 **SECTION 10.** In Colorado Revised Statutes, **amend** 24-31-904  
23 as follows:

24 **24-31-904. Revoke peace officer certification after conviction.**  
25 Notwithstanding any provision of law, if any peace officer is convicted  
26 of or pleads guilty or nolo contendere to a crime involving the unlawful  
27 use or threatened use of physical force, a crime involving the failure to

1 intervene in the use of unlawful force, or is found civilly liable for the use  
2 of unlawful physical force, or is found civilly liable for failure to  
3 intervene in the use of unlawful force, the P.O.S.T. board shall  
4 permanently revoke the peace officer's certification. THE PERMANENT  
5 REVOCATION IS NOT EFFECTIVE UNTIL THE PEACE OFFICER HAS EXHAUSTED  
6 ALL INTERNAL, CONTRACTUAL, AND LEGAL RIGHTS TO REVIEW,  
7 CHALLENGE, AND APPEAL THE UNDERLYING CONVICTION THAT LEAD TO  
8 THE REVOCATION. The P.O.S.T. board shall not, under any circumstances,  
9 reinstate the peace officer's certification or grant new certification to the  
10 peace officer unless the peace officer is exonerated by a court. The  
11 P.O.S.T. board shall record each decertified peace officer in the database  
12 created pursuant to section 24-31-303 (1)(r).

13           **SECTION 11. Act subject to petition - effective date.** Section  
14 7 of this act takes effect on July 1, 2023, and the remainder of this act  
15 takes effect at 12:01 a.m. on the day following the expiration of the  
16 ninety-day period after final adjournment of the general assembly; except  
17 that, if a referendum petition is filed pursuant to section 1 (3) of article V  
18 of the state constitution against this act or an item, section, or part of this  
19 act within such period, then the act, item, section, or part will not take  
20 effect unless approved by the people at the general election to be held in  
21 November 2022 and, in such case, will take effect on the date of the  
22 official declaration of the vote thereon by the governor; except that  
23 section 7 of this act takes effect on July 1, 2023.