

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

PREAMENDED

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

LLS NO. 25-0370.02 Michael Dohr x4347

HOUSE BILL 25-1031

HOUSE SPONSORSHIP

Bacon and Clifford,

SENATE SPONSORSHIP

(None),

House Committees
Judiciary

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING A PROHIBITION ON WHISTLEBLOWER RETALIATION IN**
102 **LAW ENFORCEMENT.**

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 creates a civil cause of action for a peace officer if the peace officer reports or discloses conduct that is in violation of, or the peace officer reasonably believes is in violation of, any law or policy and the report or disclosure is a contributing factor in the employer of the peace officer's decision to take adverse employment action against the peace officer. A peace officer may seek the following damages:

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.

- Reinstatement, with or without back pay;
- Any other equitable relief the court deems appropriate;
- Compensatory damages for other pecuniary losses, emotional pain and suffering, inconvenience, mental anguish, loss of enjoyment of life, and other nonpecuniary losses; and
- Reasonable attorney fees and costs.

If the court finds that an action or defense brought was frivolous, groundless, or vexatious, the court may award costs and attorney fees to the defendant or peace officer, respectively.

The bill creates an affirmative defense to the action if the peace officer's employer would have taken the action that forms the basis of the suit against the peace officer, based on a legitimate nonretaliatory basis. The action is not subject to the "Colorado Governmental Immunity Act". The statute of limitations to bring the action is 2 years.

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

2 **SECTION 1.** In Colorado Revised Statutes, 24-31-906, **amend**
 3 (1) and (3); and **add** (4), (5), (6), (7), (8), (9), (10), and (11) as follows:

4 **24-31-906. Retaliation against whistleblower officers**
 5 **prohibited - private right of action - exemptions - procedures -**
 6 **definitions.** (1) (a) DUE TO THE STRONG PUBLIC POLICY INTERESTS
 7 PROTECTED BY PROHIBITING UNLAWFUL RETALIATION AGAINST
 8 WHISTLEBLOWERS, a peace officer's employer or the employer's agent
 9 shall not discharge, discipline, demote, deny a promotion TO, transfer or
 10 reassign, discriminate against, harass, SUSPEND, CREATE A HOSTILE WORK
 11 ENVIRONMENT FOR, SUBJECT TO CORRECTIVE ACTION OR REPRIMAND,
 12 ISSUE AN EMPLOYMENT RATING THAT RESULTS IN THE LOSS OF PAY OR
 13 ADVERSELY AFFECTS ELIGIBILITY FOR PROMOTION OR FOR AN ASSIGNMENT
 14 FOR, LAY OFF, REDUCE WORK HOURS FOR, KNOWINGLY PROVIDE FALSE
 15 INFORMATION REGARDING A PEACE OFFICER FOR THE PURPOSE OF
 16 NEGATIVELY AFFECTING FUTURE EMPLOYMENT OPPORTUNITIES FOR, or
 17 threaten a ~~peace officer's employment~~ ANY SUCH ACTIONS AGAINST A

1 PEACE OFFICER, OR OTHERWISE DISCRIMINATE AGAINST A PEACE OFFICER
2 IN TERMS, CONDITIONS, OR PRIVILEGES OF EMPLOYMENT, because the
3 peace officer disclosed IN GOOD FAITH information TO THE PROPER
4 SUPERVISING AUTHORITY that THE PEACE OFFICER REASONABLY BELIEVES
5 shows:

6 (a) (I) A danger to public health or safety; or

7 (b) (II) ~~A~~ AN ALLEGED violation of law ~~or policy~~ committed by
8 another peace officer.

9 (b) DEPARTMENTAL ADMINISTRATIVE PROCEDURES, SUCH AS
10 SUSPENSION DURING AN INVESTIGATION, OR DEPARTMENTAL OBJECTIVE
11 PROCEDURES USED TO DISTRIBUTE ASSIGNMENTS OR DUTIES OR MEET THE
12 OPERATIONAL NEEDS OF THE EMPLOYER DO NOT VIOLATE SUBSECTION
13 (1)(a) OF THIS SECTION.

14 (c) A PEACE OFFICER WHO DISCLOSES INFORMATION PURSUANT TO
15 SUBSECTION (1)(a) OF THIS SECTION IN GOOD FAITH IS ENGAGING IN A
16 PROTECTED ACTIVITY.

17 (d) THIS SUBSECTION (1) DOES NOT PREVENT AN EMPLOYER FROM
18 COMPLYING WITH ANY DISCLOSURE REQUIREMENTS REQUIRED BY LAW OR
19 COURT RULE OR PROCEDURE.

20 (3) ~~An employee or agent of a law enforcement agency that~~
21 ~~knowingly or intentionally violates subsection (1) of this section shall be~~
22 ~~disciplined appropriately by the law enforcement agency.~~ AN EMPLOYEE
23 AGGRIEVED BY A VIOLATION OF SUBSECTION (1) OF THIS SECTION HAS
24 A PRIVATE RIGHT OF ACTION AGAINST THE EMPLOYER THAT VIOLATED
25 SUBSECTION (1) OF THIS SECTION AFTER THE EMPLOYEE EXHAUSTS THE
26 INTERNAL ADMINISTRATIVE PROCEDURES PURSUANT TO SUBSECTION (9)
27 OF THIS SECTION.

1 (4) AN EMPLOYEE WHOSE PROTECTED ACTIVITY PURSUANT TO
2 SUBSECTION (1) OF THIS SECTION WAS A CONTRIBUTING FACTOR IN THE
3 EMPLOYER'S ACTION DESCRIBED IN SUBSECTION (1) OF THIS SECTION MAY
4 BE AWARDED ALL RELIEF NECESSARY TO MAKE THE EMPLOYEE WHOLE,
5 INCLUDING, BUT NOT LIMITED TO:

6 (a) (I) REINSTATEMENT, WITH THE SAME SENIORITY STATUS THAT
7 THE EMPLOYEE WOULD HAVE HAD BUT FOR THE VIOLATION OF SUBSECTION
8 (1) OF THIS SECTION; AND

9 (II) THE AMOUNT OF BACK PAY WITH INTEREST;

10 (b) ANY OTHER EQUITABLE RELIEF THE COURT DEEMS
11 APPROPRIATE;

12 (c) COMPENSATORY DAMAGES FOR OTHER PECUNIARY LOSSES,
13 EMOTIONAL PAIN AND SUFFERING, INCONVENIENCE, MENTAL ANGUISH,
14 LOSS OF ENJOYMENT OF LIFE, AND OTHER NONPECUNIARY LOSSES;

15 (d) REASONABLE ATTORNEY FEES AND COSTS; AND

16 (e) ANY REQUEST FOR REINSTATEMENT OR FOR AN AWARD OF
17 REASONABLE ATTORNEY FEES SHALL BE MADE TO THE COURT AFTER A
18 JUDGMENT IS ENTERED IN FAVOR OF THE EMPLOYEE. THE PARTIES ARE
19 ENTITLED TO A HEARING ON THE REQUEST PRIOR TO THE COURT'S
20 DETERMINATION.

21

22 (5) IT IS AN AFFIRMATIVE DEFENSE TO AN ACTION BROUGHT
23 PURSUANT TO THIS SECTION IF THE EMPLOYER SHOWS BY A
24 PREPONDERANCE OF THE EVIDENCE THAT THE EMPLOYER WOULD HAVE
25 TAKEN THE ACTION THAT FORMS THE BASIS OF THE SUIT AGAINST THE
26 EMPLOYEE BASED ON A LEGITIMATE NONRETALIATORY BASIS.

27 (6) AN ACTION BROUGHT PURSUANT TO THIS SECTION IS NOT

1 SUBJECT TO THE "COLORADO GOVERNMENTAL IMMUNITY ACT", ARTICLE
2 10 OF THIS TITLE 24.

3 (7) AN ACTION BROUGHT PURSUANT TO THIS SECTION MUST BE
4 BROUGHT WITHIN TWO YEARS AFTER THE DATE OF THE MOST RECENT
5 ADVERSE EMPLOYMENT ACTION DESCRIBED IN SUBSECTION (1) OF THIS
6 SECTION.

7 (8) (a) THIS SECTION DOES NOT APPLY TO AN EMPLOYEE WHO
8 DISCLOSES INFORMATION THAT THE EMPLOYEE KNOWS TO BE FALSE, WHO
9 DISCLOSES INFORMATION WITH DISREGARD FOR THE TRUTH, OR WHO
10 DISCLOSES INFORMATION WITHOUT FULLY COMPLYING WITH SUBSECTION
11 (9) OF THIS SECTION.

12 (b) AN EMPLOYEE'S DISCLOSURE OF THE EMPLOYEE'S OWN ACT OF
13 NEGLIGENCE, UNPROFESSIONAL CONDUCT, BREACH OF A P.O.S.T.
14 CERTIFICATION REQUIREMENT, OR VIOLATION OF ANY LOCAL, STATE, OR
15 FEDERAL LAW IS NOT A PROTECTED ACTIVITY PURSUANT TO THIS SECTION
16 AND DOES NOT PROVIDE THE EMPLOYEE WITH IMMUNITY RELATED TO THE
17 ACTIVITY SUBJECT TO THE DISCLOSURE.

18 (c) THIS SECTION DOES NOT PREVENT AN EMPLOYER FROM TAKING
19 DISCIPLINARY ACTION AGAINST AN EMPLOYEE FOR REASONS OTHER THAN
20 THOSE SPECIFIED IN SUBSECTION (1) OF THIS SECTION.

21 (9) (a) WHEN MAKING A GOOD FAITH REPORT OR DISCLOSURE
22 PROTECTED BY THIS SECTION, AN EMPLOYEE SHALL FOLLOW THE INTERNAL
23 REPORTING AND INTERNAL ADMINISTRATIVE PROCEDURES OF THE
24 EMPLOYEE'S EMPLOYER, TO THE EXTENT THE PROCEDURES EXIST AND ARE
25 PROVIDED TO THE EMPLOYEE IN WRITING, AND SHALL EXHAUST THE
26 PROCEDURES PRIOR TO INITIATING A PRIVATE RIGHT OF ACTION PURSUANT
27 TO SUBSECTION (3) OF THIS SECTION. IF THE INTERNAL REPORTING

1 PROCEDURE REQUIRES AN EMPLOYEE TO REPORT TO THE INDIVIDUAL WHO
2 COMMITTED THE ACT DESCRIBED IN SUBSECTION (1)(a) OF THIS SECTION,
3 THE PROCEDURE MUST PROVIDE AN ALTERNATIVE REPORTING PROCEDURE.

4 THE LIMITATIONS PERIOD IN SUBSECTION (7) OF THIS SECTION IS TOLLED
5 UNTIL THE INTERNAL ADMINISTRATIVE PROCESS IS COMPLETE.

6 (b) (I) A LAW ENFORCEMENT AGENCY SHALL COMPLETE THE
7 INTERNAL ADMINISTRATIVE PROCEDURE WITHIN ONE HUNDRED EIGHTY
8 DAYS AFTER A REPORT OR DISCLOSURE.

9 (II) IF A LAW ENFORCEMENT AGENCY DOES NOT ADOPT AN
10 INTERNAL ADMINISTRATIVE PROCEDURE OR DOES NOT COMPLETE THE
11 INTERNAL ADMINISTRATIVE PROCEDURE WITHIN ONE HUNDRED EIGHTY
12 DAYS AFTER A REPORT OR DISCLOSURE, THIS SUBSECTION (9) IS DEEMED
13 COMPLIED WITH AND AN EMPLOYEE MAY FILE A PRIVATE RIGHT OF ACTION
14 IN ANY COURT OF COMPETENT JURISDICTION PURSUANT TO SUBSECTION (3)
15 OF THIS SECTION. IF THE LAW ENFORCEMENT AGENCY'S INTERNAL
16 ADMINISTRATIVE PROCEDURE HAS NOT BEEN COMPLETED WHEN AN
17 EMPLOYEE INITIATES A PRIVATE RIGHT OF ACTION PURSUANT TO
18 SUBSECTION (3) OF THIS SECTION FOR REASONS BEYOND THE CONTROL OF
19 THE LAW ENFORCEMENT AGENCY, INCLUDING BUT NOT LIMITED TO THE
20 EXISTENCE OF AN OPEN CRIMINAL PROCEEDING OR AN OPEN CRITICAL
21 INCIDENT RESPONSE TEAM INVESTIGATION, THE LAW ENFORCEMENT
22 AGENCY MAY SEEK A STAY OF THE PRIVATE RIGHT OF ACTION PENDING
23 RESOLUTION OF THE SOURCE OF THE DELAY.

24 (10) NO LATER THAN JANUARY 1, 2026, ALL LAW ENFORCEMENT
25 AGENCIES THAT EMPLOY P.O.S.T.-CERTIFIED PEACE OFFICERS SHALL
26 PROVIDE A TRAINING TO EMPLOYEES OR A WORKPLACE POSTING, OR BOTH,
27 REGARDING THE REQUIREMENTS OF THIS SECTION. IF THE LAW

1 ENFORCEMENT AGENCY PROVIDES A WORKPLACE POSTING, THE LAW
2 ENFORCEMENT AGENCY SHALL PLACE THE POSTING IN AN AREA THAT IS
3 READILY ACCESSIBLE TO ALL EMPLOYEES AND PRINT THE POSTING IN A
4 READABLE FORMAT. IF THE AGENCY PROVIDES A TRAINING FOR NEW
5 EMPLOYEES HIRED AFTER THE DATE OF THE TRAINING FOR EXISTING
6 EMPLOYEES, THE LAW ENFORCEMENT AGENCY SHALL PROVIDE THE
7 TRAINING DURING THE EMPLOYEE'S ORIENTATION.

8 (11) AS USED IN THE SECTION, UNLESS THE CONTEXT OTHERWISE
9 REQUIRES:

10 (a) "EMPLOYEE" MEANS A PEACE OFFICER AS DESCRIBED IN
11 SECTION 16-2.5-102 AND A NONCERTIFIED DEPUTY SHERIFF AS DESCRIBED
12 IN SECTION 16-2.5-103 (2) WHO IS EMPLOYED BY AN EMPLOYER AND WHO
13 HAS ENGAGED IN PROTECTED ACTIVITY.

14 (b) "EMPLOYER" MEANS ANY POLITICAL SUBDIVISIONS OF THE
15 STATE, INCLUDING, BUT NOT LIMITED TO, A COUNTY, CITY AND COUNTY,
16 MUNICIPALITY, PUBLIC SCHOOL DISTRICT, OR SPECIAL-PURPOSE DISTRICT
17 OR AUTHORITY; AND ITS AGENTS, EMPLOYEES, OR ASSIGNS.

18 **SECTION 2. Safety clause.** The general assembly finds,
19 determines, and declares that this act is necessary for the immediate
20 preservation of the public peace, health, or safety or for appropriations for
21 the support and maintenance of the departments of the state and state
22 institutions.