

NOTE: This bill has been prepared for the signatures of the appropriate legislative officers and the Governor. To determine whether the Governor has signed the bill or taken other action on it, please consult the legislative status sheet, the legislative history, or the Session Laws.



HOUSE BILL 25-1031

BY REPRESENTATIVE(S) Bacon and Clifford, Barron, Bird, Boesenecker, Bradley, Brooks, Brown, Caldwell, Camacho, Duran, English, Espenoza, Froelich, Garcia, Gonzalez R., Hamrick, Jackson, Johnson, Joseph, Keltie, Lieder, Lindsay, Lindstedt, Lukens, Mabrey, Marshall, McCormick, Paschal, Ricks, Rutinel, Sirota, Smith, Stewart K., Story, Titone, Weinberg, Willford, Winter T., Woog, Zokaie, McCluskie, Carter, Phillips, Valdez, Woodrow;
also SENATOR(S) Roberts and Pelton B., Ball, Bridges, Cutter, Exum, Gonzales J., Hinrichsen, Jodeh, Kipp, Kolker, Michaelson Jenet, Mullica, Snyder, Wallace, Weissman, Winter F., Coleman.

CONCERNING A PROHIBITION ON WHISTLEBLOWER RETALIATION IN LAW ENFORCEMENT.

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

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

24-31-906. Retaliation against whistleblower officers prohibited - private right of action - exemptions - procedures - definitions.
(1) (a) DUE TO THE STRONG PUBLIC POLICY INTERESTS PROTECTED BY

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

PROHIBITING UNLAWFUL RETALIATION AGAINST WHISTLEBLOWERS, a peace officer's employer or the employer's agent shall not discharge, discipline, demote, deny a promotion TO, transfer or reassign, discriminate against, harass, SUSPEND, CREATE A HOSTILE WORK ENVIRONMENT FOR, SUBJECT TO CORRECTIVE ACTION OR REPRIMAND, ISSUE AN EMPLOYMENT RATING THAT RESULTS IN THE LOSS OF PAY OR ADVERSELY AFFECTS ELIGIBILITY FOR PROMOTION OR FOR AN ASSIGNMENT FOR, LAY OFF, REDUCE WORK HOURS FOR, KNOWINGLY PROVIDE FALSE INFORMATION REGARDING A PEACE OFFICER FOR THE PURPOSE OF NEGATIVELY AFFECTING FUTURE EMPLOYMENT OPPORTUNITIES FOR, or threaten ~~a peace officer's employment~~ ANY SUCH ACTIONS AGAINST A PEACE OFFICER, OR OTHERWISE DISCRIMINATE AGAINST A PEACE OFFICER IN TERMS, CONDITIONS, OR PRIVILEGES OF EMPLOYMENT, because the peace officer disclosed IN GOOD FAITH information TO THE PROPER SUPERVISING AUTHORITY that THE PEACE OFFICER REASONABLY BELIEVES shows:

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

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

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

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

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

(3) ~~An employee or agent of a law enforcement agency that knowingly or intentionally violates subsection (1) of this section shall be disciplined appropriately by the law enforcement agency.~~ AN EMPLOYEE AGGRIEVED BY A VIOLATION OF SUBSECTION (1) OF THIS SECTION HAS A PRIVATE RIGHT OF ACTION AGAINST THE EMPLOYER THAT VIOLATED

SUBSECTION (1) OF THIS SECTION AFTER THE EMPLOYEE EXHAUSTS THE INTERNAL ADMINISTRATIVE PROCEDURES PURSUANT TO SUBSECTION (9) OF THIS SECTION.

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

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

(II) THE AMOUNT OF BACK PAY WITH INTEREST;

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

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

(d) REASONABLE ATTORNEY FEES AND COSTS; AND

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

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

(6) AN ACTION BROUGHT PURSUANT TO THIS SECTION IS NOT SUBJECT TO THE "COLORADO GOVERNMENTAL IMMUNITY ACT", ARTICLE 10 OF THIS TITLE 24.

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

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

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

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

(9) (a) WHEN MAKING A GOOD FAITH REPORT OR DISCLOSURE PROTECTED BY THIS SECTION, AN EMPLOYEE SHALL FOLLOW THE INTERNAL REPORTING AND INTERNAL ADMINISTRATIVE PROCEDURES OF THE EMPLOYEE'S EMPLOYER, TO THE EXTENT THE PROCEDURES EXIST AND ARE PROVIDED TO THE EMPLOYEE IN WRITING, AND SHALL EXHAUST THE PROCEDURES PRIOR TO INITIATING A PRIVATE RIGHT OF ACTION PURSUANT TO SUBSECTION (3) OF THIS SECTION. IF THE INTERNAL REPORTING PROCEDURE REQUIRES AN EMPLOYEE TO REPORT TO THE INDIVIDUAL WHO COMMITTED THE ACT DESCRIBED IN SUBSECTION (1)(a) OF THIS SECTION, THE PROCEDURE MUST PROVIDE AN ALTERNATIVE REPORTING PROCEDURE. THE LIMITATIONS PERIOD IN SUBSECTION (7) OF THIS SECTION IS TOLLED UNTIL THE INTERNAL ADMINISTRATIVE PROCESS IS COMPLETE.

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

(II) IF A LAW ENFORCEMENT AGENCY DOES NOT ADOPT AN INTERNAL

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

(10) NO LATER THAN JANUARY 1, 2026, ALL LAW ENFORCEMENT AGENCIES THAT EMPLOY P.O.S.T.-CERTIFIED PEACE OFFICERS SHALL PROVIDE A TRAINING TO EMPLOYEES OR A WORKPLACE POSTING, OR BOTH, REGARDING THE REQUIREMENTS OF THIS SECTION. IF THE LAW ENFORCEMENT AGENCY PROVIDES A WORKPLACE POSTING, THE LAW ENFORCEMENT AGENCY SHALL PLACE THE POSTING IN AN AREA THAT IS READILY ACCESSIBLE TO ALL EMPLOYEES AND PRINT THE POSTING IN A READABLE FORMAT. IF THE AGENCY PROVIDES A TRAINING FOR NEW EMPLOYEES HIRED AFTER THE DATE OF THE TRAINING FOR EXISTING EMPLOYEES, THE LAW ENFORCEMENT AGENCY SHALL PROVIDE THE TRAINING DURING THE EMPLOYEE'S ORIENTATION.

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

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

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

(c) "PROPER SUPERVISING AUTHORITY" MEANS THE PERSON OR DEPARTMENT DESIGNATED IN THE PEACE OFFICER'S EMPLOYING LAW ENFORCEMENT AGENCY TO INVESTIGATE ALLEGATIONS OF INTERNAL MISCONDUCT. IF THE EMPLOYER DOES NOT HAVE A POLICY DESIGNATING A PERSON OR DEPARTMENT TO INVESTIGATE ALLEGATIONS OF MISCONDUCT, THE PROPER SUPERVISING AUTHORITY IS THE HIGHEST-RANKING PEACE OFFICER.

SECTION 2. Safety clause. The general assembly finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, or safety or for appropriations for

the support and maintenance of the departments of the state and state institutions.

Julie McCluskie
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

James Rashad Coleman, Sr.
PRESIDENT OF
THE SENATE

Vanessa Reilly
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

Esther van Mourik
SECRETARY OF
THE SENATE

APPROVED _____
(Date and Time)

Jared S. Polis
GOVERNOR OF THE STATE OF COLORADO