

First Regular Session
Seventy-third General Assembly
STATE OF COLORADO

PREAMENDED

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

LLS NO. 21-0627.01 Michael Dohr x4347

SENATE BILL 21-081

SENATE SPONSORSHIP

Kolker,

HOUSE SPONSORSHIP

Michaelson Jenet,

Senate Committees
Judiciary

House Committees

A BILL FOR AN ACT
101 **CONCERNING PROCEDURAL MEASURES TO PREVENT THE MISUSE OF**
102 **THE SAFE2TELL PROGRAM.**

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 allows the attorney general to disclose to law enforcement personnel any materials or information obtained through the implementation or operation of the safe2tell program (program) if the attorney general reasonably deems such disclosure necessary for the prevention of imminent physical harm or serious bodily injury to one or more persons.

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.

The bill permits a court to issue a search warrant upon the request of a law enforcement agency, public safety agency, or district attorney, under seal, for program materials identifying a reporting party if the court, following an in camera review, determines probable cause exists that a reporting party to the program knowingly used the program in the commission of false reporting of an emergency. The court may lift the sealing only on a motion of a district attorney upon showing of good cause following an in camera review of the information.

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

2 **SECTION 1.** In Colorado Revised Statutes, 24-31-607, **add** (3)
3 and (4) as follows:

4 **24-31-607. In camera review - confidentiality of materials -**
5 **criminal penalty.** (3) NOTWITHSTANDING ANY PROVISION TO THE
6 CONTRARY, UPON REQUEST BY A LAW ENFORCEMENT AGENCY, THE
7 ATTORNEY GENERAL MAY DISCLOSE TO LAW ENFORCEMENT PERSONNEL
8 ANY MATERIALS OR INFORMATION OBTAINED THROUGH THE
9 IMPLEMENTATION OR OPERATION OF THE PROGRAM IF THE ATTORNEY
10 GENERAL REASONABLY DEEMS SUCH DISCLOSURE NECESSARY FOR THE
11 PREVENTION OF IMMINENT PHYSICAL HARM OR SERIOUS BODILY INJURY TO
12 ONE OR MORE PERSONS.

13 (4) (a) (I) NOTWITHSTANDING SUBSECTIONS (2)(a) AND (2)(b) OF
14 THIS SECTION, A COURT MAY ISSUE A COURT ORDER FOR PRODUCTION OF
15 RECORDS, UNDER SEAL, ON REQUEST OF A LAW ENFORCEMENT AGENCY,
16 PUBLIC SAFETY AGENCY, OR DISTRICT ATTORNEY, FOR PROGRAM
17 MATERIALS IDENTIFYING A REPORTING PARTY IF THE COURT, FOLLOWING
18 AN IN-CAMERA REVIEW OF AN AFFIDAVIT AND ANY OTHER RELEVANT
19 MATERIAL OR EVIDENCE PROVIDED UNDER SEAL BY THE REQUESTING
20 PARTY, DETERMINES PROBABLE CAUSE EXISTS THAT A REPORTING PARTY
21 TO THE PROGRAM KNOWINGLY USED THE PROGRAM IN THE COMMISSION OF

1 FALSE REPORTING OF AN EMERGENCY, AS DEFINED IN SECTION 18-8-111
2 (2), AND THAT RELEASE OF PROGRAM MATERIALS IS JUSTIFIED ON BALANCE
3 IN VIEW OF THE PROBABLE VIOLATION AND THE PROGRAM PURPOSE OF
4 ANONYMITY.

5 (II) ANY SUCH REQUEST FOR A COURT ORDER FOR PRODUCTION OF
6 RECORDS MAY BE FILED ONLY AFTER REASONABLE NOTICE IS PROVIDED TO
7 THE ATTORNEY GENERAL. THE REQUESTING PARTY SHALL NOTE ANY
8 RESPONSE FROM THE ATTORNEY GENERAL IN THE AFFIDAVIT AND THE
9 COURT SHALL CONSIDER THE NOTE IN REVIEWING ANY APPLICATION FOR
10 A COURT ORDER UNDER THIS SECTION.

11 (b) (I) A COURT SHALL ORDER THAT A WARRANT ISSUED PURSUANT
12 TO SUBSECTION (4)(a) OF THIS SECTION, AND ANY RELATED EVIDENCE
13 USED TO OBTAIN SUCH WARRANT, BE SEALED. THE PROGRAM AND ANY
14 LAW ENFORCEMENT AGENCY, PUBLIC SAFETY AGENCY, OR DISTRICT
15 ATTORNEY THAT RECEIVES INFORMATION PURSUANT TO SUBSECTION (4)(a)
16 OF THIS SECTION SHALL KEEP THE INFORMATION CONFIDENTIAL.

17 (II) (A) A COURT MAY LIFT THE SEALING AND CONFIDENTIALITY OF
18 THE INFORMATION, PRIOR TO THE FILING OF CHARGES, ONLY ON A MOTION
19 OF A DISTRICT ATTORNEY UPON SHOWING OF GOOD CAUSE FOLLOWING AN
20 IN-CAMERA REVIEW OF THE INFORMATION. THE DISTRICT ATTORNEY SHALL
21 PROVIDE REASONABLE NOTICE AND THE OPPORTUNITY TO RESPOND TO THE
22 DEPARTMENT OF ANY MOTION TO LIFT THE SEAL FILED PURSUANT TO THIS
23 SECTION, PRIOR TO FILING A MOTION PURSUANT TO THIS SECTION.

24 (B) UPON FILING OF CHARGES AGAINST ANY PERSON FOR CHARGES
25 THAT RELY ON INFORMATION PROVIDED PURSUANT TO A COURT ORDER
26 UNDER THIS SECTION, ANY SEALING ORDER WILL IMMEDIATELY EXPIRE
27 AND THE INFORMATION IS SUBJECT TO DISCOVERY OBLIGATIONS AND

1 NECESSARY PROTECTIVE ORDERS TO PRECLUDE FURTHER DISSEMINATION
2 OF THE MATERIAL.

3 (c) IF A DISTRICT ATTORNEY IS CONSIDERING FILING ANY CRIMINAL
4 CHARGES AS A RESULT OF A PRODUCTION OF RECORDS ISSUED PURSUANT
5 TO SUBSECTION (4)(a) OF THIS SECTION, THE DISTRICT ATTORNEY SHALL
6 FIRST CONSIDER REFERRING THE ALLEGED RESPONSIBLE PERSON FOR AN
7 ASSESSMENT FOR SUITABILITY TO PARTICIPATE IN RESTORATIVE JUSTICE
8 PRACTICES.

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