

First Regular Session
Seventy-second General Assembly
STATE OF COLORADO

ENGROSSED

*This Version Includes All Amendments Adopted
on Second Reading in the House of Introduction*

LLS NO. 19-0253.01 Megan Waples x4348

HOUSE BILL 19-1073

HOUSE SPONSORSHIP

Benavidez,

SENATE SPONSORSHIP

Fields,

House Committees

Judiciary
Appropriations

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING THE CREATION OF THE LAW ENFORCEMENT, PUBLIC**
102 **SAFETY, AND CRIMINAL JUSTICE INFORMATION SHARING GRANT**
103 **PROGRAM, AND, IN CONNECTION THEREWITH, MAKING AN**
104 **APPROPRIATION.**

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 the law enforcement, public safety, and criminal justice information sharing grant program (grant program) within the division of homeland security and emergency management (division) in

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.

HOUSE
Amended 2nd Reading
April 25, 2019

the department of public safety. The grant program provides grants to assist local law enforcement agencies in gaining access to the information-sharing system created by the Colorado information sharing consortium (CISC). Grant recipients can use the money to pay for computer hardware, software, and programming costs necessary to connect to CISC's information-sharing systems. As a condition of each grant, the grant recipient and CISC are required to ensure that the information systems comply with federal data security requirements, and that the law enforcement data and intelligence information that is shared complies with federal regulations governing the use of criminal justice information systems. The director of the division is required to promulgate rules for the administration of the grant program.

The bill creates the law enforcement, public safety, and criminal justice information sharing grant program fund, and directs the general assembly to appropriate \$1.9 million to the fund from the marijuana tax cash fund for the 2019-20 fiscal year.

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

2 **SECTION 1. Legislative declaration.** (1) The general assembly
3 hereby finds and declares that:

4 (a) Colorado's law enforcement personnel operate at an
5 information disadvantage that diminishes their safety and increases the
6 likelihood that community members will be mistakenly engaged;

7 (b) Law enforcement personnel interact daily with a wide variety
8 of people, from law-abiding citizens to frequent offenders to individuals
9 suffering from mental health challenges, sometimes without complete or
10 adequate information to determine who presents a risk, who does not
11 present a risk, and who needs mental health services;

12 (c) Law enforcement's information disadvantage can erode public
13 trust when incomplete information leads to inappropriate policing actions.
14 For example, a lack of information can result in an unnecessarily large
15 volume of contacts during an investigation. In addition, a lack of
16 information can lead to misinformation that spawns inaccurate "be on the

1 lookout" notices.

2 (d) This information disadvantage presents issues for law
3 enforcement personnel who are entrusted to uphold public safety while
4 protecting the individual liberties of all people and providing innovative
5 co-responder service models to individuals with mental health challenges;

6 (e) A major contributing factor to this lack of information is that
7 each law enforcement agency often has its own independent
8 records-management systems and cannot efficiently and digitally share
9 information between agencies;

10 (f) In an effort to address this information disparity, more than
11 forty-five of Colorado's largest and busiest law enforcement agencies
12 came together to create the Colorado information sharing consortium
13 (CISC) in 2014 through an intergovernmental agreement;

14 (g) The CISC acts as a facilitator between Colorado law
15 enforcement agencies, providing a means for secure and efficient data
16 sharing. The CISC is governed by a member-elected board of directors,
17 including sheriffs and police chiefs, and has signed up sixty-eight of the
18 three hundred and thirty-three agencies that can employ certified peace
19 officers in Colorado.

20 (h) Information-sharing systems are most effective when they are
21 widely used by state and local law enforcement agencies across the state,
22 creating a robust platform for sharing needed data and information. The
23 more local law enforcement agencies that participate in CISC, the greater
24 the benefit to all of its members and to the public.

25 (2) Therefore, the general assembly declares that it is necessary to
26 create a grant program to provide rural and cash-strapped local law
27 enforcement agencies with one-time grants to allow them join the CISC

1 information-sharing system.

2 **SECTION 2.** In Colorado Revised Statutes, **add** 24-33.5-1617 as
3 follows:

4 **24-33.5-1617. Law enforcement, public safety, and criminal
5 justice information sharing grant program - rules - fund created -
6 definitions - repeal.** (1) **Definitions.** AS USED IN THIS SECTION, UNLESS
7 THE CONTEXT OTHERWISE REQUIRES:

8 (a) "CISC" MEANS THE COLORADO INFORMATION SHARING
9 CONSORTIUM CREATED THROUGH AN INTERGOVERNMENTAL AGREEMENT
10 EFFECTIVE APRIL 7, 2014, IN ACCORDANCE WITH SECTION 29-1-203, OR ITS
11 SUCCESSOR ORGANIZATION.

12 (b) "FUND" MEANS THE LAW ENFORCEMENT, PUBLIC SAFETY, AND
13 CRIMINAL JUSTICE INFORMATION SHARING GRANT PROGRAM FUND
14 CREATED IN SUBSECTION (5) OF THIS SECTION.

15 (c) "GRANT PROGRAM" MEANS THE LAW ENFORCEMENT, PUBLIC
16 SAFETY, AND CRIMINAL JUSTICE INFORMATION SHARING GRANT PROGRAM
17 CREATED IN SUBSECTION (2) OF THIS SECTION.

18 (d) "INTELLIGENCE INFORMATION" MEANS EVALUATED DATA
19 RELEVANT TO THE IDENTIFICATION OF CRIMINAL ACTIVITY ENGAGED IN BY
20 AN INDIVIDUAL OR ORGANIZATION REASONABLY SUSPECTED OF
21 INVOLVEMENT IN CRIMINAL ACTIVITY THAT MEETS CRIMINAL
22 INTELLIGENCE SYSTEM SUBMISSION CRITERIA AS SET FORTH IN PART 23 OF
23 TITLE 28 OF THE CODE OF FEDERAL REGULATIONS.

24 (e) "LAW ENFORCEMENT DATA" MEANS FACTS, DETAILED
25 INFORMATION, POLICE REPORT NARRATIVES, SUPPLEMENTAL POLICE
26 REPORT NARRATIVES, AND OTHER TEXT-RELATED INFORMATION RELATED
27 TO LAW ENFORCEMENT ACTIVITIES.

9 (b) GRANT RECIPIENTS MAY USE THE MONEY RECEIVED THROUGH
10 THE GRANT PROGRAM TO PAY FOR COSTS ASSOCIATED WITH CONNECTING
11 TO CISC'S INFORMATION-SHARING SYSTEMS, INCLUDING COMPUTER
12 HARDWARE, SOFTWARE, OR PROGRAMMING COSTS THAT ARE NECESSARY
13 TO ALLOW THE RECIPIENT TO SHARE LAW ENFORCEMENT DATA AND
14 INTELLIGENCE INFORMATION THROUGH CISC.

15 (c) THE DIVISION SHALL ADMINISTER THE GRANT PROGRAM, AND,
16 SUBJECT TO AVAILABLE APPROPRIATIONS, SHALL AWARD GRANTS AS
17 PROVIDED IN THIS SECTION. SUBJECT TO AVAILABLE APPROPRIATIONS,
18 GRANTS SHALL BE PAID OUT OF THE FUND CREATED IN SUBSECTION (5) OF
19 THIS SECTION

20 (d) NOT LATER THAN NINE MONTHS AFTER THE EFFECTIVE DATE OF
21 THIS SECTION, THE DIRECTOR SHALL PROMULGATE SUCH RULES AS MAY BE
22 NECESSARY TO IMPLEMENT THE GRANT PROGRAM. AT A MINIMUM, THE
23 RULES MUST SPECIFY THE TIME FRAMES FOR APPLYING FOR GRANTS, THE
24 FORM OF THE GRANT PROGRAM APPLICATION, THE CRITERIA FOR
25 EVALUATING THE FINANCIAL NEED OF GRANT APPLICANTS, THE TIME
26 FRAMES FOR DISTRIBUTING GRANT MONEY, AND REQUIREMENTS FOR
27 REPORTS FROM GRANT RECIPIENTS.

12 (I) THE FINANCIAL NEED OF THE APPLICANT, AS DETERMINED IN
13 ACCORDANCE WITH THE RULES PROMULGATED IN ACCORDANCE WITH
14 SUBSECTION (2)(d) OF THIS SECTION:

22 (c) AS A CONDITION OF EACH GRANT AWARDED UNDER THIS
23 SECTION, THE GRANT RECIPIENT AND CISC SHALL COMPLY WITH THE
24 FOLLOWING REQUIREMENTS FOR AS LONG AS THE GRANT RECIPIENT
25 PARTICIPATES IN INFORMATION SHARING THROUGH CISC:

26 (I) EACH GRANT RECIPIENT REMAINS THE CUSTODIAN OF THE LAW
27 ENFORCEMENT DATA AND INTELLIGENCE INFORMATION THAT IT SHARES

1 THROUGH THE CISC INFORMATION-SHARING SYSTEM FOR THE PURPOSES
2 OF PARTS 2 AND 3 OF ARTICLE 72 OF THIS TITLE 24;

3 (II) IF CISC RECEIVES A REQUEST FOR RECORDS PURSUANT TO
4 PART 2 OR PART 3 OF ARTICLE 72 OF THIS TITLE 24, IT SHALL NOT PROVIDE
5 THE RECORDS AND SHALL REFER THE REQUESTER TO THE APPROPRIATE
6 CUSTODIAN OF RECORDS;

7 (III) CISC AND EACH GRANT RECIPIENT SHALL ENSURE THAT THE
8 INFORMATION-SHARING SYSTEMS COMPLY WITH THE CURRENT FEDERAL
9 BUREAU OF INVESTIGATION CRIMINAL JUSTICE INFORMATION SERVICES
10 SECURITY POLICY, IN ORDER TO ENSURE THE SECURITY OF THE LAW
11 ENFORCEMENT DATA AND INTELLIGENCE INFORMATION SHARED BY LAW
12 ENFORCEMENT AGENCIES;

13 (IV) CISC AND EACH GRANT RECIPIENT ARE PROHIBITED FROM
14 SELLING ANY DATA OR INFORMATION SHARED THROUGH CISC's
15 INFORMATION-SHARING SYSTEM;

16 (V) CISC AND EACH GRANT RECIPIENT SHALL COMPLY WITH THE
17 REQUIREMENTS OF 28 CFR 23, AS AMENDED;

18 (VI) EACH GRANT RECIPIENT SHALL NOT SHARE AND MAINTAIN
19 CRIMINAL INTELLIGENCE INFORMATION CONCERNING AN INDIVIDUAL
20 UNLESS THERE IS REASONABLE SUSPICION THAT THE INDIVIDUAL IS
21 INVOLVED IN CRIMINAL CONDUCT OR ACTIVITY AND THE INFORMATION IS
22 RELEVANT TO THAT CRIMINAL CONDUCT OR ACTIVITY;

23 (VII) CISC AND EACH GRANT RECIPIENT SHALL NOT COLLECT OR
24 MAINTAIN CRIMINAL INTELLIGENCE INFORMATION ABOUT THE POLITICAL,
25 RELIGIOUS, OR SOCIAL VIEWS, ASSOCIATIONS, OR ACTIVITIES OF ANY
26 INDIVIDUAL OR ANY GROUP, ASSOCIATION, CORPORATION, BUSINESS,
27 PARTNERSHIP, OR OTHER ORGANIZATION UNLESS SUCH INFORMATION

1 DIRECTLY RELATES TO CRIMINAL CONDUCT OR ACTIVITY AND THERE IS
2 REASONABLE SUSPICION THAT THE SUBJECT OF THE INFORMATION IS OR
3 MAY BE INVOLVED IN CRIMINAL CONDUCT OR ACTIVITY;

4 (VIII) REASONABLE SUSPICION OR CRIMINAL PREDICATE IS
5 ESTABLISHED WHEN INFORMATION EXISTS THAT ESTABLISHES SUFFICIENT
6 FACTS TO GIVE A TRAINED LAW ENFORCEMENT OR CRIMINAL
7 INVESTIGATIVE AGENCY OFFICER, INVESTIGATOR, OR EMPLOYEE A BASIS
8 TO BELIEVE THAT THERE IS A REASONABLE POSSIBILITY THAT AN
9 INDIVIDUAL OR ORGANIZATION IS INVOLVED IN A DEFINABLE CRIMINAL
10 ACTIVITY OR ENTERPRISE. EACH GRANT RECIPIENT IS RESPONSIBLE FOR
11 ESTABLISHING THE EXISTENCE OF REASONABLE SUSPICION OF CRIMINAL
12 ACTIVITY EITHER THROUGH EXAMINATION OF SUPPORTING INFORMATION
13 SUBMITTED BY A PARTICIPATING AGENCY OR BY DELEGATION OF THIS
14 RESPONSIBILITY TO A PROPERLY TRAINED PARTICIPATING AGENCY, WHICH
15 IS SUBJECT TO ROUTINE INSPECTION AND AUDIT PROCEDURES ESTABLISHED
16 BY CISC OR THE GRANT RECIPIENT.

17 (IX) EACH GRANT RECIPIENT SHALL NOT SHARE OR MAINTAIN
18 INFORMATION THAT HAS BEEN OBTAINED IN VIOLATION OF ANY
19 APPLICABLE FEDERAL, STATE, OR LOCAL LAW OR ORDINANCE. EACH
20 GRANT RECIPIENT IS RESPONSIBLE FOR ESTABLISHING THAT NO
21 INFORMATION IS ENTERED IN VIOLATION OF FEDERAL, STATE, OR LOCAL
22 LAWS, EITHER THROUGH EXAMINATION OF SUPPORTING INFORMATION
23 SUBMITTED BY A PARTICIPATING AGENCY OR BY DELEGATION OF THIS
24 RESPONSIBILITY TO A PROPERLY TRAINED PARTICIPATING AGENCY, WHICH
25 IS SUBJECT TO ROUTINE INSPECTION AND AUDIT PROCEDURES ESTABLISHED
26 BY CISC OR THE GRANT RECIPIENT.

27 (X) CISC AND EACH GRANT RECIPIENT SHALL NOT SHARE

1 CRIMINAL INTELLIGENCE INFORMATION EXCEPT WHERE THERE IS A NEED
2 TO KNOW AND A RIGHT TO KNOW THE INFORMATION IN THE PERFORMANCE
3 OF A LAW ENFORCEMENT ACTIVITY; AND

4 (XI) CISC AND EACH GRANT RECIPIENT SHALL NOT DISSEMINATE
5 CRIMINAL INTELLIGENCE INFORMATION EXCEPT TO LAW ENFORCEMENT
6 AUTHORITIES WHO AGREE TO FOLLOW PROCEDURES REGARDING
7 INFORMATION RECEIPT, MAINTENANCE, SECURITY, AND DISSEMINATION
8 THAT ARE CONSISTENT WITH THESE PRINCIPLES; EXCEPT THAT THIS
9 SUBSECTION (3)(c)(XI) DOES NOT LIMIT THE DISSEMINATION OF AN
10 ASSESSMENT OF CRIMINAL INTELLIGENCE INFORMATION TO A
11 GOVERNMENT OFFICIAL OR TO ANY OTHER INDIVIDUAL WHEN NECESSARY
12 TO AVOID IMMINENT DANGER TO LIFE OR PROPERTY.

13 (d) ANY EMPLOYEE OF THE DEPARTMENT WHO IS AFFILIATED IN
14 ANY WAY WITH A GRANT APPLICANT IS PROHIBITED FROM PARTICIPATING
15 IN THE ADMINISTRATION OF THE GRANT PROGRAM, INCLUDING THE
16 EVALUATION OF GRANT APPLICATIONS AND THE AWARDING OF GRANTS.

17 (e) SUBJECT TO AVAILABLE APPROPRIATIONS, THE DIVISION SHALL
18 AWARD GRANTS AS PROVIDED IN THIS SECTION. THE DIVISION SHALL
19 ANNOUNCE GRANT AWARDS ON ITS WEBSITE WITHIN FIVE BUSINESS DAYS
20 AFTER MAKING THE AWARDS. THE DIVISION SHALL DISTRIBUTE THE GRANT
21 MONEY WITHIN THIRTY DAYS AFTER AWARDING THE GRANTS.

22 (4) **Reporting requirements.** EACH GRANTEE SHALL SUBMIT A
23 REPORT TO THE DIVISION ON OR BEFORE **JULY 30** OF EACH YEAR IN WHICH
24 IT RECEIVES OR EXPENDS GRANT MONEY. THE REPORT MUST COMPLY WITH
25 THE RULES PROMULGATED IN ACCORDANCE WITH SUBSECTION (2)(d) OF
26 THIS SECTION.

27 (5) **Law enforcement, public safety, and criminal justice**

1 **information sharing grant program fund.** (a) THE LAW ENFORCEMENT,
2 PUBLIC SAFETY, AND CRIMINAL JUSTICE INFORMATION SHARING GRANT
3 PROGRAM FUND IS HEREBY CREATED IN THE STATE TREASURY. THE FUND
4 CONSISTS OF MONEY APPROPRIATED TO THE FUND PURSUANT TO
5 SUBSECTION (6) OF THIS SECTION AND ANY OTHER MONEY THAT THE
6 GENERAL ASSEMBLY MAY APPROPRIATE OR TRANSFER TO THE FUND.

7 (b) THE STATE TREASURER SHALL CREDIT ALL INTEREST AND
8 INCOME DERIVED FROM THE DEPOSIT AND INVESTMENT OF MONEY IN THE
9 FUND TO THE FUND.

10 (c) EXCEPT AS PROVIDED IN SUBSECTION (5)(d) OF THIS SECTION,
11 ANY UNEXPENDED AND UNENCUMBERED MONEY REMAINING IN THE FUND
12 AT THE END OF A FISCAL YEAR REMAINS IN THE FUND AND IS NOT CREDITED
13 TO THE GENERAL FUND.

14 (d) THE STATE TREASURER SHALL TRANSFER ALL UNEXPENDED
15 AND UNENCUMBERED MONEY IN THE FUND ON JULY 1, 2022, TO THE
16 GENERAL FUND.

17 (e) SUBJECT TO ANNUAL APPROPRIATION BY THE GENERAL
18 ASSEMBLY, THE DIVISION MAY EXPEND MONEY FROM THE FUND FOR THE
19 PURPOSE OF AWARDING GRANTS IN ACCORDANCE WITH THIS SECTION. THE
20 DIVISION MAY USE UP TO FIVE PERCENT OF THE MONEY ANNUALLY
21 APPROPRIATED TO THE FUND TO PAY FOR THE DIRECT AND INDIRECT COSTS
22 THAT THE DIVISION INCURS TO ADMINISTER THE GRANT PROGRAM.

23 **(6) Funding for grant program.** FOR THE 2019-20 FISCAL YEAR,
24 THE GENERAL ASSEMBLY SHALL APPROPRIATE ~~FIVE~~ HUNDRED THOUSAND
25 DOLLARS TO THE FUND FROM THE MARIJUANA TAX CASH FUND CREATED
26 IN SECTION 39-28.8-501.

27 **(7) Repeal.** THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2022.

1 **SECTION 3.** In Colorado Revised Statutes, 39-28.8-501, **amend**
2 (2)(b)(IV)(N) and (2)(b)(IV)(O); and **add** (2)(b)(IV)(P) as follows:

3 **39-28.8-501. Marijuana tax cash fund - creation - distribution**
4 **- legislative declaration - repeal.** (2) (b) (IV) Subject to the limitation
5 in subsection (5) of this section, the general assembly may annually
6 appropriate any money in the fund for any fiscal year following the fiscal
7 year in which it was received by the state for the following purposes:

8 (N) For housing, rental assistance, and supportive services,
9 including reentry services, pursuant to section 24-32-721; **and**

10 (O) For the development of local dually identified crossover youth
11 plans and services as described in section 19-2-211 (2); **AND**

12 (P) To FUND THE LAW ENFORCEMENT, PUBLIC SAFETY, AND
13 CRIMINAL JUSTICE INFORMATION SHARING GRANT PROGRAM CREATED IN
14 SECTION 24-33.5-1617 FOR THE 2019-20 FISCAL YEAR. THIS SUBSECTION
15 (2)(b)(IV)(P) IS REPEALED, EFFECTIVE JULY 1, 2020.

16 **SECTION 4. Appropriation.** (1) For the 2019-20 state fiscal
17 year, \$500,000 is appropriated to the law enforcement, public safety, and
18 criminal justice information sharing grant program fund created in section
19 24-33.5-1617 (5)(a), C.R.S. This appropriation is from the marijuana tax
20 cash fund created in section 39-28.8-501 (1), C.R.S. The department of
21 public safety is responsible for the accounting related to this
22 appropriation.

23 (2) For the 2019-20 state fiscal year, \$479,947 is appropriated to
24 the department of public safety for use by the office of preparedness. This
25 appropriation is from reappropriated funds in the law enforcement, public
26 safety, and criminal justice information sharing grant program fund under
27 subsection (1) of this section and is based on an assumption that the office

1 will require an additional 0.7 FTE. To implement this act, the office may
2 use the appropriation for program administration.

3 **SECTION 5. Safety clause.** The general assembly hereby finds,
4 determines, and declares that this act is necessary for the immediate
5 preservation of the public peace, health, and safety.