

HB26-1123

HOUSE FLOOR AMENDMENT

Second Reading

BY REPRESENTATIVE Stewart K.

1 Amend printed bill, page 5, before line 7, insert:

2 "SECTION 3. In Colorado Revised Statutes, add 17-26-103.5 as
3 follows:

4 **17-26-103.5. Strip searches in jails - definitions.**

5 (1) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE
6 REQUIRES:

7 (a) "LOCAL DETENTION FACILITY" MEANS A COUNTY JAIL OR A
8 FACILITY OPERATED BY A CITY, CITY AND COUNTY, OR TOWN FOR THE
9 PURPOSES OF CONFINING PERSONS CHARGED WITH OR CONVICTED OF
10 VIOLATIONS OF MUNICIPAL ORDINANCES.

11 (b) "PERSONNEL" MEANS A PEACE OFFICER, NONCERTIFIED DEPUTY
12 SHERIFF, OR EMPLOYEE OR CONTRACTOR OF A LOCAL DETENTION FACILITY
13 OR MUNICIPAL AGENCY WHO IS AUTHORIZED BY FACILITY OR AGENCY
14 POLICY TO PERFORM A STRIP SEARCH.

15 (c) "STRIP SEARCH" MEANS HAVING PERSONNEL REMOVE OR
16 ARRANGE SOME OR ALL OF A PERSON'S CLOTHING SO AS TO PERMIT A
17 VISUAL INSPECTION OF THE GENITALS, BUTTOCKS, ANUS, OR FEMALE
18 BREASTS OF THE PERSON.

19 (2) PERSONNEL SHALL ONLY CONDUCT A STRIP SEARCH ON A
20 PERSON WHO IS DETAINED IN A LOCAL DETENTION FACILITY IF:

21 (a) THE LOCAL DETENTION FACILITY IS CONDUCTING INTAKE OF AN
22 ARRESTED PERSON AND CONDUCTING STRIP SEARCHES UPON INTAKE IS THE
23 LOCAL DETENTION FACILITY'S POLICY; OR

24 (b) TWO PERSONNEL HAVE MADE INDEPENDENT DETERMINATIONS
25 AND REASONABLY BELIEVE AN INMATE IS CONCEALING A WEAPON OR A
26 CONTROLLED SUBSTANCE ON THE INMATE'S PERSON.

27 (3) PERSONNEL CONDUCTING A STRIP SEARCH SHALL DOCUMENT
28 IN A REPORT THE REASON FOR THE STRIP SEARCH AND THE RESULTS OF THE
29 STRIP SEARCH.

30 (4) NOTWITHSTANDING SECTION 24-31-902, PERSONNEL SHALL
31 NOT CONDUCT A STRIP SEARCH WITH THEIR BODY-WORN CAMERA
32 ACTIVATED.

33 (5) ON OR BEFORE JANUARY 31 OF EACH YEAR, EACH LOCAL
34 DETENTION FACILITY SHALL SUBMIT A REPORT TO THE JAIL STANDARDS
35 ADVISORY COMMITTEE CREATED IN SECTION 30-10-530 AND THE
36 COLORADO ATTORNEY GENERAL STATING THE NUMBER OF STRIP
37 SEARCHES THAT OCCURRED IN THE FACILITY IN THE LAST CALENDAR YEAR
38 AND THE REASON FOR AND THE RESULT OF EACH STRIP SEARCH."

39 Renumber succeeding sections accordingly.

1 Page 6, strike lines 3 through 5.

2 Reletter succeeding paragraphs accordingly.

3 Page 7, strike lines 16 through 27.

4 Page 8, strike lines 1 through 4.

5 Page 13, strike lines 2 through 8 and substitute:

6 **"SECTION 7.** In Colorado Revised Statutes, 24-31-902, **amend**
7 (1)(a)(III); and **add** (1)(a)(II)(F) as follows:

8 **24-31-902. Incident recordings - release - tampering - fine.**

9 (1) (a) (II) (F) A PEACE OFFICER SHALL NOT WEAR OR ACTIVATE A
10 BODY-WORN CAMERA IF THE PEACE OFFICER IS CONDUCTING A STRIP
11 SEARCH UNLESS NO OVERHEAD CAMERA IS AVAILABLE AND RECORDING IN
12 THE SPACE THE PEACE OFFICER IS CONDUCTING THE STRIP SEARCH.

13 (III) If a peace officer fails to activate a body-worn camera or
14 dash camera as required by this section or tampers with body-worn- or
15 dash-camera footage or operation when required to activate the camera,
16 there is a permissive inference in any investigation or legal proceeding,
17 excluding criminal proceedings against the peace officer, that the missing
18 footage would have reflected misconduct by the peace officer. If a peace
19 officer fails to activate or reactivate his or her body-worn camera as
20 required by this section or tampers with body-worn- or dash-camera
21 footage or operation when required to activate the camera, any statements
22 or conduct sought to be introduced in a prosecution through the peace
23 officer related to the incident that were not recorded due to the peace
24 officer's failure to activate or reactivate the body-worn camera as required
25 by this section or if the statement or conduct was not recorded by other
26 means creates a rebuttable presumption of inadmissibility.
27 Notwithstanding any other provision of law, this subsection (1)(a)(III)
28 does not apply:

29 (A) If the body-worn camera was not activated due to a
30 malfunction of the body-worn camera and the peace officer was not
31 aware of the malfunction, or was unable to rectify it, prior to the incident,
32 provided that the law enforcement agency's documentation shows the
33 peace officer checked the functionality of the body-worn camera at the
34 beginning of his or her shift; OR

35 (B) IF THE PEACE OFFICER TURNED THEIR BODY-WORN CAMERA
36 OFF IN COMPLIANCE WITH (1)(a)(II)(F) OF THIS SECTION."

37 Page 13, strike lines 24 through 26 and substitute "18-3-402; UNLAWFUL

1 SEXUAL CONTACT, AS DESCRIBED IN SECTION 18-3-404; OR INVASION OF
2 PRIVACY FOR SEXUAL GRATIFICATION, AS DESCRIBED IN SECTION
3 18-3-405.6, AND THE ACT INVOLVED A PERSON IN THE CUSTODY OF A
4 LOCAL DETENTION FACILITY."

5 Page 14, strike lines 1 through 18 and substitute:

6 "REQUIRES, "LOCAL DETENTION FACILITY" MEANS A COUNTY JAIL OR A
7 FACILITY OPERATED BY A CITY, CITY AND COUNTY, OR TOWN FOR THE
8 PURPOSES OF CONFINING PERSONS CHARGED WITH OR CONVICTED OF
9 VIOLATIONS OF MUNICIPAL ORDINANCES."

10 Renumber succeeding section accordingly.

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