

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.

An Act

SENATE BILL 26-190

BY SENATOR(S) Coleman and Weissman, Amabile, Benavidez, Cutter, Danielson, Exum, Gonzales J., Hinrichsen, Jodeh, Kipp, Marchman, Sullivan;
also REPRESENTATIVE(S) Bacon and English, Carter, Clifford, Jackson, Joseph, Lindsay, Mabrey, Marshall, Nguyen, Sirota, Woodrow, Zokaie.

CONCERNING RELEASING INFORMATION RELATED TO INCIDENTS INVOLVING
A PEACE OFFICER'S USE OF FORCE THAT RESULTS IN DEATH.

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

SECTION 1. Legislative declaration. (1) The general assembly finds and declares that:

(a) A peace officer's use of force that results in death requires heightened transparency to maintain public trust;

(b) Colorado law requires a multi-agency investigation of a peace officer's use of force that results in death or a peace officer's discharge of a firearm that results in injury or death; and

(c) The family of a person who dies because of a peace officer's use

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.

of force has a compelling interest in timely access to information about the incident.

SECTION 2. In Colorado Revised Statutes, 24-31-901, **add** (1.5), (1.7), (2.8), and (5.5) as follows:

24-31-901. Definitions.

As used in this part 9, unless the context otherwise requires:

(1.5) "DECEDENT" MEANS A PERSON WHOSE DEATH IS CAUSED BY A PEACE OFFICER'S USE OF FORCE.

(1.7) "DECEDENT'S IMMEDIATE FAMILY" MEANS THE SPOUSE, A CHILD BY BIRTH OR ADOPTION, A STEPCHILD, THE PARENT, THE STEPPARENT, A SIBLING, A LEGAL GUARDIAN, A SIGNIFICANT OTHER, OR A LAWFUL REPRESENTATIVE OF THE DECEDENT.

(2.8) "LAWFUL REPRESENTATIVE" MEANS A PERSON WHO IS DESIGNATED BY A DECEDENT OR APPOINTED BY THE COURT TO ACT IN THE BEST INTERESTS OF THE DECEDENT.

(5.5) "SIGNIFICANT OTHER" MEANS A PERSON WHO IS IN A FAMILY-TYPE LIVING ARRANGEMENT WITH A DECEDENT AND WHO WOULD CONSTITUTE A SPOUSE OF THE DECEDENT IF THE DECEDENT AND THE PERSON WERE MARRIED.

SECTION 3. In Colorado Revised Statutes, 24-31-902, **amend** (2)(a) and (2)(b)(I) as follows:

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

(2) (a) (I) For all incidents in which there is a complaint TO THE LAW ENFORCEMENT AGENCY INVOLVED IN ALLEGED MISCONDUCT of peace officer misconduct ~~by another peace officer, a civilian, or nonprofit organization;~~ ~~through notice to~~ THAT DOES NOT RESULT IN A DECEDENT'S DEATH, the law enforcement agency ~~involved in the alleged misconduct, the local law enforcement agency or the Colorado state patrol~~ THAT EMPLOYS THE PEACE OFFICER shall release, upon request OF ANY PERSON, all unedited video and audio recordings of the incident, including those from body-worn cameras,

dash cameras, or otherwise collected through investigation, to the public PERSON WHO MADE THE REQUEST within twenty-one days after the local law enforcement agency or the Colorado state patrol received the request for release of the video or audio recordings THE REQUEST.

(II) FOR ALL INCIDENTS IN WHICH THERE IS A COMPLAINT OF PEACE OFFICER MISCONDUCT TO THE LAW ENFORCEMENT AGENCY INVOLVED IN THE ALLEGED MISCONDUCT ARISING FROM A PEACE OFFICER'S USE OF FORCE THAT RESULTS IN A DECEDENT'S DEATH, THE LAW ENFORCEMENT AGENCY THAT EMPLOYS THE PEACE OFFICER SHALL RELEASE, UPON REQUEST OF ANY PERSON, ALL UNEDITED VIDEO AND AUDIO RECORDINGS OF THE INCIDENT, INCLUDING THOSE FROM BODY-WORN CAMERAS, DASH CAMERAS, OR OTHERWISE COLLECTED THROUGH INVESTIGATION, TO THE PERSON WHO MADE THE REQUEST FOLLOWING THE EXPIRATION OF THE TWENTY-ONE-DAY PERIOD DESCRIBED IN SUBSECTION (2)(b)(I) OF THIS SECTION.

(III) UPON COMPLETION OF AN INTERNAL INVESTIGATION, INCLUDING ANY APPEALS PROCESS, THAT EXAMINES AN INCIDENT OF USE OF FORCE BY A PEACE OFFICER THAT RESULTS IN DEATH; THE COMPLETION OF THE INVESTIGATION OF A USE OF FORCE BY A PEACE OFFICER THAT RESULTS IN DEATH BY THE MULTI-AGENCY TEAM DESCRIBED IN SECTION 16-25-302 AND THE ISSUANCE OF THE REPORT REQUIRED BY SECTION 20-1-114; AND THE COMPLETION OF A CRIMINAL CASE ARISING FROM THE INCIDENT, INCLUDING ANY APPEALS, THE VIDEO AND AUDIO RECORDINGS DEPICTING THE DEATH SHALL BE RELEASED TO THE DECEDENT'S IMMEDIATE FAMILY AND A PERSON DESIGNATED BY THE DECEDENT'S IMMEDIATE FAMILY, UPON REQUEST, NOTWITHSTANDING THE REQUIREMENTS OF SECTION 24-31-902 (2)(b)(III) AND SECTION 24-31-902 (2)(c).

(b) (I) FOR ALL INCIDENTS IN WHICH THE USE OF FORCE BY A PEACE OFFICER RESULTS IN A DECEDENT'S DEATH, THE LAW ENFORCEMENT AGENCY THAT EMPLOYS THE PEACE OFFICER SHALL MAKE REASONABLE EFFORTS TO IDENTIFY THE DECEDENT'S IMMEDIATE FAMILY AND PROVIDE all video and audio recordings depicting a THE DECEDENT'S death ~~must be provided upon request to the victim's spouse, parent, legal guardian, child, sibling, grandparent, grandchild, significant other, or other lawful representative, and such~~ TO EACH IDENTIFIED MEMBER OF THE DECEDENT'S IMMEDIATE FAMILY AND A PERSON DESIGNATED BY THE DECEDENT'S IMMEDIATE FAMILY, UNLESS THE FAMILY MEMBER OR DESIGNATED PERSON DECLINES, WITHIN TWENTY-ONE DAYS AFTER THE INCIDENT. THE person shall be notified of his

~~or her~~ THEIR right, pursuant to section 24-4.1-302.5 (1)(j.8), to receive and review the recording at least seventy-two hours prior to A public disclosure MADE PURSUANT TO SUBSECTION (2)(a)(II) OF THIS SECTION. ~~A person seventeen years of age and under is considered incapacitated, unless legally emancipated.~~

SECTION 4. In Colorado Revised Statutes, **repeal and reenact, with amendments,** part 3 of article 2.5 of title 16 as follows:

PART 3
PEACE OFFICER USE OF FORCE
INVESTIGATIONS AND PROCEDURES

16-2.5-301. Definitions.

AS USED IN THIS PART 3, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "DECEDENT" MEANS A PERSON WHOSE DEATH IS CAUSED BY A PEACE OFFICER'S USE OF FORCE.

(2) "DECEDENT'S IMMEDIATE FAMILY" MEANS THE SPOUSE, ANY CHILD BY BIRTH OR ADOPTION, ANY STEPCHILD, THE PARENT, THE STEPPARENT, A SIBLING, A LEGAL GUARDIAN, A SIGNIFICANT OTHER, OR A LAWFUL REPRESENTATIVE OF THE DECEDENT.

16-2.5-302. Peace officer actions leading to injury or death investigations - protocol - notification to decedent's immediate family.

(1) (a) EACH POLICE DEPARTMENT, SHERIFF'S OFFICE, AND DISTRICT ATTORNEY WITHIN THE STATE SHALL MAINTAIN PROTOCOLS FOR PARTICIPATING IN A MULTI-AGENCY TEAM, WHICH MUST INCLUDE AT LEAST ONE OTHER POLICE DEPARTMENT OR SHERIFF'S OFFICE, OR THE COLORADO BUREAU OF INVESTIGATION, IN CONDUCTING ANY INVESTIGATION, EVALUATION, OR REVIEW OF AN INCIDENT INVOLVING THE DISCHARGE OF A FIREARM BY A PEACE OFFICER THAT RESULTED IN INJURY OR DEATH, OR OTHER USE OF FORCE BY A PEACE OFFICER THAT RESULTED IN DEATH. THE LAW ENFORCEMENT AGENCIES PARTICIPATING NEED NOT BE FROM THE SAME JUDICIAL DISTRICT.

(b) EACH LAW ENFORCEMENT AGENCY SHALL POST THE PROTOCOL

ON ITS WEBSITE OR, IF IT DOES NOT HAVE A WEBSITE, MAKE IT PUBLICLY AVAILABLE UPON REQUEST.

(2) THE LAW ENFORCEMENT AGENCY THAT EMPLOYS THE PEACE OFFICER OR THE MULTI-AGENCY TEAM INVESTIGATING AN INCIDENT INVOLVING THE PEACE OFFICER'S USE OF FORCE THAT RESULTS IN DEATH SHALL NOTIFY EACH PERSON IN THE DECEDENT'S IMMEDIATE FAMILY KNOWN TO THE EMPLOYING LAW ENFORCEMENT AGENCY, AND A PERSON DESIGNATED BY THE DECEDENT'S IMMEDIATE FAMILY, ABOUT THE INVESTIGATION OF THE INCIDENT. THE NOTIFICATION MUST OCCUR WITHIN TWENTY-FOUR HOURS AFTER THE SCENE OF THE INCIDENT IS CLEARED AND MUST INCLUDE THE FOLLOWING INFORMATION:

(a) THE NAMES OF ALL LAW ENFORCEMENT AGENCIES THAT COMPRISE THE MULTI-AGENCY TEAM DESCRIBED IN SUBSECTION (1) OF THIS SECTION THAT IS INVESTIGATING THE USE OF FORCE; AND

(b) THE STATUS OF THE INVESTIGATION.

16-2.5-303. Extrajudicial statement concerning use of force - requirements for videos released to the public.

(1) A PEACE OFFICER WHO IS PARTICIPATING OR HAS PARTICIPATED IN THE INVESTIGATION OF A CRIMINAL MATTER INVOLVING THE USE OF FORCE BY ANOTHER PEACE OFFICER THAT RESULTS IN DEATH SHALL NOT MAKE AN EXTRAJUDICIAL STATEMENT ON BEHALF OF A LAW ENFORCEMENT AGENCY THAT THE PEACE OFFICER KNOWS OR REASONABLY SHOULD KNOW WILL BE DISSEMINATED BY MEANS OF PUBLIC COMMUNICATION AND WILL HAVE A SUBSTANTIAL LIKELIHOOD OF MATERIALLY PREJUDICING AN ADJUDICATIVE PROCEEDING IN THE MATTER.

(2) THE FOLLOWING EXTRAJUDICIAL STATEMENTS ARE PRESUMED TO HAVE A SUBSTANTIAL LIKELIHOOD OF MATERIALLY PREJUDICING AN ADJUDICATIVE PROCEEDING IN A CRIMINAL MATTER:

(a) SUBJECTIVE OBSERVATIONS, INCLUDING OBSERVATIONS ABOUT A DECEDENT'S OR WITNESS'S CHARACTER OR CREDIBILITY;

(b) OPINIONS THAT A DECEDENT OR A WITNESS IS GUILTY OF A CRIME;
AND

(c) INFORMATION CONCERNING THE PRIOR CRIMINAL RECORD OF A DECEDENT OR A WITNESS.

(3) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION, FOR THE PURPOSES OF THIS SECTION, A PEACE OFFICER DOES NOT MAKE AN EXTRAJUDICIAL STATEMENT BY PROVIDING:

(a) INFORMATION CONTAINED IN A PUBLIC RECORD;

(b) THE IDENTITY, AGE, RESIDENCE, OCCUPATION, AND FAMILY STATUS OF AN ACCUSED PERSON;

(c) THE TYPE OF CALL AS REPORTED; THE CHARGES INCLUDED IN A COMPLAINT, INDICTMENT, OR INFORMATION; AND THE APPROXIMATE LOCATION OF THE OFFENSE;

(d) THAT AN INVESTIGATION OF A CRIMINAL MATTER IS IN PROGRESS, THE IDENTITY OF THE INVESTIGATING AND ARRESTING OFFICERS OR AGENCIES, AND THE LENGTH OF THE INVESTIGATION;

(e) THE SCHEDULING OR RESULT OF AN OFFICIAL ACTION, INCLUDING THE AMOUNT OF BOND;

(f) A REQUEST FOR ASSISTANCE IN OBTAINING EVIDENCE AND INFORMATION NECESSARY TO THE INVESTIGATION;

(g) A WARNING OF DANGER CONCERNING THE BEHAVIOR OF A PERSON INVOLVED WHEN THERE IS REASON TO BELIEVE THAT THE LIKELIHOOD OF SUBSTANTIAL HARM TO AN INDIVIDUAL OR TO THE PUBLIC INTEREST EXISTS;

(h) THE FACT, TIME, AND PLACE OF ARREST AND THE CIRCUMSTANCES IMMEDIATELY SURROUNDING THE ARREST, INCLUDING RESISTANCE, PURSUIT, AND POSSESSION AND USE OF WEAPONS, AND A DESCRIPTION OF PHYSICAL ITEMS SEIZED AT THE TIME OF ARREST;

(i) IF THE ACCUSED HAS NOT BEEN APPREHENDED, INFORMATION NECESSARY TO AID IN THE APPREHENSION OF THAT PERSON, INCLUDING THE ISSUANCE OF ANY WARRANTS; AND

(j) INFORMATION THAT THE PEACE OFFICER REASONABLY BELIEVES IS IN THE INTEREST OF THE FAIR ADMINISTRATION OF JUSTICE AND THE LAW ENFORCEMENT PROCESS IN A PARTICULAR CASE, WITH THE PRIOR WRITTEN APPROVAL OF THE CHIEF OF POLICE, SHERIFF, OR CHIEF LAW ENFORCEMENT OFFICER OF THE AGENCY. PRIOR WRITTEN APPROVAL IS NOT REQUIRED IF THE CHIEF OF POLICE, SHERIFF, OR CHIEF LAW ENFORCEMENT OFFICER OF THE AGENCY IS PROVIDING THE INFORMATION.

(4) THE PRODUCTION OF A VIDEO FOR PURPOSES OF A COMMUNITY OR CRITICAL INCIDENT BRIEFING MUST PROVIDE A DISCLAIMER INDICATING THAT THE RECORDING HAS BEEN MODIFIED FROM ITS ORIGINAL FORM. NARRATION OR TEXT MUST BE LIMITED TO THE FACTS OF THE INCIDENT KNOWN AT THE TIME OF THE RECORDING AND MUST NOT INCLUDE EDITORIAL COMMENTARY THAT IS OPINION OR THAT PROVIDES A LEGAL CONCLUSION AS TO CRIMINALITY, LIABILITY, OR MISCONDUCT. AUGMENTATION OR ENHANCEMENT TO HIGHLIGHT ASPECTS OF A VIDEO, AS WELL AS BLURRING DONE TO PROTECT SUBSTANTIAL PRIVACY INTERESTS, MUST BE READILY PERCEPTIBLE OR INDICATED BY AN APPROPRIATE DISCLAIMER.

SECTION 5. In Colorado Revised Statutes, 24-4.1-302.5, **amend** (1)(j.8) as follows:

24-4.1-302.5. Rights afforded to victims - definitions.

(1) In order to preserve and protect a victim's rights to justice and due process, each victim of a crime has the following rights:

(j.8) The right ~~upon request~~, to obtain any incident recording as described in section 24-31-902;

SECTION 6. In Colorado Revised Statutes, 20-1-114, **amend** (1) as follows:

20-1-114. Peace officer-involved shooting investigations - disclosure.

(1) The district attorney shall, if no criminal charges are filed following the completion of an investigation pursuant to ~~section 16-2.5-301, C.R.S.~~, SECTION 16-2.5-302, release a report and publicly disclose the report explaining the district attorney's findings, including the basis for the

decision not to charge the officer with any criminal conduct. The district attorney shall post the written report on its website or, if it does not have a website, make it publicly available upon request.

SECTION 7. 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.

James Rashad Coleman, Sr.
PRESIDENT OF
THE SENATE

Julie McCluskie
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Esther van Mourik
SECRETARY OF
THE SENATE

Vanessa Reilly
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

APPROVED _____
(Date and Time)

Jared S. Polis
GOVERNOR OF THE STATE OF COLORADO