

HOUSE JOURNAL
SEVENTIETH GENERAL ASSEMBLY
STATE OF COLORADO
Second Regular Session

Thirty-first Legislative Day

Friday, February 12, 2016

1 Prayer by Priest K.C. Upa-Dhaya, Hindu Temple of the Rockies,
2 Centennial.

3

4 The Speaker called the House to order at 9:00 a.m.

5

6 Pledge of Allegiance led by Alexandra Saine, Jessi Bird, Madison
7 Sandoval, Natalie Van Tol, American Heritage Girls #3125, Firestone.

8

9 The roll was called with the following result:

10

11 Present--62.

12 Excused--Representative(s) Becker J., Dore, Williams--3.

13

Present after roll call--Representative(s) Williams.

14

15 The Speaker declared a quorum present.

16

17

18 On motion of Representative Esgar, the reading of the journal of
19 February 11, 2016, was declared dispensed with and approved as
20 corrected by the Chief Clerk.

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25

CONSIDERATION OF RESOLUTION(S)

26

27 [HJR16-1008](#) by Representative(s) Joshi and Ginal, Priola, Arndt,
28 Becker J., Becker K., Brown, Buck, Buckner, Carver,
29 Conti, Coram, Court, Danielson, DelGrosso, Dore,
30 Esgar, Everett, Fields, Foote, Garnett, Hulinghorst,
31 Humphrey, Kagan, Klingenschmitt, Kraft-Tharp,
32 Landgraf, Lawrence, Lee, Leonard, Lundeen, McCann,
33 Melton, Moreno, Navarro, Neville P., Nordberg,
34 Primavera, Rankin, Ransom, Rosenthal, Roupe, Ryden,
35 Saine, Salazar, Sias, Thurlow, Tyler, Van Winkle,
36 Willett, Wilson, Windholz, Winter, Wist; also Senator(s)
37 Lambert--Concerning honoring the life of Mahatma
38 Gandhi.

39

40 (Printed and placed in members' file)

41

1 On motion of Representative Joshi, the resolution was read at length and
2 **adopted** by **viva voce** vote.

3
4 Current Roll Call added as co-sponsor(s): Representative(s) Duran, Hamner,
5 Lebsock, Lontine, Mitsch Bush, Pabon, Pettersen, Singer, Vigil, Young.

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8 House in recess. House reconvened.

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12 **REPORT(S) OF COMMITTEE(S) OF REFERENCE**

13

14 **BUSINESS AFFAIRS & LABOR**

15 After consideration on the merits, the Committee recommends the
16 following:

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18 **HB16-1007** be postponed indefinitely.

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21 **HB16-1151** be referred to the Committee of the Whole with favorable
22 recommendation.

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27 **HEALTH, INSURANCE & ENVIRONMENT**

28 After consideration on the merits, the Committee recommends the
29 following:

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31 **HB16-1113** be postponed indefinitely.

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34 **HB16-1137** be postponed indefinitely.

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38

39 **JUDICIARY**

40 After consideration on the merits, the Committee recommends the
41 following:

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43 **HB16-1063** be amended as follows, and as so amended, be referred to
44 the Committee of the Whole with favorable
45 recommendation:

46

47 Amend printed bill, strike everything below the enacting clause and
48 substitute:

49

50 "SECTION 1. In Colorado Revised Statutes, 12-43-218, **add** (2)
51 (d) as follows:

52 **12-43-218. Disclosure of confidential communications -**
53 **definition - repeal.** (2) Subsection (1) of this section does not apply
54 when:

55

56

(d) (I) A CLIENT, REGARDLESS OF AGE:

(A) MAKES AN ARTICULABLE AND SIGNIFICANT THREAT AGAINST

1 A SCHOOL OR THE OCCUPANTS OF A SCHOOL; OR

2 (B) EXHIBITS BEHAVIORS THAT, IN THE REASONABLE JUDGMENT
3 OF THE LICENSEE, REGISTRANT, OR CERTIFICATE HOLDER, CREATE AN
4 ARTICULABLE AND SIGNIFICANT THREAT TO THE HEALTH OR SAFETY OF
5 STUDENTS, TEACHERS, ADMINISTRATORS, OR OTHER SCHOOL PERSONNEL.

6 (II) A LICENSEE, REGISTRANT, OR CERTIFICATE HOLDER WHO
7 DISCLOSES INFORMATION UNDER THIS PARAGRAPH (d) SHALL LIMIT THE
8 DISCLOSURE TO APPROPRIATE SCHOOL OR SCHOOL DISTRICT PERSONNEL
9 AND LAW ENFORCEMENT AGENCIES. SCHOOL OR SCHOOL DISTRICT
10 PERSONNEL TO WHOM THE INFORMATION IS DISCLOSED SHALL MAINTAIN
11 CONFIDENTIALITY OF THE DISCLOSED INFORMATION, REGARDLESS OF
12 WHETHER THE INFORMATION CONSTITUTES AN EDUCATION RECORD
13 SUBJECT TO FERPA, CONSISTENT WITH THE REQUIREMENTS OF FERPA
14 AND REGULATIONS AND APPLICABLE GUIDELINES ADOPTED UNDER
15 FERPA, BUT MAY DISCLOSE INFORMATION IN ACCORDANCE WITH SECTION
16 1232g (b) (1) OF FERPA AND 34 CFR 99.36 IF NECESSARY TO PROTECT
17 THE HEALTH OR SAFETY OF STUDENTS OR OTHER PERSONS.

18 (III) A LICENSEE, REGISTRANT, OR CERTIFICATE HOLDER WHO
19 DISCLOSES OR FAILS TO DISCLOSE A CONFIDENTIAL COMMUNICATION WITH
20 A CLIENT IN ACCORDANCE WITH THIS PARAGRAPH (d) IS NOT LIABLE FOR
21 DAMAGES IN ANY CIVIL ACTION FOR DISCLOSING OR NOT DISCLOSING THE
22 COMMUNICATION. THIS SUBPARAGRAPH (III) DOES NOT RESCIND ANY
23 STATUTORY DUTY TO WARN AND PROTECT SPECIFIED IN, AND DOES NOT
24 ELIMINATE ANY POTENTIAL CIVIL LIABILITY FOR FAILURE TO COMPLY
25 WITH, SECTION 13-21-117, C.R.S.

26 (IV) (A) THIS PARAGRAPH (d) DOES NOT APPLY TO AN EDUCATION
27 RECORD THAT, UNDER FERPA, IS EXEMPT FROM THE HIPAA PRIVACY
28 RULE.

29 (B) NOTWITHSTANDING SUBSECTION (6) OF THIS SECTION, THIS
30 PARAGRAPH (d) APPLIES TO COVERED ENTITIES, AS DEFINED IN HIPAA.

31 (V) AS USED IN THIS PARAGRAPH (d):

32 (A) "ARTICULABLE AND SIGNIFICANT THREAT" MEANS A THREAT
33 TO THE HEALTH OR SAFETY OF A PERSON THAT, BASED ON THE TOTALITY
34 OF THE CIRCUMSTANCES, CAN BE EXPLAINED OR ARTICULATED AND THAT
35 CONSTITUTES A THREAT OF SUBSTANTIAL BODILY HARM TO A PERSON.

36 (B) "FERPA" MEANS THE FEDERAL "FAMILY EDUCATION RIGHTS
37 AND PRIVACY ACT OF 1974", 20 U.S.C. SEC. 1232g.

38 (C) "HIPAA" MEANS THE FEDERAL "HEALTH INSURANCE
39 PORTABILITY AND ACCOUNTABILITY ACT OF 1996", AS AMENDED, PUB.L.
40 104-191.

41 (D) "SCHOOL" MEANS A PUBLIC OR PRIVATE PRESCHOOL;
42 ELEMENTARY, MIDDLE, JUNIOR HIGH, OR HIGH SCHOOL; OR INSTITUTION OF
43 POSTSECONDARY EDUCATION DESCRIBED IN TITLE 23, C.R.S., INCLUDING
44 THE AURARIA HIGHER EDUCATION CENTER CREATED IN ARTICLE 70 OF
45 TITLE 23, C.R.S.

46 (VI) (A) THIS PARAGRAPH (d) TAKES EFFECT ONLY IF, IN
47 ACCORDANCE WITH SECTION 26-1-140, C.R.S., THE DEPARTMENT OF
48 HUMAN SERVICES APPLIES FOR AND IS GRANTED AN EXCEPTION TO THE
49 PRIVACY RULE UNDER HIPAA.

50 (B) THIS SUBPARAGRAPH (VI) IS REPEALED IF THE SECRETARY OF
51 THE FEDERAL DEPARTMENT OF HEALTH AND HUMAN SERVICES GRANTS THE
52 EXCEPTION TO THE PRIVACY RULE UNDER HIPAA. THE EXECUTIVE
53 DIRECTOR OF THE DEPARTMENT OF HUMAN SERVICES SHALL NOTIFY THE
54 REVISOR OF STATUTES IN WRITING IF THE CONDITION SPECIFIED IN THIS
55 SUB-SUBPARAGRAPH (B) OCCURS.

56 (C) THIS PARAGRAPH (d) IS REPEALED IF THE SECRETARY OF THE

1 FEDERAL DEPARTMENT OF HEALTH AND HUMAN SERVICES DENIES THE
2 REQUEST FOR AN EXCEPTION TO THE PRIVACY RULE UNDER HIPAA. THE
3 EXECUTIVE DIRECTOR OF THE DEPARTMENT OF HUMAN SERVICES SHALL
4 NOTIFY THE REVISOR OF STATUTES IN WRITING IF THE CONDITION
5 SPECIFIED IN THIS SUB-SUBPARAGRAPH (C) OCCURS.

6 **SECTION 2.** In Colorado Revised Statutes, add 26-1-140 as
7 follows:

8 **26-1-140. State exception to HIPAA - significant threat to**
9 **schools - legislative declaration - repeal.** (1) THE GENERAL ASSEMBLY
10 HEREBY DECLARES THAT, FOR THE HEALTH AND SAFETY OF COLORADO
11 SCHOOLS AND THEIR STUDENTS, TEACHERS, AND OTHER SCHOOL
12 PERSONNEL, A POLICY ENABLING MENTAL HEALTH PROFESSIONALS AND
13 SCHOOL OFFICIALS TO SHARE APPROPRIATE INFORMATION IN A
14 RESPONSIBLE MANNER IS NECESSARY AND SERVES A COMPELLING NEED
15 RELATED TO PUBLIC HEALTH, SAFETY, AND WELFARE. FURTHERMORE, THE
16 GENERAL ASSEMBLY DECLARES THAT SHARING APPROPRIATE
17 INFORMATION IS WARRANTED WHEN LEGITIMATE PRIVACY CONCERNS ARE
18 OUTWEIGHED BY THE NEED TO PROTECT SCHOOLS AND THEIR STUDENTS
19 AND STAFF.

20 (2) WITHIN THIRTY DAYS AFTER THE EFFECTIVE DATE OF THIS
21 SECTION, THE DEPARTMENT OF HUMAN SERVICES SHALL APPLY FOR AN
22 EXCEPTION TO THE PRIVACY RULE UNDER THE FEDERAL "HEALTH
23 INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996" (HIPAA),
24 AS AMENDED, PUB.L. 104-191, IN THE MANNER SPECIFIED IN 45 CFR
25 160.204, TO ALLOW MENTAL HEALTH PROFESSIONALS TO DISCLOSE
26 CONFIDENTIAL COMMUNICATIONS WITH THEIR CLIENTS IN ACCORDANCE
27 WITH SECTION 12-43-218 (2) (d), C.R.S.

28 (3) THIS SECTION IS REPEALED, EFFECTIVE DECEMBER 31, 2017.

29 **SECTION 3. Safety clause.** The general assembly hereby finds,
30 determines, and declares that this act is necessary for the immediate
31 preservation of the public peace, health, and safety."
32
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34

35 **HB16-1072** be postponed indefinitely.
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38 **HB16-1117** be amended as follows, and as so amended, be referred to
39 the Committee on Appropriations with favorable
40 recommendation:
41

42 Amend printed bill, page 2, line 7, strike "JANUARY 1, 2016," and
43 substitute "JULY 1, 2017,".
44

45 Page 4, line 6, strike "JANUARY 1," and substitute "JULY 1,".
46

47 Page 5, line 6, strike "January 1," and substitute "July 1,".
48
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51 **HB16-1260** be referred to the Committee of the Whole with favorable
52 recommendation.
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1 **LOCAL GOVERNMENT**

2 After consideration on the merits, the Committee recommends the
3 following:

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5 **HB16-1040** be amended as follows, and as so amended, be referred to
6 the Committee on Appropriations with favorable
7 recommendation:

8
9 Amend printed bill, page 6, line 15, strike "16-___," and substitute
10 "16-1040,".

11
12 Page 7, line 21, strike "EMERGENCY OR DISASTER" and substitute
13 "AUXILIARY EMERGENCY".

14
15 Page 8, strike lines 11 through 13 and substitute "REGULATION, OR PLAN.
16 NO OTHER INDIVIDUAL, ENTITY, ASSOCIATION, OR GOVERNMENT AGENCY
17 MAY REPRESENT THAT IT IS A STATE RACES ORGANIZATION.".

18
19 Page 8, line 26, strike "PHOTO IDENTIFICATION" and substitute "A
20 CREDENTIAL".

21
22 Page 10, strike lines 15 through 27.

23
24 Page 11, strike lines 1 through 3.

25
26 Renumber succeeding sections accordingly.

27
28 Page 12, line 26, strike "AMATEUR" and substitute "AMERICAN".

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31
32 **HB16-1118** be referred to the Committee of the Whole with favorable
33 recommendation.

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38 **TRANSPORTATION & ENERGY**

39 After consideration on the merits, the Committee recommends the
40 following:

41
42 **HB16-1031** be amended as follows, and as so amended, be referred to
43 the Committee on Appropriations with favorable
44 recommendation:

45
46 Amend printed bill, page 2, line 2, strike "43-2-145.7" and substitute
47 "43-1-123".

48
49 Page 2, strike lines 4 through 15.

50
51 Page 3, strike lines 1 through 26 and substitute:

52
53 **"43-1-123. Study of transportation commission districts.** NO
54 LATER THAN AUGUST 1, 2016, LEGISLATIVE COUNCIL STAFF, WITH THE
55 COOPERATION OF THE DEPARTMENT, SHALL PREPARE AND PRESENT TO THE
56 TRANSPORTATION LEGISLATION REVIEW COMMITTEE A RESEARCH STUDY

1 OF THE COMMISSION DISTRICTS ESTABLISHED IN SECTION 43-1-106 (2).
 2 THE STUDY MUST DOCUMENT CHANGES SINCE THE LAST TIME THE
 3 GENERAL ASSEMBLY MODIFIED THE NUMBER AND BOUNDARIES OF THE
 4 COMMISSION DISTRICTS, INCLUDING CHANGES IN POPULATION, NUMBER OF
 5 LANE MILES, AND ANNUAL VEHICLE MILES TRAVELED FOR EACH OF THE
 6 DISTRICTS AND MUST TAKE INTO ACCOUNT EXISTING COUNTY AND
 7 MUNICIPAL BOUNDARIES, REGIONAL TRANSPORTATION AUTHORITIES AND
 8 DISTRICTS, AND TRANSPORTATION PLANNING REGIONS."
 9

10 Page 1, strike lines 101 through 104 and substitute "**CONCERNING A**
 11 **REQUIREMENT THAT LEGISLATIVE COUNCIL STAFF PRESENT A STUDY**
 12 **OF THE TRANSPORTATION COMMISSION DISTRICTS OF THE STATE TO**
 13 **THE TRANSPORTATION LEGISLATION REVIEW COMMITTEE.**"
 14
 15
 16

17 **HB16-1172** be referred favorably to the Committee on Appropriations.
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 22 **SIGNING OF BILLS--RESOLUTIONS--MEMORIALS**
 23
 24

25 The Speaker has signed: **SJM16-002, 003; SJR16-003**.
 26
 27

28
 29 **INTRODUCTION OF BILLS**
 30 **First Reading**
 31

32 The following bills were read by title and referred to the committees
 33 indicated:
 34

35 **HB16-1262** by Representative(s) Williams, Esgar, Melton, Salazar; also
 36 Senator(s) Cooke--Concerning measures to improve peace
 37 officer hiring, and, in connection therewith, requiring
 38 employment waivers as part of the background check
 39 process for a person applying for a position as a peace
 40 officer who has worked as an officer and giving the
 41 P.O.S.T. board the authority to deny certification to an
 42 applicant who entered into a deferred agreement.

43 Committee on Judiciary
 44

45 **HB16-1263** by Representative(s) Williams, Salazar, Becker K.,
 46 Buckner, Danielson, Duran, Esgar, Garnett, Hullinghorst,
 47 Kagan, Lee, McCann, Melton, Moreno, Pettersen,
 48 Rosenthal, Vigil, Winter; also Senator(s) Ulibarri--
 49 Concerning updates to the statutory prohibition on profiling
 50 by peace officers.

51 Committee on Judiciary
 52

53 **HB16-1264** by Representative(s) Melton, Esgar, Salazar, Williams--
 54 Concerning prohibiting the use of a chokehold by a peace
 55 officer.

56 Committee on Judiciary

1 **HB16-1265** by Representative(s) Melton and Esgar, Salazar--
2 Concerning expungement of arrest records based on
3 mistaken identity.

4 Committee on Judiciary
5

6 **HB16-1266** by Representative(s) Becker K.; also Senator(s) Cooke--
7 Concerning the department of revenue's authority over
8 marijuana that contains chemical contaminants.

9 Committee on Finance
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15 On motion of Representative Duran, the House adjourned until
16 10:00 a.m., February 16, 2016.

17
18 Approved:
19 DICKY LEE HULLINGHORST,
20 Speaker

21 Attest:
22 MARILYN EDDINS,
23 Chief Clerk

