

**First Regular Session  
Sixty-seventh General Assembly  
STATE OF COLORADO**

**REVISED**

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

LLS NO. 09-0282.01 Michael Dohr

**HOUSE BILL 09-1274**

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**HOUSE SPONSORSHIP**

**Weissmann,**

**SENATE SPONSORSHIP**

**Carroll M.,** Groff

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**House Committees**

Judiciary  
Appropriations

**Senate Committees**

State, Veterans & Military Affairs  
Appropriations

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**A BILL FOR AN ACT**

101 **CONCERNING CAPITAL CRIMES, AND MAKING AN APPROPRIATION IN**  
102 **CONNECTION THEREWITH.**

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**Bill Summary**

*(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)*

Repeals the death penalty in Colorado. Declares the intent of the general assembly to use the savings from the abolition of the death penalty to fund the cold case unit in the Colorado bureau of investigation. Makes conforming amendments.

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

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.  
*Capital letters indicate new material to be added to existing statute.  
Dashes through the words indicate deletions from existing statute.*

SENATE  
Am ended 2nd Reading  
May 4, 2009

HOUSE  
3rd Reading Unam ended  
April 21, 2009

HOUSE  
Am ended 2nd Reading  
April 15, 2009

1           SECTION 1. Part 4 of article 33.5 of title 24, Colorado Revised  
2           Statutes, is amended BY THE ADDITION OF A NEW SECTION to  
3           read:

4           24-33.5-416.5. Cold case investigation - fund. (1) THERE IS  
5           HEREBY CREATED IN THE STATE TREASURY THE COLD CASE INVESTIGATION  
6           FUND, REFERRED TO IN THIS SECTION AS THE "FUND". MONEYS IN THE  
7           FUND SHALL CONSIST OF COSTS AND SURCHARGES LEVIED PURSUANT TO  
8           THIS SECTION AND PAYMENTS FOR GENETIC TESTING RECEIVED FROM  
9           OFFENDERS PURSUANT TO SECTIONS 16-11-102.4, 18-1.3-407, AND  
10          19-2-925.6, C.R.S. SUBJECT TO ANNUAL APPROPRIATIONS BY THE  
11          GENERAL ASSEMBLY, THE EXECUTIVE DIRECTOR IS AUTHORIZED TO  
12          EXPEND MONEYS IN THE FUND TO PAY FOR THE INVESTIGATION OF CAPITAL  
13          COLD CASES AT THE END OF ANY FISCAL YEAR, ALL UNEXPENDED AND  
14          UNENCUMBERED MONEYS IN THE FUND SHALL REMAIN THEREIN AND SHALL  
15          NOT BE CREDITED OR TRANSFERRED TO THE GENERAL FUND OR ANY OTHER  
16          FUND.

17          (2) (a) A COST OF TWO DOLLARS AND FIFTY CENTS IS HEREBY  
18          LEVIED ON EACH CRIMINAL ACTION RESULTING IN A CONVICTION OR IN A  
19          DEFERRED JUDGMENT AND SENTENCE, AS PROVIDED IN SECTION  
20          18-1.3-102, C.R.S., FOR A FELONY, A MISDEMEANOR, OR MISDEMEANOR  
21          TRAFFIC OFFENSE, CHARGED PURSUANT TO STATE STATUTE. THE  
22          DEFENDANT SHALL PAY THE COSTS TO THE CLERK OF THE COURT. EACH  
23          CLERK SHALL TRANSMIT THE MONEYS TO THE STATE TREASURER, WHO  
24          SHALL CREDIT THE SAME TO THE FUND.

25          (b) THE PROVISIONS OF SECTIONS 18-1.3-701 AND 18-1.3-702,  
26          C.R.S., SHALL APPLY AS TO THE COLLECTION OF COSTS LEVIED PURSUANT  
27          TO THIS SUBSECTION (2).

1           (3) A SURCHARGE OF TWO DOLLARS AND FIFTY CENTS IS HEREBY  
2 LEVIED AGAINST EACH PENALTY ASSESSMENT NOTICE ISSUED PURSUANT  
3 TO SECTION 42-4-1701, C.R.S., FOR A MISDEMEANOR OR A CLASS 1 OR  
4 CLASS 2 MISDEMEANOR TRAFFIC OFFENSE UNDER STATE STATUTE THAT  
5 RESULTS IN PAYMENT OF THE PENALTY ASSESSMENT WITHOUT THE  
6 COMMENCEMENT OF A CRIMINAL ACTION. ALL MONEYS COLLECTED BY  
7 THE DEPARTMENT OF REVENUE PURSUANT TO THIS SUBSECTION (3) SHALL  
8 BE TRANSMITTED TO THE STATE TREASURER, WHO SHALL CREDIT THE  
9 SAME TO THE FUND.

10           (4) A COST OF TWO DOLLARS AND FIFTY CENTS IS HEREBY LEVIED  
11 AGAINST EACH CIVIL ACTION RESULTING IN AN ADMISSION OF LIABILITY OR  
12 A JUDGMENT AGAINST THE DEFENDANT FOR A CLASS A OR CLASS B  
13 TRAFFIC INFRACTION CHARGED PURSUANT TO STATE STATUTE. THE  
14 DEFENDANT SHALL PAY THE COST TO THE CLERK OF THE COURT. EACH  
15 CLERK SHALL TRANSMIT THE MONEYS TO THE STATE TREASURER, WHO  
16 SHALL CREDIT THE SAME TO THE FUND.

17           (5) A SURCHARGE OF TWO DOLLARS AND FIFTY CENTS IS HEREBY  
18 LEVIED AGAINST EACH PENALTY ASSESSMENT NOTICE ISSUED PURSUANT  
19 TO SECTION 42-4-1701, C.R.S., FOR A CLASS A OR CLASS B TRAFFIC  
20 INFRACTION UNDER STATE STATUTE THAT RESULTS IN PAYMENT OF THE  
21 PENALTY ASSESSMENT WITHOUT THE COMMENCEMENT OF A CIVIL ACTION.  
22 ALL MONEYS COLLECTED BY THE DEPARTMENT OF REVENUE PURSUANT TO  
23 THIS SUBSECTION (5) SHALL BE TRANSMITTED TO THE STATE TREASURER,  
24 WHO SHALL CREDIT THE SAME TO THE FUND.

25           (6) A SURCHARGE OF TWO DOLLARS AND FIFTY CENTS IS HEREBY  
26 LEVIED AGAINST EACH PENALTY ASSESSMENT ISSUED PURSUANT TO  
27 SECTION 33-6-104, C.R.S., THAT RESULTS IN PAYMENT OF THE PENALTY

1 ASSESSMENT WITHOUT THE COMMENCEMENT OF A CRIMINAL ACTION. ALL  
2 MONEYS COLLECTED BY THE DIVISION OF WILDLIFE IN THE DEPARTMENT  
3 OF NATURAL RESOURCES PURSUANT TO THIS SUBSECTION (6) SHALL BE  
4 TRANSMITTED TO THE STATE TREASURER, WHO SHALL CREDIT THE SAME  
5 TO THE FUND.

6 (7) A SURCHARGE OF TWO DOLLARS AND FIFTY CENTS IS HEREBY  
7 LEVIED AGAINST EACH PENALTY ASSESSMENT ISSUED PURSUANT TO  
8 SECTION 33-15-102, C.R.S., THAT RESULTS IN PAYMENT OF THE PENALTY  
9 ASSESSMENT WITHOUT THE COMMENCEMENT OF A CRIMINAL ACTION. ALL  
10 MONEYS COLLECTED BY THE DIVISION OF PARKS AND OUTDOOR  
11 RECREATION IN THE DEPARTMENT OF NATURAL RESOURCES PURSUANT TO  
12 THIS SUBSECTION (7) SHALL BE TRANSMITTED TO THE STATE TREASURER,  
13 WHO SHALL CREDIT THE SAME TO THE FUND.

14 (8) THE COURT MAY WAIVE A COST OR SURCHARGE LEVIED  
15 PURSUANT TO THIS SECTION IF THE COURT DETERMINES THE DEFENDANT  
16 IS INDIGENT.

17 **SECTION 2.** 42-4-1701, Colorado Revised Statutes, is amended  
18 BY THE ADDITION OF A NEW SUBSECTION to read:

19 **42-4-1701. Traffic offenses and infractions classified -**  
20 **penalties - penalty and surcharge schedule.** (8) THE SURCHARGES  
21 DESCRIBED IN SUBSECTIONS (4) THROUGH (6) OF THIS SECTION ARE  
22 SEPARATE AND DISTINCT FROM A SURCHARGE LEVIED PURSUANT TO  
23 SECTION 24-33.5-416.5, C.R.S.

24 **SECTION 3.** 42-4-1707 (3) (a) and (6), Colorado Revised  
25 Statutes, are amended to read:

26 **42-4-1707. Summons and complaint or penalty assessment**  
27 **notice for misdemeanors, petty offenses, and misdemeanor traffic**

1 **offenses - release - registration.** (3) (a) Whenever a penalty assessment  
2 notice for a misdemeanor, petty offense, or misdemeanor traffic offense  
3 is issued pursuant to section 42-4-1701 (5) (a), the penalty assessment  
4 notice ~~which~~ THAT shall be served upon the defendant by the peace  
5 officer shall contain the name and address of the defendant, the license  
6 number of the vehicle involved, if any, the number of the defendant's  
7 driver's license, if any, a citation of the statute alleged to have been  
8 violated, a brief description of the offense, the date and approximate  
9 location thereof, the amount of the penalty prescribed for the offense, the  
10 amount of the ~~surcharge~~ SURCHARGES thereon pursuant to sections  
11 24-4.1-119 (1) (f), and 24-4.2-104 (1), AND 24-33.5-416.5, C.R.S., the  
12 number of points, if any, prescribed for the offense pursuant to section  
13 42-2-127, and the date the penalty assessment notice is served on the  
14 defendant; shall direct the defendant to appear in a specified county court  
15 at a specified time and place in the event the penalty and ~~surcharge~~  
16 SURCHARGES thereon are not paid; shall be signed by the peace officer;  
17 and shall contain a place for the defendant to elect to execute a signed  
18 acknowledgment of guilt and an agreement to pay the penalty prescribed  
19 and ~~surcharge~~ SURCHARGES thereon within twenty days, as well as such  
20 other information as may be required by law to constitute the penalty  
21 assessment notice to be a summons and complaint, should the prescribed  
22 penalty and ~~surcharge~~ SURCHARGES thereon not be paid within the time  
23 allowed in section 42-4-1701.

24 (6) If the defendant is otherwise eligible to be issued a summons  
25 and complaint or a penalty assessment notice for a violation of this title  
26 punishable as a misdemeanor, petty offense, or misdemeanor traffic  
27 offense and if the defendant does not possess a valid Colorado driver's

1 license, the defendant, in order to secure release, as provided in this  
2 section, must either consent to be taken by the officer to the nearest  
3 mailbox and to mail the amount of the penalty and surcharge  
4 SURCHARGES thereon to the department or must execute a promise to  
5 appear in court on the penalty assessment notice or on the summons and  
6 complaint. If the defendant does possess a valid Colorado driver's  
7 license, the defendant shall not be required to execute a promise to appear  
8 on the penalty assessment notice or on the summons and complaint. The  
9 peace officer shall not require any person who is eligible to be issued a  
10 summons and complaint or a penalty assessment notice for a violation of  
11 this title to produce or divulge such person's social security number.

12 **SECTION 4.** 42-4-1709 (1), Colorado Revised Statutes, is  
13 amended to read:

14 **42-4-1709. Penalty assessment notice for traffic infractions -**  
15 **violations of provisions by officer - driver's license.** (1) Whenever a  
16 penalty assessment notice for a traffic infraction is issued pursuant to  
17 section 42-4-1701 (5) (a), the penalty assessment notice ~~which~~ THAT shall  
18 be served upon the defendant by the peace officer shall contain the name  
19 and address of the defendant, the license number of the vehicle involved,  
20 if any, the number of the defendant's driver's license, if any, a citation of  
21 the statute alleged to have been violated, a brief description of the traffic  
22 infraction, the date and approximate location thereof, the amount of the  
23 penalty prescribed for the traffic infraction, the amount of the surcharge  
24 SURCHARGES thereon pursuant to sections 24-4.1-119 (1) (f), and  
25 24-4.2-104 (1), AND 24-33.5-416.5, C.R.S., the number of points, if any,  
26 prescribed for the traffic infraction pursuant to section 42-2-127, and the  
27 date the penalty assessment notice is served on the defendant; shall direct

1 the defendant to appear in a specified county court at a specified time and  
2 place in the event the penalty and surcharge SURCHARGES thereon is ARE  
3 not paid; shall be signed by the peace officer; and shall contain a place for  
4 the defendant to elect to execute a signed acknowledgment of liability and  
5 an agreement to pay the penalty prescribed and surcharge SURCHARGES  
6 thereon within twenty days, as well as such other information as may be  
7 required by law to constitute the penalty assessment notice to be a  
8 summons and complaint, should the prescribed penalty and surcharge  
9 SURCHARGES thereon not be paid within the time allowed in section  
10 42-4-1701.

11 SECTION 5. 33-6-104, Colorado Revised Statutes, is amended  
12 to read:

13 **33-6-104. Imposition of penalty - procedures.** (1) Any person  
14 who violates any of the provisions of articles 1 to 6 of this title or any rule  
15 or regulation of the commission that does not have a specific penalty  
16 listed is guilty of a misdemeanor and, upon conviction thereof, shall be  
17 punished by a fine of fifty dollars, A SURCHARGE AS DESCRIBED IN  
18 SECTION 24-33.5-416.5, C.R.S., and an assessment of five license  
19 suspension points.

20 (2) At the time that any person is charged with violating any  
21 misdemeanor provisions of articles 1 to 6 of this title or any rule or  
22 regulation of the commission, the officer shall issue a summons and  
23 complaint to the alleged offender or, in the case of a violation for which  
24 a fine of a fixed amount is prescribed, may give the alleged offender an  
25 opportunity to voluntarily pay the fine AND SURCHARGE in the form of a  
26 penalty assessment. Penalty assessments shall not be issued for violations  
27 for which minimum and maximum fines have been established. The

1 penalty assessment notice given to the alleged offender shall contain the  
2 information required in and be in the form of a summons and complaint  
3 and shall specify in dollars the amount of the penalty to be assessed for  
4 the alleged offense and the amount of the surcharge SURCHARGES to be  
5 collected pursuant to section SECTIONS 24-4.2-104 (1) AND 24-33.5-416.5,  
6 C.R.S. If the alleged offender accepts such notice and pays the fine and  
7 the surcharge SURCHARGES entered thereon to the division within fifteen  
8 days of issuance of the notice, such acceptance and payment shall  
9 constitute an acknowledgment of guilt by such person of the violation set  
10 forth in the penalty assessment notice. Any person who accepts a penalty  
11 assessment notice but who does not furnish satisfactory evidence of  
12 identity or who the officer has reasonable and probable grounds to believe  
13 will disregard a written promise to pay the specified fine and surcharge  
14 SURCHARGES may be taken by the officer to the nearest known post-office  
15 facility and BE required to remit the amount of the specified fine and  
16 surcharge SURCHARGES to the division immediately by mail in United  
17 States currency or other legal tender by money order or personal check.  
18 Refusal or inability to remit the specified fine and surcharge SURCHARGES  
19 by mail when required shall constitute a refusal to accept a penalty  
20 assessment notice. The officer shall advise the person arrested of the  
21 license suspension points to be assessed in accordance with section  
22 33-6-106. Checks tendered by the violator to and accepted by the  
23 division and on which payment is received by the division shall be  
24 deemed sufficient receipt. If the fine and surcharge SURCHARGES are not  
25 so paid, then the officer who issued the penalty assessment notice shall  
26 docket the summons and complaint with a court of competent jurisdiction  
27 for appearance by the person to answer the charges therein contained at

1 such time and place as is specified in the summons and complaint.

2 **SECTION 6.** 33-15-102 (2), Colorado Revised Statutes, is  
3 amended to read:

4 **33-15-102. Imposition of penalty - procedures.** (2) At the time  
5 that any person is charged with violating any petty offense or  
6 misdemeanor provisions of articles 10 to THROUGH 15 or 32 of this title  
7 or any rule of the board, the officer shall issue a summons and complaint  
8 to the alleged offender or, in the case of a violation for which a fine of a  
9 fixed amount is prescribed, may give the alleged offender an opportunity  
10 to voluntarily pay the fine AND SURCHARGE in the form of a penalty  
11 assessment. Penalty assessments shall not be issued for violations for  
12 which minimum and maximum fines have been established. The penalty  
13 assessment notice given to the alleged offender shall contain the  
14 information required in and be in the form of a summons and complaint  
15 and shall specify in dollars the amount of the penalty to be assessed for  
16 the alleged offense AND THE AMOUNT OF THE SURCHARGE TO BE  
17 COLLECTED PURSUANT TO SECTION 24-33.5-416.5, C.R.S. If the alleged  
18 offender accepts such notice and pays the fine AND SURCHARGE entered  
19 thereon to the division within twenty days of issuance of the notice, such  
20 acceptance and payment shall constitute an acknowledgment of guilt by  
21 such person of the violation set forth in the penalty assessment notice.  
22 Any person who accepts a penalty assessment notice but who does not  
23 furnish satisfactory evidence of identity or who the officer has reasonable  
24 and probable grounds to believe will disregard a written promise to pay  
25 the specified fine AND SURCHARGE may be taken by the officer to the  
26 nearest known post-office facility and BE required to remit the amount of  
27 the specified fine AND SURCHARGE to the division immediately by mail in

1 United States currency or other legal tender or by money order or  
2 personal check. Refusal or inability to remit the specified fine AND  
3 SURCHARGE by mail when required shall constitute a refusal to accept a  
4 penalty assessment notice. Checks tendered by the violator to and  
5 accepted by the division and on which payment is received by the division  
6 shall be deemed sufficient receipt. If the fine ~~is~~ AND SURCHARGE ARE not  
7 so paid, then the officer who issued the penalty assessment notice shall  
8 docket the summons and complaint with a court of competent jurisdiction  
9 for appearance by the person to answer the charges therein contained at  
10 such time and place as is specified in the summons and complaint.

11 **SECTION 7. Appropriation.** In addition to any other  
12 appropriation, there is hereby appropriated, out of any moneys in the cold  
13 case investigation fund created in section 24-33.5-416.5, Colorado  
14 Revised Statutes, not otherwise appropriated, to the department of public  
15 safety, for allocation to the Colorado bureau of investigation, for the  
16 fiscal year beginning July 1, 2009, the sum of seventy-five thousand  
17 dollars (\$75,000), or so much thereof as may be necessary, for the  
18 implementation of this act.

19 **SECTION 8. Effective date.** This act shall take effect July 1,  
20 2009.

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