

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

INTRODUCED

LLS NO. 07-0645.01 Michael Dohr

HOUSE BILL 07-1272

HOUSE SPONSORSHIP

Rice, and King

SENATE SPONSORSHIP

Morse,

House Committees
Judiciary

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING THE ON-GOING INVESTIGATION OF HOMICIDE CASES,**
102 **AND, IN CONNECTION THEREWITH, CREATING A COLD CASE**
103 **TEAM IN THE COLORADO BUREAU OF INVESTIGATION.**

Bill Summary

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

Creates a cold case team ("team") in the Colorado bureau of investigation. Requires the team to develop a database that will contain the homicide files of all open homicide cases in the state. Requires all law enforcement agencies in the state to provide a copy of all homicide investigation files for cases that have been open for more than 3 years to the team for inclusion in the database. Permits the team to investigate the

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.

cases in cooperation with the law enforcement agency that has jurisdiction of the case upon request of the law enforcement agency or a family member of the victim. Requires written notification in a case where the team decides not to investigate or the law enforcement agency does not want the assistance of the team.

Creates the cold case oversight task force ("task force"). Permits the task force to review homicide investigation methods and take testimony from victims' family members and the public. Beginning October 1, 2008, requires the task force to report annually to the general assembly.

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

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

5 **24-33.5-425. Cold case homicide team.** (1) THERE IS HEREBY
6 CREATED A COLD CASE HOMICIDE TEAM IN THE BUREAU, REFERRED TO IN
7 THIS SECTION AS THE "TEAM".

8 (2) (a) THE TEAM SHALL DEVELOP A DATABASE THAT SHALL
9 CONTAIN INFORMATION RELATED TO EACH HOMICIDE INVESTIGATION THAT
10 IS OPEN IN A COLORADO JURISDICTION FOR MORE THAN THREE YEARS
11 FROM THE DATE OF THE COMMISSION OF THE CRIME. THE BUREAU SHALL
12 ADOPT RULES THAT SPECIFY THE INFORMATION THAT SHALL BE COLLECTED
13 AND MAINTAINED IN THE DATABASE.

14 (b) EACH LAW ENFORCEMENT AGENCY IN THE STATE SHALL
15 PROVIDE THE INFORMATION REQUIRED FOR INCLUSION IN THE DATABASE
16 FOR EACH HOMICIDE INVESTIGATION THAT IS OPEN IN A COLORADO
17 JURISDICTION FOR MORE THAN THREE YEARS. THE LAW ENFORCEMENT
18 AGENCY SHALL MAINTAIN THE PHYSICAL EVIDENCE AND INVESTIGATION
19 FILE FOR EACH SUCH CASE UNLESS OTHERWISE AGREED BY THE LAW
20 ENFORCEMENT AGENCY AND THE BUREAU.

1 (3) (a) THE TEAM MAY PROVIDE ASSISTANCE TO LOCAL LAW
2 ENFORCEMENT AGENCIES, UPON REQUEST AND WITHIN EXISTING
3 APPROPRIATIONS, ON HOMICIDE INVESTIGATIONS. IF THE TEAM DECLINES
4 TO PROVIDE ASSISTANCE TO A LOCAL LAW ENFORCEMENT AGENCY AFTER
5 A REQUEST IS MADE PURSUANT TO THIS SUBSECTION (3), THE TEAM SHALL
6 PROVIDE THE LOCAL LAW ENFORCEMENT AGENCY WITH A WRITTEN
7 EXPLANATION FOR ITS DECISION, WHICH MAY INCLUDE BUT NEED NOT BE
8 LIMITED TO LACK OF RESOURCES.

9 (b) A FAMILY MEMBER OF A HOMICIDE VICTIM MAY REQUEST THAT
10 THE LOCAL LAW ENFORCEMENT AGENCY INVESTIGATING THE HOMICIDE
11 ASK THE TEAM FOR ASSISTANCE IN INVESTIGATING THE HOMICIDE. THE
12 LOCAL LAW ENFORCEMENT AGENCY SHALL DECIDE WHETHER TO ASK THE
13 TEAM FOR ASSISTANCE. WITHIN THREE DAYS AFTER RECEIVING A REQUEST
14 FROM A FAMILY MEMBER, THE LOCAL LAW ENFORCEMENT AGENCY SHALL
15 NOTIFY THE FAMILY MEMBER WHETHER IT WILL SEEK THE ASSISTANCE OF
16 THE TEAM. IF THE LOCAL LAW ENFORCEMENT AGENCY DECIDES NOT TO
17 SEEK THE ASSISTANCE OF THE TEAM, IT SHALL INFORM THE FAMILY
18 MEMBER OF ITS REASONS FOR THE DECISION IN WRITING AND PROVIDE
19 THAT SAME INFORMATION IN WRITING TO THE BUREAU FOR INCLUSION IN
20 THE DATABASE CREATED IN SUBSECTION (2) OF THIS SECTION. IF THE
21 LOCAL LAW ENFORCEMENT AGENCY DECIDES TO SEEK THE ASSISTANCE OF
22 THE TEAM, IT SHALL CONTACT THE TEAM AND REQUEST THE ASSISTANCE.
23 WITHIN THREE DAYS AFTER RECEIVING A REQUEST FROM A LOCAL LAW
24 ENFORCEMENT AGENCY, THE TEAM SHALL NOTIFY THE LOCAL LAW
25 ENFORCEMENT AGENCY REGARDING WHETHER IT WILL OFFER ASSISTANCE
26 TO THE LOCAL LAW ENFORCEMENT AGENCY. IF THE TEAM DECIDES NOT
27 OFFER ASSISTANCE TO THE LOCAL LAW ENFORCEMENT AGENCY, IT SHALL

1 INFORM THE LOCAL LAW ENFORCEMENT AGENCY OF THE REASONS FOR ITS
2 DECISION IN WRITING AND INCLUDE THOSE REASONS IN THE DATABASE
3 CREATED IN SUBSECTION (2) OF THIS SECTION.

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

7 **24-33.5-109. Cold case oversight task force - creation - rules**
8 **- repeal.** (1) (a) THERE IS HEREBY CREATED IN THE DEPARTMENT OF
9 PUBLIC SAFETY THE COLD CASE OVERSIGHT TASK FORCE, REFERRED TO IN
10 THIS SECTION AS THE "TASK FORCE", TO REVIEW COLD CASE HOMICIDE
11 INVESTIGATION TACTICS AND PRACTICES.

12 (b) THE TASK FORCE SHALL EXERCISE ITS POWERS AND PERFORM
13 ITS DUTIES AND FUNCTIONS AS IF THE SAME WERE TRANSFERRED TO THE
14 DEPARTMENT OF PUBLIC SAFETY BY A **TYPE 2** TRANSFER, AS SUCH
15 TRANSFER IS DEFINED IN THE "ADMINISTRATIVE ORGANIZATION ACT OF
16 1968", ARTICLE 1 OF THIS TITLE.

17 (2) THE TASK FORCE SHALL CONSIST OF THIRTEEN MEMBERS, AS
18 FOLLOWS:

19 (a) THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF PUBLIC
20 SAFETY, OR HIS OR HER DESIGNEE, WHO SHALL CHAIR THE TASK FORCE;

21 (b) THE ATTORNEY GENERAL, OR HIS OR HER DESIGNEE;

22 (c) THREE DISTRICT ATTORNEYS, OR THEIR DESIGNEES, WHO SHALL
23 BE APPOINTED BY THE EXECUTIVE DIRECTOR OF THE COLORADO DISTRICT
24 ATTORNEYS COUNCIL, ONE OF WHOM SHALL BE FROM AN URBAN JUDICIAL
25 DISTRICT, ONE OF WHOM SHALL BE FROM A SUBURBAN JUDICIAL DISTRICT,
26 AND ONE OF WHOM SHALL BE FROM A RURAL JUDICIAL DISTRICT;

27 (d) TWO MEMBERS WHO REPRESENT A STATEWIDE VICTIMS

1 ADVOCACY ORGANIZATION AND WHO SHALL BE APPOINTED BY THE
2 GOVERNOR;

3 (e) ONE SHERIFF AND ONE POLICE CHIEF WHO SHALL BE APPOINTED
4 BY THE SPEAKER OF THE HOUSE OF REPRESENTATIVES;

5 (f) TWO REPRESENTATIVES FROM VICTIMS' FAMILIES WHO SHALL
6 BE APPOINTED BY THE SPEAKER OF THE HOUSE OF REPRESENTATIVES; AND

7 (g) TWO REPRESENTATIVES FROM VICTIMS' FAMILIES WHO SHALL
8 BE APPOINTED BY THE PRESIDENT OF THE SENATE.

9 (3) (a) THE ELEVEN APPOINTED MEMBERS OF THE TASK FORCE
10 SHALL SERVE TERMS OF THREE YEARS; EXCEPT THAT THE MEMBERS FIRST
11 APPOINTED BY THE SPEAKER OF THE HOUSE OF REPRESENTATIVES AND THE
12 PRESIDENT OF THE SENATE SHALL EACH SERVE A TWO-YEAR TERM.

13 (b) THE MEMBERS SHALL BE APPOINTED BY THEIR APPOINTING
14 AUTHORITY WITHIN THIRTY DAYS AFTER THE EFFECTIVE DATE OF THIS
15 SECTION. AN APPOINTED MEMBER SHALL NOT SERVE MORE THAN TWO
16 CONSECUTIVE FULL TERMS, IN ADDITION TO ANY PARTIAL TERM. IN THE
17 EVENT OF A VACANCY IN AN APPOINTED POSITION BY DEATH,
18 RESIGNATION, REMOVAL FOR MISCONDUCT, INCOMPETENCE, OR NEGLECT
19 OF DUTY, OR OTHERWISE, THE APPOINTING AUTHORITY SHALL APPOINT A
20 MEMBER TO FILL THE POSITION FOR THE REMAINDER OF THE UNEXPIRED
21 TERM.

22 (4) THE MEMBERS OF THE TASK FORCE SHALL SERVE WITHOUT
23 COMPENSATION BUT ARE ENTITLED TO REIMBURSEMENT FOR ACTUAL AND
24 NECESSARY EXPENSES INCURRED IN THE PERFORMANCE OF THEIR DUTIES
25 PURSUANT TO THIS SECTION.

26 (5) (a) THE TASK FORCE SHALL MEET AT LEAST FOUR TIMES A YEAR
27 BEGINNING OCTOBER 1, 2007.

1 (b) THE TASK FORCE, IN ITS DISCRETION, MAY CREATE
2 SUBCOMMITTEES OF ANY SIZE COMPRISED OF INTERESTED PARTIES TO
3 PROVIDE INPUT ON THE TASK FORCE'S ACTIVITIES AND TO REVIEW
4 PRACTICES RELATED TO COLD CASE HOMICIDE INVESTIGATIONS. MEMBERS
5 OF THE SUBCOMMITTEE SHALL SERVE WITHOUT COMPENSATION AND
6 WITHOUT REIMBURSEMENT FOR EXPENSES.

7 (6) THE TASK FORCE MAY:

8 (a) REVIEW PROCEDURES USED BY LAW ENFORCEMENT AGENCIES
9 IN INVESTIGATING AND PRESERVING COLD CASE HOMICIDES;

10 (b) REVIEW PROCEDURES USED BY LAW ENFORCEMENT AGENCIES
11 IN INVESTIGATING RECENT HOMICIDES;

12 (c) TAKE TESTIMONY FROM MEMBERS OF VICTIMS' FAMILIES AND
13 MEMBERS OF THE PUBLIC; AND

14 (d) CONSIDER ANY OTHER ITEMS THAT THE TASK FORCE
15 DETERMINES ARE WITHIN ITS PURVIEW.

16 (7) MEMBERS OF THE TASK FORCE, EMPLOYEES, AND
17 CONSULTANTS SHALL BE IMMUNE FROM SUIT IN ANY CIVIL ACTION BASED
18 UPON ANY OFFICIAL ACT PERFORMED IN GOOD FAITH PURSUANT TO THIS
19 SECTION.

20 (8) ON OR BEFORE OCTOBER 1, 2008, AND ANNUALLY EACH YEAR
21 THEREAFTER, THE TASK FORCE SHALL REPORT TO THE JUDICIARY
22 COMMITTEES OF THE SENATE AND THE HOUSE OF REPRESENTATIVES, OR
23 ANY SUCCESSOR COMMITTEES, ON THE IMPLEMENTATION OF THIS SECTION.

24 (9) (a) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2012.

25 (b) PRIOR TO SAID REPEAL, THE TASK FORCE SHALL BE REVIEWED
26 AS PROVIDED IN SECTION 24-34-104.

27 **SECTION 3.** 24-34-104 (43), Colorado Revised Statutes, is

1 amended BY THE ADDITION OF A NEW PARAGRAPH to read:

2 **24-34-104. General assembly review of regulatory agencies**
3 **and functions for termination, continuation, or reestablishment.**

4 (43) The following agencies, functions, or both, shall terminate on July
5 1, 2012:

6 (c) THE COLD CASE OVERSIGHT TASK FORCE CREATED IN SECTION
7 24-33.5-109.

8 **SECTION 4.** 24-1-128.6, Colorado Revised Statutes, is amended
9 BY THE ADDITION OF A NEW SUBSECTION to read:

10 **24-1-128.6. Department of public safety - creation.** (7) THE
11 COLD CASE OVERSIGHT TASK FORCE, CREATED IN SECTION 24-33.5-109,
12 SHALLEXERCISE ITS POWERS AND PERFORM ITS DUTIES AND FUNCTIONS AS
13 IF THE SAME WERE TRANSFERRED BY A **TYPE 2** TRANSFER TO THE
14 DEPARTMENT OF PUBLIC SAFETY.

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