

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

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 07-0645.01 Michael Dohr

HOUSE BILL 07-1272

HOUSE SPONSORSHIP

Rice, and King

SENATE SPONSORSHIP

Morse,

House Committees

Judiciary
Appropriations

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, AND**
104 **MAKING AN APPROPRIATION THEREFOR.**

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

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.*

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 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 AND WAS COMMITTED
12 SINCE 1970. THE BUREAU SHALL ADOPT RULES THAT SPECIFY THE
13 INFORMATION THAT SHALL BE COLLECTED AND MAINTAINED IN THE
14 DATABASE, INCLUDING THE INFORMATION REQUIRED PURSUANT TO
15 PARAGRAPH (b) OF SUBSECTION (3) OF THIS SECTION.

16 (b) EACH LAW ENFORCEMENT AGENCY IN THE STATE SHALL
17 PROVIDE THE INFORMATION REQUIRED FOR INCLUSION IN THE DATABASE
18 FOR EACH HOMICIDE INVESTIGATION THAT IS OPEN IN A COLORADO
19 JURISDICTION FOR MORE THAN THREE YEARS FROM THE DATE OF THE

1 COMMISSION OF THE CRIME AND WAS COMMITTED SINCE 1970. THE LAW
2 ENFORCEMENT AGENCY SHALL MAINTAIN THE PHYSICAL EVIDENCE AND
3 INVESTIGATION FILE FOR EACH SUCH CASE UNLESS OTHERWISE AGREED BY
4 THE LAW ENFORCEMENT AGENCY AND THE BUREAU.

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

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

1 REQUEST FROM A LOCAL LAW ENFORCEMENT AGENCY, THE TEAM SHALL
2 NOTIFY THE LOCAL LAW ENFORCEMENT AGENCY REGARDING WHETHER IT
3 WILL OFFER ASSISTANCE TO THE LOCAL LAW ENFORCEMENT AGENCY. IF
4 THE TEAM DECIDES NOT TO OFFER ASSISTANCE TO THE LOCAL LAW
5 ENFORCEMENT AGENCY, IT SHALL INFORM THE LOCAL LAW ENFORCEMENT
6 AGENCY OF THE REASONS FOR ITS DECISION IN WRITING AND INCLUDE
7 THOSE REASONS IN THE DATABASE CREATED IN SUBSECTION (2) OF THIS
8 SECTION.

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

12 **24-33.5-109. Cold case oversight task force - creation - rules**
13 **- repeal.** (1) (a) THERE IS HEREBY CREATED IN THE DEPARTMENT OF
14 PUBLIC SAFETY THE COLD CASE TASK FORCE, REFERRED TO IN THIS
15 SECTION AS THE "TASK FORCE", TO REVIEW GENERAL COLD CASE HOMICIDE
16 INVESTIGATION TACTICS AND PRACTICES.

17 (b) THE TASK FORCE SHALL EXERCISE ITS POWERS AND PERFORM
18 ITS DUTIES AND FUNCTIONS AS IF THE SAME WERE TRANSFERRED TO THE
19 DEPARTMENT OF PUBLIC SAFETY BY A **TYPE 2** TRANSFER, AS SUCH
20 TRANSFER IS DEFINED IN THE "ADMINISTRATIVE ORGANIZATION ACT OF
21 1968", ARTICLE 1 OF THIS TITLE.

22 (2) THE TASK FORCE SHALL CONSIST OF FIFTEEN MEMBERS, AS
23 FOLLOWS:

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

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

27 (c) THREE DISTRICT ATTORNEYS, OR THEIR DESIGNEES, WHO SHALL

1 BE APPOINTED BY THE EXECUTIVE DIRECTOR OF THE COLORADO DISTRICT
2 ATTORNEYS COUNCIL, ONE OF WHOM SHALL BE FROM AN URBAN JUDICIAL
3 DISTRICT, ONE OF WHOM SHALL BE FROM A SUBURBAN JUDICIAL DISTRICT,
4 AND ONE OF WHOM SHALL BE FROM A RURAL JUDICIAL DISTRICT;

5 (d) TWO MEMBERS WHO REPRESENT A STATEWIDE VICTIMS
6 ADVOCACY ORGANIZATION AND WHO SHALL BE APPOINTED BY THE
7 GOVERNOR;

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

10 (f) ONE SHERIFF AND ONE POLICE CHIEF WHO SHALL BE APPOINTED
11 BY THE PRESIDENT OF THE SENATE;

12 (g) TWO REPRESENTATIVES FROM VICTIMS' FAMILIES WHO SHALL
13 BE APPOINTED BY THE SPEAKER OF THE HOUSE OF REPRESENTATIVES; AND

14 (h) TWO REPRESENTATIVES FROM VICTIMS' FAMILIES WHO SHALL
15 BE APPOINTED BY THE PRESIDENT OF THE SENATE.

16 (3) (a) THE THIRTEEN APPOINTED MEMBERS OF THE TASK FORCE
17 SHALL SERVE TERMS OF THREE YEARS; EXCEPT THAT THE MEMBERS FIRST
18 APPOINTED BY THE SPEAKER OF THE HOUSE OF REPRESENTATIVES AND THE
19 PRESIDENT OF THE SENATE SHALL EACH SERVE A TWO-YEAR TERM.

20 (b) THE MEMBERS SHALL BE APPOINTED BY THEIR APPOINTING
21 AUTHORITY WITHIN THIRTY DAYS AFTER THE EFFECTIVE DATE OF THIS
22 SECTION. AN APPOINTED MEMBER SHALL NOT SERVE MORE THAN TWO
23 CONSECUTIVE FULL TERMS, IN ADDITION TO ANY PARTIAL TERM. IN THE
24 EVENT OF A VACANCY IN AN APPOINTED POSITION BY DEATH,
25 RESIGNATION, REMOVAL FOR MISCONDUCT, INCOMPETENCE, OR NEGLECT
26 OF DUTY, OR OTHERWISE, THE APPOINTING AUTHORITY SHALL APPOINT A
27 MEMBER WITHIN SIXTY DAYS TO FILL THE POSITION FOR THE REMAINDER

1 OF THE UNEXPIRED TERM.

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

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

8 (6) THE TASK FORCE SHALL REVIEW COLD CASE HOMICIDE
9 INVESTIGATION STRATEGIES AND PRACTICES AND MAKE
10 RECOMMENDATIONS ON BEST PRACTICES.

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

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

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

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

22 **SECTION 3.** 24-34-104 (43), Colorado Revised Statutes, is
23 amended BY THE ADDITION OF A NEW PARAGRAPH to read:

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

26 (43) The following agencies, functions, or both, shall terminate on July
27 1, 2012:

1 (c) THE COLD CASE OVERSIGHT TASK FORCE CREATED IN SECTION
2 24-33.5-109.

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

5 **24-1-128.6. Department of public safety - creation.** (7) THE
6 COLD CASE OVERSIGHT TASK FORCE, CREATED IN SECTION 24-33.5-109,
7 SHALL EXERCISE ITS POWERS AND PERFORM ITS DUTIES AND FUNCTIONS AS
8 IF THE SAME WERE TRANSFERRED BY A **TYPE 2** TRANSFER TO THE
9 DEPARTMENT OF PUBLIC SAFETY.

10 **SECTION 5. Appropriation - adjustments to the 2007 long**
11 **bill.** (1) In addition to any other appropriation, there is hereby
12 appropriated, out of any moneys in the general fund not otherwise
13 appropriated, to the department of public safety, for allocation to the
14 Colorado bureau of investigation, for the creation of a cold case unit, for
15 the fiscal year beginning July 1, 2007, the sum of sixty-seven thousand
16 eight hundred twenty-two dollars (\$67,822) and 1.0 FTE, or so much
17 thereof as may be necessary, for the implementation of this act.

18 (2) For the implementation of this act, the appropriation made in
19 section 21 of the annual general appropriation act for the fiscal year
20 beginning July 1, 2007, shall be adjusted as follows: The general fund
21 appropriation to the controlled maintenance trust fund is decreased by
22 sixty-seven thousand eight hundred twenty-two dollars (\$67,822).

23 **SECTION 6. Safety clause.** The general assembly hereby finds,
24 determines, and declares that this act is necessary for the immediate
25 preservation of the public peace, health, and safety.