

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. 09-0529.01 Michael Dohr

SENATE BILL 09-097

SENATE SPONSORSHIP

Cadman,

HOUSE SPONSORSHIP

Pace,

Senate Committees
Judiciary

House Committees
Judiciary

A BILL FOR AN ACT

101 CONCERNING CLARIFYING CHANGES TO PROVISIONS PERTAINING TO
102 INSTITUTIONAL PEACE OFFICERS.

Bill Summary

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

Makes clarifying changes to statutes related to institutional peace officers.

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

2 **SECTION 1.** 16-2.5-139, Colorado Revised Statutes, is amended

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.

HOUSE
2nd Reading Unamended
March 19, 2009

SENATE
3rd Reading Unamended
February 11, 2009

SENATE
Amended 2nd Reading
February 9, 2009

1 to read:

2 **16-2.5-139. Police administrator - police officer employed by**
3 **the Colorado mental health institute at Pueblo.** A police administrator
4 and a police officer employed by the Colorado mental health institute at
5 Pueblo are peace officers whose authority shall include the enforcement
6 of all laws of the state of Colorado pursuant to ~~sections 24-7-101 to~~
7 ~~24-7-105~~ ARTICLE 7 OF TITLE 24, C.R.S., and who shall be certified by the
8 P.O.S.T. board. Each police administrator or police officer employed by
9 the Colorado mental health institute at Pueblo shall ~~be required to~~
10 complete a minimum of forty hours of continuing law enforcement
11 education per calendar year, or such number of hours as may otherwise
12 be required by law.

13 **SECTION 2.** 16-2.5-140, Colorado Revised Statutes, is amended
14 to read:

15 **16-2.5-140. Correctional security officer employed by the**
16 **Colorado mental health institute at Pueblo.** A correctional security
17 officer employed by the Colorado mental health institute at Pueblo is a
18 peace officer ~~whose authority shall be pursuant to sections 24-7-101 to~~
19 ~~24-7-105~~ WHILE ENGAGED IN THE PERFORMANCE OF HIS OR HER DUTIES AS
20 PROVIDED IN ARTICLE 7 OF TITLE 24, C.R.S., and whose authority shall
21 include the enforcement of all laws of the state of Colorado, and who may
22 be certified by the P.O.S.T. board.

23 **SECTION 3.** 16-2.5-141, Colorado Revised Statutes, is amended
24 to read:

25 **16-2.5-141. Colorado state security guard.** A Colorado state
26 security guard is a peace officer while engaged in the performance of his
27 or her duties PURSUANT TO ARTICLE 7 OF TITLE 24, C.R.S., whose

1 authority shall be limited to the scope and authority of his or her assigned
2 duties and who may be certified by the P.O.S.T. board.

3 **SECTION 4.** 16-2.5-148, Colorado Revised Statutes, is amended
4 to read:

5 **16-2.5-148. Colorado state higher education police officer.** A
6 Colorado state higher education police officer employed by a state
7 institution of higher education pursuant to ~~sections 24-7.5-101 to~~
8 ~~24-7.5-105~~ ARTICLE 7.5 OF TITLE 24, C.R.S., is a peace officer whose
9 authority shall include the enforcement of all laws of the state of
10 Colorado and who shall be certified by the P.O.S.T. board.

11 **SECTION 5.** Article 7.5 of title 24, Colorado Revised Statutes,
12 is amended BY THE ADDITION OF A NEW SECTION to read:

13 **24-7.5-106. Peace officers standards and training board**
14 **evaluation and recommendation - legislative authorization of peace**
15 **officer status required.** NOTWITHSTANDING ANY OTHER PROVISION OF
16 THIS ARTICLE, A PERSON OR GROUP OF PERSONS EMPLOYED BY ANY
17 INSTITUTION OF HIGHER EDUCATION SHALL NOT BE DESIGNATED AS POLICE
18 OFFICERS, AFTER JUNE 3, 2004, WITHOUT COMPLETING THE PEACE
19 OFFICERS STANDARDS AND TRAINING BOARD PROCESSES DESCRIBED IN
20 SECTIONS 16-2.5-201 AND 16-2.5-202, C.R.S., AND OBTAINING THE
21 CERTIFICATION DESCRIBED IN SECTION 16-2.5-102, C.R.S.

22 **SECTION 6.** 29-5-103, Colorado Revised Statutes, is amended
23 to read:

24 **29-5-103. Assignment of police officers or deputy sheriffs for**
25 **temporary duty.** The chief of police or person performing the functions
26 thereof of any town, city, or city and county or of any state institution of
27 higher education employing peace officers in accordance with section

1 ~~16-2.5-120~~ ARTICLE 7.5 OF TITLE 24, C.R.S., or the sheriff of any county
2 may in his or her discretion, upon request of the chief of police or person
3 exercising the functions thereof in any other town, city, or city and county
4 or any other state institution of higher education employing a peace
5 officer in accordance with ~~section 16-2.5-120~~ ARTICLE 7.5 OF TITLE 24,
6 C.R.S., or the sheriff of any other county, assign police officers or
7 deputies under his or her control, together with any equipment he or she
8 deems proper, to perform temporary duty within the jurisdiction of the
9 requesting chief of police or sheriff and under the direction and command
10 of the requesting chief of police or sheriff; but the chief of police or
11 sheriff assigning the officers or deputies may provide that the officers or
12 deputies shall be under the immediate command of a superior officer
13 designated by the assigning chief of police or sheriff, which superior
14 officer shall be under the direct supervision and command of the
15 requesting chief of police or sheriff. Nothing contained in this section or
16 sections 29-5-104 to 29-5-110 shall be construed to limit the power of any
17 town, city, city and county, or state institution of higher education
18 employing peace officers in accordance with ~~section 16-2.5-120~~ ARTICLE
19 7.5 OF TITLE 24, C.R.S., to prohibit or limit by ordinance the exercise by
20 a chief of police or sheriff of the discretion granted in sections 29-5-103
21 to 29-5-110.

22 **SECTION 7.** 29-5-104 (1), Colorado Revised Statutes, is
23 amended to read:

24 **29-5-104. Request for temporary assignment of police officers**
25 **or deputy sheriffs - authority.** (1) The chief of police, or person
26 performing the functions thereof, of any town, city, or city and county or
27 of a state institution of higher education employing a peace officer in

1 accordance with ~~section 16-2.5-120~~ ARTICLE 7.5 OF TITLE 24, C.R.S., and
2 the sheriff of any county may, when in his or her opinion the same is
3 required to quell disturbances or riots or in any other situation wherein he
4 or she deems that an emergency exists within his or her jurisdiction,
5 request the chief of police or person performing the function thereof of
6 any other city, town, or city and county or at another state institution of
7 higher education employing peace officers in accordance with ~~section~~
8 ~~16-2.5-120~~ ARTICLE 7.5 OF TITLE 24, C.R.S., or the sheriff of any other
9 county to assign officers or deputy sheriffs under their respective
10 commands to perform temporary duty within the jurisdiction of the
11 requesting chief of police or sheriff and under the direction and control
12 of the requesting chief of police or sheriff under the terms and conditions
13 as shall be agreed upon between the requesting and assigning chiefs of
14 police or sheriffs. The officers or deputy sheriffs shall, while so assigned
15 and performing duties subject to the direction and control of the
16 requesting chief of police or sheriff, have the same power within the
17 jurisdiction of the requesting chief of police or sheriff as do regular
18 officers or deputies, as the case may be, of the requesting chief of police
19 or sheriff.

20 **SECTION 8.** 29-5-108, Colorado Revised Statutes, is amended
21 to read:

22 **29-5-108. Liability of requesting jurisdiction.** During the time
23 that a police officer, deputy sheriff, or firefighter of a town, city, city and
24 county, county, or fire protection district or of a state institution of higher
25 education employing a peace officer in accordance with ~~section~~
26 ~~16-2.5-120~~ ARTICLE 7.5 OF TITLE 24, C.R.S., is assigned to temporary duty
27 within the jurisdiction of another town, city, city and county, county, or

1 fire protection district, or of another state institution of higher education
2 employing a peace officer in accordance with ~~section 16-2.5-120~~ ARTICLE
3 7.5 OF TITLE 24, C.R.S., as provided in sections 29-5-103 to 29-5-107, any
4 liability that accrues under the provisions of article 10 of title 24, C.R.S.,
5 on account of the negligent or otherwise tortious act of the police officer,
6 deputy sheriff, or firefighter while performing the duty shall be imposed
7 upon the requesting town, city, city and county, county, fire protection
8 district, or state institution of higher education, and not upon the
9 assigning jurisdiction.

10 **SECTION 9.** 29-5-109, Colorado Revised Statutes, is amended
11 to read:

12 **29-5-109. Workers' compensation coverage.** The coverage of
13 any police officer, deputy sheriff, or firefighter of any town, city, city and
14 county, county, or fire protection district or of any state institution of
15 higher education employing peace officers in accordance with ~~section~~
16 ~~16-2.5-120~~ ARTICLE 7.5 OF TITLE 24, C.R.S., under the "Workers'
17 Compensation Act of Colorado", articles 40 to 47 of title 8, C.R.S., shall
18 not be affected by reason of the performance of temporary duties in a
19 requesting town, city, city and county, county, fire protection district, or
20 state institution of higher education under the provisions of sections
21 29-5-103 to 29-5-107, and the police officers, deputy sheriffs, and
22 firefighters shall remain covered by ~~such~~ THE workers' compensation
23 insurance while performing the temporary duty as fully as if they were
24 performing their regular duties within the assigning jurisdiction.

25 **SECTION 10.** 29-5-110, Colorado Revised Statutes, is amended
26 to read:

27 **29-5-110. Pension fund payments.** If any police officer, deputy

1 sheriff, or firefighter of any town, city, city and county, county, or fire
2 protection district or of any state institution of higher education
3 employing peace officers in accordance with ~~section 16-2.5-120~~ ARTICLE
4 7.5 OF TITLE 24, C.R.S., should become disabled or be killed by reason of
5 the performance of temporary duty within the jurisdiction of another
6 town, city, city and county, county, fire protection district, or state
7 institution of higher education, as provided in sections 29-5-103 to
8 29-5-107, and the disability would entitle him or her or his or her death
9 would entitle his or her survivor to payment from any police or
10 firefighters' or employee pension fund of the town, city, city and county,
11 county, fire protection district, or state institution of higher education
12 assigning him or her to temporary duty in another jurisdiction, had the
13 injury occurred during the performance of his or her duties within the
14 assigning town, city, city and county, county, fire protection district, or
15 state institution of higher education, the police officer, deputy sheriff, or
16 firefighter, or his or her survivor, shall be entitled to the same payment
17 from the pension fund of the assigning town, city, city and county,
18 county, fire protection district, or state institution of higher education, as
19 he or she would have been entitled to receive if the injury or death had
20 occurred within the assigning town, city, city and county, county, fire
21 protection district, or state institution of higher education, and he or she
22 shall not be entitled to receive a payment from any police or firefighters'
23 or employee pension fund of the jurisdiction in which he or she
24 performed the temporary duties.

25 **SECTION 11.** 29-5-111 (1), Colorado Revised Statutes, is
26 amended to read:

27 **29-5-111. Liability of peace officers.** (1) Notwithstanding the

1 doctrines of sovereign immunity and respondeat superior, a city, town,
2 county, or city and county or other political subdivision of the state or a
3 state institution of higher education employing peace officers in
4 accordance with ~~section 16-2.5-120~~ ARTICLE 7.5 OF TITLE 24, C.R.S., shall
5 indemnify its paid peace officers and reserve officers, as defined in
6 section 16-2.5-110, C.R.S., while the peace officers and reserve officers
7 are on duty for any liability incurred by them and for any judgment,
8 except a judgment for exemplary damages, entered against them for torts
9 committed within the scope of their employment if the person claiming
10 damages serves the political subdivision or state institution of higher
11 education with a copy of the summons within ten days from the date
12 when a copy of the summons is served on the peace officer or reserve
13 officer. In no event shall any ~~such~~ political subdivision or state institution
14 of higher education be required so to indemnify its peace officers in
15 excess of one hundred thousand dollars for one person in any single
16 occurrence or three hundred thousand dollars for two or more persons for
17 any single occurrence; except that, in such instance no indemnity shall be
18 allowed for any person in excess of one hundred thousand dollars. It is
19 the duty of the city, town, county, city and county, or other political
20 subdivision and of the state institution of higher education to provide the
21 defense handled by the legal staff of the public entity or by other counsel,
22 in the discretion of the public entity, for the peace officer in ~~such~~ THE
23 claim or civil action. However, in the event that the court determines that
24 a reserve officer, as defined in section 16-2.5-110, C.R.S., incurred the
25 liability while acting outside the scope of his or her assigned duties or that
26 the reserve officer acted in a willful and wanton manner in incurring the
27 liability, the court shall order the reserve officer to reimburse the political

1 subdivision or the state institution of higher education for reasonable
2 costs and reasonable attorney fees expended for the defense of the reserve
3 officer. With the approval of the governing body of the city, town,
4 county, city and county, or other political subdivision or of the state
5 institution of higher education, the claim or civil action may be settled or
6 compromised. A city, town, county, city and county, or other political
7 subdivision or a state institution of higher education may carry liability
8 insurance to insure itself and its peace officers. If the political
9 subdivision or state institution of higher education purchases insurance
10 that provides substantial coverage for the peace officers with a policy
11 limitation of at least one hundred thousand dollars for one person in any
12 single occurrence and three hundred thousand dollars for two or more
13 persons for any single occurrence, except that in such instance no
14 indemnity shall be allowed for any person in excess of one hundred
15 thousand dollars, then the political subdivision or state institution of
16 higher education shall be liable under this section to indemnify the peace
17 officers only to the extent of the limits and for such torts as are covered
18 by the policy and only to the extent of the coverage of the policy.
19 Nothing in this section shall be deemed to condone the conduct of any
20 peace officer who uses excessive force or who violates the statutory or
21 constitutional rights of any person.

22 **SECTION 12. Act subject to petition - effective date.** This act
23 shall take effect at 12:01 a.m. on the day following the expiration of the
24 ninety-day period after final adjournment of the general assembly that is
25 allowed for submitting a referendum petition pursuant to article V,
26 section 1 (3) of the state constitution, (August 4, 2009, if adjournment
27 sine die is on May 6, 2009); except that, if a referendum petition is filed

1 against this act or an item, section, or part of this act within such period,
2 then the act, item, section, or part, if approved by the people, shall take
3 effect on the date of the official declaration of the vote thereon by
4 proclamation of the governor.