

**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

HOUSE SPONSORSHIP

Weissmann,

SENATE SPONSORSHIP

Carroll M., Groff

House Committees

Judiciary
Appropriations

Senate Committees

State, Veterans & Military Affairs
Appropriations

A BILL FOR AN ACT

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

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.

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.