

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

ENGROSSED

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

LLS NO. 10-0396.01 Michael Dohr

HOUSE BILL 10-1201

HOUSE SPONSORSHIP

Middleton, Carroll T., Ferrandino, McFadyen, Miklosi, Pace, Vigil, Weissmann

SENATE SPONSORSHIP

Steadman,

House Committees
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Senate Committees

A BILL FOR AN ACT

101 **CONCERNING DUTIES RELATED TO PEACE OFFICER CONTACTS.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

Before conducting a consensual search of a car, a person in the car, a home, or a pedestrian, the bill requires a peace officer to read a statement related to consent to the search and obtain the person's written consent to the search. The consent applies only to searches for which there is otherwise no legal basis.

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
Amended 2nd Reading
February 26, 2010

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

2 **SECTION 1.** Part 3 of article 3 of title 16, Colorado Revised
3 Statutes, is amended BY THE ADDITION OF A NEW SECTION to
4 read:

5 **16-3-310. Oral advisement and written consent prior to search**
6 **of a vehicle or a person during a police contact.** (1) (a) PRIOR TO
7 CONDUCTING A CONSENSUAL SEARCH OF A PERSON, THE PERSON'S
8 EFFECTS, OR A VEHICLE, A PEACE OFFICER SHALL COMPLY WITH
9 PARAGRAPH (b) OF THIS SUBSECTION (1).

10 (b) A PEACE OFFICER MAY CONDUCT A CONSENSUAL SEARCH ONLY
11 AFTER ARTICULATING THE FOLLOWING FACTORS TO, AND SUBSEQUENTLY
12 RECEIVING CONSENT FROM, THE PERSON SUBJECT TO THE SEARCH OR THE
13 PERSON WITH THE APPARENT OR ACTUAL AUTHORITY TO PROVIDE
14 PERMISSION TO SEARCH THE VEHICLE. THE FACTORS ARE:

15 (I) THE PERSON IS NOT IN CUSTODY;

16 (II) THE PERSON IS BEING ASKED TO VOLUNTARILY CONSENT TO A
17 SEARCH; AND

18 (III) THE PERSON HAS THE RIGHT TO REFUSE THE REQUEST TO
19 SEARCH.

20 (c) AFTER PROVIDING THE ADVISEMENT REQUIRED IN PARAGRAPH
21 (b) OF THIS SUBSECTION (1), A PEACE OFFICER MAY CONDUCT THE
22 REQUESTED SEARCH ONLY IF THE PERSON SUBJECT TO THE SEARCH
23 VOLUNTARILY PROVIDES VERBAL OR WRITTEN CONSENT. OTHER
24 EVIDENCE OF AFFIRMATION MAY BE ACCEPTABLE, IF THE PERSON IS
25 UNABLE TO PROVIDE WRITTEN OR VERBAL CONSENT.

26 (2) A PEACE OFFICER READING THE STATEMENT REQUIRED
27 PURSUANT TO SUBSECTION (1) OF THIS SECTION NEED NOT READ THE

1 STATEMENT VERBATIM; SUBSTANTIAL COMPLIANCE WITH THE CONTENT OF
2 THE STATEMENT IS SUFFICIENT TO COMPLY WITH THE REQUIREMENT.

3 (3) IF A DEFENDANT MOVES TO SUPPRESS ANY EVIDENCE OBTAINED
4 IN THE COURSE OF THE SEARCH, THE COURT SHALL CONSIDER THE FAILURE
5 TO COMPLY WITH THIS FACTOR IN DETERMINING THE VOLUNTARINESS OF
6 THE CONSENT.

7 (4) THIS SECTION SHALL NOT APPLY TO A SEARCH CONDUCTED
8 PURSUANT TO SECTION 16-3-103, C.R.S., A VALID SEARCH INCIDENT TO OR
9 SUBSEQUENT TO A LAWFUL ARREST, OR TO A SEARCH FOR WHICH THERE IS
10 A LEGAL BASIS. THIS SHALL INCLUDE, BUT NOT BE LIMITED TO, A SEARCH
11 IN A CORRECTIONAL FACILITY OR ON CORRECTIONAL FACILITY PROPERTY,
12 A DETENTION FACILITY, COUNTY DETENTION FACILITY, CUSTODY FACILITY,
13 JUVENILE CORRECTIONAL FACILITY OPERATED BY OR UNDER A CONTRACT
14 WITH THE DEPARTMENT OF HUMAN SERVICES, A COMMUNITY CORRECTIONS
15 FACILITY, OR A JAIL OR A SEARCH OF A PERSON UNDER COMMUNITY
16 SUPERVISION OR PAROLE BY A COMMUNITY SUPERVISION OR PAROLE
17 OFFICER WHEN THE PERSON HAS CONSENTED TO SEARCH AS A TERM AND
18 CONDITION OF ANY COMMUNITY SUPERVISION OR PAROLE.

19 **SECTION 2. Safety clause.** The general assembly hereby finds,
20 determines, and declares that this act is necessary for the immediate
21 preservation of the public peace, health, and safety.