

First Regular Session
Sixty-eighth General Assembly
STATE OF COLORADO

REREVISED

*This Version Includes All Amendments
Adopted in the Second House*

LLS NO. 11-0660.01 Christy Chase

HOUSE BILL 11-1195

HOUSE SPONSORSHIP

Gardner B., Ryden

SENATE SPONSORSHIP

Newell,

House Committees

Judiciary

Finance

Appropriations

Senate Committees

Judiciary

Finance

Appropriations

SENATE
Amended 3rd Reading
May 9, 2011

A BILL FOR AN ACT

101 **CONCERNING THE VOLUNTARY LICENSURE OF PRIVATE**
102 **INVESTIGATORS, AND MAKING AN APPROPRIATION THEREFOR.**

SENATE
Amended 2nd Reading
May 6, 2011

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>.)

HOUSE
3rd Reading Unamended
April 11, 2011

The bill permits a private investigator in Colorado to obtain a voluntary license from the director of the division of registrations in the department of regulatory agencies (director) if the private investigator:

- ! Is at least 21 years of age;
- ! Is lawfully present in the United States;

HOUSE
Amended 2nd Reading
April 8, 2011

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.

- ! Has not been convicted of a felony or, within the previous 10 years, of a class 1 misdemeanor;
- ! Has at least 4,000 hours of verifiable, applicable experience as a private investigator within the previous 5 years or 2,000 hours of experience plus an amount of education as determined by the director;
- ! Has knowledge and understanding of the laws affecting the activities of licensed private investigators in this state, as attested to in a sworn, notarized affidavit submitted to the director with the application;
- ! Obtains a fingerprint-based criminal history record check;
- ! Pays the required fee; and
- ! Submits a current photograph and any applicable business registration documentation.

A private investigator who does not obtain a license is prohibited from holding himself or herself out as, or using the title of, "licensed private investigator".

The bill grants a licensed private investigator access to the following records, unredacted by the custodians of the records:

- ! State, county, and municipal court records pertaining to criminal, civil, and domestic cases;
- ! Records in the custody of a county clerk and recorder, including real and personal property records, voter records, marriage records, and motor vehicle records;
- ! Records of or in the custody of a county tax assessor;
- ! Records in the custody of the state registrar of vital statistics, including records of birth, death, marriage, and divorce;
- ! Records in the custody of the secretary of state, including voter records; corporate or business filings; "Uniform Commercial Code" filings; bingo, raffle, and notary public filings; and lobbyist filings;
- ! Law enforcement records other than those records pertaining to ongoing or active law enforcement investigations; and
- ! State and local government records relating to professional, occupational, or business licenses, registrations, or certifications.

The bill requires the department of revenue to establish procedures for a licensed private investigator seeking access to motor vehicle records to work with department personnel to identify specific motor vehicle records for disclosure to the licensed private investigator for a permitted use. Additionally, custodians of records are not required to release a person's social security number to a licensed private investigator unless otherwise required by law or court order.

The functions of the director pertaining to the licensure of private investigators is subject to sunset review and repeal on September 1, 2016.

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

2 **SECTION 1.** Title 12, Colorado Revised Statutes, is amended BY
3 THE ADDITION OF A NEW ARTICLE to read:

4 **ARTICLE 58.5**

5 **Private Investigators**

6 **12-58.5-101. Short title.** THIS ARTICLE SHALL BE KNOWN AND
7 MAY BE CITED AS THE "PRIVATE INVESTIGATORS VOLUNTARY LICENSURE
8 ACT".

9 **12-58.5-102. Legislative declaration.** THE GENERAL ASSEMBLY
10 HEREBY FINDS THAT IN ORDER TO PROTECT THE CITIZENS OF THE STATE
11 AND ALLOW PRIVATE INVESTIGATORS ACCESS TO PUBLIC RECORDS, IT IS
12 IMPORTANT TO CREATE A LICENSURE PROGRAM TO ALLOW QUALIFIED
13 PRIVATE INVESTIGATORS, AT THEIR OPTION, TO OBTAIN A STATE-ISSUED
14 LICENSE TO CONDUCT PRIVATE INVESTIGATIONS.

15 **12-58.5-103. Definitions.** AS USED IN THIS ARTICLE, UNLESS THE
16 CONTEXT OTHERWISE REQUIRES:

17 (1) "APPLICANT" MEANS A PRIVATE INVESTIGATOR WHO APPLIES
18 FOR AN INITIAL OR RENEWAL LICENSE PURSUANT TO THIS ARTICLE.

19 (2) "DIRECTOR" MEANS THE DIRECTOR OF THE DIVISION OR THE
20 DIRECTOR'S DESIGNEE.

21 (3) "DIVISION" MEANS THE DIVISION OF REGISTRATIONS IN THE
22 DEPARTMENT OF REGULATORY AGENCIES.

23 (4) "LICENSED PRIVATE INVESTIGATOR" MEANS A PRIVATE
24 INVESTIGATOR LICENSED BY THE DIRECTOR PURSUANT TO THIS ARTICLE.

25 (5) "PRIVATE INVESTIGATION" MEANS AN INVESTIGATION FOR THE

1 PURPOSE OF OBTAINING INFORMATION PERTAINING TO:

2 (a) A CRIME, WRONGFUL ACT, OR THREAT AGAINST THE UNITED
3 STATES OR ANY STATE OR TERRITORY OF THE UNITED STATES;

4 (b) THE IDENTITY, REPUTATION, CHARACTER, HABITS, CONDUCT,
5 BUSINESS OCCUPATION, HONESTY, INTEGRITY, CREDIBILITY, KNOWLEDGE,
6 TRUSTWORTHINESS, EFFICIENCY, LOYALTY, ACTIVITY, MOVEMENTS,
7 WHEREABOUTS, AFFILIATIONS, ASSOCIATIONS, OR TRANSACTIONS OF A
8 PERSON OR GROUP OF PERSONS;

9 (c) THE CREDIBILITY OF WITNESSES OR OTHER PERSONS;

10 (d) THE WHEREABOUTS OF MISSING PERSONS;

11 (e) THE DETERMINATION OF THE OWNERS OF ABANDONED
12 PROPERTY;

13 (f) THE CAUSES AND ORIGIN OF, OR RESPONSIBILITY FOR, A FIRE,
14 LIBEL, SLANDER, A LOSS, AN ACCIDENT, DAMAGE, OR AN INJURY TO A
15 PERSON OR TO REAL OR PERSONAL PROPERTY;

16 (g) THE BUSINESS OF SECURING EVIDENCE TO BE USED BEFORE AN
17 INVESTIGATORY COMMITTEE OR BOARD OF AWARD OR ARBITRATION OR IN
18 THE PREPARATION FOR OR IN A CIVIL OR CRIMINAL TRIAL;

19 (h) THE BUSINESS OF LOCATING PERSONS WHO HAVE BECOME
20 DELINQUENT IN THEIR LAWFUL DEBTS, EITHER WHEN HIRED BY AN
21 INDIVIDUAL OR COLLECTION AGENCY OR THROUGH DIRECT PURCHASE OF
22 THE DEBT FROM A FINANCIAL INSTITUTION OR ENTITY OWNING THE DEBT
23 OR JUDGMENT.

24 (6) (a) "PRIVATE INVESTIGATOR" MEANS A PERSON WHO, FOR
25 CONSIDERATION, ENGAGES IN BUSINESS OR ACCEPTS EMPLOYMENT TO
26 CONDUCT PRIVATE INVESTIGATIONS.

27 (b) "PRIVATE INVESTIGATOR" DOES NOT INCLUDE:

- 1 (I) A COLLECTION AGENCY, AS DEFINED IN SECTION 12-14-103;
- 2 (II) A PERSON CONDUCTING AN INVESTIGATION ON THE PERSON'S
- 3 OWN BEHALF, OR AN EMPLOYEE CONDUCTING AN INVESTIGATION ON
- 4 BEHALF OF THE EMPLOYER;
- 5 (III) AN EMPLOYEE OR INDEPENDENT CONTRACTOR OF AN
- 6 ATTORNEY LICENSED TO PRACTICE LAW IN THIS STATE;
- 7 (IV) A CERTIFIED PEACE OFFICER OF A LAW ENFORCEMENT
- 8 AGENCY OPERATING IN HIS OR HER OFFICIAL CAPACITY;
- 9 (V) A CONSUMER REPORTING AGENCY, AS DEFINED IN SECTION
- 10 12-14-103;
- 11 (VI) A CERTIFIED PUBLIC ACCOUNTANT CERTIFIED OR AUTHORIZED
- 12 TO PROVIDE ACCOUNTING SERVICES IN THE STATE PURSUANT TO ARTICLE
- 13 2 OF THIS TITLE AND ANY EMPLOYEE OR AFFILIATE OF AN ACCOUNTING
- 14 FIRM REGISTERED PURSUANT TO SECTION 12-2-117;
- 15 (VII) AN INVESTIGATOR EMPLOYED BY A PUBLIC OR
- 16 GOVERNMENTAL AGENCY;
- 17 (VIII) A JOURNALIST OR GENEALOGIST; OR
- 18 (IX) A PERSON SERVING PROCESS.

19 **12-58.5-104. Voluntary license - title protection - penalty.**

20 (1) (a) BY JULY 1, 2012, A PRIVATE INVESTIGATOR CONDUCTING PRIVATE

21 INVESTIGATIONS IN THIS STATE WHO MEETS THE REQUIREMENTS OF

22 SECTION 12-58.5-105 MAY OBTAIN A LICENSE FROM THE DIRECTOR. ONLY

23 A PRIVATE INVESTIGATOR WHO OBTAINS A LICENSE PURSUANT TO SECTION

24 12-58.5-105 SHALL HOLD HIMSELF OR HERSELF OUT AS, OR USE THE TITLE

25 OF, A "LICENSED PRIVATE INVESTIGATOR".

26 (b) NOTHING IN THIS ARTICLE REQUIRES A PRIVATE INVESTIGATOR

27 ENGAGING IN PRIVATE INVESTIGATIONS IN THIS STATE TO OBTAIN A

1 LICENSE UNDER THIS ARTICLE, BUT A PRIVATE INVESTIGATOR WHO IS NOT
2 SO LICENSED SHALL NOT REFER TO HIMSELF OR HERSELF AS A "LICENSED
3 PRIVATE INVESTIGATOR".

4 (2) ANY PERSON WHO HOLDS HIMSELF OR HERSELF OUT AS OR USES
5 THE TITLE "LICENSED PRIVATE INVESTIGATOR" WITHOUT AN ACTIVE
6 LICENSE ISSUED UNDER THIS ARTICLE COMMITS A CLASS 2 MISDEMEANOR
7 AND SHALL BE PUNISHED AS PROVIDED IN SECTION 18-1.3-501, C.R.S., FOR
8 THE FIRST OFFENSE, AND, FOR THE SECOND OR ANY SUBSEQUENT OFFENSE,
9 COMMITS A CLASS 1 MISDEMEANOR AND SHALL BE PUNISHED AS PROVIDED
10 IN SECTION 18-1.3-501, C.R.S.

11 **12-58.5-105. Private investigator voluntary license -**
12 **qualifications - fees - renewal.** (1) UPON APPLICATION IN THE FORM
13 AND MANNER DETERMINED BY THE DIRECTOR, PAYMENT OF THE REQUIRED
14 FEE, SUBMISSION OF BUSINESS REGISTRATION DOCUMENTATION AS
15 REQUIRED BY SUBSECTION (3) OF THIS SECTION, AND SATISFACTION OF THE
16 REQUIREMENTS OF SUBSECTION (2) OF THIS SECTION, THE DIRECTOR SHALL
17 ISSUE AN INITIAL OR RENEWAL LICENSE TO AN APPLICANT WHO PROVIDES
18 EVIDENCE SATISFACTORY TO THE DIRECTOR THAT HE OR SHE:

19 (a) IS AT LEAST TWENTY-ONE YEARS OF AGE;

20 (b) IS LAWFULLY PRESENT IN THE UNITED STATES;

21

22 (c) (I) HAS AT LEAST FOUR THOUSAND HOURS OF VERIFIABLE,
23 APPLICABLE EXPERIENCE, AS DETERMINED BY THE DIRECTOR WITHIN THE
24 FIVE YEARS IMMEDIATELY PRECEDING THE DATE OF APPLICATION; OR

25 (II) HAS AT LEAST TWO THOUSAND HOURS OF VERIFIABLE,
26 APPLICABLE EXPERIENCE, AS DETERMINED BY THE DIRECTOR, WITHIN THE
27 FIVE YEARS IMMEDIATELY PRECEDING THE DATE OF APPLICATION PLUS AN

1 AMOUNT OF POSTSECONDARY EDUCATION DETERMINED BY THE DIRECTOR;
2 AND

3 (d) HAS KNOWLEDGE AND UNDERSTANDING OF THE STATUTES AND
4 RULES AFFECTING THE ETHICS AND ACTIVITIES OF LICENSED PRIVATE
5 INVESTIGATORS IN THIS STATE.

6 (2) IN ADDITION TO THE REQUIREMENTS OF SUBSECTION (1) OF THIS
7 SECTION, EACH LICENSE APPLICANT SHALL HAVE HIS OR HER FINGERPRINTS
8 TAKEN BY A LOCAL LAW ENFORCEMENT AGENCY FOR THE PURPOSE OF
9 OBTAINING A FINGERPRINT-BASED CRIMINAL HISTORY RECORD CHECK.
10 THE APPLICANT IS REQUIRED TO SUBMIT PAYMENT BY CERTIFIED CHECK OR
11 MONEY ORDER FOR THE FINGERPRINTS AND FOR THE ACTUAL COSTS OF THE
12 RECORD CHECK AT THE TIME THE FINGERPRINTS ARE SUBMITTED TO THE
13 COLORADO BUREAU OF INVESTIGATION. UPON RECEIPT OF FINGERPRINTS
14 AND RECEIPT OF THE PAYMENT FOR COSTS, THE COLORADO BUREAU OF
15 INVESTIGATION SHALL CONDUCT A STATE AND NATIONAL
16 FINGERPRINT-BASED CRIMINAL HISTORY RECORD CHECK UTILIZING
17 RECORDS OF THE COLORADO BUREAU OF INVESTIGATION AND THE
18 FEDERAL BUREAU OF INVESTIGATION AND SHALL FORWARD THE RESULTS
19 OF THE CRIMINAL HISTORY RECORD CHECK TO THE DIRECTOR.

20 (3) IF AN APPLICANT HAS REGISTERED AS A BUSINESS ENTITY WITH
21 THE SECRETARY OF STATE, AT THE TIME OF APPLICATION FOR A LICENSE
22 THE APPLICANT SHALL PROVIDE DOCUMENTATION TO THE DIRECTOR THAT
23 THE APPLICANT'S BUSINESS REGISTRATION IS CURRENT AND IN GOOD
24 STANDING WITH THE SECRETARY OF STATE.

25 (4) AN APPLICANT FOR LICENSURE SHALL PAY LICENSE, RENEWAL,
26 AND REINSTATEMENT FEES ESTABLISHED BY THE DIRECTOR PURSUANT TO
27 SECTION 24-34-105, C.R.S. ALL LICENSES SHALL BE RENEWED OR

1 REINSTATED PURSUANT TO A SCHEDULE ESTABLISHED BY THE DIRECTOR
2 AND PURSUANT TO SECTION 24-34-102 (8), C.R.S. IF A PERSON FAILS TO
3 RENEW HIS OR HER LICENSE PURSUANT TO THE SCHEDULE ESTABLISHED BY
4 THE DIRECTOR, THE LICENSE EXPIRES AND THE PERSON SHALL NOT HOLD
5 HIMSELF OR HERSELF OUT AS A LICENSED PRIVATE INVESTIGATOR UNTIL HE
6 OR SHE PAYS THE APPROPRIATE FEES TO REINSTATE THE LICENSE.

7
8 **12-58.5-106. Director may promulgate rules.** IN ADDITION TO
9 ALL OTHER POWERS AND DUTIES CONFERRED OR IMPOSED UPON THE
10 DIRECTOR BY THIS ARTICLE OR BY ANY OTHER LAW, THE DIRECTOR MAY
11 PROMULGATE RULES PURSUANT TO SECTION 24-4-103, C.R.S., TO
12 IMPLEMENT THIS ARTICLE.

13 **12-58.5-107. Disciplinary actions - grounds for discipline.**
14 (1) THE DIRECTOR MAY DENY, SUSPEND, REVOKE, OR PLACE ON
15 PROBATION A PRIVATE INVESTIGATOR'S LICENSE IF THE APPLICANT:
16 (a) VIOLATES ANY ORDER OF THE DIRECTOR OR ANY PROVISION OF
17 THIS ARTICLE OR OF RULES ESTABLISHED UNDER THIS ARTICLE;
18 (b) FAILS TO MEET THE REQUIREMENTS OF SECTION 12-58.5-105 OR
19 USES FRAUD, MISREPRESENTATION, OR DECEIT IN APPLYING FOR OR
20 ATTEMPTING TO APPLY FOR A LICENSE;
21 (c) IS CONVICTED OF OR HAS ENTERED A PLEA OF GUILTY OR NOLO
22 CONTENDERE TO A FELONY, TO AN OFFENSE, THE UNDERLYING FACTUAL
23 BASIS OF WHICH HAS BEEN FOUND BY THE COURT TO INVOLVE UNLAWFUL
24 SEXUAL BEHAVIOR, DOMESTIC VIOLENCE, AS DEFINED IN SECTION
25 18-6-800.3 (1), C.R.S., OR STALKING, AS DEFINED IN SECTION 18-3-602,
26 C.R.S.; OR TO VIOLATION OF A PROTECTION ORDER, AS DEFINED IN
27 SECTION 18-6-803.5, C.R.S. IN CONSIDERING THE DISCIPLINARY ACTION,

1 THE DIRECTOR SHALL BE GOVERNED BY THE PROVISIONS OF SECTION
2 24-5-101, C.R.S., IN CONSIDERING THE CONVICTION OR PLEA;

3 (d) HAS BEEN SUBJECT TO DISCIPLINE RELATED TO THE PRACTICE
4 OF PRIVATE INVESTIGATIONS IN ANOTHER JURISDICTION. EVIDENCE OF
5 DISCIPLINARY ACTION IN ANOTHER JURISDICTION IS PRIMA FACIE EVIDENCE
6 FOR DENIAL OF A LICENSE OR OTHER DISCIPLINARY ACTION IF THE
7 VIOLATION WOULD BE GROUNDS FOR DISCIPLINARY ACTION IN THIS STATE.

8 (2) THE DIRECTOR MAY ADOPT RULES ESTABLISHING FINES THAT
9 HE OR SHE MAY IMPOSE ON A LICENSEE, WHICH RULES MUST INCLUDE A
10 GRADUATED FINE STRUCTURE, WITH A MAXIMUM ALLOWABLE FINE OF NOT
11 MORE THAN THREE THOUSAND DOLLARS PER VIOLATION. THE DIRECTOR
12 SHALL TRANSMIT ANY FINES HE OR SHE COLLECTS FROM A LICENSEE TO
13 THE STATE TREASURER FOR DEPOSIT IN THE GENERAL FUND.

14 (3) THE DIRECTOR NEED NOT FIND THAT THE ACTIONS THAT ARE
15 GROUNDS FOR DISCIPLINE WERE WILLFUL BUT MAY CONSIDER WHETHER
16 THE ACTIONS WERE WILLFUL WHEN DETERMINING THE NATURE OF
17 DISCIPLINARY SANCTIONS TO BE IMPOSED.

18 (4) (a) THE DIRECTOR MAY COMMENCE A PROCEEDING TO
19 DISCIPLINE A LICENSEE WHEN THE DIRECTOR HAS REASONABLE GROUNDS
20 TO BELIEVE THAT THE LICENSEE HAS COMMITTED AN ACT ENUMERATED IN
21 THIS SECTION.

22 (b) IN ANY PROCEEDING HELD UNDER THIS SECTION, THE DIRECTOR
23 MAY ACCEPT AS EVIDENCE OF GROUNDS FOR DISCIPLINARY ACTION ANY
24 DISCIPLINARY ACTION TAKEN AGAINST A LICENSEE IN ANOTHER
25 JURISDICTION IF THE VIOLATION THAT PROMPTED THE DISCIPLINARY
26 ACTION IN THE OTHER JURISDICTION WOULD BE GROUNDS FOR
27 DISCIPLINARY ACTION UNDER THIS ARTICLE.

1 (5) THE DIRECTOR SHALL CONDUCT DISCIPLINARY PROCEEDINGS
2 IN ACCORDANCE WITH ARTICLE 4 OF TITLE 24, C.R.S., AND THE DIRECTOR
3 OR ADMINISTRATIVE LAW JUDGE APPOINTED BY THE DIRECTOR PURSUANT
4 TO PARAGRAPH (c) OF SUBSECTION (6) OF THIS SECTION SHALL CONDUCT
5 THE HEARING AND OPPORTUNITY FOR REVIEW PURSUANT TO THAT
6 ARTICLE. THE DIRECTOR HAS THE AUTHORITY TO EXERCISE ALL POWERS
7 AND DUTIES CONFERRED BY THIS ARTICLE DURING THE DISCIPLINARY
8 PROCEEDINGS.

9 (6) (a) THE DIRECTOR MAY REQUEST THE ATTORNEY GENERAL TO
10 SEEK AN INJUNCTION, IN ANY COURT OF COMPETENT JURISDICTION, TO
11 ENJOIN A PERSON FROM COMMITTING AN ACT PROHIBITED BY THIS
12 ARTICLE. WHEN SEEKING AN INJUNCTION UNDER THIS PARAGRAPH (a),
13 THE ATTORNEY GENERAL IS NOT REQUIRED TO ALLEGE OR PROVE THE
14 INADEQUACY OF ANY REMEDY AT LAW OR THAT SUBSTANTIAL OR
15 IRREPARABLE DAMAGE IS LIKELY TO RESULT FROM A CONTINUED
16 VIOLATION OF THIS ARTICLE.

17 (b) (I) THE DIRECTOR MAY INVESTIGATE, HOLD HEARINGS, AND
18 GATHER EVIDENCE IN ALL MATTERS RELATED TO THE EXERCISE AND
19 PERFORMANCE OF THE POWERS AND DUTIES OF THE DIRECTOR.

20 (II) IN ORDER TO AID THE DIRECTOR IN ANY HEARING OR
21 INVESTIGATION INSTITUTED PURSUANT TO THIS SECTION, THE DIRECTOR OR
22 AN ADMINISTRATIVE LAW JUDGE APPOINTED PURSUANT TO PARAGRAPH (c)
23 OF THIS SUBSECTION (6) MAY ADMINISTER OATHS, TAKE AFFIRMATIONS OF
24 WITNESSES, AND ISSUE SUBPOENAS COMPELLING THE ATTENDANCE OF
25 WITNESSES AND THE PRODUCTION OF ALL RELEVANT RECORDS, PAPERS,
26 BOOKS, DOCUMENTARY EVIDENCE, AND MATERIALS IN ANY HEARING,
27 INVESTIGATION, ACCUSATION, OR OTHER MATTER BEFORE THE DIRECTOR

1 OR AN ADMINISTRATIVE LAW JUDGE.

2 (III) UPON FAILURE OF ANY WITNESS OR LICENSEE TO COMPLY
3 WITH A SUBPOENA OR PROCESS, THE DISTRICT COURT OF THE COUNTY IN
4 WHICH THE SUBPOENAED PERSON OR LICENSEE RESIDES OR CONDUCTS
5 BUSINESS, UPON APPLICATION BY THE DIRECTOR WITH NOTICE TO THE
6 SUBPOENAED PERSON OR LICENSEE, MAY ISSUE TO THE PERSON OR
7 LICENSEE AN ORDER REQUIRING THE PERSON OR LICENSEE TO APPEAR
8 BEFORE THE DIRECTOR; TO PRODUCE THE RELEVANT PAPERS, BOOKS,
9 RECORDS, DOCUMENTARY EVIDENCE, OR MATERIALS IF SO ORDERED; OR
10 TO GIVE EVIDENCE TOUCHING THE MATTER UNDER INVESTIGATION OR IN
11 QUESTION. IF THE PERSON OR LICENSEE FAILS TO OBEY THE ORDER OF THE
12 COURT, THE COURT MAY HOLD THE PERSON OR LICENSEE IN CONTEMPT OF
13 COURT.

14 (c) THE DIRECTOR MAY APPOINT AN ADMINISTRATIVE LAW JUDGE
15 PURSUANT TO PART 10 OF ARTICLE 30 OF TITLE 24, C.R.S., TO CONDUCT
16 HEARINGS, TAKE EVIDENCE, MAKE FINDINGS, AND REPORT SUCH FINDINGS
17 TO THE DIRECTOR.

18 (7) (a) THE DIRECTOR, THE DIRECTOR'S STAFF, A PERSON ACTING
19 AS A WITNESS OR CONSULTANT TO THE DIRECTOR, A WITNESS TESTIFYING
20 IN A PROCEEDING AUTHORIZED UNDER THIS ARTICLE, OR A PERSON WHO
21 LODGES A COMPLAINT PURSUANT TO THIS ARTICLE IS IMMUNE FROM
22 LIABILITY IN A CIVIL ACTION BROUGHT AGAINST HIM OR HER FOR ACTS
23 OCCURRING WHILE ACTING IN HIS OR HER CAPACITY AS DIRECTOR, STAFF,
24 CONSULTANT, OR WITNESS, RESPECTIVELY, IF THE INDIVIDUAL WAS ACTING
25 IN GOOD FAITH WITHIN THE SCOPE OF HIS OR HER RESPECTIVE CAPACITY,
26 MADE A REASONABLE EFFORT TO OBTAIN THE FACTS OF THE MATTER AS TO
27 WHICH HE OR SHE ACTED, AND ACTED IN THE REASONABLE BELIEF THAT

1 THE ACTION TAKEN BY HIM OR HER WAS WARRANTED BY THE FACTS.

2 (b) A PERSON PARTICIPATING IN GOOD FAITH IN MAKING A
3 COMPLAINT OR REPORT OR IN AN INVESTIGATIVE OR ADMINISTRATIVE
4 PROCEEDING PURSUANT TO THIS SECTION IS IMMUNE FROM ANY CIVIL OR
5 CRIMINAL LIABILITY THAT OTHERWISE MIGHT RESULT BY REASON OF THE
6 PARTICIPATION.

7 (8) A FINAL ACTION OF THE DIRECTOR IS SUBJECT TO JUDICIAL
8 REVIEW BY THE COURT OF APPEALS PURSUANT TO SECTION 24-4-106 (11),
9 C.R.S. THE DIRECTOR MAY INSTITUTE A JUDICIAL PROCEEDING IN
10 ACCORDANCE WITH SECTION 24-4-106, C.R.S., TO ENFORCE AN ORDER OF
11 THE DIRECTOR.

12 (9) WHEN A COMPLAINT OR AN INVESTIGATION DISCLOSES AN
13 INSTANCE OF MISCONDUCT THAT, IN THE OPINION OF THE DIRECTOR,
14 WARRANTS FORMAL ACTION, THE DIRECTOR SHALL NOT RESOLVE THE
15 COMPLAINT BY A DEFERRED SETTLEMENT, ACTION, JUDGMENT, OR
16 PROSECUTION.

17 (10) (a) IF IT APPEARS TO THE DIRECTOR, BASED UPON CREDIBLE
18 EVIDENCE AS PRESENTED IN A WRITTEN COMPLAINT, THAT A LICENSEE IS
19 ACTING IN A MANNER THAT IS AN IMMINENT THREAT TO THE HEALTH AND
20 SAFETY OF THE PUBLIC, OR A PERSON IS HOLDING HIMSELF OR HERSELF OUT
21 AS OR IS USING THE TITLE "LICENSED PRIVATE INVESTIGATOR" WITHOUT
22 HAVING OBTAINED A LICENSE, THE DIRECTOR MAY ISSUE AN ORDER TO
23 CEASE AND DESIST THE ACTIVITY. THE DIRECTOR SHALL SET FORTH IN THE
24 ORDER THE STATUTES AND RULES ALLEGED TO HAVE BEEN VIOLATED, THE
25 FACTS ALLEGED TO HAVE CONSTITUTED THE VIOLATION, AND THE
26 REQUIREMENT THAT ALL UNLAWFUL ACTS OR UNREGISTERED PRACTICES
27 IMMEDIATELY CEASE.

1 (b) WITHIN TEN DAYS AFTER SERVICE OF THE ORDER TO CEASE AND
2 DESIST PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (10), THE
3 RESPONDENT MAY REQUEST A HEARING ON THE QUESTION OF WHETHER
4 ACTS OR PRACTICES IN VIOLATION OF THIS ARTICLE HAVE OCCURRED. THE
5 DIRECTOR OR ADMINISTRATIVE LAW JUDGE, AS APPLICABLE, SHALL
6 CONDUCT THE HEARING PURSUANT TO SECTIONS 24-4-104 AND 24-4-105,
7 C.R.S.

8 (11) (a) IF IT APPEARS TO THE DIRECTOR, BASED UPON CREDIBLE
9 EVIDENCE AS PRESENTED IN A WRITTEN COMPLAINT, THAT A PERSON HAS
10 VIOLATED ANY OTHER PORTION OF THIS ARTICLE, IN ADDITION TO ANY
11 SPECIFIC POWERS GRANTED PURSUANT TO THIS ARTICLE, THE DIRECTOR
12 MAY ISSUE TO THE PERSON AN ORDER TO SHOW CAUSE AS TO WHY THE
13 DIRECTOR SHOULD NOT ISSUE A FINAL ORDER DIRECTING THE PERSON TO
14 CEASE AND DESIST FROM THE UNLAWFUL ACT OR UNREGISTERED
15 PRACTICE.

16 (b) THE DIRECTOR SHALL PROMPTLY NOTIFY THE PERSON AGAINST
17 WHOM AN ORDER TO SHOW CAUSE HAS BEEN ISSUED PURSUANT TO
18 PARAGRAPH (a) OF THIS SUBSECTION (11) OF THE ISSUANCE OF THE ORDER
19 AND SHALL INCLUDE IN THE NOTICE A COPY OF THE ORDER, THE FACTUAL
20 AND LEGAL BASIS FOR THE ORDER, AND THE DATE SET BY THE DIRECTOR
21 FOR A HEARING ON THE ORDER. THE DIRECTOR MAY SERVE THE NOTICE ON
22 THE PERSON AGAINST WHOM THE ORDER HAS BEEN ISSUED BY PERSONAL
23 SERVICE, BY FIRST-CLASS, POSTAGE-PREPAID UNITED STATES MAIL, OR IN
24 ANOTHER MANNER AS MAY BE PRACTICABLE. PERSONAL SERVICE OR
25 MAILING OF AN ORDER OR DOCUMENT PURSUANT TO THIS PARAGRAPH (b)
26 CONSTITUTES NOTICE OF THE ORDER TO THE PERSON.

27 (c) (I) THE DIRECTOR SHALL HOLD THE HEARING ON AN ORDER TO

1 SHOW CAUSE NO SOONER THAN TEN AND NO LATER THAN FORTY-FIVE
2 CALENDAR DAYS AFTER THE DATE OF TRANSMISSION OR SERVICE OF THE
3 NOTIFICATION BY THE DIRECTOR AS PROVIDED IN PARAGRAPH (b) OF THIS
4 SUBSECTION (11). THE DIRECTOR MAY CONTINUE THE HEARING BY
5 AGREEMENT OF ALL PARTIES BASED UPON THE COMPLEXITY OF THE
6 MATTER, NUMBER OF PARTIES TO THE MATTER, AND LEGAL ISSUES
7 PRESENTED IN THE MATTER, BUT IN NO EVENT SHALL THE DIRECTOR HOLD
8 THE HEARING LATER THAN SIXTY CALENDAR DAYS AFTER THE DATE OF
9 TRANSMISSION OR SERVICE OF THE NOTIFICATION.

10 (II) IF A PERSON AGAINST WHOM AN ORDER TO SHOW CAUSE HAS
11 BEEN ISSUED PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (11) DOES
12 NOT APPEAR AT THE HEARING, THE DIRECTOR MAY PRESENT EVIDENCE
13 THAT NOTIFICATION WAS PROPERLY SENT OR SERVED ON THE PERSON
14 PURSUANT TO PARAGRAPH (b) OF THIS SUBSECTION (11) AND SUCH OTHER
15 EVIDENCE RELATED TO THE MATTER AS THE DIRECTOR DEEMS
16 APPROPRIATE. THE DIRECTOR SHALL ISSUE THE ORDER WITHIN TEN DAYS
17 AFTER THE DIRECTOR'S DETERMINATION RELATED TO REASONABLE
18 ATTEMPTS TO NOTIFY THE RESPONDENT, AND THE ORDER BECOMES FINAL
19 AS TO THAT PERSON BY OPERATION OF LAW. THE HEARING MUST BE
20 CONDUCTED PURSUANT TO SECTIONS 24-4-104 AND 24-4-105, C.R.S.

21 (III) IF THE DIRECTOR REASONABLY FINDS THAT THE PERSON
22 AGAINST WHOM THE ORDER TO SHOW CAUSE WAS ISSUED IS ACTING OR
23 HAS ACTED WITHOUT THE REQUIRED REGISTRATION, OR HAS OR IS ABOUT
24 TO ENGAGE IN ACTS OR PRACTICES CONSTITUTING VIOLATIONS OF THIS
25 ARTICLE, THE DIRECTOR MAY ISSUE A FINAL CEASE-AND-DESIST ORDER
26 DIRECTING THE PERSON TO CEASE AND DESIST FROM FURTHER UNLAWFUL
27 ACTS OR PRACTICES.

1 (IV) THE DIRECTOR SHALL PROVIDE NOTICE, IN THE MANNER SET
2 FORTH IN PARAGRAPH (b) OF THIS SUBSECTION (11), OF THE FINAL
3 CEASE-AND-DESIST ORDER WITHIN TEN CALENDAR DAYS AFTER THE
4 HEARING CONDUCTED PURSUANT TO THIS PARAGRAPH (c) TO EACH PERSON
5 AGAINST WHOM THE FINAL ORDER HAS BEEN ISSUED. THE FINAL ORDER
6 ISSUED PURSUANT TO SUBPARAGRAPH (III) OF THIS PARAGRAPH (c) IS
7 EFFECTIVE WHEN ISSUED AND IS A FINAL ORDER FOR PURPOSES OF JUDICIAL
8 REVIEW.

9 (12) IF IT APPEARS TO THE DIRECTOR, BASED UPON CREDIBLE
10 EVIDENCE PRESENTED TO THE DIRECTOR, THAT A PERSON HAS ENGAGED OR
11 IS ABOUT TO ENGAGE IN AN ACT OR PRACTICE CONSTITUTING A VIOLATION
12 OF THIS ARTICLE, A RULE PROMULGATED PURSUANT TO THIS ARTICLE, OR
13 AN ORDER ISSUED PURSUANT TO THIS ARTICLE; OR AN ACT OR PRACTICE
14 CONSTITUTING GROUNDS FOR ADMINISTRATIVE SANCTION PURSUANT TO
15 THIS ARTICLE, THE DIRECTOR MAY ENTER INTO A STIPULATION WITH THE
16 PERSON.

17 (13) IF A PERSON FAILS TO COMPLY WITH A FINAL
18 CEASE-AND-DESIST ORDER OR A STIPULATION, THE DIRECTOR MAY
19 REQUEST THE ATTORNEY GENERAL OR THE DISTRICT ATTORNEY FOR THE
20 JUDICIAL DISTRICT IN WHICH THE ALLEGED VIOLATION EXISTS TO BRING,
21 AND IF SO REQUESTED THE ATTORNEY SHALL BRING, SUIT FOR A
22 TEMPORARY RESTRAINING ORDER AND FOR INJUNCTIVE RELIEF TO
23 PREVENT ANY FURTHER OR CONTINUED VIOLATION OF THE FINAL ORDER.

24 (14) A PERSON AGGRIEVED BY THE FINAL CEASE-AND-DESIST
25 ORDER MAY SEEK JUDICIAL REVIEW OF THE DIRECTOR'S DETERMINATION
26 OR OF THE DIRECTOR'S FINAL ORDER AS PROVIDED IN SUBSECTION (8) OF
27 THIS SECTION.

1 (15) (a) WHEN A COMPLAINT OR INVESTIGATION DISCLOSES AN
2 INSTANCE OF MISCONDUCT THAT, IN THE OPINION OF THE DIRECTOR, DOES
3 NOT WARRANT FORMAL ACTION BY THE DIRECTOR BUT THAT SHOULD NOT
4 BE DISMISSED AS BEING WITHOUT MERIT, A LETTER OF ADMONITION MAY
5 BE ISSUED AND SENT, BY CERTIFIED MAIL, TO THE LICENSED PRIVATE
6 INVESTIGATOR.

7 (b) WHEN THE DIRECTOR SENDS A LETTER OF ADMONITION TO A
8 LICENSED PRIVATE INVESTIGATOR, THE DIRECTOR SHALL ADVISE THE
9 PRIVATE INVESTIGATOR THAT HE OR SHE HAS THE RIGHT TO REQUEST IN
10 WRITING, WITHIN TWENTY DAYS AFTER RECEIPT OF THE LETTER, THAT
11 FORMAL DISCIPLINARY PROCEEDINGS BE INITIATED TO ADJUDICATE THE
12 PROPRIETY OF THE CONDUCT UPON WHICH THE LETTER OF ADMONITION IS
13 BASED.

14 (c) IF THE LICENSED PRIVATE INVESTIGATOR TIMELY REQUESTS
15 ADJUDICATION, THE DIRECTOR SHALL VACATE THE LETTER OF
16 ADMONITION AND PROCESS THE MATTER BY MEANS OF FORMAL
17 DISCIPLINARY PROCEEDINGS.

18 (16) WHEN A COMPLAINT OR INVESTIGATION DISCLOSES AN
19 INSTANCE OF CONDUCT THAT DOES NOT WARRANT FORMAL ACTION BY THE
20 DIRECTOR AND, IN THE OPINION OF THE DIRECTOR, THE COMPLAINT
21 SHOULD BE DISMISSED, BUT THE DIRECTOR HAS NOTICED INDICATIONS OF
22 POSSIBLE ERRANT CONDUCT BY THE LICENSED PRIVATE INVESTIGATOR
23 THAT COULD LEAD TO SERIOUS CONSEQUENCES IF NOT CORRECTED, THE
24 DIRECTOR MAY SEND THE LICENSED PRIVATE INVESTIGATOR A
25 CONFIDENTIAL LETTER OF CONCERN.

26 ==
27 **12-58.5-108. Revocation. A PERSON WHOSE LICENSE IS REVOKED**

1 IS INELIGIBLE TO APPLY FOR A LICENSE UNDER THIS ARTICLE FOR AT LEAST
2 TWO YEARS AFTER THE DATE OF REVOCATION OF THE LICENSE. THE
3 DIRECTOR SHALL TREAT A SUBSEQUENT APPLICATION FOR LICENSURE
4 FROM A PERSON WHOSE LICENSE WAS REVOKED AS AN APPLICATION FOR
5 A NEW LICENSE UNDER THIS ARTICLE.

6 **12-58.5-109. Fees - cash fund.** THE DIVISION SHALL TRANSMIT
7 ALL FEES COLLECTED PURSUANT TO THIS ARTICLE TO THE STATE
8 TREASURER, WHO SHALL CREDIT THE FEES TO THE DIVISION OF
9 REGISTRATIONS CASH FUND CREATED PURSUANT TO SECTION 24-34-105
10 (2) (b), C.R.S. THE GENERAL ASSEMBLY SHALL MAKE ANNUAL
11 APPROPRIATIONS FROM THE DIVISION OF REGISTRATIONS CASH FUND FOR
12 EXPENDITURES OF THE DIVISION INCURRED IN THE PERFORMANCE OF ITS
13 DUTIES UNDER THIS ARTICLE.

14 **12-58.5-110. Repeal of article - review of functions.** THIS
15 ARTICLE IS REPEALED, EFFECTIVE SEPTEMBER 1, 2016. PRIOR TO ITS
16 REPEAL, THE POWERS, DUTIES, AND FUNCTIONS OF THE DIRECTOR
17 REGARDING THE LICENSURE OF PRIVATE INVESTIGATORS AS SPECIFIED IN
18 THIS ARTICLE SHALL BE REVIEWED AS PROVIDED IN SECTION 24-34-104,
19 C.R.S.

20 **SECTION 2.** 24-34-104 (47.5), Colorado Revised Statutes, is
21 amended BY THE ADDITION OF A NEW PARAGRAPH to read:

22 **24-34-104. General assembly review of regulatory agencies**
23 **and functions for termination, continuation, or reestablishment.**

24 (47.5) The following agencies, functions, or both, shall terminate on
25 September 1, 2016:

26 (c) THE VOLUNTARY LICENSING OF PRIVATE INVESTIGATORS BY
27 THE DIRECTOR OF THE DIVISION OF REGISTRATIONS IN ACCORDANCE WITH

1 ARTICLE 58.5 OF TITLE 12, C.R.S.

2 **SECTION 3. Appropriation.** (1) In addition to any other
3 appropriation, there is hereby appropriated, out of any moneys in the
4 Colorado bureau of investigation identification unit fund created in
5 section 24-33.5-426, Colorado Revised Statutes, not otherwise
6 appropriated, to the department of public safety, for allocation to the
7 Colorado bureau of investigation, for the Colorado crime information
8 center, identification, for the fiscal year beginning July 1, 2011, the sum
9 of nineteen thousand seven hundred fifty dollars (\$19,750) cash funds, or
10 so much thereof as may be necessary, for the implementation of this act.

11 (2) In addition to any other appropriation, there is hereby
12 appropriated, out of any moneys in the division of registrations cash fund
13 created in section 24-34-105 (2) (b) (I), Colorado Revised Statutes, not
14 otherwise appropriated, to the department of regulatory agencies, for
15 allocation to the executive director's office, for legal services, for the
16 fiscal year beginning July 1, 2011, the sum of seven thousand three
17 hundred thirty-seven dollars (\$7,337) cash funds, or so much thereof as
18 may be necessary, for the implementation of this act.

19 (3) In addition to any other appropriation, there is hereby
20 appropriated, out of any moneys in the division of registrations cash fund
21 created in section 24-34-105 (2) (b) (I), Colorado Revised Statutes, not
22 otherwise appropriated, to the department of regulatory agencies, for
23 allocation to the division of registrations, for the fiscal year beginning
24 July 1, 2011, the sum of seventy-five thousand one hundred ninety-six
25 dollars (\$75,196) cash funds and 1.0 FTE, or so much thereof as may be
26 necessary, for the implementation of this act.

27 (4) In addition to any other appropriation, there is hereby

1 appropriated to the department of law, for the fiscal year beginning July
2 1, 2011, the sum of seven thousand three hundred thirty-seven dollars
3 (\$7,337), or so much thereof as may be necessary, for the provision of
4 legal services to the department of regulatory agencies related to the
5 implementation of this act. Said sum shall be from reappropriated funds
6 received from the department of regulatory agencies out of the
7 appropriation made in subsection (2) of this section.

8 **SECTION 4. Act subject to petition - effective date.** This act
9 shall take effect at 12:01 a.m. on the day following the expiration of the
10 ninety-day period after final adjournment of the general assembly (August
11 10, 2011, if adjournment sine die is on May 11, 2011); except that, if a
12 referendum petition is filed pursuant to section 1 (3) of article V of the
13 state constitution against this act or an item, section, or part of this act
14 within such period, then the act, item, section, or part shall not take effect
15 unless approved by the people at the general election to be held in
16 November 2012 and shall take effect on the date of the official
17 declaration of the vote thereon by the governor.