

**UPDATED SUMMARY
HOUSE BILL 15-1290**

First Regular Session - Seventieth Colorado General Assembly

This summary applies to the reengrossed version of this bill as introduced in the second house. It does not reflect any amendments that may be subsequently adopted. This summary reflects only the main points of the legislation.

The bill creates a ~~private right of action~~ *right of recovery* against a peace officer's employing law enforcement agency if a person records an incident involving a peace officer and a peace officer destroys the recording or seizes the recording without receiving consent or obtaining a warrant or if the peace officer intentionally interferes with the recording, ~~or~~ *retaliates against the person making the recording, or refuses to return the person's recording device that contains a recording of a peace officer-involved incident within a reasonable time period and without legal justification.* ~~The person who recorded the peace officer incident is entitled to actual damages, a civil penalty of \$15,000, and attorney fees and costs.~~

The aggrieved property owner may submit an affidavit to the peace officer's employing law enforcement agency stating the facts, describing the damage to the owner's property, and a verifiable estimate of the replacement cost for any damaged or destroyed device. The owner may claim \$500 as the value for a damaged or destroyed recording. After receipt of the affidavit, the law enforcement agency has thirty days to either pay the aggrieved property owner the amount requested in the affidavit or issue a denial of the request in writing. If the agency denies the request, the aggrieved property owner may bring a civil action against the peace officer's employing law enforcement agency for actual damages, including the replacement value of the device, \$500 for any damaged or destroyed recording, and any costs and fees associated with the filing of the civil action. The court may order punitive damages up to fifteen thousand dollars and attorneys' fees to the property owner upon a finding that the denial by the law enforcement agency to reimburse the person was made in bad faith. If the court finds that an action brought by a property owner is frivolous and without merit, the court may award the law enforcement agency its reasonable costs and attorneys' fees.

The bill creates a right to lawfully record any incident involving a peace officer and to maintain custody and control of that recording and the device used to record the recording. A peace officer is prohibited from seizing a recording or recording device without consent, without a search warrant or subpoena, or without a lawful exception to the warrant requirement. A peace officer has the authority to temporarily seize and maintain control over a device that was used to record an incident involving a peace officer until a search warrant can be obtained when exigent circumstances exist such that the peace officer believes it is necessary to save a life or when the peace officer has a reasonable, articulable, good-faith belief that seizure of the device is necessary to prevent the destruction of the evidentiary recording while a warrant is obtained.

Italicized words indicate new material added to the original summary; dashes through words indicate deletions from the original summary.
Prepared by the Office of Legislative Legal Services.