

SENATE COMMITTEE OF REFERENCE REPORT

Chairman of Committee

March 25, 2015
Date

Committee on Judiciary.

After consideration on the merits, the Committee recommends the following:

SB15-218 be amended as follows, and as so amended, be referred to the Committee of the Whole with favorable recommendation:

- 1 Amend printed bill, page 3, line 23, after "DEPUTIZED" add "ON OR AFTER
2 JANUARY 1, 2010,".
- 3 Page 3, line 26, strike "INFORMATION" and substitute "INFORMATION, IF
4 AVAILABLE,".
- 5 Page 4, line 1, strike "MADE" and substitute "HAD A SUSTAINED VIOLATION
6 FOR MAKING".
- 7 Page 4, line 9, strike "FORCE." and substitute "FORCE, REGARDLESS OF
8 WHETHER THE ALLEGED CRIMINAL CONDUCT, OFFICIAL MISCONDUCT, OR
9 USE OF EXCESSIVE FORCE OCCURRED WHILE THE PEACE OFFICER WAS ON
10 DUTY, OFF DUTY, OR ACTING PURSUANT TO A SERVICE CONTRACT TO
11 WHICH THE PEACE OFFICER'S EMPLOYING AGENCY IS A PARTY.".
- 12 Page 4, after line 21 insert:
13 "(3) A STATE OR LOCAL LAW ENFORCEMENT AGENCY IS NOT
14 REQUIRED TO PROVIDE THE DISCLOSURE DESCRIBED IN SUBSECTION (1) OF
15 THIS SECTION IF THE AGENCY IS PROHIBITED FROM PROVIDING SUCH
16 DISCLOSURE PURSUANT TO A BINDING NONDISCLOSURE AGREEMENT TO
17 WHICH THE AGENCY IS A PARTY, WHICH AGREEMENT WAS EXECUTED
18 BEFORE THE EFFECTIVE DATE OF THIS ACT.".

- 1 Renumber succeeding subsections accordingly.
- 2 Page 4, line 23, strike "LEARNS" and substitute "DETERMINES THERE IS A
3 SUSTAINED FINDING".
- 4 Page 5, line 6, strike "FORCE." and substitute "FORCE, REGARDLESS OF
5 WHETHER THE ALLEGED CRIMINAL CONDUCT, OFFICIAL MISCONDUCT, OR
6 USE OF EXCESSIVE FORCE OCCURRED WHILE THE PEACE OFFICER WAS ON
7 DUTY, OFF DUTY, OR ACTING PURSUANT TO A SERVICE CONTRACT TO
8 WHICH THE PEACE OFFICER'S EMPLOYING AGENCY IS A PARTY.".
- 9 Page 5, line 9, strike "LEARNS" and substitute "DETERMINES THERE IS A
10 SUSTAINED FINDING".
- 11 Page 5, after line 11, insert:
12 "(5) A STATE OR LOCAL LAW ENFORCEMENT AGENCY IS NOT LIABLE
13 FOR COMPLYING WITH THE PROVISIONS OF THIS SECTION.".
- 14 Renumber succeeding subsection accordingly.
- 15 Page 6, line 2, after "DEPUTIZED" add "ON OR AFTER JANUARY 1, 2010,".
- 16 Page 6, line 4, strike "INFORMATION" and substitute "INFORMATION, IF
17 AVAILABLE,".
- 18 Page 6, line 6, strike "MADE" and substitute "HAD A SUSTAINED VIOLATION
19 FOR MAKING".
- 20 Page 6, line 15, strike "FORCE." and substitute "FORCE, REGARDLESS OF
21 WHETHER THE ALLEGED CRIMINAL CONDUCT, OFFICIAL MISCONDUCT, OR
22 USE OF EXCESSIVE FORCE OCCURRED WHILE THE PEACE OFFICER WAS ON
23 DUTY, OFF DUTY, OR ACTING PURSUANT TO A SERVICE CONTRACT TO
24 WHICH THE PEACE OFFICER'S EMPLOYING AGENCY IS A PARTY.".
- 25 Page 6, after line 26 insert:
26 "(3) A SHERIFF'S OFFICE IS NOT REQUIRED TO PROVIDE THE
27 DISCLOSURE DESCRIBED IN SUBSECTION (1) OF THIS SECTION IF THE
28 SHERIFF'S OFFICE IS PROHIBITED FROM PROVIDING SUCH DISCLOSURE
29 PURSUANT TO A BINDING NONDISCLOSURE AGREEMENT TO WHICH THE
30 SHERIFF'S OFFICE IS A PARTY, WHICH AGREEMENT WAS EXECUTED BEFORE
31 THE EFFECTIVE DATE OF THIS ACT.".

- 1 Renumber succeeding subsections accordingly.
- 2 Page 7, line 1, strike "LEARNS" and substitute "DETERMINES THERE IS A
3 SUSTAINED FINDING".
- 4 Page 7, line 2, strike "AGENCY" and substitute "SHERIFF'S OFFICE".
- 5 Page 7, line 10, strike "FORCE." and substitute "FORCE, REGARDLESS OF
6 WHETHER THE ALLEGED CRIMINAL CONDUCT, OFFICIAL MISCONDUCT, OR
7 USE OF EXCESSIVE FORCE OCCURRED WHILE THE PEACE OFFICER WAS ON
8 DUTY, OFF DUTY, OR ACTING PURSUANT TO A SERVICE CONTRACT TO
9 WHICH THE PEACE OFFICER'S EMPLOYING AGENCY IS A PARTY.".
- 10 Page 7, line 13, strike "LEARNS" and substitute "DETERMINES THERE IS A
11 SUSTAINED FINDING".
- 12 Page 7, after line 15, insert:
13 "(5) A SHERIFF'S OFFICE IS NOT LIABLE FOR COMPLYING WITH THE
14 PROVISIONS OF THIS SECTION.".
- 15 Renumber succeeding subsection accordingly.
- 16 Page 8, line 6, after "DEPARTMENT" insert "OR TOWN MARSHAL'S OFFICE"
17 and after "DEPUTIZED" add "ON OR AFTER JANUARY 1, 2010,".
- 18 Page 8, line 9, strike "INFORMATION" and substitute "INFORMATION, IF
19 AVAILABLE,".
- 20 Page 8, line 10, strike "MADE" and substitute "HAD A SUSTAINED
21 VIOLATION FOR MAKING".
- 22 Page 8, line 19, strike "FORCE." and substitute "FORCE, REGARDLESS OF
23 WHETHER THE ALLEGED CRIMINAL CONDUCT, OFFICIAL MISCONDUCT, OR
24 USE OF EXCESSIVE FORCE OCCURRED WHILE THE PEACE OFFICER WAS ON
25 DUTY, OFF DUTY, OR ACTING PURSUANT TO A SERVICE CONTRACT TO
26 WHICH THE PEACE OFFICER'S EMPLOYING AGENCY IS A PARTY.".
- 27 Page 8, line 22, strike "DEPARTMENT," and substitute "DEPARTMENT OR
28 TOWN MARSHAL'S OFFICE,".
- 29 Page 8, line 23, after "DEPARTMENT" insert "OR TOWN MARSHAL'S
30 OFFICE".

1 Page 8, line 27, after "DEPARTMENT" insert "OR TOWN MARSHAL'S
2 OFFICE".

3 Page 9, after line 4 insert:

4 "(3) A MUNICIPAL POLICE DEPARTMENT OR TOWN MARSHAL'S
5 OFFICE IS NOT REQUIRED TO PROVIDE THE DISCLOSURE DESCRIBED IN
6 SUBSECTION (1) OF THIS SECTION IF THE POLICE DEPARTMENT OR TOWN
7 MARSHAL'S OFFICE IS PROHIBITED FROM PROVIDING SUCH DISCLOSURE
8 PURSUANT TO A BINDING NONDISCLOSURE AGREEMENT TO WHICH THE
9 POLICE DEPARTMENT OR TOWN MARSHAL'S OFFICE IS A PARTY, WHICH
10 AGREEMENT WAS EXECUTED BEFORE THE EFFECTIVE DATE OF THIS ACT."

11 Renumber succeeding subsections accordingly.

12 Page 9, line 5, after "DEPARTMENT" insert "OR TOWN MARSHAL'S OFFICE".

13 Page 9, line 7, after "DEPARTMENT" insert "OR TOWN MARSHAL'S OFFICE".

14 Page 9, line 8, after "DEPARTMENT" insert "OR TOWN MARSHAL'S OFFICE".

15 Page 9, line 16, strike "FORCE." and substitute "FORCE, REGARDLESS OF
16 WHETHER THE ALLEGED CRIMINAL CONDUCT, OFFICIAL MISCONDUCT, OR
17 USE OF EXCESSIVE FORCE OCCURRED WHILE THE PEACE OFFICER WAS ON
18 DUTY, OFF DUTY, OR ACTING PURSUANT TO A SERVICE CONTRACT TO
19 WHICH THE PEACE OFFICER'S EMPLOYING AGENCY IS A PARTY."

20 Page 9, line 17, after "DEPARTMENT" insert "OR TOWN MARSHAL'S
21 OFFICE".

22 Page 9, line 19, after "DEPARTMENT" insert "OR TOWN MARSHAL'S
23 OFFICE".

24 Page 9, line 20, after "DEPARTMENT" insert "OR TOWN MARSHAL'S
25 OFFICE".

26 Page 9, after line 21, insert:

27 "(5) A MUNICIPAL POLICE DEPARTMENT OR TOWN MARSHAL'S
28 OFFICE IS NOT LIABLE FOR COMPLYING WITH THE PROVISIONS OF THIS
29 SECTION."

30 Renumber succeeding subsection accordingly.

1 Page 10, after line 6 insert:

2 "SECTION 5. In Colorado Revised Statutes, add 33-9-110 as
3 follows:

4 **33-9-110. Disclosure of knowing misrepresentation by a peace
5 officer required - disclosure waivers - reports - definitions.**

6 (1) SUBJECT TO THE LIMITATIONS OF THIS SECTION, IF THE DIVISION
7 EMPLOYS, EMPLOYED, OR DEPUTIZED ON OR AFTER JANUARY 1, 2010, A
8 PEACE OFFICER WHO APPLIES FOR EMPLOYMENT WITH ANOTHER
9 COLORADO LAW ENFORCEMENT AGENCY, THE DIVISION SHALL DISCLOSE
10 TO THE HIRING AGENCY INFORMATION, IF AVAILABLE, INDICATING
11 WHETHER THE PEACE OFFICER'S EMPLOYMENT HISTORY INCLUDED ANY
12 INSTANCES IN WHICH THE PEACE OFFICER HAD A SUSTAINED VIOLATION
13 FOR MAKING A KNOWING MISREPRESENTATION:

14 (a) IN ANY TESTIMONY OR AFFIDAVIT RELATING TO THE ARREST OR
15 PROSECUTION OF A PERSON OR TO A CIVIL CASE PERTAINING TO THE PEACE
16 OFFICER OR TO THE PEACE OFFICER'S EMPLOYMENT HISTORY; OR

17 (b) DURING THE COURSE OF ANY INTERNAL INVESTIGATION BY A
18 LAW ENFORCEMENT AGENCY, WHICH INVESTIGATION IS RELATED TO THE
19 PEACE OFFICER'S ALLEGED CRIMINAL CONDUCT; OFFICIAL MISCONDUCT, AS
20 DESCRIBED IN SECTION 18-8-404 OR 18-8-405, C.R.S.; OR USE OF
21 EXCESSIVE FORCE, REGARDLESS OF WHETHER THE ALLEGED CRIMINAL
22 CONDUCT, OFFICIAL MISCONDUCT, OR USE OF EXCESSIVE FORCE OCCURRED
23 WHILE THE PEACE OFFICER WAS ON DUTY, OFF DUTY, OR ACTING PURSUANT
24 TO A SERVICE CONTRACT TO WHICH THE DIVISION IS A PARTY.

25 (2) THE DISCLOSURE DESCRIBED IN SUBSECTION (1) OF THIS
26 SECTION IS REQUIRED ONLY UPON THE PRESENTATION OF A WRITTEN
27 WAIVER TO THE DIVISION, WHICH WAIVER EXPLICITLY AUTHORIZES THE
28 DIVISION TO DISCLOSE THE INFORMATION DESCRIBED IN SAID SUBSECTION
29 (1), HAS BEEN SIGNED BY THE APPLICANT PEACE OFFICER, AND IDENTIFIES
30 THE COLORADO LAW ENFORCEMENT AGENCY THAT IS CONSIDERING THE
31 APPLICANT PEACE OFFICER FOR EMPLOYMENT. IF THE DIVISION RECEIVES
32 SUCH A WAIVER, THE DIVISION SHALL PROVIDE THE DISCLOSURE TO THE
33 COLORADO LAW ENFORCEMENT AGENCY THAT IS CONSIDERING THE
34 APPLICANT PEACE OFFICER FOR EMPLOYMENT NOT MORE THAN SEVEN
35 DAYS AFTER SUCH RECEIPT.

36 (3) THE DIVISION IS NOT REQUIRED TO PROVIDE THE DISCLOSURE
37 DESCRIBED IN SUBSECTION (1) OF THIS SECTION IF THE DIVISION IS
38 PROHIBITED FROM PROVIDING SUCH DISCLOSURE PURSUANT TO A BINDING
39 NONDISCLOSURE AGREEMENT TO WHICH THE DIVISION IS A PARTY, WHICH
40 AGREEMENT WAS EXECUTED BEFORE THE EFFECTIVE DATE OF THIS ACT.

1 (4) (a) THE DIVISION SHALL NOTIFY THE LOCAL DISTRICT
2 ATTORNEY WHENEVER THE DIVISION DETERMINES THERE IS A SUSTAINED
3 FINDING THAT ANY PEACE OFFICER OF THE DIVISION HAS MADE A KNOWING
4 MISREPRESENTATION:

5 (I) IN ANY TESTIMONY OR AFFIDAVIT RELATING TO THE ARREST OR
6 PROSECUTION OF A PERSON OR TO A CIVIL CASE PERTAINING TO THE PEACE
7 OFFICER OR TO THE PEACE OFFICER'S EMPLOYMENT HISTORY; OR

8 (II) DURING THE COURSE OF ANY INTERNAL INVESTIGATION BY A
9 LAW ENFORCEMENT AGENCY, WHICH INVESTIGATION IS RELATED TO THE
10 PEACE OFFICER'S ALLEGED CRIMINAL CONDUCT; OFFICIAL MISCONDUCT, AS
11 DESCRIBED IN SECTION 18-8-404 OR 18-8-405, C.R.S.; OR USE OF
12 EXCESSIVE FORCE, REGARDLESS OF WHETHER THE ALLEGED CRIMINAL
13 CONDUCT, OFFICIAL MISCONDUCT, OR USE OF EXCESSIVE FORCE OCCURRED
14 WHILE THE PEACE OFFICER WAS ON DUTY, OFF DUTY, OR ACTING PURSUANT
15 TO A SERVICE CONTRACT TO WHICH THE DIVISION IS A PARTY.

16 (b) THE DIVISION SHALL PROVIDE THE NOTICE DESCRIBED IN
17 PARAGRAPH (a) OF THIS SUBSECTION (3) NOT MORE THAN SEVEN DAYS
18 AFTER THE DIVISION DETERMINES THERE IS A SUSTAINED FINDING THAT A
19 PEACE OFFICER OF THE DIVISION HAS MADE A KNOWING
20 MISREPRESENTATION, AS DESCRIBED IN SAID PARAGRAPH (a).

21 (5) THE DIVISION IS NOT LIABLE FOR COMPLYING WITH THE
22 PROVISIONS OF THIS SECTION.

23 (6) AS USED IN THIS SECTION, UNLESS THE CONTEXT REQUIRES
24 OTHERWISE, "STATE OR LOCAL LAW ENFORCEMENT AGENCY" MEANS:

25 (a) THE COLORADO STATE PATROL CREATED PURSUANT TO
26 SECTION 24-33.5-201, C.R.S.;

27 (b) THE COLORADO BUREAU OF INVESTIGATION CREATED
28 PURSUANT TO SECTION 24-33.5-401, C.R.S.;

29 (c) A COUNTY SHERIFF'S OFFICE;

30 (d) A MUNICIPAL POLICE DEPARTMENT;

31 (e) THE DIVISION OF PARKS AND WILDLIFE WITHIN THE
32 DEPARTMENT OF NATURAL RESOURCES CREATED PURSUANT TO SECTION
33 24-1-124, C.R.S.; OR

34 (f) A TOWN MARSHAL'S OFFICE."

35 Renumber succeeding section accordingly.

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