A BILL FOR AN ACT

CONCERNING MEASURES TO IMPROVE PEACE OFFICER HIRING, AND, IN
CONNECTION THERewith, REQUIRING EMPLOYMENT WAIVERS
AS PART OF THE BACKGROUND CHECK PROCESS FOR A PERSON
APPLYING FOR A POSITION AS A PEACE OFFICER WHO HAS
WORKED AS AN OFFICER AND GIVING THE P.O.S.T. BOARD THE
AUTHORITY TO DENY CERTIFICATION TO AN APPLICANT WHO
ENTERED INTO A DEFERRED AGREEMENT.

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
Each law enforcement agency in the state that interviews a candidate for a peace officer position who has worked at another law enforcement agency or in private security shall require the candidate to execute a waiver. The waiver will allow the candidate's previous law enforcement agency or private security company employers to disclose all files pertaining to the applicant, including internal affairs files, to the interviewing agency and releases the interviewing agency and each law enforcement agency or private security company that employed the candidate from any liability related to the use and disclosure of the files. The interviewing agency must submit the waiver to each law enforcement agency or private security company at least 10 days before making a hiring decision. A state or local law enforcement agency or private security company that receives a waiver shall provide the disclosure to the Colorado law enforcement agency that is interviewing the candidate not more than 7 days after such receipt.

The bill requires a P.O.S.T. certification applicant who has worked at another law enforcement agency to execute the same waiver as described above.

Under current law, the P.O.S.T. board must deny certification to a person who was convicted of any felony and certain misdemeanors. The bill gives the P.O.S.T. board the authority to deny certification to a person who entered into a deferred judgment, deferred prosecution, diversion agreement, or deferred adjudication for any of those crimes or had a juvenile adjudication for any of those crimes.

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

SECTION 1. In Colorado Revised Statutes, add 24-33.5-115 as follows:

24-33.5-115. Peace officer hiring - required use of waiver - definitions. (1) A STATE OR LOCAL LAW ENFORCEMENT AGENCY SHALL REQUIRE EACH CANDIDATE THAT IT INTERVIEWS FOR A PEACE OFFICER POSITION WHO HAS BEEN EMPLOYED BY ANOTHER LAW ENFORCEMENT AGENCY OR PRIVATE SECURITY COMPANY TO EXECUTE A WRITTEN WAIVER THAT EXPLICITLY AUTHORIZES EACH LAW ENFORCEMENT AGENCY OR PRIVATE SECURITY COMPANY THAT HAS EMPLOYED THE CANDIDATE TO
DISCLOSE ALL FILES PERTAINING TO THE APPLICANT, INCLUDING INTERNAL
AFFAIRS FILES, TO THE STATE OR LOCAL LAW ENFORCEMENT AGENCY AND
RELEASES THE INTERVIEWING AGENCY AND EACH LAW ENFORCEMENT
AGENCY OR PRIVATE SECURITY COMPANY THAT EMPLOYED THE
CANDIDATE FROM ANY LIABILITY RELATED TO THE USE AND DISCLOSURE
OF THE FILES. A CANDIDATE WHO REFUSES TO EXECUTE THE WAIVER
SHALL NOT BE CONSIDERED FOR EMPLOYMENT BY THE INTERVIEWING
AGENCY. THE AGENCY INTERVIEWING THE CANDIDATE SHALL SUBMIT THE
WAIVER TO EACH LAW ENFORCEMENT AGENCY OR PRIVATE SECURITY
COMPANY THAT HAS EMPLOYED THE CANDIDATE AT LEAST TEN DAYS
PRIOR TO MAKING THE HIRING DECISION. A STATE OR LOCAL LAW
ENFORCEMENT AGENCY OR PRIVATE SECURITY COMPANY THAT RECEIVES
SUCH A WAIVER SHALL PROVIDE THE DISCLOSURE TO THE AGENCY THAT IS
CONSIDERING THE CANDIDATE FOR EMPLOYMENT NOT MORE THAN SEVEN
DAYS AFTER SUCH RECEIPT.

(2) A STATE OR LOCAL LAW ENFORCEMENT AGENCY OR PRIVATE
SECURITY COMPANY IS NOT LIABLE FOR COMPLYING WITH THE PROVISIONS
OF THIS SECTION.

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

(a) The Colorado State Patrol created pursuant to
SECTION 24-33.5-201;

(b) The Colorado Bureau of Investigation created
Pursuant to Section 24-33.5-401;

(c) A COUNTY SHERIFF’S OFFICE;

(d) A MUNICIPAL POLICE DEPARTMENT;

(e) The Division of Parks and Wildlife within the
DEPARTMENT OF NATURAL RESOURCES CREATED PURSUANT TO SECTION 24-1-124; OR

(f) A TOWN MARSHAL’S OFFICE.

SECTION 2. In Colorado Revised Statutes, add 30-10-526 as follows:

30-10-526. Sheriff office hiring - required use of waiver - definitions. (1) A SHERIFF’S OFFICE SHALL REQUIRE EACH CANDIDATE THAT IT INTERVIEWS FOR A PEACE OFFICER POSITION WHO HAS BEEN EMPLOYED BY ANOTHER LAW ENFORCEMENT AGENCY OR PRIVATE SECURITY COMPANY TO EXECUTE A WRITTEN WAIVER THAT EXPLICITLY AUTHORIZES EACH LAW ENFORCEMENT AGENCY OR PRIVATE COMPANY THAT HAS EMPLOYED THE CANDIDATE TO DISCLOSE ALL FILES PERTAINING TO THE APPLICANT, INCLUDING INTERNAL AFFAIRS FILES, TO THE INTERVIEWING SHERIFF’S AGENCY AND RELEASES THE INTERVIEWING SHERIFF’S OFFICE AND EACH LAW ENFORCEMENT AGENCY OR PRIVATE SECURITY COMPANY THAT EMPLOYED THE CANDIDATE FROM ANY LIABILITY RELATED TO THE USE AND DISCLOSURE OF THE FILES. A CANDIDATE WHO REFUSES TO EXECUTE THE WAIVER SHALL NOT BE CONSIDERED FOR EMPLOYMENT BY THE SHERIFF’S OFFICE. THE SHERIFF’S OFFICE INTERVIEWING THE CANDIDATE SHALL SUBMIT THE WAIVER TO EACH LAW ENFORCEMENT AGENCY OR PRIVATE SECURITY COMPANY THAT HAS EMPLOYED THE CANDIDATE AT LEAST TEN DAYS PRIOR TO MAKING THE HIRING DECISION. A STATE OR LOCAL LAW ENFORCEMENT AGENCY OR PRIVATE SECURITY COMPANY THAT RECEIVES SUCH A WAIVER SHALL PROVIDE THE DISCLOSURE TO THE SHERIFF’S OFFICE THAT IS INTERVIEWING THE CANDIDATE NOT MORE THAN SEVEN DAYS AFTER SUCH RECEIPT.

(2) A STATE OR LOCAL LAW ENFORCEMENT AGENCY OR PRIVATE
SECURITY COMPANY IS NOT LIABLE FOR COMPLYING WITH THE PROVISIONS OF THIS SECTION.

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

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

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

(c) A COUNTY SHERIFF'S OFFICE;

(d) A MUNICIPAL POLICE DEPARTMENT;

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

(f) A TOWN MARSHAL'S OFFICE.

SECTION 3. In Colorado Revised Statutes, add 31-30-108 as follows:

31-30-108. Peace officer hiring - required use of waiver - definitions. (1) A MUNICIPAL POLICE DEPARTMENT OR TOWN MARSHAL'S OFFICE SHALL REQUIRE EACH CANDIDATE THAT IT INTERVIEWS FOR A PEACE OFFICER POSITION WHO HAS BEEN EMPLOYED BY ANOTHER LAW ENFORCEMENT AGENCY OR PRIVATE SECURITY COMPANY TO EXECUTE A WRITTEN WAIVER THAT EXPLICITLY AUTHORIZES EACH LAW ENFORCEMENT AGENCY OR PRIVATE SECURITY COMPANY THAT HAS EMPLOYED THE CANDIDATE TO DISCLOSE ALL FILES PERTAINING TO THE APPLICANT, INCLUDING INTERNAL AFFAIRS FILES, TO THE MUNICIPAL POLICE DEPARTMENT OR TOWN MARSHAL'S OFFICE INTERVIEWING THE CANDIDATE AND RELEASES THE INTERVIEWING AGENCY AND EACH LAW ENFORCEMENT
AGENCY OR PRIVATE SECURITY COMPANY THAT EMPLOYED THE CANDIDATE FROM ANY LIABILITY RELATED TO THE USE AND DISCLOSURE OF THE FILES. A CANDIDATE WHO REFUSES TO EXECUTE THE WAIVER SHALL NOT BE CONSIDERED FOR EMPLOYMENT BY THE DEPARTMENT OR OFFICE. THE DEPARTMENT OR OFFICE INTERVIEWING THE CANDIDATE SHALL SUBMIT THE WAIVER TO EACH LAW ENFORCEMENT AGENCY OR PRIVATE SECURITY COMPANY THAT HAS EMPLOYED THE CANDIDATE AT LEAST TEN DAYS PRIOR TO MAKING THE HIRING DECISION. A STATE OR LOCAL LAW ENFORCEMENT AGENCY OR PRIVATE SECURITY COMPANY THAT RECEIVES SUCH A WAIVER SHALL PROVIDE THE DISCLOSURE TO THE MUNICIPAL POLICE DEPARTMENT OR TOWN MARSHAL'S OFFICE THAT IS INTERVIEWING THE CANDIDATE NOT MORE THAN SEVEN DAYS AFTER SUCH RECEIPT.

(2) A STATE OR LOCAL LAW ENFORCEMENT AGENCY OR PRIVATE SECURITY COMPANY IS NOT LIABLE FOR COMPLYING WITH THE PROVISIONS OF THIS SECTION.

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

(a) The Colorado state patrol created pursuant to section 24-33.5-201, C.R.S.;

(b) The Colorado bureau of investigation created pursuant to section 24-33.5-401, C.R.S.;

(c) A county sheriff's office;

(d) A municipal police department;

(e) The division of parks and wildlife within the department of natural resources created pursuant to section 24-1-124, C.R.S.; or
(f) A TOWN MARSHAL'S OFFICE.

SECTION 4. In Colorado Revised Statutes, add 33-9-112 as follows:

33-9-112. Peace officer hiring - required use of waiver - definitions. (1) The division shall require each candidate that it interviews for a peace officer position who has been employed by another law enforcement agency or private security company to execute a written waiver that explicitly authorizes each law enforcement agency or private security company that has employed the candidate to disclose all files pertaining to the applicant, including internal affairs files, to the division and releases the division and each law enforcement agency or private security company that employed the candidate from any liability related to the use and disclosure of the files. A candidate who refuses to execute the waiver shall not be considered for employment by the division. The division shall submit the waiver to each law enforcement agency or private security company that has employed the candidate at least ten days prior to making the hiring decision. A state or local law enforcement agency or private security company that receives such a waiver shall provide the disclosure to the division not more than seven days after such receipt.

(2) A state or local law enforcement agency or private security company is not liable for complying with the provisions of this section.

(3) As used in this section, unless the context otherwise requires, "state or local law enforcement agency" means:
(a) The Colorado State Patrol created pursuant to Section 24-33.5-201, C.R.S.;
(b) The Colorado Bureau of Investigation created pursuant to Section 24-33.5-401, C.R.S.;
(c) A County Sheriff's Office;
(d) A Municipal Police Department;
(e) The Division of Parks and Wildlife within the Department of Natural Resources created pursuant to Section 24-1-124, C.R.S.; or
(f) A Town Marshal's Office.

SECTION 5. In Colorado Revised Statutes, 24-31-305, amend (1.5); and add (1.2) as follows:

(1.2) (a) An applicant for basic certification who has been employed by another law enforcement agency or private security company shall execute a written waiver that explicitly authorizes each law enforcement agency or private security company that has employed the applicant to disclose all files pertaining to the applicant, including internal affairs files, to the P.O.S.T. Board and releases the P.O.S.T. Board and each law enforcement agency or private security company that employed the candidate from any liability related to the use and disclosure of the files. An applicant who refuses to execute the waiver shall not be considered for certification.
(b) The P.O.S.T. Board, a state or local law enforcement agency, or a private security company is not liable for complying with the provisions of this section.
(1.5) (a) The P.O.S.T. board shall deny certification to any person who has been convicted of:

(a) (I) A felony;
(b) (II) Any misdemeanor in violation of sections 18-3-204, 18-3-402, 18-3-404, 18-3-405.5, and 18-3-412.5, C.R.S.;
(c) (III) Any misdemeanor in violation of sections 18-7-201, 18-7-202, 18-7-203, 18-7-204, 18-7-302, and 18-7-601, C.R.S.;
(d) (IV) Any misdemeanor in violation of any section of article 8 of title 18, C.R.S.;
(e) (V) Any misdemeanor in violation of sections 18-9-111 and 18-9-121, C.R.S.;
(g) (VII) Any misdemeanor in violation of section 18-6-403 (3b.5), C.R.S., as it existed prior to July 1, 2006;
(h) (VIII) Any misdemeanor in violation of federal law or the law of any state that is the equivalent of any of the offenses specified in paragraphs (a) to (g) of this subsection (1.5); or
(i) (IX) Any local municipal ordinance that is the equivalent of any of the offenses specified in paragraphs (a) to (g) of this subsection (1.5).

(b) The P.O.S.T. board may deny certification to any person who entered into one of the following for a crime listed in paragraph (a) of this subsection (1.5) if the P.O.S.T. board determines that certification is not in the public interest:

(i) A deferred judgment and sentencing agreement or deferred sentencing agreement, whether pending or
SUCCESSFULLY COMPLETED;

(II) A DEFERRED PROSECUTION AGREEMENT, WHETHER PENDING OR SUCCESSFULLY COMPLETED;

(III) A PRETRIAL DIVERSION AGREEMENT, WHETHER PENDING OR SUCCESSFULLY COMPLETED;

(IV) A DEFERRED JUVENILE ADJUDICATION, REGARDLESS OF WHETHER IT HAS BEEN EXPUNGED; OR

(V) A JUVENILE ADJUDICATION, REGARDLESS OF WHETHER IT HAS BEEN EXPUNGED.

SECTION 6. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.