

Second Regular Session
Seventieth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 16-0417.02 Michael Dohr x4347

HOUSE BILL 16-1262

HOUSE SPONSORSHIP

Williams, Esgar, Melton, Salazar

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Cooke,

House Committees
Judiciary

Senate Committees

A BILL FOR AN ACT

101 CONCERNING MEASURES TO IMPROVE PEACE OFFICER HIRING, AND, IN
102 CONNECTION THEREWITH, REQUIRING EMPLOYMENT WAIVERS
103 AS PART OF THE BACKGROUND CHECK PROCESS FOR A PERSON
104 APPLYING FOR A POSITION AS A PEACE OFFICER WHO HAS
105 WORKED AS AN OFFICER AND GIVING THE P.O.S.T. BOARD THE
106 AUTHORITY TO DENY CERTIFICATION TO AN APPLICANT WHO
107 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

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.

[http://www.leg.state.co.us/bills/summaries.](http://www.leg.state.co.us/bills/summaries/))

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.

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

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

4 **24-33.5-115. Peace officer hiring - required use of waiver -**
5 **definitions.** (1) A STATE OR LOCAL LAW ENFORCEMENT AGENCY SHALL
6 REQUIRE EACH CANDIDATE THAT IT INTERVIEWS FOR A PEACE OFFICER
7 POSITION WHO HAS BEEN EMPLOYED BY ANOTHER LAW ENFORCEMENT
8 AGENCY OR PRIVATE SECURITY COMPANY TO EXECUTE A WRITTEN WAIVER
9 THAT EXPLICITLY AUTHORIZES EACH LAW ENFORCEMENT AGENCY OR
10 PRIVATE SECURITY COMPANY THAT HAS EMPLOYED THE CANDIDATE TO

1 DISCLOSE ALL FILES PERTAINING TO THE APPLICANT, INCLUDING INTERNAL
2 AFFAIRS FILES, TO THE STATE OR LOCAL LAW ENFORCEMENT AGENCY AND
3 RELEASES THE INTERVIEWING AGENCY AND EACH LAW ENFORCEMENT
4 AGENCY OR PRIVATE SECURITY COMPANY THAT EMPLOYED THE
5 CANDIDATE FROM ANY LIABILITY RELATED TO THE USE AND DISCLOSURE
6 OF THE FILES. A CANDIDATE WHO REFUSES TO EXECUTE THE WAIVER
7 SHALL NOT BE CONSIDERED FOR EMPLOYMENT BY THE INTERVIEWING
8 AGENCY. THE AGENCY INTERVIEWING THE CANDIDATE SHALL SUBMIT THE
9 WAIVER TO EACH LAW ENFORCEMENT AGENCY OR PRIVATE SECURITY
10 COMPANY THAT HAS EMPLOYED THE CANDIDATE AT LEAST TEN DAYS
11 PRIOR TO MAKING THE HIRING DECISION. A STATE OR LOCAL LAW
12 ENFORCEMENT AGENCY OR PRIVATE SECURITY COMPANY THAT RECEIVES
13 SUCH A WAIVER SHALL PROVIDE THE DISCLOSURE TO THE AGENCY THAT IS
14 CONSIDERING THE CANDIDATE FOR EMPLOYMENT NOT MORE THAN SEVEN
15 DAYS AFTER SUCH RECEIPT.

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

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

21 (a) THE COLORADO STATE PATROL CREATED PURSUANT TO
22 SECTION 24-33.5-201;

23 (b) THE COLORADO BUREAU OF INVESTIGATION CREATED
24 PURSUANT TO SECTION 24-33.5-401;

25 (c) A COUNTY SHERIFF'S OFFICE;

26 (d) A MUNICIPAL POLICE DEPARTMENT;

27 (e) THE DIVISION OF PARKS AND WILDLIFE WITHIN THE

1 DEPARTMENT OF NATURAL RESOURCES CREATED PURSUANT TO SECTION
2 24-1-124; OR

3 (f) A TOWN MARSHAL'S OFFICE.

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

6 **30-10-526. Sheriff office hiring - required use of waiver -**
7 **definitions.** (1) A SHERIFF'S OFFICE SHALL REQUIRE EACH CANDIDATE
8 THAT IT INTERVIEWS FOR A PEACE OFFICER POSITION WHO HAS BEEN
9 EMPLOYED BY ANOTHER LAW ENFORCEMENT AGENCY OR PRIVATE
10 SECURITY COMPANY TO EXECUTE A WRITTEN WAIVER THAT EXPLICITLY
11 AUTHORIZES EACH LAW ENFORCEMENT AGENCY OR PRIVATE SECURITY
12 COMPANY THAT HAS EMPLOYED THE CANDIDATE TO DISCLOSE ALL FILES
13 PERTAINING TO THE APPLICANT, INCLUDING INTERNAL AFFAIRS FILES, TO
14 THE INTERVIEWING SHERIFF'S AGENCY AND RELEASES THE INTERVIEWING
15 SHERIFF'S OFFICE AND EACH LAW ENFORCEMENT AGENCY OR PRIVATE
16 SECURITY COMPANY THAT EMPLOYED THE CANDIDATE FROM ANY
17 LIABILITY RELATED TO THE USE AND DISCLOSURE OF THE FILES. A
18 CANDIDATE WHO REFUSES TO EXECUTE THE WAIVER SHALL NOT BE
19 CONSIDERED FOR EMPLOYMENT BY THE SHERIFF'S OFFICE. THE SHERIFF'S
20 OFFICE INTERVIEWING THE CANDIDATE SHALL SUBMIT THE WAIVER TO
21 EACH LAW ENFORCEMENT AGENCY OR PRIVATE SECURITY COMPANY THAT
22 HAS EMPLOYED THE CANDIDATE AT LEAST TEN DAYS PRIOR TO MAKING
23 THE HIRING DECISION. A STATE OR LOCAL LAW ENFORCEMENT AGENCY OR
24 PRIVATE SECURITY COMPANY THAT RECEIVES SUCH A WAIVER SHALL
25 PROVIDE THE DISCLOSURE TO THE SHERIFF'S OFFICE THAT IS INTERVIEWING
26 THE CANDIDATE NOT MORE THAN SEVEN DAYS AFTER SUCH RECEIPT.

27 (2) A STATE OR LOCAL LAW ENFORCEMENT AGENCY OR PRIVATE

1 SECURITY COMPANY IS NOT LIABLE FOR COMPLYING WITH THE PROVISIONS
2 OF THIS SECTION.

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

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

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

9 (c) A COUNTY SHERIFF'S OFFICE;

10 (d) A MUNICIPAL POLICE DEPARTMENT;

11 (e) THE DIVISION OF PARKS AND WILDLIFE WITHIN THE
12 DEPARTMENT OF NATURAL RESOURCES CREATED PURSUANT TO SECTION
13 24-1-124, C.R.S.; OR

14 (f) A TOWN MARSHAL'S OFFICE.

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

17 **31-30-108. Peace officer hiring - required use of waiver -**
18 **definitions.** (1) A MUNICIPAL POLICE DEPARTMENT OR TOWN MARSHAL'S
19 OFFICE SHALL REQUIRE EACH CANDIDATE THAT IT INTERVIEWS FOR A
20 PEACE OFFICER POSITION WHO HAS BEEN EMPLOYED BY ANOTHER LAW
21 ENFORCEMENT AGENCY OR PRIVATE SECURITY COMPANY TO EXECUTE A
22 WRITTEN WAIVER THAT EXPLICITLY AUTHORIZES EACH LAW ENFORCEMENT
23 AGENCY OR PRIVATE SECURITY COMPANY THAT HAS EMPLOYED THE
24 CANDIDATE TO DISCLOSE ALL FILES PERTAINING TO THE APPLICANT,
25 INCLUDING INTERNAL AFFAIRS FILES, TO THE MUNICIPAL POLICE
26 DEPARTMENT OR TOWN MARSHAL'S OFFICE INTERVIEWING THE CANDIDATE
27 AND RELEASES THE INTERVIEWING AGENCY AND EACH LAW ENFORCEMENT

1 AGENCY OR PRIVATE SECURITY COMPANY THAT EMPLOYED THE
2 CANDIDATE FROM ANY LIABILITY RELATED TO THE USE AND DISCLOSURE
3 OF THE FILES. A CANDIDATE WHO REFUSES TO EXECUTE THE WAIVER
4 SHALL NOT BE CONSIDERED FOR EMPLOYMENT BY THE DEPARTMENT OR
5 OFFICE. THE DEPARTMENT OR OFFICE INTERVIEWING THE CANDIDATE
6 SHALL SUBMIT THE WAIVER TO EACH LAW ENFORCEMENT AGENCY OR
7 PRIVATE SECURITY COMPANY THAT HAS EMPLOYED THE CANDIDATE AT
8 LEAST TEN DAYS PRIOR TO MAKING THE HIRING DECISION. A STATE OR
9 LOCAL LAW ENFORCEMENT AGENCY OR PRIVATE SECURITY COMPANY THAT
10 RECEIVES SUCH A WAIVER SHALL PROVIDE THE DISCLOSURE TO THE
11 MUNICIPAL POLICE DEPARTMENT OR TOWN MARSHAL'S OFFICE THAT IS
12 INTERVIEWING THE CANDIDATE NOT MORE THAN SEVEN DAYS AFTER SUCH
13 RECEIPT.

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

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

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

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

23 (c) A COUNTY SHERIFF'S OFFICE;

24 (d) A MUNICIPAL POLICE DEPARTMENT;

25 (e) THE DIVISION OF PARKS AND WILDLIFE WITHIN THE
26 DEPARTMENT OF NATURAL RESOURCES CREATED PURSUANT TO SECTION
27 24-1-124, C.R.S.; OR

1 (f) A TOWN MARSHAL'S OFFICE.

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

4 **33-9-112. Peace officer hiring - required use of waiver -**
5 **definitions.** (1) THE DIVISION SHALL REQUIRE EACH CANDIDATE THAT IT
6 INTERVIEWS FOR A PEACE OFFICER POSITION WHO HAS BEEN EMPLOYED BY
7 ANOTHER LAW ENFORCEMENT AGENCY OR PRIVATE SECURITY COMPANY
8 TO EXECUTE A WRITTEN WAIVER THAT EXPLICITLY AUTHORIZES EACH LAW
9 ENFORCEMENT AGENCY OR PRIVATE SECURITY COMPANY THAT HAS
10 EMPLOYED THE CANDIDATE TO DISCLOSE ALL FILES PERTAINING TO THE
11 APPLICANT, INCLUDING INTERNAL AFFAIRS FILES, TO THE DIVISION AND
12 RELEASES THE DIVISION AND EACH LAW ENFORCEMENT AGENCY OR
13 PRIVATE SECURITY COMPANY THAT EMPLOYED THE CANDIDATE FROM ANY
14 LIABILITY RELATED TO THE USE AND DISCLOSURE OF THE FILES. A
15 CANDIDATE WHO REFUSES TO EXECUTE THE WAIVER SHALL NOT BE
16 CONSIDERED FOR EMPLOYMENT BY THE DIVISION. THE DIVISION SHALL
17 SUBMIT THE WAIVER TO EACH LAW ENFORCEMENT AGENCY OR PRIVATE
18 SECURITY COMPANY THAT HAS EMPLOYED THE CANDIDATE AT LEAST TEN
19 DAYS PRIOR TO MAKING THE HIRING DECISION. A STATE OR LOCAL LAW
20 ENFORCEMENT AGENCY OR PRIVATE SECURITY COMPANY THAT RECEIVES
21 SUCH A WAIVER SHALL PROVIDE THE DISCLOSURE TO THE DIVISION NOT
22 MORE THAN SEVEN DAYS AFTER SUCH RECEIPT.

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

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

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

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

5 (c) A COUNTY SHERIFF'S OFFICE;

6 (d) A MUNICIPAL POLICE DEPARTMENT;

7 (e) THE DIVISION OF PARKS AND WILDLIFE WITHIN THE
8 DEPARTMENT OF NATURAL RESOURCES CREATED PURSUANT TO SECTION
9 24-1-124, C.R.S.; OR

10 (f) A TOWN MARSHAL'S OFFICE.

11 **SECTION 5.** In Colorado Revised Statutes, 24-31-305, **amend**
12 (1.5); and **add** (1.2) as follows:

13 **24-31-305. Certification - issuance - renewal - revocation.**

14 (1.2) (a) AN APPLICANT FOR BASIC CERTIFICATION WHO HAS BEEN
15 EMPLOYED BY ANOTHER LAW ENFORCEMENT AGENCY OR PRIVATE
16 SECURITY COMPANY SHALL EXECUTE A WRITTEN WAIVER THAT EXPLICITLY
17 AUTHORIZES EACH LAW ENFORCEMENT AGENCY OR PRIVATE SECURITY
18 COMPANY THAT HAS EMPLOYED THE APPLICANT TO DISCLOSE ALL FILES
19 PERTAINING TO THE APPLICANT, INCLUDING INTERNAL AFFAIRS FILES, TO
20 THE P.O.S.T BOARD AND RELEASES THE P.O.S.T. BOARD AND EACH LAW
21 ENFORCEMENT AGENCY OR PRIVATE SECURITY COMPANY THAT EMPLOYED
22 THE CANDIDATE FROM ANY LIABILITY RELATED TO THE USE AND
23 DISCLOSURE OF THE FILES. AN APPLICANT WHO REFUSES TO EXECUTE THE
24 WAIVER SHALL NOT BE CONSIDERED FOR CERTIFICATION.

25 (b) THE P.O.S.T. BOARD, A STATE OR LOCAL LAW ENFORCEMENT
26 AGENCY, OR A PRIVATE SECURITY COMPANY IS NOT LIABLE FOR
27 COMPLYING WITH THE PROVISIONS OF THIS SECTION.

1 (1.5) (a) The P.O.S.T. board shall deny certification to any person
2 who has been convicted of:

3 ~~(a)~~ (I) A felony;

4 ~~(b)~~ (II) Any misdemeanor in violation of sections 18-3-204,
5 18-3-402, 18-3-404, 18-3-405.5, and 18-3-412.5, C.R.S.;

6 ~~(c)~~ (III) Any misdemeanor in violation of sections 18-7-201,
7 18-7-202, 18-7-203, 18-7-204, 18-7-302, and 18-7-601, C.R.S.;

8 ~~(d)~~ (IV) Any misdemeanor in violation of any section of article 8
9 of title 18, C.R.S.;

10 ~~(e)~~ (V) Any misdemeanor in violation of sections 18-9-111 and
11 18-9-121, C.R.S.;

12 ~~(f)~~ (VI) Any misdemeanor in violation of sections 18-18-404,
13 18-18-405, 18-18-406, and 18-18-411, C.R.S.;

14 ~~(g)~~ (VII) Any misdemeanor in violation of section 18-6-403 (3)
15 (b.5), C.R.S., as it existed prior to July 1, 2006;

16 ~~(h)~~ (VIII) Any misdemeanor in violation of federal law or the law
17 of any state that is the equivalent of any of the offenses specified in
18 paragraphs (a) to (g) of this subsection (1.5); or

19 ~~(i)~~ (IX) Any local municipal ordinance that is the equivalent of
20 any of the offenses specified in paragraphs (a) to (g) of this subsection
21 (1.5).

22 (b) THE P.O.S.T. BOARD MAY DENY CERTIFICATION TO ANY
23 PERSON WHO ENTERED INTO ONE OF THE FOLLOWING FOR A CRIME LISTED
24 IN PARAGRAPH (a) OF THIS SUBSECTION (1.5) IF THE P.O.S.T. BOARD
25 DETERMINES THAT CERTIFICATION IS NOT IN THE PUBLIC INTEREST:

26 (I) A DEFERRED JUDGMENT AND SENTENCING AGREEMENT OR
27 DEFERRED SENTENCING AGREEMENT, WHETHER PENDING OR

1 SUCCESSFULLY COMPLETED;

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

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

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

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

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