

**Second Regular Session
Seventy-second General Assembly
STATE OF COLORADO**

ENGROSSED

*This Version Includes All Amendments Adopted
on Second Reading in the House of Introduction*

LLS NO. 20-1309.01 Michael Dohr x4347

SENATE BILL 20-217

SENATE SPONSORSHIP

Garcia and Fields, Fenberg, Williams A., Gonzales, Moreno, Rodriguez, Bridges, Danielson, Donovan, Foote, Ginal, Hansen, Lee, Pettersen, Story, Todd, Winter, Zenzinger

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Senate Committees

State, Veterans, & Military Affairs
Appropriations

House Committees

A BILL FOR AN ACT

101 **CONCERNING MEASURES TO ENHANCE LAW ENFORCEMENT INTEGRITY.**

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://leg.colorado.gov>.)

The bill requires all local law enforcement agencies to issue body-worn cameras to their officers and requires all recordings of an incident be released to the public within 14 days after the incident. Peace officers shall wear and activate a body-worn camera at any time when interacting with the public.

The bill requires the division of criminal justice in the department of public safety to create an annual report of the information that is reported to the attorney general, aggregated and broken down by state or

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
*Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.*

SENATE
Amended 2nd Reading
June 8, 2020

local agency that employs peace officers, along with the underlying data. Each state and local agency that employs peace officers shall report to the attorney general:

- ! All use of force by its officers that results in death or serious bodily injury;
- ! All instances when an officer resigned while under investigation for violating department policy;
- ! All data relating to stops conducted by its peace officers; and
- ! All data related to the use of an unannounced entry by a peace officer.

The division of criminal justice shall maintain a statewide database with data collected in a searchable format and publish the database on its website. Any state and local law enforcement agency that fails to meet its reporting requirements is subject to suspension of its funding by its appropriating authority.

If any peace officer is convicted of or pleads guilty or nolo contendere to any inappropriate use of physical force or a crime involving the unlawful use or threatened use of physical force, or for failing to intervene to prevent inappropriate use of physical force, the peace officer's employing agency shall immediately terminate the peace officer's employment and the P.O.S.T. board shall permanently revoke the peace officer's certification. The P.O.S.T. board shall not, under any circumstances, reinstate the peace officer's certification or grant new certification to the peace officer.

The bill allows a person who has a constitutional right secured by the bill of rights of the Colorado constitution that is infringed upon by a peace officer to bring a civil action for the violation. A plaintiff who prevails in the lawsuit is entitled to reasonable attorney fees, and a defendant in an individual suit is entitled to reasonable attorney fees for defending any frivolous claims. Qualified immunity and a defendant's good faith but erroneous belief in the lawfulness of his or her conduct are not defenses to the civil action. The bill requires a political subdivision of the state to indemnify its employees for such a claim.

The bill allows a peace officer or detention facility guard to use deadly physical force only when necessary to effect an arrest or prevent escape from custody when the person is using a deadly weapon or likely to imminently cause danger to life or serious bodily injury. The bill repeals a peace officer's authority to use a chokehold.

The bill requires the P.O.S.T. board to create and maintain a database containing information related to a peace officer's:

- ! Untruthfulness;
- ! Repeated failure to follow P.O.S.T. board training requirements;
- ! Decertification; and

! Termination for cause.

The bill allows the P.O.S.T. board to revoke peace officer certification for a peace officer who has failed to complete required peace officer training.

The bill requires a peace officer to have an objective justification for making a stop. After making a stop, a peace officer shall report to the peace officer's employing agency that information that the agency is required to report to the attorney general's office.

The bill requires the division of criminal justice in the department of public safety to conduct, in coordination with the P.O.S.T. board, a post-investigation evaluation of all officer-involved deaths to determine and propose improvements and alterations to training of peace officers to guide future officer behavior.

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

2 **SECTION 1.** In Colorado Revised Statutes, **add** part 9 to article
3 31 of title 24 as follows:

4 **PART 9**

5 **LAW ENFORCEMENT INTEGRITY**

6 **24-31-901. Definitions.** AS USED IN THIS PART 9, UNLESS THE
7 CONTEXT OTHERWISE REQUIRES:

8 (1) "CONTACTS" MEANS AN INTERACTION WITH AN INDIVIDUAL,
9 WHETHER OR NOT THE PERSON IS IN A MOTOR VEHICLE, INITIATED BY A
10 PEACE OFFICER, WHETHER CONSENSUAL OR NONCONSENSUAL, FOR THE
11 PURPOSE OF ENFORCING THE LAW OR INVESTIGATING POSSIBLE VIOLATIONS
12 OF THE LAW. "CONTACTS" DO NOT INCLUDE ROUTINE INTERACTIONS WITH
13 THE PUBLIC AT THE POINT OF ENTRY OR EXIT FROM A CONTROLLED AREA.

14 (2) "DEMOGRAPHIC INFORMATION" MEANS RACE, ETHNICITY, SEX,
15 AND APPROXIMATE AGE.

16 (3) "PEACE OFFICER" MEANS ANY PERSON EMPLOYED BY A
17 POLITICAL SUBDIVISION OF THE STATE REQUIRED TO BE CERTIFIED BY THE
18 P.O.S.T. BOARD PURSUANT TO SECTION 16-2.5-102, A COLORADO STATE

1 PATROL OFFICER AS DESCRIBED IN SECTION 16-2.5-114, AND ANY
2 NONCERTIFIED DEPUTY SHERIFF AS DESCRIBED IN SECTION 16-2.5-103 (2).

3 (4) "SERIOUS BODILY INJURY" HAS THE SAME MEANING AS IN
4 SECTION 18-1-901 (3)(p).

5 **24-31-902. Incident recordings - release - tampering - fine.**

6 (1) (a) (I) BY JULY 1, 2023, ALL LOCAL LAW ENFORCEMENT AGENCIES IN
7 THE STATE AND THE COLORADO STATE PATROL SHALL PROVIDE
8 BODY-WORN CAMERAS FOR EACH MEMBER OF THE LAW ENFORCEMENT
9 AGENCY WHO INTERACTS WITH MEMBERS OF THE PUBLIC. LAW
10 ENFORCEMENT AGENCIES MAY SEEK FUNDING PURSUANT TO SECTION
11 24-33.5-519.

12 (II) (A) EXCEPT AS PROVIDED IN SUBSECTION (1)(a)(II)(B) OR
13 (1)(a)(II)(C) OF THIS SECTION, A PEACE OFFICER SHALL WEAR AND
14 ACTIVATE A BODY-WORN CAMERA WHEN RESPONDING TO A CALL FOR
15 SERVICE OR DURING ANY INTERACTION WITH THE PUBLIC INITIATED BY THE
16 PEACE OFFICER, WHETHER CONSENSUAL OR NONCONSENSUAL, FOR THE
17 PURPOSE OF ENFORCING THE LAW OR INVESTIGATING POSSIBLE VIOLATIONS
18 OF THE LAW.

19 (B) A PEACE OFFICER MAY TURN OFF A BODY-WORN CAMERA TO
20 AVOID RECORDING PERSONAL INFORMATION THAT IS NOT CASE RELATED;
21 WHEN WORKING ON AN UNRELATED ASSIGNMENT; WHEN THERE IS A LONG
22 BREAK IN THE INCIDENT OR CONTACT THAT IS NOT RELATED TO THE
23 INITIAL INCIDENT; AND IN ADMINISTRATIVE, TACTICAL, AND MANAGEMENT
24 DISCUSSIONS.

25 (C) A PEACE OFFICER DOES NOT NEED TO WEAR OR ACTIVATE A
26 BODY-WORN CAMERA IF THE PEACE OFFICER IS WORKING UNDERCOVER.

27 (III) IF A PEACE OFFICER FAILS TO ACTIVATE A BODY-WORN

1 CAMERA AS REQUIRED BY THIS SECTION OR TAMPERS WITH BODY-WORN-
2 OR DASH-CAMERA FOOTAGE OR OPERATION WHEN REQUIRED TO ACTIVATE
3 THE CAMERA, THERE IS A PERMISSIVE INFERENCE IN ANY INVESTIGATION
4 OR LEGAL PROCEEDING, EXCLUDING CRIMINAL PROCEEDINGS AGAINST THE
5 PEACE OFFICER, THAT THE MISSING FOOTAGE WOULD HAVE REFLECTED
6 MISCONDUCT BY THE PEACE OFFICER. IF A PEACE OFFICER FAILS TO
7 ACTIVATE OR REACTIVATE HIS OR HER BODY-WORN CAMERA, ANY
8 STATEMENTS SOUGHT TO BE INTRODUCED IN A PROSECUTION THROUGH
9 THE PEACE OFFICER RELATED TO THE INCIDENT THAT WERE NOT RECORDED
10 DUE TO THE PEACE OFFICER'S FAILURE TO ACTIVATE OR REACTIVATE THE
11 BODY-WORN CAMERA AS REQUIRED BY THIS SECTION ARE PRESUMPTIVELY
12 INADMISSIBLE. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THIS
13 SUBSECTION (1)(a)(III) DOES NOT APPLY IF THE BODY-WORN CAMERA WAS
14 NOT ACTIVATED DUE TO A MALFUNCTION OF THE BODY-WORN CAMERA
15 AND THE PEACE OFFICER WAS NOT AWARE OF THE MALFUNCTION PRIOR TO
16 THE INCIDENT.

17 (IV) (A) IN ADDITION TO ANY CRIMINAL LIABILITY AND PENALTY
18 UNDER THE LAW, IF A COURT, ADMINISTRATIVE LAW JUDGE, OR THROUGH
19 A FINAL DECISION IN AN INTERNAL INVESTIGATION FINDS THAT A PEACE
20 OFFICER INTENTIONALLY FAILED TO ACTIVATE A BODY-WORN CAMERA OR
21 TAMPERS WITH ANY BODY-WORN OR DASH CAMERA, EXCEPT AS
22 PERMITTED IN THIS SECTION, THE PEACE OFFICER'S EMPLOYER SHALL
23 IMPOSE DISCIPLINE UP TO AND INCLUDING TERMINATION.

24 (B) IN ADDITION TO ANY CRIMINAL LIABILITY AND PENALTY UNDER
25 THE LAW, IF A COURT, ADMINISTRATIVE LAW JUDGE, OR THROUGH A FINAL
26 DECISION IN AN INTERNAL INVESTIGATION FINDS THAT A PEACE OFFICER
27 INTENTIONALLY FAILED TO ACTIVATE A BODY-WORN CAMERA OR

1 TAMPHERED WITH ANY BODY-WORN OR DASH CAMERA, EXCEPT AS
2 PERMITTED IN THIS SECTION, WITH THE INTENT TO CONCEAL UNLAWFUL OR
3 INAPPROPRIATE ACTIONS OR OBSTRUCT JUSTICE, THE P.O.S.T. BOARD
4 SHALL SUSPEND THE PEACE OFFICER'S CERTIFICATION FOR A PERIOD OF NOT
5 LESS THAN ONE YEAR AND THE SUSPENSION MAY ONLY BE LIFTED WITHIN
6 THE PERIOD OF THE SUSPENSION IF THE PEACE OFFICER IS EXONERATED BY
7 A COURT.

8 (C) IN ADDITION TO ANY CRIMINAL LIABILITY AND PENALTY UNDER
9 THE LAW, IF A COURT, ADMINISTRATIVE LAW JUDGE, OR THROUGH A FINAL
10 DECISION IN AN INTERNAL INVESTIGATION FINDS THAT A PEACE OFFICER
11 INTENTIONALLY FAILED TO ACTIVATE A BODY-WORN CAMERA OR
12 TAMPHERED WITH ANY BODY-WORN OR DASH CAMERA, EXCEPT AS
13 PERMITTED IN THIS SECTION, WITH THE INTENT TO CONCEAL UNLAWFUL OR
14 INAPPROPRIATE ACTIONS, OR OBSTRUCT JUSTICE, IN AN INCIDENT
15 RESULTING IN A CIVILIAN DEATH, THE P.O.S.T. BOARD SHALL
16 PERMANENTLY REVOKE THE PEACE OFFICER'S CERTIFICATION AND THE
17 REVOICATION MAY ONLY BE OVERTURNED IF THE PEACE OFFICER IS
18 EXONERATED BY A COURT.

19 (b) A LOCAL LAW ENFORCEMENT AGENCY AND THE COLORADO
20 STATE PATROL SHALL ESTABLISH AND FOLLOW A RETENTION SCHEDULE
21 FOR BODY-WORN CAMERA RECORDINGS IN COMPLIANCE WITH COLORADO
22 STATE ARCHIVES RULES AND DIRECTION.

23 (2) (a) FOR ALL INCIDENTS IN WHICH THERE IS A COMPLAINT OF
24 PEACE OFFICER MISCONDUCT BY ANOTHER PEACE OFFICER, A CIVILIAN, OR
25 NONPROFIT ORGANIZATION, THROUGH NOTICE TO THE LAW ENFORCEMENT
26 AGENCY INVOLVED IN THE ALLEGED MISCONDUCT, THE LOCAL LAW
27 ENFORCEMENT AGENCY OR THE COLORADO STATE PATROL SHALL RELEASE

1 ALL UNEDITED VIDEO AND AUDIO RECORDINGS OF THE INCIDENT,
2 INCLUDING THOSE FROM BODY-WORN CAMERAS, DASH CAMERAS, OR
3 OTHERWISE COLLECTED THROUGH INVESTIGATION, TO THE PUBLIC WITHIN
4 TWENTY-ONE DAYS AFTER THE LOCAL LAW ENFORCEMENT AGENCY OR THE
5 COLORADO STATE PATROL RECEIVED THE COMPLAINT OF MISCONDUCT.

6 (b) (I) ALL VIDEO AND AUDIO RECORDINGS DEPICTING A DEATH
7 MUST BE PROVIDED TO THE DECEDENT'S FAMILY AT LEAST TWENTY-FOUR
8 HOURS PRIOR TO PUBLIC DISCLOSURE.

9 (II) (A) NOTWITHSTANDING ANY OTHER PROVISION OF THIS
10 SECTION, ANY VIDEO THAT RAISES SUBSTANTIAL PRIVACY CONCERNS FOR
11 CRIMINAL DEFENDANTS, VICTIMS, WITNESSES, JUVENILES, OR INFORMANTS,
12 INCLUDING VIDEO DEPICTING NUDITY; A SEXUAL ASSAULT; A MEDICAL
13 EMERGENCY; A MENTAL HEALTH CRISIS; A VICTIM INTERVIEW; A MINOR,
14 INCLUDING ANY IMAGES OR INFORMATION THAT MIGHT UNDERMINE THE
15 REQUIREMENT TO KEEP CERTAIN JUVENILE RECORDS CONFIDENTIAL; ANY
16 PERSONAL INFORMATION OTHER THAN THE NAME OR LICENSE PLATE OF
17 ANY PERSON NOT ARRESTED, CITED, CHARGED, OR ISSUED A WRITTEN
18 WARNING, INCLUDING A GOVERNMENT-ISSUED IDENTIFICATION NUMBER,
19 DATE OF BIRTH, ADDRESS, OR FINANCIAL INFORMATION; SIGNIFICANTLY
20 EXPLICIT AND GRUESOME BODILY INJURY, UNLESS THE INJURY WAS
21 CAUSED BY A PEACE OFFICER; OR THE INTERIOR OF A HOME OR TREATMENT
22 FACILITY, SHALL BE REDACTED OR BLURRED TO PROTECT THE
23 SUBSTANTIAL PRIVACY INTEREST WHILE STILL ALLOWING PUBLIC RELEASE.

24 (B) IF REDACTION OR BLURRING IS INSUFFICIENT TO PROTECT THE
25 SUBSTANTIAL PRIVACY INTEREST, THE LOCAL LAW ENFORCEMENT AGENCY
26 OR THE COLORADO STATE PATROL SHALL RELEASE THE VIDEO TO THE
27 VICTIM OR, IF THE VICTIM IS DECEASED, TO THE VICTIM'S FAMILY WITHIN

1 TWENTY DAYS AFTER RECEIPT OF THE COMPLAINT OF MISCONDUCT.

2 (C) A WITNESS, VICTIM, OR CRIMINAL DEFENDANT MAY WAIVE IN
3 WRITING THE INDIVIDUAL PRIVACY INTEREST THAT MAY BE IMPLICATED BY
4 PUBLIC RELEASE. UPON RECEIPT OF A WRITTEN WAIVER OF THE
5 APPLICABLE PRIVACY INTEREST, ACCOMPANIED BY A REQUEST FOR
6 RELEASE, THE LAW ENFORCEMENT AGENCY MAY NOT REDACT OR
7 WITHHOLD RELEASE TO PROTECT THAT PRIVACY INTEREST.

8 (III) ANY VIDEO THAT WOULD SUBSTANTIALLY INTERFERE WITH OR
9 JEOPARDIZE AN ACTIVE OR ONGOING INVESTIGATION MAY BE WITHHELD
10 FROM THE PUBLIC; EXCEPT THAT THE VIDEO SHALL BE RELEASED NO LATER
11 THAN THIRTY DAYS FROM THE DATE OF THE ALLEGATION OF MISCONDUCT.
12 IN ALL CASES WHEN RELEASE OF A VIDEO IS DELAYED IN RELIANCE ON THIS
13 SUBSECTION (2)(b)(III), THE PROSECUTING ATTORNEY SHALL PREPARE A
14 WRITTEN EXPLANATION OF THE INTERFERENCE OR JEOPARDY THAT
15 JUSTIFIES THE DELAYED RELEASE, CONTEMPORANEOUS WITH THE REFUSAL
16 TO RELEASE THE VIDEO. UPON RELEASE OF THE VIDEO, THE PROSECUTING
17 ATTORNEY SHALL RELEASE THE WRITTEN EXPLANATION TO THE PUBLIC.

18 (c) IF CRIMINAL CHARGES HAVE BEEN FILED AGAINST ANY PARTY
19 TO THE INCIDENT, THAT PARTY MUST FILE ANY CONSTITUTIONAL
20 OBJECTION TO RELEASE OF THE RECORDING IN THE PENDING CRIMINAL
21 CASE BEFORE THE TWENTY-ONE-DAY PERIOD EXPIRES. THE COURT SHALL
22 HOLD A HEARING ON ANY OBJECTION NO LATER THAN SEVEN DAYS AFTER
23 IT IS FILED AND ISSUE A RULING NO LATER THAN THREE DAYS AFTER THE
24 HEARING. ==

25 **24-31-903. Division of criminal justice report.** (1) BEGINNING
26 JULY 1, 2023, THE DIVISION OF CRIMINAL JUSTICE IN THE DEPARTMENT OF
27 PUBLIC SAFETY SHALL CREATE AN ANNUAL REPORT INCLUDING ALL OF THE

1 INFORMATION THAT IS REPORTED TO THE DIVISION PURSUANT TO
2 SUBSECTION (2) OF THIS SECTION, AGGREGATED AND BROKEN DOWN BY
3 THE LAW ENFORCEMENT AGENCY THAT EMPLOYS PEACE OFFICERS,
4 ALONG WITH THE UNDERLYING DATA.

5 (2) BEGINNING JANUARY 1, 2023, THE COLORADO STATE PATROL
6 AND EACH LOCAL LAW ENFORCEMENT AGENCY THAT EMPLOYS PEACE
7 OFFICERS SHALL REPORT TO THE DIVISION OF CRIMINAL JUSTICE:

8 (a) ALL USE OF FORCE BY ITS PEACE OFFICERS THAT RESULTS IN
9 DEATH OR SERIOUS BODILY INJURY, INCLUDING:

10 (I) THE DATE, TIME, AND LOCATION OF THE USE OF FORCE;

11 (II) THE PERCEIVED DEMOGRAPHIC OF THE PERSON STOPPED,
12 PROVIDED THAT THE IDENTIFICATION OF THESE CHARACTERISTICS IS
13 BASED ON THE OBSERVATION AND PERCEPTION OF THE PEACE OFFICER
14 MAKING THE STOP AND OTHER AVAILABLE DATA.

15 (III) THE NAMES OF ALL PEACE OFFICERS WHO WERE AT THE
16 SCENE, IDENTIFIED BY WHETHER THE PEACE OFFICER WAS INVOLVED IN
17 THE USE OF FORCE OR NOT;

18 (IV) THE TYPE OF FORCE USED, THE SEVERITY AND NATURE OF THE
19 INJURY, WHETHER THE PEACE OFFICER SUFFERED PHYSICAL INJURY, AND
20 THE SEVERITY OF THE PEACE OFFICER'S INJURY;

21 (V) WHETHER THE PEACE OFFICER WAS ON DUTY AT THE TIME OF
22 THE USE OF FORCE;

23 (VI) WHETHER THE USE OF FORCE RESULTED IN A LAW
24 ENFORCEMENT AGENCY INVESTIGATION AND THE RESULT OF THE
25 INVESTIGATION; AND

26 (VII) WHETHER THE USE OF FORCE RESULTED IN A CITIZEN
27 COMPLAINT AND THE RESOLUTION OF THAT COMPLAINT.

1 (b) ALL INSTANCES WHEN A PEACE OFFICER RESIGNED WHILE
2 UNDER INVESTIGATION FOR VIOLATING DEPARTMENT POLICY;

3 (c) ALL DATA RELATING TO CONTACTS CONDUCTED BY ITS PEACE
4 OFFICERS, INCLUDING:

5 (I) THE PERCEIVED DEMOGRAPHIC OF THE PERSON CONTACTED
6 PROVIDED THAT THE IDENTIFICATION OF THESE CHARACTERISTICS IS
7 BASED ON THE OBSERVATION AND PERCEPTION OF THE PEACE OFFICER
8 MAKING THE STOP AND OTHER AVAILABLE DATA.

9 (II) WHETHER THE CONTACT WAS A TRAFFIC STOP;

10 (III) THE TIME, DATE, AND LOCATION OF THE CONTACT;

11 (IV) THE DURATION OF THE CONTACT;

12 (V) THE REASON FOR THE CONTACT;

13 (VI) THE SUSPECTED CRIME;

14 (VII) THE RESULT OF THE CONTACT, SUCH AS:

15 (A) NO ACTION, WARNING, CITATION, PROPERTY SEIZURE, OR
16 ARREST;

17 (B) IF A WARNING OR CITATION WAS ISSUED, THE WARNING
18 PROVIDED OR VIOLATION CITED;

19 (C) IF AN ARREST WAS MADE, THE OFFENSE CHARGED;

20 (D) IF THE CONTACT WAS A TRAFFIC STOP, THE INFORMATION
21 COLLECTED, WHICH IS LIMITED TO THE DRIVER;

22 (VIII) THE ACTIONS TAKEN BY THE PEACE OFFICER DURING THE
23 CONTACT, INCLUDING BUT NOT LIMITED TO WHETHER:

24 (A) THE PEACE OFFICER ASKED FOR CONSENT TO SEARCH THE
25 PERSON, AND, IF SO, WHETHER CONSENT WAS PROVIDED;

26 (B) THE PEACE OFFICER SEARCHED THE PERSON OR ANY PROPERTY,
27 AND, IF SO, THE BASIS FOR THE SEARCH AND THE TYPE OF CONTRABAND OR

1 EVIDENCE DISCOVERED, IF ANY; AND

2 (C) THE PEACE OFFICER SEIZED ANY PROPERTY AND, IF SO, THE
3 TYPE OF PROPERTY THAT WAS SEIZED AND THE BASIS FOR SEIZING THE
4 PROPERTY;

5 (d) ALL INSTANCES OF UNANNOUNCED ENTRY INTO A RESIDENCE,
6 WITH OR WITHOUT A WARRANT, INCLUDING:

7 (I) THE DATE, TIME, AND LOCATION OF THE USE OF UNANNOUNCED
8 ENTRY; AND

9 (II) THE PERCEIVED DEMOGRAPHIC OF THE SUBJECT OF THE
10 UNANNOUNCED ENTRY, PROVIDED THAT THE IDENTIFICATION OF THESE
11 CHARACTERISTICS IS BASED ON THE OBSERVATION AND PERCEPTION OF
12 THE PEACE OFFICER MAKING THE STOP AND OTHER AVAILABLE DATA.

13 (3) THE COLORADO STATE PATROL AND LAW ENFORCEMENT
14 AGENCIES SHALL NOT REPORT THE NAME, ADDRESS, SOCIAL SECURITY
15 NUMBER, OR OTHER UNIQUE PERSONAL IDENTIFYING INFORMATION OF THE
16 SUBJECT OF THE USE OF FORCE, VICTIM OF THE OFFICIAL MISCONDUCT, OR
17 PERSONS CONTACTED, SEARCHED, OR SUBJECTED TO A PROPERTY SEIZURE.
18 NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY, THE DATA
19 REPORTED PURSUANT TO THIS SECTION IS AVAILABLE TO THE PUBLIC
20 PURSUANT TO SUBSECTION (4) OF THIS SECTION.

21 (4) THE DIVISION OF CRIMINAL JUSTICE SHALL MAINTAIN A
22 STATEWIDE DATABASE WITH DATA COLLECTED PURSUANT TO THIS
23 SECTION, IN A SEARCHABLE FORMAT, AND PUBLISH THE DATABASE ON ITS
24 WEBSITE.

25 (5) THE COLORADO STATE PATROL AND ANY LOCAL LAW
26 ENFORCEMENT AGENCY THAT FAILS TO MEET ITS REPORTING
27 REQUIREMENTS PURSUANT TO THIS SECTION IS SUBJECT TO THE

1 SUSPENSION OF ITS FUNDING BY ITS APPROPRIATING AUTHORITY.

2 **24-31-904. Revoke peace officer certification after conviction.**

3 NOTWITHSTANDING ANY PROVISION OF LAW, IF ANY PEACE OFFICER IS
4 CONVICTED OF OR PLEADS GUILTY OR NOLO CONTENDERE TO ___ A CRIME
5 INVOLVING THE UNLAWFUL USE OR THREATENED USE OF PHYSICAL FORCE,
6 ___OR IS FOUND CIVILLY LIABLE FOR USING EXCESSIVE FORCE FOR ANY
7 CONDUCT DESCRIBED IN THIS SECTION, ___THE P.O.S.T. BOARD SHALL
8 PERMANENTLY REVOKE THE PEACE OFFICER'S CERTIFICATION. THE
9 P.O.S.T. BOARD SHALL NOT, UNDER ANY CIRCUMSTANCES, REINSTATE THE
10 PEACE OFFICER'S CERTIFICATION OR GRANT NEW CERTIFICATION TO THE
11 PEACE OFFICER UNLESS THE PEACE OFFICER IS EXONERATED BY A COURT.
12 THE P.O.S.T. BOARD SHALL RECORD EACH DECERTIFIED PEACE IN THE
13 DATABASE CREATED PURSUANT TO SECTION 24-31-303 (1)(r).

14 **24-31-905. Prohibited law enforcement action in response to**

15 **protests. (1) IN RESPONSE TO A PROTEST OR DEMONSTRATION, A LAW**
16 **ENFORCEMENT AGENCY AND ANY PERSON ACTING ON BEHALF OF THE LAW**
17 **ENFORCEMENT AGENCY SHALL NOT:**

18 **(a) DISCHARGE KINETIC IMPACT PROJECTILES AND ALL OTHER NON-**
19 **OR LESS-LETHAL PROJECTILES IN A MANNER THAT TARGETS THE HEAD,**
20 **PELVIS, OR BACK;**

21 **(b) DISCHARGE KINETIC IMPACT PROJECTILES INDISCRIMINATELY**
22 **INTO A CROWD; OR**

23 **(c) USE CHEMICAL AGENTS OR IRRITANTS, INCLUDING PEPPER**
24 **SPRAY AND TEAR GAS, PRIOR TO ISSUING AN ORDER TO DISPERSE IN A**
25 **SUFFICIENT MANNER TO ENSURE THE ORDER IS HEARD AND REPEATED IF**
26 **NECESSARY, FOLLOWED BY SUFFICIENT TIME AND SPACE TO ALLOW**
27 **COMPLIANCE WITH THE ORDER.**

1 **SECTION 2.** In Colorado Revised Statutes, **add** 13-21-131 as
2 follows:

3 **13-21-131. Civil action for deprivation of rights - definition.**

4 (1) A PEACE OFFICER, AS DEFINED IN SECTION 24-31-901 (2), EMPLOYED
5 BY A LOCAL GOVERNMENT WHO, UNDER COLOR OF LAW, SUBJECTS OR
6 CAUSES TO BE SUBJECTED, INCLUDING FAILING TO INTERVENE, ANY OTHER
7 PERSON TO THE DEPRIVATION OF ANY INDIVIDUAL RIGHTS THAT CREATE
8 BINDING OBLIGATIONS ON GOVERNMENT ACTORS SECURED BY THE BILL OF
9 RIGHTS, ARTICLE II OF THE STATE CONSTITUTION, IS LIABLE TO THE
10 INJURED PARTY FOR LEGAL OR EQUITABLE RELIEF OR ANY OTHER
11 APPROPRIATE RELIEF.

12 (2) (a) STATUTORY IMMUNITIES AND STATUTORY LIMITATIONS ON
13 LIABILITY, DAMAGES, OR ATTORNEY FEES DO NOT APPLY TO CLAIMS
14 BROUGHT PURSUANT TO THIS SECTION.

15 **(b) QUALIFIED IMMUNITY IS NOT A DEFENSE TO LIABILITY**
16 **PURSUANT TO THIS SECTION.**

17 (3) IN ANY ACTION BROUGHT PURSUANT TO THIS SECTION, A COURT
18 SHALL AWARD REASONABLE ATTORNEY FEES AND COSTS TO A PREVAILING
19 PLAINTIFF. IN ACTIONS FOR INJUNCTIVE RELIEF, A COURT SHALL DEEM A
20 PLAINTIFF TO HAVE PREVAILED IF THE PLAINTIFF'S SUIT WAS A
21 SUBSTANTIAL FACTOR OR SIGNIFICANT CATALYST IN OBTAINING THE
22 RESULTS SOUGHT BY THE LITIGATION. WHEN A JUDGMENT IS ENTERED IN
23 FAVOR OF A DEFENDANT, THE COURT MAY AWARD REASONABLE COSTS
24 AND ATTORNEY FEES TO THE DEFENDANT FOR DEFENDING ANY CLAIMS THE
25 COURT FINDS FRIVOLOUS.

26 **(4) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, A PEACE**
27 **OFFICER'S EMPLOYER SHALL INDEMNIFY ITS PEACE OFFICERS FOR ANY**

1 LIABILITY INCURRED BY THE PEACE OFFICER AND FOR ANY JUDGMENT OR
2 SETTLEMENT ENTERED AGAINST THE PEACE OFFICER FOR CLAIMS ARISING
3 PURSUANT TO THIS SECTION; EXCEPT THAT IF THE PEACE OFFICER'S
4 EMPLOYER DETERMINES THAT THE OFFICER DID NOT ACT UPON A GOOD
5 FAITH AND REASONABLE BELIEF THAT THE ACTION WAS LAWFUL, THEN THE
6 PEACE OFFICER IS PERSONALLY LIABLE AND SHALL NOT BE INDEMNIFIED BY
7 THE PEACE OFFICER'S EMPLOYER FOR FIVE PERCENT OF THE JUDGMENT OR
8 SETTLEMENT OR TWENTY-FIVE THOUSAND DOLLARS, WHICHEVER IS LESS.
9 NOTWITHSTANDING ANY PROVISION OF THIS SECTION TO THE CONTRARY,
10 IF THE PEACE OFFICER'S PORTION OF THE JUDGMENT IS UNCOLLECTIBLE
11 FROM THE PEACE OFFICER, THE PEACE OFFICER'S EMPLOYER OR INSURANCE
12 SHALL SATISFY THE FULL AMOUNT OF THE JUDGMENT OR SETTLEMENT.

13 (5) A CIVIL ACTION PURSUANT TO THIS SECTION MUST BE
14 COMMENCED WITHIN TWO YEARS AFTER THE CAUSE OF ACTION ACCRUES.

15 **SECTION 3.** In Colorado Revised Statutes, 18-1-707, **repeal and**
16 **reenact, with amendments, (1), (2), (2.5), (3), and (4); and add (4.5) as**
17 **follows:**

18 **18-1-707. Use of force by peace officers - definition.** (1) PEACE
19 OFFICERS, IN CARRYING OUT THEIR DUTIES, SHALL APPLY NONVIOLENT
20 MEANS, WHEN POSSIBLE, BEFORE RESORTING TO THE USE OF PHYSICAL
21 FORCE. A PEACE OFFICER MAY USE PHYSICAL FORCE ONLY IF NONVIOLENT
22 MEANS WOULD BE INEFFECTIVE IN EFFECTING AN ARREST, PREVENTING AN
23 ESCAPE, OR PREVENTING AN IMMINENT THREAT OF SERIOUS BODILY INJURY
24 OR DEATH TO THE PEACE OFFICER OR ANOTHER PERSON.

25 (2) WHEN PHYSICAL FORCE IS USED, A PEACE OFFICER SHALL:

26 (a) NOT USE DEADLY PHYSICAL FORCE TO APPREHEND A PERSON
27 WHO IS SUSPECTED OF ONLY A MINOR OR NONVIOLENT OFFENSE;

1 (b) USE ONLY A DEGREE OF FORCE CONSISTENT WITH THE
2 MINIMIZATION OF INJURY TO OTHERS;

3 (c) ENSURE THAT ASSISTANCE AND MEDICAL AID ARE RENDERED
4 TO ANY INJURED OR AFFECTED PERSONS AS SOON AS PRACTICABLE; AND

5 (d) ENSURE THAT ANY IDENTIFIED RELATIVES OR NEXT OF KIN OF
6 PERSONS WHO HAVE SUSTAINED SERIOUS BODILY INJURY OR DEATH ARE
7 NOTIFIED AS SOON AS PRACTICABLE.

8 (2.5) (a) A PEACE OFFICER IS PROHIBITED FROM USING A
9 CHOKEHOLD UPON ANOTHER PERSON.

10 (b) FOR THE PURPOSES OF THIS SUBSECTION (2.5), "CHOKEHOLD"
11 MEANS A METHOD BY WHICH A PERSON APPLIES SUFFICIENT PRESSURE TO
12 A PERSON TO MAKE BREATHING DIFFICULT OR IMPOSSIBLE AND INCLUDES
13 BUT IS NOT LIMITED TO ANY PRESSURE TO THE NECK, THROAT, OR
14 WINDPIPE THAT MAY PREVENT OR HINDER BREATHING OR REDUCE INTAKE
15 OF AIR.

16 (3) A PEACE OFFICER IS JUSTIFIED IN USING DEADLY PHYSICAL
17 FORCE TO MAKE AN ARREST ONLY WHEN ALL OTHER MEANS OF
18 APPREHENSION ARE IMPRACTICAL GIVEN THE CIRCUMSTANCES AND:

19 (a) THE ARREST IS FOR A FELONY INVOLVING CONDUCT INCLUDING
20 THE USE OR THREATENED USE OF DEADLY PHYSICAL FORCE;

21 (b) THERE IS SUBSTANTIAL RISK THAT THE PERSON TO BE
22 ARRESTED WILL CAUSE DEATH OR SERIOUS BODILY INJURY IF HIS OR HER
23 APPREHENSION IS DELAYED; AND

24 (c) THE FORCE EMPLOYED DOES NOT CREATE A SUBSTANTIAL RISK
25 OF INJURY TO INNOCENT PERSONS.

26 (4) A PEACE OFFICER SHALL IDENTIFY HIMSELF OR HERSELF AS A
27 PEACE OFFICER AND GIVE A CLEAR VERBAL WARNING OF HIS OR HER

1 INTENT TO USE FIREARMS OR OTHER DEADLY PHYSICAL FORCE, WITH
2 SUFFICIENT TIME FOR THE WARNING TO BE OBSERVED, UNLESS TO DO SO
3 WOULD UNDULY PLACE PEACE OFFICERS AT RISK OF INJURY, WOULD
4 CREATE A RISK OF DEATH OR INJURY TO OTHER PERSONS, OR WOULD BE
5 CLEARLY INAPPROPRIATE OR INEFFECTIVE UNDER THE CIRCUMSTANCES.

6 (4.5) THE DEFENSES IN SECTIONS 18-1-703 THROUGH 18-1-706.5
7 APPLY TO CIRCUMSTANCES DESCRIBED IN THIS SECTION.

8 **SECTION 4. In Colorado Revised Statutes, 18-8-802, add (1.5)**
9 **as follows:**

10 **18-8-802. Duty to report use of force by peace officers.**

11 (1.5) (a) A PEACE OFFICER SHALL INTERVENE TO PREVENT OR STOP
12 ANOTHER PEACE OFFICER FROM USING PHYSICAL FORCE THAT EXCEEDS
13 THE DEGREE OF FORCE PERMITTED, IF ANY, BY SECTION 18-1-707, IN
14 PURSUANCE OF THE OTHER PEACE OFFICER'S LAW ENFORCEMENT DUTIES
15 IN CARRYING OUT AN ARREST OF ANY PERSON, PLACING ANY PERSON
16 UNDER DETENTION, TAKING ANY PERSON INTO CUSTODY, BOOKING ANY
17 PERSON, OR IN THE PROCESS OF CROWD CONTROL OR RIOT CONTROL,
18 WITHOUT REGARD FOR CHAIN OF COMMAND.

19 (b) (I) A PEACE OFFICER WHO INTERVENES AS REQUIRED BY
20 SUBSECTION (1.5) (a) OF THIS SECTION SHALL REPORT THE INTERVENTION
21 TO HIS OR HER IMMEDIATE SUPERVISOR.

22 (II) AT A MINIMUM, THE REPORT REQUIRED BY THIS SUBSECTION
23 (1.5)(b) MUST INCLUDE THE DATE, TIME, AND PLACE OF THE OCCURRENCE;
24 THE IDENTITY, IF KNOWN, AND DESCRIPTION OF THE PARTICIPANTS; AND A
25 DESCRIPTION OF THE INTERVENTION ACTIONS TAKEN. THIS REPORT SHALL
26 BE MADE IN WRITING WITHIN TEN DAYS OF THE OCCURRENCE OF THE USE
27 OF SUCH FORCE AND SHALL BE APPENDED TO ALL OTHER REPORTS OF THE

1 INCIDENT.

2 (c) A MEMBER OF A LAW ENFORCEMENT AGENCY SHALL NOT
3 DISCIPLINE OR RETALIATE IN ANY WAY AGAINST A PEACE OFFICER FOR
4 INTERVENING AS REQUIRED BY SUBSECTION (1.5) (a) OF THIS SECTION, OR
5 FOR REPORTING UNCONSTITUTIONAL CONDUCT, OR FOR FAILING TO
6 FOLLOW WHAT THE OFFICER REASONABLY BELIEVES IS AN
7 UNCONSTITUTIONAL DIRECTIVE.

8 (d) IN ADDITION TO ANY CRIMINAL LIABILITY AND PENALTY UNDER
9 THE LAW, WHEN A COURT, ADMINISTRATIVE LAW JUDGE, OR INTERNAL
10 INVESTIGATION FINDS THAT A PEACE OFFICER FAILED TO INTERVENE AS
11 REQUIRED BY SUBSECTION (1.5)(a) OF THIS SECTION IN AN INCIDENT
12 RESULTING IN SERIOUS BODILY INJURY OR DEATH TO ANY PERSON, THE
13 PEACE OFFICER'S EMPLOYER SHALL SUBJECT THE PEACE OFFICER TO
14 DISCIPLINE, UP TO AND INCLUDING TERMINATION, AND THE P.O.S.T.
15 BOARD SHALL PERMANENTLY DECERTIFY THE PEACE OFFICER UPON
16 RECEIPT OF NOTICE OF THE PEACE OFFICER'S DISCIPLINE. THE PEACE
17 OFFICER MAY ONLY BE RECERTIFIED IF FOUND NOT GUILTY. _____

18 _____

19 **SECTION 5.** In Colorado Revised Statutes, 24-31-303, **amend**
20 (1)(l), (1)(p), and (1)(q); and **add** (1)(r) as follows:

21 **24-31-303. Duties - powers of the P.O.S.T. board.** (1) The
22 P.O.S.T. board has the following duties:

23 (l) To promulgate rules deemed necessary by the board concerning
24 annual in-service training requirements for certified peace officers,
25 including but not limited to evaluation of the training program and
26 processes to ensure substantial compliance by law enforcement agencies,
27 **and** departments, AND INDIVIDUAL PEACE OFFICERS;

1 (p) To develop a community outreach program that informs the
2 public of the role and duties of the P.O.S.T. board; ~~and~~

3 (q) To develop a recruitment program that creates a diversified
4 applicant pool for appointments to the P.O.S.T. board and the subject
5 matter expertise committees; AND

6 (r) BEGINNING ON JANUARY 1, 2022, TO CREATE AND MAINTAIN A
7 DATABASE CONTAINING INFORMATION RELATED TO A PEACE OFFICER'S:

8 (I) UNTRUTHFULNESS;

9 (II) REPEATED FAILURE TO FOLLOW P.O.S.T. BOARD TRAINING
10 REQUIREMENTS;

11 (III) DECERTIFICATION BY THE P.O.S.T. BOARD; AND

12 (IV) TERMINATION FOR CAUSE.

13 **SECTION 6.** In Colorado Revised Statutes, **add** 24-31-111 as
14 follows:

15 **24-31-111. Public integrity - patterns and practices.** IT IS
16 UNLAWFUL FOR ANY GOVERNMENTAL AUTHORITY, OR ANY AGENT
17 THEREOF, OR ANY PERSON ACTING ON BEHALF OF A GOVERNMENTAL
18 AUTHORITY, TO ENGAGE IN A PATTERN OR PRACTICE OF CONDUCT BY
19 PEACE OFFICERS OR BY OFFICIALS OR EMPLOYEES OF ANY GOVERNMENTAL
20 AGENCY THAT DEPRIVES PERSONS OF RIGHTS, PRIVILEGES, OR IMMUNITIES
21 SECURED OR PROTECTED BY THE CONSTITUTION OR LAWS OF THE UNITED
22 STATES OR THE STATE OF COLORADO. WHENEVER THE ATTORNEY
23 GENERAL HAS REASONABLE CAUSE TO BELIEVE THAT A VIOLATION OF THIS
24 SECTION HAS OCCURRED, THE ATTORNEY GENERAL, FOR OR IN THE NAME
25 OF THE STATE OF COLORADO, MAY IN A CIVIL ACTION OBTAIN ANY AND
26 ALL APPROPRIATE RELIEF TO ELIMINATE THE PATTERN OR PRACTICE.
27 BEFORE FILING SUIT, THE ATTORNEY GENERAL SHALL NOTIFY THE

1 GOVERNMENT AUTHORITY OR ANY AGENT THEREOF, AND PROVIDE IT WITH
2 THE FACTUAL BASIS THAT SUPPORTS HIS OR HER REASONABLE CAUSE TO
3 BELIEVE A VIOLATION OCCURRED. UPON RECEIPT OF THE FACTUAL BASIS,
4 THE GOVERNMENT AUTHORITY, OR ANY AGENT THEREOF, HAS SIXTY DAYS
5 TO CHANGE OR ELIMINATE THE IDENTIFIED PATTERN OR PRACTICE. IF THE
6 IDENTIFIED PATTERN OR PRACTICE IS NOT CHANGED OR ELIMINATED AFTER
7 SIXTY DAYS, THE ATTORNEY GENERAL MAY FILE A CIVIL LAWSUIT.

8 **SECTION 7.** In Colorado Revised Statutes, 24-31-305, **add** (2.7)
9 as follows:

10 **24-31-305. Certification - issuance - renewal - revocation -**
11 **rules - definition.** (2.7) THE P.O.S.T. BOARD MAY REVOKE THE
12 CERTIFICATION OF A PEACE OFFICER WHO FAILS TO SATISFACTORILY
13 COMPLETE PEACE OFFICER TRAINING REQUIRED BY THE P.O.S.T. BOARD.
14 PRIOR TO REVOKING THE PEACE OFFICER'S CERTIFICATION, THE P.O.S.T.
15 BOARD SHALL NOTIFY THE PEACE OFFICER OF HIS OR HER FAILURE TO
16 COMPLETE THE TRAINING REQUIRED BY THE P.O.S.T. BOARD AND GIVE THE
17 PEACE OFFICER THIRTY CALENDAR DAYS TO SATISFACTORILY COMPLETE
18 THE PEACE OFFICER TRAINING REQUIRED BY THE P.O.S.T. BOARD.

19 **SECTION 8.** In Colorado Revised Statutes, 24-31-309, **amend**
20 (4)(a); and **add** (3.5) as follows:

21 **24-31-309. Profiling - officer identification - training.** (3.5) A
22 PEACE OFFICER SHALL HAVE A LEGAL BASIS FOR MAKING A CONTACT,
23 WHETHER CONSENSUAL OR NONCONSENSUAL, FOR THE PURPOSE OF
24 ENFORCING THE LAW OR INVESTIGATING POSSIBLE VIOLATIONS OF THE
25 LAW. AFTER MAKING A CONTACT, A PEACE OFFICER SHALL REPORT TO THE
26 PEACE OFFICER'S EMPLOYING AGENCY:

27 (a) THE PERCEIVED DEMOGRAPHIC OF THE PERSON STOPPED,

1 PROVIDED THAT THE IDENTIFICATION OF THESE CHARACTERISTICS IS
2 BASED ON THE OBSERVATION AND PERCEPTION OF THE PEACE OFFICER
3 MAKING THE STOP AND OTHER AVAILABLE DATA.

- 4 (b) WHETHER THE CONTACT WAS A TRAFFIC STOP;
- 5 (c) THE TIME, DATE, AND LOCATION OF THE CONTACT;
- 6 (d) THE DURATION OF THE CONTACT;
- 7 (e) THE REASON FOR THE CONTACT;
- 8 (f) THE SUSPECTED CRIME;
- 9 (g) THE RESULT OF THE CONTACT, SUCH AS:
 - 10 (I) NO ACTION, WARNING, CITATION, PROPERTY SEIZURE, OR
 - 11 ARREST;
 - 12 (II) IF A WARNING OR CITATION WAS ISSUED, THE WARNING
 - 13 PROVIDED OR VIOLATION CITED;
 - 14 (III) IF AN ARREST WAS MADE, THE OFFENSE CHARGED;
 - 15 (IV) IF THE CONTACT WAS A TRAFFIC STOP, THE INFORMATION
 - 16 COLLECTED, WHICH IS LIMITED TO THE DRIVER;
- 17 (h) THE ACTIONS TAKEN BY THE PEACE OFFICER DURING THE
- 18 CONTACT, INCLUDING BUT NOT LIMITED TO WHETHER:
 - 19 (I) THE PEACE OFFICER ASKED FOR CONSENT TO SEARCH THE
 - 20 PERSON, AND, IF SO, WHETHER CONSENT WAS PROVIDED;
 - 21 (II) THE PEACE OFFICER SEARCHED THE PERSON OR ANY PROPERTY,
 - 22 AND, IF SO, THE BASIS FOR THE SEARCH AND THE TYPE OF CONTRABAND OR
 - 23 EVIDENCE DISCOVERED, IF ANY; AND
 - 24 (III) THE PEACE OFFICER SEIZED ANY PROPERTY, AND, IF SO, THE
 - 25 TYPE OF PROPERTY THAT WAS SEIZED AND THE BASIS FOR SEIZING THE
 - 26 PROPERTY.
- 27 (4) (a) A peace officer certified pursuant to this part 3 shall

1 provide, without being asked, ~~his or her~~ THE PEACE OFFICER'S business
2 card to any person whom the peace officer has detained in a traffic stop
3 but has not cited or arrested. The business card ~~shall~~ MUST include
4 identifying information about the peace officer, including but not limited
5 to the peace officer's name, division, precinct, and badge or other
6 identification number; ~~and~~ a telephone number that may be used, if
7 necessary, to report any comments, positive or negative, regarding the
8 traffic stop; AND INFORMATION ABOUT HOW TO FILE A COMPLAINT
9 RELATED TO THE CONTACT. The identity of the reporting person and the
10 report of any such comments that ~~constitutes~~ CONSTITUTE a complaint
11 ~~shall~~ MUST initially be kept confidential by the receiving law enforcement
12 agency, to the extent permitted by law. The receiving law enforcement
13 agency shall be permitted to obtain some identifying information
14 regarding the complaint to allow initial processing of the complaint. If it
15 becomes necessary for the further processing of the complaint for the
16 complainant to disclose ~~his or her~~ THE COMPLAINANT'S identity, the
17 complainant shall do so or, at the option of the receiving law enforcement
18 agency, the complaint may be dismissed.

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20 **SECTION 9. Effective date.** This act takes effect upon passage;
21 except that section 24-31-902, Colorado Revised Statutes, as enacted in
22 section 1 of this act, takes effect July 1, 2021.

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