



CIRSA LEGISLATIVE ALERT

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SAFER TOGETHER

New Legislation Affording Whistleblower Protections for Peace Officers

By Nick Cotton-Baez, CIRSA Associate General Counsel

If your municipality employs peace officersⁱ and you're involved in decision-making concerning their employment, you should take immediate steps to become familiar with the requirements of House Bill 25-1031, which was signed into law by Governor Polis and became immediately effective on June 3, 2025 (the Act).

Editor's Note: If your city or town is a CIRSA member, CIRSA will, as a service to its members, make available the assistance of one of its defense panel attorneys to review and comment on your draft updates to any of your policies that are prepared to address the requirements of House Bill 25-1031. CIRSA will provide up to three hours of attorney time to your entity for this assistance, at no member expense. This service is not a substitute for legal and other advice from your entity's city or town attorney, police legal advisor, and law enforcement professionals. If your entity would like to obtain this CIRSA assistance, please e-mail Sam Light, CIRSA Deputy Executive Director/General Counsel, at saml@cirsa.org, or Nick Cotton-Baez, CIRSA Associate General Counsel, at nickc@cirsa.org.

In general, the Act protects peace officers against adverse employment actions or retaliation when officers disclose to their employers,ⁱⁱ in good faith, information that the officer reasonably believes shows a danger to public health or safety or an alleged violation of law by another police officer. Conversely, the Act's whistleblower protections do not apply to an employee who discloses information they know to be false or who discloses information with disregard for the truth of the information disclosed. An employee's disclosure of information about their own wrongdoing also is not a protected activity under the Act.ⁱⁱⁱ

The Act specifically lists employment actions that may give rise to violations. The list includes not only those employment actions such as discharge that are commonly the basis of alleged retaliation claims,^{iv} but also includes suspension, creating a hostile work environment, corrective action or reprimand, employment ratings that result in loss of pay or negatively affect eligibility for promotion or assignment, layoffs or reduction in work hours, and knowingly providing false information regarding a police officer to negatively affect future employment opportunities.

The Act qualifies that certain administrative procedures, such as suspending someone during an investigation, and departmental objective procedures used to distribute assignments or duties or meet operational needs, do not constitute retaliation under the Act. Moreover, employers are not prohibited from complying with disclosure requirements required by law or court rule or procedures.

As its enforcement mechanism, the Act amends Colorado's existing peace officer whistleblower protection statute^v to establish a distinct cause of action for peace officers to bring civil lawsuits against employers that violate the Act. If an aggrieved officer shows that their protected activity was a contributing factor in the employer's adverse employment action, the Act authorizes broad relief, including reinstatement, back pay with interest, equitable relief, compensatory damages, and attorney fees and costs. Employers have an affirmative defense if they can show, by a preponderance of the evidence, that they would have taken the same action on a legitimate nonretaliatory basis.

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If a law enforcement agency has written internal administrative procedures for addressing whistleblower complaints, an officer must exhaust those internal procedures before bringing a civil action. Employers have 180 days after a report or disclosure to complete the administrative process. A law enforcement agency can seek a stay of the case if an employee files suit before the completion of an administrative procedure extending beyond 180 days if the procedure's completion has been delayed for reasons beyond the agency's control.^{vi}

By January 1, 2026, law enforcement agencies must either provide training to employees or a workplace posting, or both, regarding the requirements of the Act. If the agency provides a training for new employees hired after the date the training is given to existing employees, the training for the new hire must be provided during their orientation. Any posting must be in an area readily accessible to all employees and in a readable format.

In order to establish a claim under the Act, a peace officer must disclose or report protected information to their employer's "proper supervising authority"; i.e., the person or department designated in the law enforcement agency to investigate allegations of internal misconduct. Thus, agencies that haven't yet designated a person or department to investigate allegations of internal misconduct should consider designating a person or department as the "proper supervising authority" for disclosing or reporting information protected under the Act. While designation is not required under the Act, if no designation is made, the "proper supervising authority" defaults to the highest-ranking peace officer in the organization (e.g., the Town Marshal or Chief of Police).

Finally, employers should also consider adopting written internal reporting and administrative procedures that include a process for addressing whistleblower complaints within 180 days. While not required by the Act, having administrative procedures in place to address whistleblower complaints not only provides a process for potential pre-litigation resolution of concerns, but also means employees must exhaust internal remedies before filing a civil lawsuit (and a failure to comply with the administrative process can bar a civil claim). If your agency is like many, you may already have anti-retaliation policies and complaint procedures within your police manual. If so, your agency should consider amending those provisions as appropriate to include handling of whistleblower complaints under the Act or, alternatively, consider adopting a stand-alone policy addressing such complaints.

If you have questions about this article, contact CIRSA's Associate General Counsel, Nick Cotton-Baez, at nickc@cirsa.org.

Note: This article is intended for general information purposes only and is not intended or to be construed as legal advice on any specific issue. Readers should consult with their entity's own counsel for legal advice on specific issues.

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- i. As defined in C.R.S. § 16-2.5-102.
 - ii. To establish a claim under the Act, officers must disclose or report protected information to the employer's "proper supervising authority" (defined and discussed below).
 - iii. i.e., the officer's own act of negligence, unprofessional conduct, breach of a P.O.S.T. certification requirement, or violation of any local, state, or federal law.
 - iv. i.e., discharge, discipline, demotion, denial of promotion, transfer or reassignment, discrimination, and harassment.
 - v. C.R.S. § 24-31-906.
 - vi. Including, without limitation, the existence of an open criminal proceeding or critical response team investigation.