

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

INTRODUCED

LLS NO. 19-0770.01 Conrad Imel x2313

HOUSE BILL 19-1235

HOUSE SPONSORSHIP

Van Winkle,

SENATE SPONSORSHIP

(None),

House Committees

Transportation & Local Government

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING DISPATCH RADIO COMMUNICATIONS BY GOVERNMENTAL**
102 **ENTITIES.**

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 each entity of the state government and each entity of the government of each city, county, and city and county, including special districts, (governmental entity) to broadcast its dispatch radio communications without encryption such that the communications may be monitored by commercially available radio receivers and scanners or online; except that:

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.

- ! A governmental entity may encrypt all tactical radio communications or investigative radio communications so long as the encryption is necessary to preserve the tactical integrity of an operation, protect the safety of law enforcement officers or other emergency responders, or prevent the destruction of property; and
- ! An investigative unit of a governmental entity engaged in the investigation of criminal conduct or potential criminal conduct may encrypt its radio communications.

The bill does not restrict the encryptions of the department of corrections or the division of youth services within the department of human services.

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

2 **SECTION 1. Legislative declaration.** (1) The general assembly
3 finds that:

4 (a) Colorado has adopted a public policy of transparency in
5 government operations, as shown by the "Colorado Sunshine Act of
6 1972", article 6 of title 24, C.R.S., and the "Colorado Open Records Act",
7 part 2 of article 72 of title 24, C.R.S.; and

8 (b) Colorado residents have a right to monitor the functions of
9 their government.

10 (2) The general assembly also finds that:

11 (a) Many agencies of state and local government utilize radio
12 communication to dispatch public safety and public works personnel in
13 response to calls for services;

14 (b) Historically, such dispatch radio communications have been
15 broadcast on frequencies that may be received by the public;

16 (c) The news media, in particular, rely upon the ability to monitor
17 dispatch radio communications to provide a source of leads for news
18 reporting; and

19 (d) A segment of the public also monitors dispatch radio

1 communications, either as a hobby or as a tool for remaining aware of
2 events that occur within their communities.

3 (3) The general assembly also finds that:

4 (a) Advancements in digital radio technology have made
5 encryption of radio communications much easier and more cost-effective;

6 (b) Many Colorado public safety agencies have implemented
7 dispatch radio communications systems that are capable of encryption,
8 and several of these public safety agencies are already encrypting their
9 dispatch radio communications; and

10 (c) It is a common practice among governmental entities and
11 public safety agencies to organize their radio communication architecture
12 into channels allocated for specific uses and functions. These talk groups
13 or channels are referred to as "Dispatch", "Tactical" or "TAC",
14 "Fireground", "Clearance", "SWAT", "Investigations", "Mutual Aid" or
15 "MAC", "Courts", "Jail", "Gang Task Force", "Supervisors", and many
16 other terms. These delineations already largely exist and make the
17 limitation of encryption of dispatch channels feasible and consistent with
18 existing practices in virtually all agencies.

19 (4) Therefore, the general assembly declares that:

20 (a) There is a legitimate public policy interest in government
21 transparency, and, as a rule, the operations of state and local governments
22 should be conducted in an open and transparent fashion; and

23 (b) Although public safety agencies may have a legitimate need
24 to conceal tactical or investigative communications, these needs must be
25 balanced against the public's right to monitor the functions of its
26 governmental agencies.

27 **SECTION 2.** In Colorado Revised Statutes, **add** part 5 to article

1 6 of title 24 as follows:

2

PART 5

3

ENCRYPTION OF DISPATCH RADIO COMMUNICATIONS

4

BY GOVERNMENTAL ENTITIES

5

24-6-501. Definitions. AS USED IN THIS PART 5, UNLESS THE
6 CONTEXT OTHERWISE REQUIRES:

7

(1) "DISPATCH RADIO COMMUNICATIONS" MEANS ANY VOICE
8 COMMUNICATION BY WAY OF TRANSMISSION OF A RADIO FREQUENCY
9 CARRIER TO BASE, MOBILE, OR PORTABLE RADIO TRANSCEIVERS BY EITHER
10 ANALOG OR DIGITAL MODULATION FOR THE PURPOSE OF RELAYING
11 REQUESTS FOR ASSISTANCE OR CALLS FOR SERVICE TO FIELD PERSONNEL
12 OR OTHERWISE DIRECTING THE INITIAL RESPONSE OF A STATE OR LOCAL
13 GOVERNMENTAL ENTITY TO SUCH CALL OR REQUEST.

14

(2) "ENCRYPTION" MEANS THE ENCODING OF VOICE
15 COMMUNICATION ON AN ANALOG OR DIGITALLY MODULATED RADIO
16 CARRIER, WHICH ENCODING RENDERS THE COMMUNICATION DIFFICULT OR
17 IMPOSSIBLE TO BE MONITORED BY COMMERCIALY AVAILABLE RADIO
18 RECEIVERS OR SCANNERS.

19

(3) "GOVERNMENTAL ENTITY" MEANS AN ENTITY OF THE STATE
20 GOVERNMENT AND EACH ENTITY OF THE GOVERNMENT OF EACH CITY,
21 COUNTY, AND CITY AND COUNTY, INCLUDING SPECIAL DISTRICTS.

22

(4) "INVESTIGATIVE RADIO COMMUNICATIONS" MEANS ANY
23 COMMUNICATION BY WAY OF TRANSMISSION OF A RADIO FREQUENCY
24 CARRIER TO BASE, MOBILE, OR PORTABLE RADIO TRANSCEIVERS BY EITHER
25 ANALOG OR DIGITAL MODULATION AS PART OF A LAW ENFORCEMENT
26 INVESTIGATION OF POSSIBLE CRIMINAL ACTIVITY, THE DISCLOSURE OF
27 WHICH COULD JEOPARDIZE THE CONFIDENTIALITY OF THE INVESTIGATION

1 OR ENDANGER PERSONS ENGAGED IN THE INVESTIGATION, INCLUDING BUT
2 NOT LIMITED TO LAW ENFORCEMENT PERSONNEL AND INFORMANTS.

3 (5) "SCANNER" MEANS A RADIO RECEIVER DESIGNED FOR THE
4 PURPOSE OF MONITORING MULTIPLE RADIO CARRIERS SIMULTANEOUSLY.

5 (6) "TACTICAL RADIO COMMUNICATIONS" MEANS ANY
6 COMMUNICATION BY WAY OF TRANSMISSION OF A RADIO FREQUENCY
7 CARRIER TO BASE, MOBILE, OR PORTABLE RADIO TRANSCEIVERS BY EITHER
8 ANALOG OR DIGITAL MODULATION FOR THE PURPOSE OF DIRECTING THE
9 TACTICAL RESPONSE TO A SPECIFIC INCIDENT OR EVENT REQUIRING THE
10 COORDINATION OF PERSONNEL IN RESPONSE TO A CALL FOR SERVICE OR
11 OTHER EMERGENCY.

12 **24-6-502. Public broadcast of governmental dispatch radio**
13 **communications required - encryption prohibited - exceptions.**

14 (1) EACH GOVERNMENTAL ENTITY SHALL BROADCAST ITS DISPATCH
15 RADIO COMMUNICATIONS, AS DEFINED IN SECTION 24-6-501 (1), WITHOUT
16 ENCRYPTION SUCH THAT THE COMMUNICATIONS MAY BE MONITORED BY
17 COMMERCIALY AVAILABLE RADIO RECEIVERS AND SCANNERS OR ONLINE.

18 (2) NOTWITHSTANDING SUBSECTION (1) OF THIS SECTION:

19 (a) A GOVERNMENTAL ENTITY MAY ENCRYPT ALL TACTICAL RADIO
20 COMMUNICATIONS OR INVESTIGATIVE RADIO COMMUNICATIONS SO LONG
21 AS THE ENCRYPTION IS NECESSARY TO PRESERVE THE TACTICAL INTEGRITY
22 OF AN OPERATION, PROTECT THE SAFETY OF LAW ENFORCEMENT OFFICERS
23 OR OTHER EMERGENCY RESPONDERS, OR PREVENT THE DESTRUCTION OF
24 PROPERTY;

25 (b) AN INVESTIGATIVE UNIT OF A STATE OR LOCAL GOVERNMENT
26 LAW ENFORCEMENT AGENCY ENGAGED IN THE INVESTIGATION OF
27 CRIMINAL CONDUCT OR POTENTIAL CRIMINAL CONDUCT MAY ENCRYPT ITS

1 INVESTIGATIVE RADIO COMMUNICATIONS; AND

2 (c) (I) A GOVERNMENTAL ENTITY MAY ELECT TO ENCRYPT ITS
3 DISPATCH RADIO COMMUNICATIONS IF THAT GOVERNMENTAL ENTITY
4 PROVIDES AN AUDIO STREAM OF SUCH DISPATCH RADIO COMMUNICATION,
5 REFERRED TO IN THIS SUBSECTION (2)(c) AS AN "AUDIO STREAM". A
6 GOVERNMENTAL ENTITY SHALL MAKE AN AUDIO STREAM AVAILABLE TO
7 BE STREAMED BY THE PUBLIC THROUGH THE GOVERNMENTAL ENTITY'S
8 WEBSITE OR THROUGH THE SERVICES OF A COMMERCIAL ONLINE AUDIO
9 STREAMING SERVICE. AN AUDIO STREAM MAY BE DIGITALLY BUFFERED
10 AND DELAYED FOR A PERIOD OF NOT MORE THAN ONE HUNDRED EIGHTY
11 SECONDS BY THE STREAMING APPARATUS.

12 (II) A GOVERNMENTAL ENTITY THAT ELECTS TO PROVIDE AN AUDIO
13 STREAM OF ITS DISPATCH RADIO COMMUNICATIONS IN LIEU OF A
14 REAL-TIME RADIO TRANSMISSION WITHOUT ENCRYPTION MAY
15 TEMPORARILY SUSPEND THE AUDIO STREAM IN THE EVENT OF AN
16 EMERGENCY THAT CONSTITUTES AN IMMEDIATE THREAT TO HUMAN LIFE
17 OR PUBLIC SAFETY. THE GOVERNMENTAL ENTITY SHALL RECORD ALL
18 DISPATCH RADIO COMMUNICATIONS THAT OCCUR DURING A TEMPORARY
19 SUSPENSION OF AN AUDIO STREAM AND SHALL MAKE THE RECORDING
20 AVAILABLE, WITHOUT EDIT OR REDACTION, UPON A REQUEST MADE
21 PURSUANT TO THE "COLORADO OPEN RECORDS ACT", PART 2 OF ARTICLE
22 72 OF TITLE 24. A TEMPORARY SUSPENSION OF AN AUDIO STREAM MUST BE
23 LIMITED TO THE ACTUAL DURATION OF THE EMERGENCY, BUT IN NO EVENT
24 MAY THE SUSPENSION LAST LONGER THAN FOUR HOURS.

25 (3) NOTHING IN THIS PART 5 PROHIBITS OR RESTRICTS THE
26 ENCRYPTION OF DISPATCH RADIO COMMUNICATIONS BY THE DEPARTMENT
27 OF CORRECTIONS OR BY THE DIVISION OF YOUTH SERVICES WITHIN THE

1 DEPARTMENT OF HUMAN SERVICES.

2 **24-6-503. Legislative intent - applicability.** (1) THE GENERAL
3 ASSEMBLY INTENDS THAT THIS PART 5 BE LIBERALLY CONSTRUED TO
4 PROMOTE TRANSPARENCY IN GOVERNMENT OPERATIONS BUT ALSO BE
5 BALANCED AGAINST THE NEED TO PROTECT THE SAFETY OF EMERGENCY
6 RESPONDERS. AS A PRACTICE, THE ENCRYPTION OF DISPATCH RADIO
7 COMMUNICATIONS BY STATE AND LOCAL GOVERNMENTAL ENTITIES
8 SHOULD BE EXCEPTIONAL RATHER THAN ROUTINE.

9 (2) THIS PART 5 APPLIES TO EACH GOVERNMENTAL ENTITY AS
10 DEFINED IN SECTION 24-6-501 (3).

11 (3) NOTHING IN THIS PART 5 APPLIES TO THE USE OF CELLULAR OR
12 OTHER COMMON-CARRIER TELEPHONIC COMMUNICATION BY A STATE OR
13 LOCAL GOVERNMENTAL ENTITY.

14 **SECTION 3. Act subject to petition - effective date -**
15 **applicability.** (1) This act takes effect at 12:01 a.m. on the day following
16 the expiration of the ninety-day period after final adjournment of the
17 general assembly (August 2, 2019, if adjournment sine die is on May 3,
18 2019); except that, if a referendum petition is filed pursuant to section 1
19 (3) of article V of the state constitution against this act or an item, section,
20 or part of this act within such period, then the act, item, section, or part
21 will not take effect unless approved by the people at the general election
22 to be held in November 2020 and, in such case, will take effect on the
23 date of the official declaration of the vote thereon by the governor.

24 (2) This act applies to dispatch radio communications of each
25 state and local governmental entity on or after the applicable effective
26 date of this act.