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MEMORANDUM

January 16, 2013

TO: Senate Judiciary Committee

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SUBJECT: Background Information on Peace Officer Status

Summary

This memorandum provides background information on peace officer status. Specifically, the memorandum explains the responsibilities granted to peace officers and also provides an overview of certification and review by the Peace Officers Standards and Training Board. Finally, the memorandum explains limitations on bills concerning peace officer status and provides a list of peace officer status bills enacted during 2007 through 2012.

Peace Officers

Colorado law imposes standards on and grants certain responsibilities to persons considered peace officers.¹ At a minimum, a peace officer has the authority to enforce all laws of the state of Colorado while acting within the scope of his or her authority and the performance of his or her duties. Peace officers may be certified by the Peace Officers Standards and Training Board (P.O.S.T. board), which is administered by the Department of Law.

¹Section 16-2.5-101, C.R.S.

P.O.S.T. board certification.² A peace officer certified by the P.O.S.T. board has the authority to carry firearms at all times, concealed or otherwise, subject to the written firearms policy created by the agency employing the peace officer. A peace officer who is not certified by the P.O.S.T. board has the authority to carry firearms, concealed or otherwise, while engaged in the performance of his or her duties or as otherwise authorized by the written policy of the agency employing the officer.

Basic peace officer certification requirements include:

- successful completion of a high school education or its equivalent;
- successful completion of basic training approved by the board;
- passage of examinations administered by the board; and
- current first aid and cardiopulmonary resuscitation certificates or their equivalents.

The P.O.S.T. board must deny peace officer certification to any person who has been convicted of a felony or certain misdemeanors, including assault in the third degree, sexual assault, or prostitution.

P.O.S.T. board review. Prior to seeking authorization from the General Assembly to grant peace officer status, a group or person must apply for review by the P.O.S.T. board.³ A proposal for review must contain the following information:

- a complete description of the position or a description of the group proposed for peace officer status and an estimate of the number of persons who hold the position or are in the group;
- a description of the specific need for the authority and protections required for the position or group;
- the benefit to the public that would result from granting the status;
- the costs associated with granting the status; and
- a resolution or letter of support for the proposed change in status from the chief executive officer of the unit of government or political subdivision employing the group or overseeing the proposed position.

After receiving an application, the P.O.S.T. board must conduct a hearing, and must then submit a report containing its recommendations to the House and Senate Judiciary Committees no later than October 15 in the year after the application was submitted. The Joint Legislative Library does not currently have any such reports in its possession. Staff has contacted the P.O.S.T. board to receive copies of any recent reports.

Bills concerning peace officer status. The group seeking peace officer status may request that a member of the General Assembly propose legislation securing peace officer status during each of the two regular sessions that immediately follow the date of the report. Such bills are not subject to a member's five-bill limit. Colorado law prohibits the General Assembly from considering peace officer status for more than five positions or groups in any one session. Table 1 lists the bills that have added peace officer status from 2007 through 2012. Please note that the table only includes bills that passed.

²*Ibid.*; Section 24-31-305, C.R.S.

³Section 16-2.5-201, C.R.S.

Table 1
Peace Officer Status Bills Enacted from 2007 to 2012

| Bill | Position or Group |
|--------------------|--|
| House Bill 08-1106 | Colorado Higher Education Police Officers |
| House Bill 10-1284 | Director of the Marijuana Enforcement Division Medical Marijuana Enforcement Investigators |
| House Bill 11-1073 | Deputy or Special Deputy U.S. Marshals |
| House Bill 12-1026 | City, Municipal, and Town Attorneys |
| House Bill 12-1079 | Deputy Executive Director of the Department of Public Safety Director of the Division of Criminal Justice |
| House Bill 12-1283 | Director of the Division of Homeland Security and Emergency Management |

