

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

INTRODUCED

LLS NO. 20-0902.01 Conrad Imel x2313

HOUSE BILL 20-1282

HOUSE SPONSORSHIP

Van Winkle and Melton,

SENATE SPONSORSHIP

(None),

House Committees

Transportation & Local Government

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING PROMOTING OPEN RADIO COMMUNICATIONS POLICIES BY**
102 **GOVERNMENTAL 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; each entity of the government of each city, county, and city and county; and special districts, school districts, and institutions of higher education (governmental entity) that encrypts all of its radio communications to enact an encryption policy.

An encryption policy must include access to unencrypted radio

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.

communications by members of the media and standards that prevent the governmental entity from imposing unreasonable and burdensome limitations on access to radio communications. When enacting an encryption policy, a governmental entity must consider including in the policy access to unencrypted radio communications for the general public through alternative means, such as delayed online transmission. Prior to enacting an encryption policy, a governmental entity must seek input from members of the Colorado media and the general public.

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

1 (3) The general assembly also finds that:

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

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

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

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

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

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

25 **SECTION 2.** In Colorado Revised Statutes, **add** part 5 to article
26 6 of title 24 as follows:

27 PART 5

1 ENCRYPTION OF RADIO COMMUNICATIONS
2 BY GOVERNMENTAL ENTITIES

3 **24-6-501. Definitions.** AS USED IN THIS PART 5, UNLESS THE
4 CONTEXT OTHERWISE REQUIRES:

5 (1) "ENCRYPTION" MEANS THE ENCODING OF VOICE
6 COMMUNICATION ON AN ANALOG OR DIGITALLY MODULATED RADIO
7 CARRIER, WHICH ENCODING RENDERS THE COMMUNICATION DIFFICULT OR
8 IMPOSSIBLE TO BE MONITORED BY COMMERCIALY AVAILABLE RADIO
9 RECEIVERS OR SCANNERS.

10 (2) "GOVERNMENTAL ENTITY" MEANS AN ENTITY OF THE STATE
11 GOVERNMENT; EACH ENTITY OF THE GOVERNMENT OF EACH CITY, COUNTY,
12 AND CITY AND COUNTY; AND SPECIAL DISTRICTS, SCHOOL DISTRICTS, AND
13 STATE INSTITUTIONS OF HIGHER EDUCATION.

14 (3) "RADIO COMMUNICATIONS" MEANS ANY COMMUNICATION BY
15 WAY OF TRANSMISSION OF A RADIO FREQUENCY CARRIER TO BASE,
16 MOBILE, OR PORTABLE RADIO TRANSCEIVERS BY EITHER ANALOG OR
17 DIGITAL MODULATION.

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

20 **24-6-502. Public broadcast of governmental radio**
21 **communications - encryption policy.** (1) A GOVERNMENTAL ENTITY
22 THAT ENCRYPTS ALL OF ITS RADIO COMMUNICATIONS SHALL ENACT AN
23 ENCRYPTION POLICY THAT MEETS THE REQUIREMENTS OF SUBSECTION (2)
24 OF THIS SECTION.

25 (2) (a) A GOVERNMENTAL ENTITY SHALL INCLUDE IN ITS RADIO
26 COMMUNICATIONS ENCRYPTION POLICY:

27 (I) ACCESS TO UNENCRYPTED RADIO TRANSMISSIONS FOR

1 MEMBERS OF THE MEDIA, WHICH MAY INCLUDE A PROCESS FOR GRANTING
2 SUCH ACCESS, SUCH AS VERIFICATION OF MEDIA CREDENTIALS, AND
3 REASONABLE RESTRICTIONS ON THE USE OF RADIO MONITORING
4 EQUIPMENT; AND

5 (II) STANDARDS THAT PREVENT THE GOVERNMENTAL ENTITY
6 FROM IMPOSING UNREASONABLE AND BURDENSOME LIMITATIONS ON
7 ACCESS TO, AND THE USE OF, ITS RADIO COMMUNICATIONS.

8 (b) WHEN DEVELOPING A RADIO COMMUNICATIONS ENCRYPTION
9 POLICY, A GOVERNMENTAL ENTITY SHALL CONSIDER INCLUDING IN THE
10 POLICY A PROVISION TO PROVIDE PUBLIC ACCESS TO UNENCRYPTED RADIO
11 TRANSMISSIONS THROUGH ALTERNATIVE MEANS, SUCH AS ONLINE
12 TRANSMISSION THAT IS DELAYED OR OTHER REAL-TIME TRANSMISSION,
13 THAT BALANCES THE PUBLIC INTEREST IN INFORMATION INCLUDED IN
14 RADIO COMMUNICATIONS AND THE SAFETY OF LAW ENFORCEMENT
15 OFFICERS.

16 (c) PRIOR TO ENACTING AN ENCRYPTION POLICY, A
17 GOVERNMENTAL ENTITY SHALL:

18 (I) SEEK THE INPUT FROM MEMBERS OF THE MEDIA WHO ARE BASED
19 IN COLORADO; AND

20 (II) ESTABLISH A PROCESS FOR RECEIVING FEEDBACK FROM OTHER
21 ORGANIZATIONS AND INDIVIDUAL MEMBERS OF THE PUBLIC, INCLUDING BY
22 E-MAIL OR OTHER INTERNET-BASED SUBMISSION AND AT LEAST ONE
23 PUBLIC MEETING AT WHICH INDIVIDUALS ARE ALLOWED TO PROVIDE INPUT
24 REGARDING AN ENCRYPTION POLICY.

25 (d) (I) A GOVERNMENTAL ENTITY THAT ENCRYPTS ITS RADIO
26 COMMUNICATIONS ON OR BEFORE DECEMBER 31, 2020, SHALL ENACT AN
27 ENCRYPTION POLICY PURSUANT TO THIS SECTION ON OR BEFORE JANUARY

1 1, 2021.

2 (II) A GOVERNMENTAL ENTITY THAT ENCRYPTS ITS RADIO
3 COMMUNICATIONS ON OR AFTER JANUARY 1, 2021, SHALL ENACT AN
4 ENCRYPTION POLICY PURSUANT TO THIS SECTION PRIOR TO ENCRYPTING
5 ITS RADIO COMMUNICATIONS.

6 **SECTION 3. Act subject to petition - effective date.** This act
7 takes effect at 12:01 a.m. on the day following the expiration of the
8 ninety-day period after final adjournment of the general assembly (August
9 5, 2020, if adjournment sine die is on May 6, 2020); except that, if a
10 referendum petition is filed pursuant to section 1 (3) of article V of the
11 state constitution against this act or an item, section, or part of this act
12 within such period, then the act, item, section, or part will not take effect
13 unless approved by the people at the general election to be held in
14 November 2020 and, in such case, will take effect on the date of the
15 official declaration of the vote thereon by the governor.