

# LAW ENFORCEMENT LIABILITY

## More Police Reform in Colorado: House Bill 24-1372 Establishes New Restrictions and Requirements for Use of Prone Restraint

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**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 24-1372. 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 call or e-mail Sam Light, CIRSA Deputy Executive Director/General Counsel, at 720-605-8002 or [saml@cirsa.org](mailto:saml@cirsa.org).**

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The 2024 Colorado legislative session included an additional round of bills addressing law enforcement operations. Prominent among the bills passed is [House Bill 24-1372](#) (also, "HB 1372" or "the Bill"), which establishes new restrictions and requirements for use of prone restraint. This article summarizes the key requirements of the Bill, which is now the law in Colorado. CIRSA member law enforcement agencies will want to ensure they are familiar with the requirements of the Bill and are taking the steps needed to ensure compliance.

Governor Polis signed HB 1372 on June 3, 2024, and the Bill became effective on the same day. The Bill added a new Subsection (2.7) to Section 18-1-707 of the Colorado Revised Statutes ("C.R.S."), which Section is entitled "Use of Force by Peace Officers – Definitions". Section 18-1-707 sets forth legal standards for uses of physical force by peace officers, and HB 1372 added the new Subsection (2.7) to specifically address the use of prone restraint.

As codified, Subsection (2.7) defines "prone restraint" as a use of physical force, including, but not limited to, the use of a mechanical restraint, in which the person who is being restrained is in the prone position. See C.R.S. §18-1-707(2.7)(a)(III). "Prone position" is defined as a position in which a person is laying on a solid surface with the person's chest and abdomen positioned downward even if the person's face is turned to the side or the person has one shoulder lifted. See C.R.S. §18-1-707(2.7)(a)(II). "Mechanical restraint" is defined as a physical device used to involuntarily restrict the movement of a person or the movement or normal function of a portion of a person's body. See C.R.S. §18-1-707(2.7)(a)(I).

By its addition of Subsection (2.7) into the use of force statute, House Bill 24-1372 subjects a peace officer who uses unlawful force or fails to intervene in the unlawful use of force as it pertains to use of prone restraint to criminal and civil penalties as well as disciplinary measures through the Peace Officers Standards and Training Board ("P.O.S.T. Board").

House Bill 24-1372 also includes new requirements for policies and training. Specifically, C.R.S. §18-1-707(2.7)(b) requires that **on or before July 1, 2025**, law enforcement agencies shall adopt written policies and procedures concerning the use of the prone position and prone restraint by 1) officers certified by the P.O.S.T. Board; 2) sheriff's deputies, regardless of P.O.S.T. Board certification, who are engaged in patrol, arrest, taking suspects into custody, transporting detainees, or who have direct contact with inmates within county or local jails; and 3) Colorado state patrol officers. These adopted policies and procedures must be posted by law enforcement agencies on their publicly accessible websites or, if the entity does not have a publicly accessible website, make them available upon request.

In addition, under C.R.S. §18-1-707(2.7)(c), the policies and procedures must include and address 1) when and how to request or render medical aid for use of force involving prone restraint; 2) when to get medical clearance for use of force involving a prone restraint when there are injuries or complaints of injuries; 3) how and when to render appropriate medical aid within the scope of a peace officer's training for any use of force involving prone restraint, and 4) how and when to appropriately and safely transition a person placed in a prone position into a recovery position that allows the person to breathe normally. "Recovery position" is defined as a position other than prone position that allows the person to breathe normally. See C.R.S. §18-1-707(2.7)(a)(IV).

In addition to policy adoption, HB 1372 requires law enforcement agencies to review the adopted policies and procedures at least every five years and, beginning on or before July 1, 2026, to implement and train peace officers on their contents. The P.O.S.T. Board must make its training on the use of the prone position available to all law enforcement agencies in the state.

Because in Colorado the use of prone restraint is now codified as a use of force incident, law enforcement officers must act objectively reasonable in light of facts and circumstances confronting them in each use of a prone restraint.

In light of the new requirements of HB 1372, it is recommended that CIRSA members examine their use of prone restrain policies and procedures to determine if their current policies and procedures comply with applicable law. If no such policies and procedures exist, CIRSA members must begin work on adopting such policies and procedures by July 1, 2025.

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