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**STATE OF COLORADO**  
**DEPARTMENT OF LAW**

**Office of the Attorney General**

**Attorney General Phil Weiser**  
**Statement to the Joint Committee on the Judiciary**  
**Colorado General Assembly**  
**January 19, 2023**

Chairpersons Gonzales and Weissman, members of the Committee, thank you for allowing me to join you today and present the Department of Law's ("Department") 2023 priorities, our annual performance plan, and our efforts to best serve Colorado. As I begin my second term serving in this office, I'm very grateful for the opportunity to continue our work together and to collaborate with those of you who are new to the legislature and this panel.

Today, I'm happy to brief you on the progress we made as a Department during the last year and to discuss the priorities that we will lead on in the next. As required in the SMART Act, I'm prepared to respond to any questions you may have on our performance plan, departmental regulatory agenda, or FY 2023-2024 budget request. And, as always, I am happy to address any other matters the Committee wishes to discuss.

**Background on the Department of Law**

Given the number of new members who joined the Committee, I'd like to briefly provide a high-level background on the Department of Law and our duties. Each day, we serve the people of Colorado, defend the rule of law, protect our democracy, promote justice for all, and perform important government functions.

As attorney general, I serve as the executive director of the Department and as the State's chief legal officer. One of our core assignments in law is that we serve as the lawyers for the Colorado state government, providing day-to-day legal counsel for the Executive and Judicial Branches, and all agencies, offices, boards, and commissions falling within those two branches. As the State's attorneys, I am committed to our team providing excellent legal representation—both in court and with advice and general counsel we provide. I'm also committed that our team will always act not only consistently with the Colorado Rules of Professional Conduct, but with the highest level of professionalism and a commitment to serving the people of Colorado.

Each day we represent and defend the legal interests of the people of Colorado and our State's sovereignty. This includes our authority for enforcing Colorado's consumer protection and antitrust laws, and the recently enacted Colorado Privacy Act, which established groundbreaking data protections for all Coloradans. And it includes protecting our State's land, air, and water,

including in the face of historic droughts and the attendant legal and regulatory challenges they raise.

Specific to public safety, we partner with the twenty-two district attorneys throughout the State, as well as the county sheriffs, chiefs of police, our State's Department of Public Safety, and federal law enforcement agencies to carry out criminal justice responsibilities and advance public safety. We also represent the State before Colorado's appellate courts in felony criminal appeals and by prosecuting certain complex white-collar crimes such as securities fraud and insurance fraud. And we provide training and certification for Colorado peace officers through the Peace Officer Standards and Training ("POST") Board.

In my first term, a top priority was to hold accountable those who pushed addictive opioids and fueled the addiction crisis. Since we last spoke, we've finalized several settlements, bringing over \$700 million to our State to help address the impacts of this epidemic. To responsibly put these dollars to use, we established a new framework by partnering with local governments and public health agencies to ensure these funds are best used to get communities, families, and individuals the support they need. While no amount of funds can ever replace the damage this crisis has caused, this framework is an important first step to recovering and rebuilding.

Lastly, we defend all of Colorado's laws enacted by the General Assembly. This included when I argued before the U.S. Supreme Court to defend Colorado's presidential elector law, and this past year when we defended the Colorado Anti-discrimination Act, also before the U.S. Supreme Court.

During my first term in office, the Department's responsibilities have grown substantially with the enactment of many important bills by the General Assembly. These bills entrusted the enforcement of many new responsibilities and functions to the Department. This includes:

- New authority to investigate patterns and practices by government agencies that systemically infringe on citizens' constitutional rights or privileges (S.B. 21-217);
- With the influx of federal relief funds, investigating, prosecuting, and recovering funds from those that defraud taxpayer dollars from state agencies, under the new Colorado False Claims Act (H.B. 22-1119);
- New protections to curb retail theft by clamping down on online incentives to anonymously sell stolen goods (H.B. 22-1099);
- Legislation that significantly strengthened the Colorado Consumer Protection Act, sponsored by Chairs Gonzales and Weissman (H.B. 19-1289); and
- Implementing the new Colorado Privacy Act, championed by Senator Rodriguez, including crafting new rules under this bill to launch critical protections for Coloradans' data (S.B. 21-190).

These are just some of the new roles entrusted to us by the legislature in recent years. I look forward to ensuring we faithfully carry out these laws as envisioned and enforce them responsibly.

## **Advancing Public Safety**

Shifting to criminal justice and public safety, this year, protecting Colorado communities from fentanyl continues to be top of mind for me and our Criminal Justice Section. Nationwide, in the previous year, overdose deaths—mostly from opioids, and increasing from fentanyl—took more lives than car crashes and gun violence combined. Addiction is at a crisis level. And the spread of deadly fentanyl by overseas cartels flowing into our communities and being mixed into other substances now means that our loved ones struggling with addiction are at deadly risk each time they take a single counterfeit prescription pill that may be labelled an Oxycodone or Adderall pill. This crisis is 25 years in the making. As the states and federal government began to hold opioid companies and prescribers accountable for pushing addictive opioids, counterfeit prescription opioid pills containing fentanyl took their place. As a result, addiction carries more deadly risk today than it ever has.

My office is committed to working with local law enforcement and our DA partners to do our part to fight this epidemic. Recently, working with the Adams County district attorney, the DEA, and local law enforcement, we worked to dismantle an international drug trafficking and money laundering ring, with 64 charges for trafficking fentanyl, cocaine, heroin, and meth into Colorado. Through this operation, 77,000 counterfeit oxycodone pills—containing fentanyl—were recovered. This operation undoubtedly saved lives. But we can and must do more. This requires greater resources for trafficking interdiction, stronger investments in treatment, and greater education. Last year, critical legislation was enacted to do just that. One of its most important components that I worked with the sponsors on is providing a new stream of funding for police and sheriffs to disrupt traffickers smuggling fentanyl into our State. The Department of Public Safety is administering this important program and I look forward to these resources stepping up our fight against this deadly substance. And as requested by the General Assembly, we will soon be making public a report on the very troubling use of social media platforms to distribute fentanyl.

We continue to prioritize how we can better support peace officers. With COVID, the addiction crisis, and rising crime rates, the last several years took a heavy toll on frontline workers—including first responders, health care workers, and peace officers. Each risk their lives and work in traumatic situations. Over the last 5 years, roughly 1,000 peace officers died by suicide nationwide.<sup>1</sup> Police and sheriffs endure some of the most traumatic situations imaginable—which clearly is a driver of this devastating trend. I'm pleased that last year the General Assembly partnered with us in crafting a measure to expand the State's peace officer mental health program, both broadening the professions included and making major new funding investments.

Similarly, we worked hard with the legislature and Governor to ensure a major investment is made towards recruiting and retaining peace officers. And with the POST Board, we are

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<sup>1</sup> See <https://bluehelp.org/>.

prioritizing updating and broadening training for police and sheriffs, so they are best equipped to deal with complex and dangerous situations, leading to safer outcomes for the public and law enforcement.

As you've all read, vehicle theft is on the rise. At the Department, we're working hard to stop vehicle thieves. Our criminal justice authority is limited, but we do have authority over multi-jurisdictional crime rings. Last week, I announced that the statewide grand jury returned a 90-count indictment against an automobile theft and burglary crime ring operating in the metro areas, Clear Creek County, and Weld County.

And this session, I'm asking the legislature to update our vehicle theft laws by providing more equitable penalties. Presently, our laws provide a tiered penalty system for vehicle theft based on a vehicle's value. This law was put on the books decades ago in 1999 and has had value thresholds updated by the legislature since. This 24-year-old law leads to very disproportionate outcomes. The theft of a single income family's car—their sole way to get to school, the grocery store, and work—causes significant harm to that family. There's no reason why such a crime should carry lighter penalties than the theft of a wealthy person's sportscar. The Colorado District Attorneys Council is crafting legislation now to address that issue, and I support the effort to make all automobile thefts a felony.

Also this session, I'm asking the legislature to update state law preventing convicted felons from possessing firearms. In recent sessions, the legislature expanded the types of felons unable to hold a weapon. But two types of felons were not included—vehicle thieves and drug dealers. This year, I'm working with Senator Hinrichsen and others to craft legislation that adds both to the State's POWPO law.

## **Consumer Protection**

Protecting consumers is one of the key roles of the Department and one of my top priorities. Our work both ensures that citizens are not defrauded and ensures the marketplace operates fairly with respect to those good businesses who follow the law and treat consumers properly. This year, I'm asking the legislature to consider two important measures to strengthen our State's consumer protection laws.

First, the Colorado Antitrust Act needs to be updated. The last time the General Assembly made major revisions to this law was 31 years ago. Our marketplace has experienced major changes over those three decades, particularly with the rise of online markets and new products unimaginable to the legislature when they wrote our current antitrust act. This year, I am asking the legislature to update the Antitrust Act to account for those new needs and ensure the law can best protect consumers.

Second, I'm asking the legislature to enhance protections for consumers from crushing medical debt. It was recently reported that 18 percent of Americans have some form of medical debt that has been turned over to debt collectors. And this figure is surely far greater than just 18

percent, as some patients cover their medical costs through credit cards or bills owed directly to providers.<sup>2</sup> Medical debt can create unsustainable burdens for families, and large medical expenses coupled with high interest rates mean that families may never get out from underneath it. And consumers understand the importance of addressing this issue. Consider, for example, that just last fall, 72 percent of Arizona voters enacted a ballot measure capping medical debt interest.<sup>3</sup> It's time for Colorado to move in a similar direction; I look forward to working with you on this critical issue.

### **Protecting Coloradans' Civil Rights**

As I stated earlier, the legislature has entrusted us with the responsibility of enforcing many new laws. This is particularly true for laws that protect Coloradans' rights, including new protections for residents living in mobile home parks, new authority to enforce Colorado housing laws, the ability to protect workers from crimes like wage theft and worker misclassification. And the legislature also created new functions in the Department—protecting housing rights; and workers and employees. Our civil rights work will also include our existing Patterns and Practices Unit to investigate systemic rights violations.

Each of these units and laws provide important functions to protect Coloradans' civil rights. And to better organize and focus these efforts, this year I am asking the General Assembly to enact legislation creating a new Department of Law Civil Rights Division. Combined with consumer protection enforcement, this new division will provide enhanced focus for our Department on all matters we are charged with to protect against those that would take advantage of others—whether it be defrauding a person of their money or their rights.

### **Protecting Colorado's Water**

One of our most important functions is protecting Colorado's water. Water is our State's greatest natural resource—driving our economies, communities, environment, and agricultural and recreation industries. But persistent droughts and reduced supplies mean we face even greater coordination challenges in Colorado and with our surrounding states. This year, as always, we will continue to defend Colorado's rights and obligations under our interstate river compacts. We will also advise Colorado's appointed Compact Commissioners and work together with other states towards solutions that adapt to a changing climate and variable water supplies. And, where necessary, we will be prepared to defend Colorado's rights through litigation.

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<sup>2</sup> *Medical Debt Is Being Erased in Ohio and Illinois. Is Your Town Next?*, NEW YORK TIMES, Dec. 29, 2022 (available at <https://www.nytimes.com/2022/12/29/us/toledo-medical-debt-relief.html>).

<sup>3</sup> *Judge Denies Challenge to Proposition 209, Which Gives Medical Debt Relief to Arizona Consumers*, ARIZONA REPUBLIC, Dec. 22, 2022 (available at <https://www.azcentral.com/story/news/politics/arizona/2022/12/22/arizona-proposition-209-is-not-unconstitutionally-vague-judge-rules/69735224007/>).

In recent budget cycles, I urged the legislature to make a major investment in funding Colorado's Water Plan. But given other important needs, such investments have yet to be made. This year, I'm pleased to see that water looks to be a major focus for the legislature. Please know that I, my staff, and our Interstate Water Unit are here to support you in developing legislative solutions to ensure we protect this most valuable resource for our State.

## **Statutory Reports**

Before I conclude, there are several matters to update you on as required under recently enacted statutes.

***Report on the Office of Financial Empowerment.*** First, we'd like to update you on the state of affordable banking access in Colorado and the activities of the newly created Office of Financial Empowerment ("Office").<sup>4</sup> The Office was established under legislation championed by Senator Gonzales. Its purpose is to grow the financial well-being and resilience of Coloradans through various goals and strategies, including partnering with other governments, community groups, and private sector financial institutions. Last year, the Department focused on standing up the Office, building stakeholder relationships, and prioritizing a programmatic strategy that will enable us to execute our mission over the years to come. The Office established a Financial Empowerment Council that will guide the work, launched a statewide Bank On coalition, and cultivated relationships with key partners, including those who are catalyzing financial empowerment work at local levels.

I've attached a more comprehensive update for this Committee that you received in advance of this hearing.

***Report on Implementation of the Nonbank Mortgage Servicers Act.*** Second, the Nonbank Mortgage Services Act, sponsored also by Senator Gonzales and Representative Weissman, requires that we update you on the implementation of this law.<sup>5</sup> The Act requires nonbank mortgage servicers to file with the Uniform Consumer Credit Code administrator and puts new consumer protections in place. Since last January, the administrator has received 152 mortgage servicer notification filings, and 122 complaints related to mortgages. The Department has hired a mortgage service examiner who is charged with investigating complaints and ensuring compliance with the law. Our Department also serves on the National Association of Attorneys General Mortgage Servicing Executive Committee. This has given us key insights into tracking industry trends and coordinating investigations of potential violations. As we continue to implement this law, we will keep this Committee apprised of developments and recommendations to further consumer protections under this law.

I've also provided a more detailed update in writing for this Committee's reference.

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<sup>4</sup> COLO. REV. STAT. § 24-31-1102(5).

<sup>5</sup> *Id.* at § 5-21-116.

***Report on Safe and Affordable Credit.*** Lastly, the General Assembly provided funding for the Department to contract with a firm to reserve the availability of safe and affordable credit, including the use and impacts of non-depository lending products available currently. We are committed to a data-driven approach to regulation and enforcement in this market. I believe Colorado borrowers deserve access Colorado borrowers deserve access to safe, affordable, low-cost credit that can help improve their financial stability. This report is near conclusion, and I look forward to sharing it with shortly you for your review.

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Thank you for the opportunity be with you today. I'm very much looking forward to continuing to partner with the General Assembly and this Committee to advance public policies that protect Coloradans, our rights, and our natural resources. For those of you who have just entered the legislature, please look to us a resource on bills or any matter. That includes matters in which we may not agree. I'm very proud of the fact that during my first term that every single one of our legislative agenda bills were passed with bipartisan majorities. That track record underscores my belief that good ideas can come from anywhere, and that we do our best work together.

Each of you were provided with electronic copies of the Department's SMART Act performance plan, department regulatory agenda, and budget request. My team and I are happy to respond to questions you may have regarding these documents or address other matters you wish to discuss. Thank you for the opportunity to be with you today and for your service to our State.