



Legislative Council Staff

Research Note

Version: Final

Date: 9/22/2016

Bill Number

Senate Bill 16-116

Sponsors

**Senator Johnston
Representatives Lee and
Lebsock**

Short Title

**Private Company Accurate
Criminal History Data**

Research Analyst

Conrad Imel (x2756)

Status

This research note reflects the final version of the bill, which was signed by the Governor on June 10, 2016, and became effective August 10, 2016.

Summary

This bill provides a simplified process for sealing criminal justice records. Whenever a defendant is acquitted or completes a diversion agreement or a deferred sentence, or whenever a case against a defendant is dismissed, the court must give an eligible defendant the option to immediately seal criminal justice records. The defendant may make an informal motion in open court at the time of dismissal or acquittal or may later file a written motion. If the defendant opts to seal his or her records using this process, the court must promptly process the defendant's request without the filing of an independent civil action. When sealing records using this process, the court must provide a copy of the court's order to each custodian who may have custody of the defendant's records. Defendants must pay a \$65 fee to seal their records. Fee revenue is credited to the Judicial Stabilization Cash Fund.

Background

Under previous law, whenever a defendant appeared before the court and had charges dismissed or not filed, or whenever a defendant was acquitted, the court provided him or her with a written advisement of his or her rights concerning the sealing of his or her criminal justice records when certain conditions were met. In cases where charges were not filed, the defendant could only elect to have his or her records sealed if the statute of limitations for the offense had run, or if the statute of limitations had not run but the defendant was no longer being investigated for the

This research note was prepared by Legislative Council Staff, the nonpartisan research staff for the Colorado General Assembly. The research note is provided for informational purposes only and should not be relied upon as an official record of action by the General Assembly. Legislative Council Staff are not attorneys, and the research note is not a legal opinion. If you have legal questions about the bill, including questions about the meaning of the bill language or amendments, please contact the drafter.

offense. The court will not seal records for any case in which an offense is not charged or charges are dismissed due to a plea agreement in a separate case or the defendant still owes restitution, fines, fees, or costs ordered by the court.

Senate Action

Senate Judiciary Committee (February 24, 2016). The committee heard testimony in favor of the bill from a representative of the Colorado Criminal Defense Bar. The committee adopted amendment L.002, and referred the bill, as amended, to the Senate Committee of the Whole. Amendment L.002 removed all provisions of the bill except for the effective date, and inserted a provision to permit defendants eligible to have criminal records sealed under existing law to immediately motion a court to seal those records.

Senate second reading (March 9, 2016). The Senate Committee of the Whole adopted the Judiciary Committee report and amendment L.003, and passed the bill, as amended, on second reading. Amendment L.003 removed the provisions inserted by amendment L.002, and inserted a provision that provides certain persons of interest an expedited process for sealing criminal records permitted to be sealed under existing law.

Senate third reading (March 10, 2016). The Senate adopted amendment L.005, which made a clarifying technical amendment, and adopted the bill on third reading.

House Action

House Judiciary Committee (April 5, 2016). The committee heard testimony in favor of the bill from a representative of the Colorado Criminal Defense Bar. The committee adopted amendments L.006 and L.007, and referred the bill, as amended, to the House Finance Committee. Amendment L.006 amended the title of the bill. Amendment L.007 made the effective date of the bill January 1, 2017, subject to petition.

House Finance Committee (April 27, 2016). The committee adopted amendment L.009 and referred the bill, as amended, to the House Appropriations Committee. Amendment L.009 struck from the House Judiciary Committee report the provisions relating to the effective date of the bill, making the bill effective August 10, 2016, subject to referendum.

House Appropriations Committee (May 5, 2016). The committee adopted Amendment J.001 and referred the bill, as amended, to the House Committee of the Whole. Amendment J.001 struck the House Finance Committee report, and amended the House Judiciary Committee report to remove the provisions relating to the effective date of the bill, making the bill effective August 10, 2016, subject to referendum, and inserting an appropriations clause.

House second reading (May 5, 2016). The House Committee of the Whole adopted the reports of the House Judiciary, Finance, and Appropriations committees and passed the bill on second reading.

House third reading (May 6, 2016). The House adopted the bill on third reading.

Relevant Research

Legislative Council Staff, *Sealing Adult and Juvenile Criminal Records*, Interested Persons Memorandum, October 2016: <http://tinyurl.com/hy9447t> (pdf).