

Second Regular Session
Seventieth General Assembly
STATE OF COLORADO

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 16-0961.01 Bart Miller x2173

SENATE BILL 16-116

SENATE SPONSORSHIP

Johnston,

HOUSE SPONSORSHIP

Lee and Lebsock,

Senate Committees

Judiciary

House Committees

Judiciary

Finance

Appropriations

A BILL FOR AN ACT

101 **CONCERNING THE CREATION OF AN ALTERNATIVE SIMPLIFIED**
102 **PROCESS FOR THE SEALING OF CRIMINAL JUSTICE RECORDS**
103 **OTHER THAN CONVICTIONS, AND, IN CONNECTION THEREWITH,**
104 **MAKING AN APPROPRIATION.**

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://www.leg.state.co.us/billsummaries>.)

The bill makes it a deceptive trade practice under the "Colorado Consumer Protection Act" for a private custodian of criminal justice records to knowingly fail to remove sealed criminal justice records from the private custodian's database after receiving a copy of a court order

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.

Capital letters indicate new material to be added to existing statute.

Dashes through the words indicate deletions from existing statute.

SENATE
Amended 3rd Reading
March 10, 2016

SENATE
Amended 2nd Reading
March 9, 2016

sealing those criminal justice records. The bill requires that whenever a court enters an order sealing criminal justice records, the court must provide to the petitioner a set of standard written instructions developed by the judicial department containing contact information for each private custodian of criminal justice records and explaining the process for providing notice of the sealing of criminal justice records to private custodians of those records.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2
3 SECTION 1. In Colorado Revised Statutes, add 24-72-702.5 as
4 follows:

5 24-72-702.5. Sealing criminal justice records other than
6 convictions - simplified process - defendant option - processing fees.

7 (1) IN ADDITION TO THE PROCEDURES IN SECTION 24-72-702, ANY TIME A
8 CASE AGAINST A PERSON IN INTEREST IS COMPLETELY DISMISSED, WHERE
9 THE PERSON IN INTEREST IS ACQUITTED, THE PERSON IN INTEREST
10 COMPLETES A DIVERSION AGREEMENT UNDER SECTION 18-1.3-101, C.R.S.,
11 OR THE PERSON IN INTEREST COMPLETES A DEFERRED JUDGMENT AND
12 SENTENCE UNDER SECTION 18-1.3-102, C.R.S., THE COURT SHALL GIVE
13 THE DEFENDANT ELIGIBLE TO HAVE HIS OR HER CRIMINAL JUSTICE
14 RECORDS SEALED THE OPTION OF IMMEDIATELY MOVING TO HAVE HIS OR
15 HER CRIMINAL JUSTICE RECORDS SEALED. THIS MOTION MAY BE INFORMAL
16 AND MAY BE MADE IN OPEN COURT AT THE TIME OF THE DISMISSAL OF THE
17 CASE OR THE ACQUITTAL OF THE DEFENDANT. THE MOTION MAY ALSO BE
18 MADE BY THE DEFENDANT AT A TIME SUBSEQUENT TO THE DISMISSAL OR
19 ACQUITTAL THROUGH THE FILING OF A WRITTEN MOTION. IF THE
20 DEFENDANT MOVES UNDER THIS SUBSECTION (1) TO SEAL HIS OR HER
21 CRIMINAL JUSTICE RECORDS UNDER THE EXPEDITED PROCEDURES OF THIS
22 SECTION, THE COURT SHALL PROMPTLY PROCESS THE DEFENDANT'S

1 REQUEST TO SEAL THE CRIMINAL JUSTICE RECORDS WITHIN THE CRIMINAL
2 CASE WITHOUT THE FILING OF AN INDEPENDENT CIVIL ACTION. WHEN THE
3 COURT SEALS CRIMINAL JUSTICE RECORDS UNDER THIS SECTION THE
4 COURT SHALL PROVIDE A COPY OF THE COURT'S ORDER TO EACH
5 CUSTODIAN WHO MAY HAVE CUSTODY OF ANY OF THE RECORDS SUBJECT
6 TO THE ORDER. THE PERSON IN INTEREST MAY ALSO PROVIDE A COPY OF
7 THE ORDER TO ANY OTHER CUSTODIAN OF RECORDS SUBJECT TO THE
8 ORDER.

9 (2) (a) A PERSON IN INTEREST MOVING TO HAVE HIS OR HER
10 CRIMINAL JUSTICE RECORDS SEALED UNDER THIS SECTION SHALL PAY A
11 PROCESSING FEE OF SIXTY-FIVE DOLLARS TO COVER THE ACTUAL COSTS
12 RELATED TO THE SEALING OF THE CRIMINAL JUSTICE RECORDS.

13 (b) THE PROCESSING FEES COLLECTED UNDER PARAGRAPH (a) OF
14 THIS SUBSECTION (2) MUST BE TRANSMITTED TO THE STATE TREASURER
15 AND CREDITED TO THE JUDICIAL STABILIZATION CASH FUND CREATED IN
16 SECTION 13-32-101 (6), C.R.S.

17 **SECTION 2. Appropriation.** (1) For the 2016-17 state fiscal
18 year, \$178,173 is appropriated to the judicial department. This
19 appropriation is from the judicial stabilization cash fund created in
20 section 13-32-101 (6), C.R.S. To implement this act, the department may
21 use this appropriation as follows:

22 (a) \$159,361 for trial court programs, which amount is based on
23 an assumption that the department will require an additional 3.5 FTE; and

24 (b) \$18,812 for courthouse capital and infrastructure maintenance.

25 **SECTION 3. Act subject to petition - effective date -**
26 **applicability.** (1) This act takes effect at 12:01 a.m. on the day following
27 the expiration of the ninety-day period after final adjournment of the

1 general assembly (August 10, 2016, if adjournment sine die is on May 11,
2 2016); except that, if a referendum petition is filed pursuant to section 1
3 (3) of article V of the state constitution against this act or an item, section,
4 or part of this act within such period, then the act, item, section, or part
5 will not take effect unless approved by the people at the general election
6 to be held in November 2016 and, in such case, will take effect on the
7 date of the official declaration of the vote thereon by the governor.

8 (2) This act applies to the sealing of criminal justice records on or
9 after the applicable effective date of this act.