

Second Regular Session  
Seventieth General Assembly  
STATE OF COLORADO

**REREVISED**

*This Version Includes All Amendments  
Adopted in the Second House*

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.*

HOUSE  
Amended 2nd Reading  
May 5, 2016

SENATE  
Amended 2nd Reading  
March 9, 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.

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

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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.