

Second Regular Session
Seventy-first General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 18-0718.01 Conrad Imel x2313

SENATE BILL 18-057

SENATE SPONSORSHIP

Kagan,

HOUSE SPONSORSHIP

(None),

Senate Committees

State, Veterans, & Military Affairs

House Committees

A BILL FOR AN ACT

101 CONCERNING CONSEQUENCES OF RECORDS WITH RESPECT TO
102 HOUSING.

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://leg.colorado.gov>.)

Under current law, it is an unfair housing practice to honor or exercise, or attempt to honor or exercise, any restrictive covenant pertaining to housing. **Section 1** of the bill adds to the definition of "restrictive covenant" limitations on the transfer, rental, or lease of housing based on records of any arrest or charge that did not result in a conviction and the criminal case is not actively pending (arrest records)

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

or criminal justice records that have been sealed or expunged.

Section 2 makes it an unfair housing practice to inquire about or take an adverse action based on arrest records or sealed or expunged criminal justice records. **Section 3** prohibits landlords from requiring an applicant to disclose any information contained in sealed criminal records. **Section 4** prohibits housing authorities from denying or terminating dwelling accommodations, or taking adverse action against a person, on the basis of arrest records or certain conviction records.

Section 6 requires a landlord to provide applicants with access to records that are used as the basis for denying a rental application.

Section 5 prevents certain tenant criminal records from being admitted as evidence in a civil case against a landlord that is based on the tenant's conduct.

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

2 **SECTION 1.** In Colorado Revised Statutes, 24-34-501, **amend**
3 (4) as follows:

4 **24-34-501. Definitions.** As used in this part 5, unless the context
5 otherwise requires:

6 (4) "Restrictive covenant" means any specification limiting the
7 transfer, rental, or lease of any housing because of disability, race, creed,
8 color, religion, sex, sexual orientation, marital status, familial status,
9 national origin, ~~or~~ ancestry, A RECORD OF ANY ARREST OR CHARGE THAT
10 DID NOT RESULT IN A CRIMINAL CONVICTION AND THE CRIMINAL CASE IS
11 NOT ACTIVELY PENDING, OR ANY CRIMINAL JUSTICE RECORD THAT HAS
12 BEEN SEALED OR EXPUNGED.

13 **SECTION 2.** In Colorado Revised Statutes, 24-34-502, **add** (1)(l)
14 and (1)(m) as follows:

15 **24-34-502. Unfair housing practices prohibited.** (1) It shall be
16 an unfair housing practice and unlawful and hereby prohibited:

17 (l) FOR ANY PERSON TO MAKE ANY INQUIRY ABOUT OR TO ACT
18 ADVERSELY TO AN INDIVIDUAL ON THE BASIS OF A RECORD OF ANY ARREST

1 OR CHARGE THAT DID NOT RESULT IN A CONVICTION AND THE CRIMINAL
2 CASE IS NOT ACTIVELY PENDING, OR ANY CRIMINAL JUSTICE RECORD THAT
3 HAS BEEN SEALED OR EXPUNGED, IN CONNECTION WITH SHOWING,
4 SELLING, TRANSFERRING, RENTING, LEASING, OR PROVIDING FINANCIAL
5 ASSISTANCE OR LOANS FOR ANY HOUSING;

6 (m) FOR ANY HOUSING AUTHORITY, AS DEFINED IN SECTION
7 29-4-203 (1), TO FAIL TO COMPLY WITH THE PROVISIONS OF SECTION
8 29-4-210 (1)(e).

9 **SECTION 3.** In Colorado Revised Statutes, 24-72-702, **amend**
10 (1)(f)(I) as follows:

11 **24-72-702. Sealing of arrest and criminal records other than**
12 **convictions.** (1) (f) (I) Employers, LANDLORDS, educational institutions,
13 state and local government agencies, officials, and employees shall not,
14 in any application or interview or in any other way, require an applicant
15 to disclose any information contained in sealed records. An applicant
16 need not, in answer to any question concerning arrest and criminal
17 records information that has been sealed, include a reference to or
18 information concerning the sealed information and may state that no such
19 action has ever occurred. Such an application may not be denied solely
20 because of the applicant's refusal to disclose arrest and criminal records
21 information that has been sealed.

22 **SECTION 4.** In Colorado Revised Statutes, 29-4-210, **add** (1)(e)
23 as follows:

24 **29-4-210. Rentals and tenant selection.** (1) In the operation or
25 management of housing projects, any housing authority at all times shall
26 observe the following duties with respect to rentals and tenant selection:

27 (e) IT SHALL NOT DENY OR TERMINATE DWELLING

1 ACCOMMODATIONS OR TAKE ADVERSE ACTION AGAINST ANY PERSON ON
2 THE BASIS OF ANY ARREST OR CHARGE FOR WHICH A PERSON HAS NOT
3 BEEN CONVICTED FOR A CRIMINAL OFFENSE AND THE CRIMINAL CASE IS
4 NOT ACTIVELY PENDING, A CONVICTION FOR WHICH THE PERSON HAS BEEN
5 PARDONED, A CONVICTION FOR WHICH RECORDS HAVE BEEN SEALED OR
6 EXPUNGED, OR A CONVICTION FOR WHICH A COURT HAS ISSUED AN ORDER
7 OF COLLATERAL RELIEF SPECIFIC TO DWELLING ACCOMMODATIONS. IF THE
8 HOUSING AUTHORITY DETERMINES THAT A PERSON HAS HAD ANY OTHER
9 CRIMINAL CONVICTION, THE HOUSING AUTHORITY SHALL CONSIDER THE
10 FOLLOWING FACTORS WHEN DETERMINING WHETHER THE CONVICTION
11 DISQUALIFIES THE PERSON FOR DWELLING ACCOMMODATIONS:

- 12 (I) THE NATURE OF THE CONVICTION;
- 13 (II) WHETHER THERE IS A DIRECT RELATIONSHIP BETWEEN THE
14 CONVICTION AND A RISK TO RESIDENT SAFETY OR PROPERTY;
- 15 (III) ANY INFORMATION PRODUCED BY THE PERSON OR PRODUCED
16 ON HIS OR HER BEHALF REGARDING HIS OR HER REHABILITATION AND
17 GOOD CONDUCT; AND
- 18 (IV) THE TIME THAT HAS ELAPSED SINCE THE CONVICTION.

19 **SECTION 5.** In Colorado Revised Statutes, **add** 38-12-512 as
20 follows:

21 **38-12-512. Evidence regarding tenant criminal history.**

22 (1) INFORMATION REGARDING THE CRIMINAL HISTORY OF A TENANT OR
23 FORMER TENANT MAY NOT BE INTRODUCED AS EVIDENCE IN A CIVIL
24 ACTION AGAINST A LANDLORD OR THE LANDLORD'S EMPLOYEES OR
25 AGENTS THAT IS BASED ON THE CONDUCT OF THE TENANT OR FORMER
26 TENANT IF:

- 27 (a) THE NATURE OF THE CRIMINAL HISTORY DOES NOT BEAR A

1 DIRECT RELATIONSHIP TO THE FACTS UNDERLYING THE CAUSE OF ACTION;

2 (b) BEFORE THE OCCURRENCE OF THE ACT GIVING RISE TO THE
3 CIVIL ACTION, A COURT ORDER SEALED ANY RECORD OF THE CRIMINAL
4 CASE OR THE TENANT OR FORMER TENANT RECEIVED A PARDON;

5 (c) THE RECORD IS OF AN ARREST OR CHARGE THAT DID NOT
6 RESULT IN A CRIMINAL CONVICTION; OR

7 (d) THE TENANT OR FORMER TENANT RECEIVED A DEFERRED
8 JUDGMENT AT SENTENCE AND THE DEFERRED JUDGMENT WAS NOT
9 REVOKED.

10 **SECTION 6.** In Colorado Revised Statutes, **add** part 8 to article
11 12 of title 38 as follows:

12 PART 8

13 ACCESS TO RECORDS

14 **38-12-801. Reports that form the basis for denial of rental**
15 **application.** IF A LANDLORD DENIES AN APPLICATION FOR A RENTAL
16 AGREEMENT AND THAT DENIAL IS BASED IN WHOLE OR IN PART ON A
17 TENANT SCREENING COMPANY, CRIMINAL HISTORY REPORT, OR CONSUMER
18 CREDIT REPORTING AGENCY REPORT ON THAT APPLICANT, THE LANDLORD
19 SHALL GIVE THE APPLICANT NOTICE OF THAT FACT AND, UPON REQUEST,
20 PROVIDE THE APPLICANT WITH A COPY OF THE REPORT. IF A COPY OF THE
21 REPORT IS REQUESTED, THE LANDLORD SHALL PROMPTLY GIVE WRITTEN
22 NOTICE TO THE APPLICANT OF THE NAME AND ADDRESS OF THE COMPANY
23 OR AGENCY THAT PROVIDED THE REPORT UPON WHICH THE DENIAL IS
24 BASED, UNLESS WRITTEN NOTICE OF THE NAME AND ADDRESS OF THE
25 SCREENING COMPANY OR CREDIT REPORTING AGENCY HAS PREVIOUSLY
26 BEEN GIVEN. A LANDLORD MAY SATISFY THIS REQUIREMENT BY PROVIDING
27 AN ELECTRONIC COPY OF A REPORT, UNLESS A WRITTEN COPY IS

1 REQUESTED.

2 **SECTION 7. Safety clause.** The general assembly hereby finds,
3 determines, and declares that this act is necessary for the immediate
4 preservation of the public peace, health, and safety.