



2018-08

## *State of Colorado*

### **LEGISLATIVE REQUEST FOR INTERIM STUDY COMMITTEE**

**To:** Legislative Council

**Requested by:** Senator Moreno  
**With support of:** Senator Aguilar, Senator Cooke, Senator Fields, Senator Gardner, Senator Guzman, Senator Lundberg, Representative Herod, Representative Hooton, Representative Lee, and Representative Pabon.

**Re:** Request for interim study committee regarding criminal record-sealing issues

**Date:** 4/13/2018

#### **Information Required Pursuant to Section 2-3-303.3, C.R.S.**

I hereby request that an interim study committee be formed to study criminal record-sealing issues during the interim between the 2018 and 2019 legislative sessions. The interim study committee would be named the "Criminal Justice Record-sealing Interim Study Committee." I make this request in order to reform the state criminal record-sealing statutes, which are currently disorganized and inconsistent. The hope is that if this study is approved, it will lead to comprehensive, clear, and uniform guidelines regarding state criminal record-sealing processes and procedures.

According to the Bureau of Justice Statistics, the department within the U.S. Department of Justice tasked with collecting, analyzing, and publishing information regarding crime statistics and just system operations, there are about 70 million Americans with criminal justice records. Realizing that some people have multiple records, the Bureau of Justice Statistics estimates that there are over 100 million criminal records on file in the U.S. Needless to say, the public availability of these records affects countless people, including many of our own Coloradans.

The sheer number of these criminal records have consequences upon virtually every aspect of human endeavor, including employment and licensing, housing, education, public benefits, credit and loan approval, immigration status, parental rights, interstate travel, and even volunteer opportunities. With definitive knowledge that numerous Colorado citizens are affected by these records through the abovementioned collateral impacts, it is appropriate that we maintain well-defined and inclusive criminal record-sealing statutes.

The General Assembly has been wrestling with issues concerning criminal justice record sealing for years. Prior to 1998, most criminal records could be sealed. Then, in 1988, HB 88-1211 dramatically changed the ability to seal criminal records. In 2007, the General Assembly revisited the issue and passed HB 07-1107, which would have allowed Colorado citizens to petition to seal certain criminal records after a ten-year waiting period, as long as the person had not been charged or convicted of a criminal offense in the ten years since the date of final disposition. Among other provisions, the bill specified various aggravated and serious offenses appropriately ineligible for sealing. The bill was vetoed by Governor Ritter.

Nonetheless, there has been decided acknowledgment that Colorado is in desperate need of criminal record-sealing reform. Thus, there have been multiple bills introduced and many laws passed that have changed criminal record sealing since 2007. Since 2007, the General Assembly has repeatedly engaged in a piecemeal approach to modifying Colorado's record-sealing laws. In 2014, the General Assembly created part 7 in article 72 of title 24, C.R.S., to relocate all of the criminal record-sealing provisions to one part. These efforts, while laudable, have inadvertently left Colorado with a hodgepodge of laws that are inconsistent, difficult to navigate, and inadequate to address the needs of Colorado citizens. Therefore, there is a need for harmonized legislative reform concerning criminal justice record-sealing laws. An interim study committee would be able to address issues of criminal justice record sealing in a much-needed comprehensive manner.

The policy issues to be studied are:

- The efficacy of current laws concerning criminal justice record sealing and consideration of whether the sealing process is the most effective way to address the collateral impact of arrests and conviction;
- An examination of how other states handle the collateral impact of arrests and convictions;
- Proposals to address the need for simplification of the record-sealing process;
- Proposals concerning automatic sealing and its feasibility;
- Proposals to address the financial costs associated with criminal record sealing;
- Proposals to address existing conflicts between laws currently in our criminal record-sealing statutes;
- Proposals to determine the appropriate conviction types that should be sealed;
- Proposals to determine the appropriate time periods that individuals should have to wait before they petition to seal criminal records; and
- Proposals to determine whether to apply any of the proposals retroactively.

The interim study committee would need to meet eight times to study the issues.

The interim study committee should consist of six members of the General Assembly selected as follows:

- Three members of the Senate, with two appointed by the President of the Senate and one appointed by the minority leader of the Senate
- Three members of the House of Representatives, with two appointed by the Speaker of the House of Representatives and one appointed by the minority leader of the House of Representatives

The chair and vice-chair will be appointed or elected as follows: The President of the Senate shall appoint the chair, and the Speaker of the House of Representatives shall appoint the vice-chair.

The appointments must be made by June 1, 2018.

Nonlegislative members will not be appointed to the interim committee but are encouraged to provide information, testify, and work with the committee.

A task force would not be necessary to assist the interim committee.

The interim study committee will need five bills to address the issues it studies.

Thank you for your consideration of this request.