

SENATE COMMITTEE OF REFERENCE REPORT

Chair of Committee

Date

April 19, 2022

Committee on Appropriations.

After consideration on the merits, the Committee recommends the following:

SB22-099 be amended as follows, and as so amended, be referred to the Committee of the Whole with favorable recommendation and with a recommendation that it be placed on the consent calendar:

- 1 Amend the Judiciary Committee Report, dated February 24, 2022, page
- 2 1, line 6, after "report," insert "INCLUDING REPORTS THAT INCLUDE
- 3 CRIMINAL JUSTICE RECORDS,".

- 4 Page 1, line 15, strike "A CONSUMER REPORTING AGENCY'S".

- 5 Page 1, strike lines 16 through 21 and substitute "A CONSUMER
- 6 REPORTING AGENCY SHALL EXCLUDE SEALED AND EXPUNGED RECORDS
- 7 FROM A CONSUMER REPORT, UNLESS THE USER OF THE REPORT
- 8 DEMONSTRATES THAT THE USER IS OTHERWISE REQUIRED TO CONSIDER
- 9 THE INFORMATION PURSUANT TO STATE OR FEDERAL STATUTE, RULE, OR
- 10 REGULATION.".

- 11 Page 4 of the committee report, strike lines 20 through 28.

- 12 Page 8 of the committee report, line 13, strike "ON OR AFTER" and
- 13 substitute "BEFORE".

- 14 Page 8, strike lines 15 through 34.

- 15 Strike page 9 of the committee report.

- 16 Page 10 of the committee report, strike lines 1 through 41.

- 17 Amend printed bill, page 6, strike lines 18 through 27.

- 18 Page 7 of the bill, strike lines 1 and 2 and substitute:

1 "(b) (I) The ~~district attorney~~ STATE COURT ADMINISTRATOR shall
2 send the final list compiled pursuant to ~~subsection (3)(a)~~ SUBSECTION
3 (3)(a)(V) of this section to the chief judge for the judicial district. ~~and~~ The
4 courts of that judicial district shall enter sealing orders based on the list
5 received WITHIN FOURTEEN DAYS AFTER RECEIPT OF THE AMENDED LIST
6 FROM THE STATE COURT ADMINISTRATOR.

7 (II) The district court shall send a copy of the sealing order to the
8 ~~Colorado bureau of investigation, the law enforcement agency that~~
9 ~~investigated the case, and the~~ district attorney's office that prosecuted the
10 case to facilitate sealing of the records held by ~~those entities~~ THE DISTRICT
11 ATTORNEY'S OFFICES. The court shall also send a copy to ~~the defendant if~~
12 ~~the contact information for the defendant is available and to~~ the state
13 court administrator for purposes of ~~subsection (3)(c)~~ SUBSECTIONS
14 (3)(b)(III) AND (3)(c) of this section.

15 (III) THE STATE COURT ADMINISTRATOR SHALL ELECTRONICALLY
16 SEND ALL ORDERS SEALING RECORDS PURSUANT TO THIS SUBSECTION
17 (3)(b) TO THE COLORADO BUREAU OF INVESTIGATION USING AN
18 INFORMATION-SHARING DATA TRANSFER TO FACILITATE SEALING OF THE
19 RECORDS HELD BY THE COLORADO BUREAU OF INVESTIGATION.

20 (IV) THE DEFENDANT MAY OBTAIN A COPY OF THE SEALING ORDER
21 PURSUANT TO SECTION 24-72-703 (2)(c) AND SERVE THE SEALING ORDER
22 ON ANY CUSTODIAN OF THE RECORDS PURSUANT TO SECTION 24-72-703
23 (8), INCLUDING THE LAW ENFORCEMENT AGENCY THAT INVESTIGATED THE
24 CASE."

25 Page 8 of the bill, after line 1 insert:

26 "(c) DURING THE 2023 AND 2024 LEGISLATIVE SESSIONS, THE
27 JUDICIAL DEPARTMENT SHALL REPORT ON THE PROGRESS OF ITS
28 IMPLEMENTATION OF SECTION 13-3-117, INCLUDING THE CREATION OF THE
29 WEBSITE PURSUANT TO SUBSECTION (3)(c) OF THIS SECTION, AS PART OF
30 THE DEPARTMENT'S "STATE MEASUREMENT FOR ACCOUNTABLE,
31 RESPONSIVE, AND TRANSPARENT (SMART) GOVERNMENT ACT" HEARING
32 REQUIRED BY SECTION 2-7-203."

33 Page 12 of the bill, line 17, after "**add**" insert "(2.5),".

34 Page 12, line 18, strike "(4.5)" and substitute "(4.5),".

35 Page 12, after line 20 insert:

36 "(2.5) "CONVICTION" MEANS A CRIMINAL JUDGMENT OF

1 CONVICTION AND DOES NOT INCLUDE INFRACTIONS THAT CONSTITUTE
2 CIVIL MATTERS.".

3 Page 22 of the bill, strike lines 24 through 27.

4 Strike page 23 of the bill.

5 Page 24 of the bill, strike lines 1 through 7 and substitute:

6 "SECTION 16. In Colorado Revised Statutes, **repeal and**
7 **reenact, with amendments, 24-72-708** as follows:

8 **24-72-708. Sealing of criminal conviction records information**
9 **for municipal offenses for convictions. (1) Sealing of conviction**
10 **records.** A DEFENDANT MAY FILE A MOTION IN THE CRIMINAL CASE IN
11 WHICH ANY CONVICTION RECORDS PERTAINING TO THE DEFENDANT FOR A
12 MUNICIPAL VIOLATION ARE LOCATED FOR THE SEALING OF THE
13 CONVICTION RECORDS WITHIN THE TIME FRAMES DESCRIBED IN
14 SUBSECTION (3)(a) OF THIS SECTION, EXCEPT BASIC IDENTIFICATION
15 INFORMATION, IF:

16 (a) THE DEFENDANT HAS NOT BEEN CHARGED WITH OR CONVICTED
17 OF A FELONY, MISDEMEANOR, OR MISDEMEANOR TRAFFIC OFFENSE SINCE
18 THE DATE OF THE FINAL DISPOSITION OF ALL CRIMINAL PROCEEDINGS
19 AGAINST THE DEFENDANT OR THE DATE OF THE DEFENDANT'S RELEASE
20 FROM SUPERVISION, WHICHEVER IS LATER; AND

21 (b) THE CONVICTION RECORDS SOUGHT TO BE SEALED ARE NOT FOR
22 A MISDEMEANOR TRAFFIC OFFENSE COMMITTED EITHER BY A HOLDER OF
23 A COMMERCIAL LEARNER'S PERMIT OR A COMMERCIAL DRIVER'S LICENSE,
24 AS DEFINED IN SECTION 42-2-402, OR BY THE OPERATOR OF A COMMERCIAL
25 MOTOR VEHICLE, AS DEFINED IN SECTION 42-2-402.

26 (2) **Sealing of conviction records with a single subsequent**
27 **offense.** NOTWITHSTANDING THE PROVISIONS OF SUBSECTION (1)(a) OF
28 THIS SECTION, A DEFENDANT MAY FILE A MOTION IN THE CRIMINAL CASE
29 IN WHICH ANY CONVICTION RECORDS PERTAINING TO THE DEFENDANT FOR
30 A MUNICIPAL VIOLATION OR PETTY OFFENSE ARE LOCATED FOR THE
31 SEALING OF THE CONVICTION RECORDS WITHIN THE TIME FRAMES
32 DESCRIBED IN SUBSECTION (3)(b) OF THIS SECTION, EXCEPT BASIC
33 IDENTIFICATION INFORMATION, IF:

34 (a) THE DEFENDANT WAS CONVICTED OF A SINGLE OFFENSE THAT
35 WAS NOT A FELONY AND DID NOT INVOLVE DOMESTIC VIOLENCE AS
36 DEFINED IN SECTION 18-6-800.3 (1), UNLAWFUL SEXUAL BEHAVIOR AS
37 DEFINED IN SECTION 16-22-102 (9), OR CHILD ABUSE AS DEFINED IN
38 SECTION 18-6-401;

39 (b) THE DEFENDANT HAS NOT BEEN CONVICTED OF A FELONY,

1 MISDEMEANOR, OR MISDEMEANOR TRAFFIC OFFENSE SINCE THE DATE OF
2 THE FINAL DISPOSITION OF ALL CRIMINAL PROCEEDINGS AGAINST THE
3 DEFENDANT FOR THE SUBSEQUENT CRIMINAL CASE OR SINCE THE DATE OF
4 THE DEFENDANT'S RELEASE FROM SUPERVISION FOR THE SUBSEQUENT
5 CASE, WHICHEVER IS LATER; AND

6 (c) THE CONVICTION SOUGHT TO BE SEALED IS NOT A MUNICIPAL
7 ASSAULT OR BATTERY OFFENSE IN WHICH THE UNDERLYING FACTUAL
8 BASIS INVOLVES DOMESTIC VIOLENCE, AS DEFINED IN SECTION 18-6-800.3
9 (1), OR ANY OTHER MUNICIPAL VIOLATION IN WHICH THE UNDERLYING
10 FACTUAL BASIS INVOLVES DOMESTIC VIOLENCE, AS DEFINED IN SECTION
11 18-6-800.3 (1).

12 (3) **Timing for filing motions.** (a) A MOTION FILED PURSUANT TO
13 SUBSECTION (1) OF THIS SECTION MAY BE FILED THREE YEARS AFTER THE
14 LATER OF THE DATE OF THE FINAL DISPOSITION OF ALL CRIMINAL
15 PROCEEDINGS AGAINST THE DEFENDANT OR THE RELEASE OF THE
16 DEFENDANT FROM SUPERVISION CONCERNING A CRIMINAL CONVICTION.

17 (b) A MOTION FILED PURSUANT TO SUBSECTION (2) OF THIS
18 SECTION MAY BE FILED TEN YEARS AFTER THE DATE OF THE FINAL
19 DISPOSITION OF ALL CRIMINAL PROCEEDINGS AGAINST THE DEFENDANT
20 FOR THE SUBSEQUENT CRIMINAL CASE OR TEN YEARS AFTER THE DATE OF
21 THE DEFENDANT'S RELEASE FROM SUPERVISION FOR THE SUBSEQUENT
22 CRIMINAL CASE, WHICHEVER IS LATER.

23 (4) UPON FILING THE MOTION, THE DEFENDANT SHALL PAY THE
24 FILING FEE REQUIRED BY LAW.

25 (5) (a) UPON THE FILING OF A MOTION, THE COURT SHALL REVIEW
26 THE MOTION AND DETERMINE WHETHER THERE ARE GROUNDS PURSUANT
27 TO THIS SECTION TO PROCEED TO A HEARING ON THE PETITION. IF THE
28 COURT DETERMINES THAT THE MOTION ON ITS FACE IS INSUFFICIENT OR IF
29 THE COURT DETERMINES THAT, AFTER TAKING JUDICIAL NOTICE OF
30 MATTERS OUTSIDE THE MOTION, THE DEFENDANT IS NOT ENTITLED TO
31 RELIEF PURSUANT TO THIS SECTION, THE COURT SHALL ENTER AN ORDER
32 DENYING THE MOTION AND MAIL A COPY OF THE ORDER TO THE
33 DEFENDANT. THE COURT'S ORDER SHALL SPECIFY THE REASONS FOR THE
34 DENIAL OF THE MOTION.

35 (b) IF THE COURT DETERMINES THAT THE PETITION IS SUFFICIENT
36 ON ITS FACE AND THAT NO OTHER GROUNDS EXIST AT THAT TIME FOR THE
37 COURT TO DENY THE PETITION PURSUANT TO THIS SECTION, THE COURT
38 SHALL GRANT THE MOTION UNLESS THE PROSECUTION FILES AN OBJECTION.
39 IF THE PROSECUTION FILES A WRITTEN OBJECTION, THE COURT SHALL SET
40 A DATE WITHIN FORTY-TWO DAYS AFTER THE FILING OF THE MOTION FOR
41 A HEARING AND THE COURT SHALL NOTIFY THE PROSECUTION, THE
42 MUNICIPAL POLICE DEPARTMENT OR LOCAL LAW ENFORCEMENT AGENCY,
43 AND ANY OTHER PERSON OR AGENCY IDENTIFIED BY THE DEFENDANT.

1 (c) AFTER THE HEARING DESCRIBED IN SUBSECTION (5)(b) OF THIS
2 SECTION IS CONDUCTED AND IF THE COURT FINDS THAT THE HARM TO THE
3 PRIVACY OF THE DEFENDANT OR THE DANGERS OF UNWARRANTED,
4 ADVERSE CONSEQUENCES TO THE DEFENDANT OUTWEIGH THE PUBLIC
5 INTEREST IN RETAINING PUBLIC ACCESS TO THE CONVICTION RECORDS, THE
6 COURT MAY ORDER THE CONVICTION RECORDS, EXCEPT BASIC
7 IDENTIFICATION INFORMATION, TO BE SEALED. IN MAKING THIS
8 DETERMINATION, THE COURT SHALL CONSIDER THE FACTORS IN SECTION
9 24-72-706 (1)(g).

10 (d) PURSUANT TO SECTION 24-72-703 (12)(b), THE COURT SHALL
11 NOT FACTOR IN OR TAKE INTO CONSIDERATION ANY UNPAID FINES, COURT
12 COSTS, LATE FEES, OR OTHER FEES ORDERED BY THE COURT IN THE CASE
13 THAT IS THE SUBJECT OF THE MOTION TO SEAL WHEN THE COURT IS
14 DETERMINING WHETHER THE RECORD SHOULD BE SEALED. CONVICTION
15 RECORDS MAY NOT BE SEALED IF THE DEFENDANT STILL OWES
16 RESTITUTION UNLESS THE COURT THAT ENTERED THE ORDER FOR
17 RESTITUTION VACATED THE ORDER."

18 Page 24 of the bill, before line 23 insert:

19 **"SECTION 18. Appropriation.** (1) For the 2022-23 state fiscal
20 year, \$725,145 is appropriated to the judicial department. This
21 appropriation is from the general fund. To implement this act, the
22 department may use this appropriation as follows:

23 (a) \$58,632 for general courts administration, which amount is
24 based on an assumption that the department will require an additional 0.8
25 FTE;

26 (b) \$6,520 for capital outlay; and

27 (c) \$659,993 for information technology infrastructure."

28 Renumber succeeding section accordingly.

29 Page 1 of the bill, line 103, strike "SHORTAGES AND" and substitute
30 "SHORTAGES,".

31 Page 1, line 104, strike "SEEKERS." and substitute "SEEKERS, AND
32 MAKING AN APPROPRIATION.".

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