

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**

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**SENATE SPONSORSHIP**

**Johnston,**

**HOUSE SPONSORSHIP**

**(None),**

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**Senate Committees**  
Judiciary

**House Committees**

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**A BILL FOR AN ACT**

101      **CONCERNING THE CREATION OF A DECEPTIVE TRADE PRACTICE UNDER**  
102           **THE "COLORADO CONSUMER PROTECTION ACT" FOR A**  
103           **PRIVATE CUSTODIAN OF CRIMINAL JUSTICE RECORDS TO FAIL TO**  
104           **REMOVE A SEALED CRIMINAL JUSTICE RECORD FROM THE**  
105           **CUSTODIAN'S DATABASE AFTER RECEIVING NOTICE OF A COURT**  
106           **ORDER SEALING THAT CRIMINAL JUSTICE RECORD.**

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**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/bills summaries>.)*

The bill makes it a deceptive trade practice under the "Colorado

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.*

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 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 24-72-703.5** as  
4 **follows:**

5 **24-72-703.5. Sealing criminal justice records - simplified**  
6 **process - defendant option - fees - referral - support services.** (1) AT  
7 THE TIME OF AN ADVISEMENT UNDER THIS PART 7, THE COURT SHALL GIVE  
8 THE DEFENDANT ELIGIBLE TO HAVE HIS OR HER CRIMINAL JUSTICE  
9 RECORDS SEALED THE OPTION OF IMMEDIATELY MOVING TO HAVE HIS OR  
10 HER CRIMINAL JUSTICE RECORDS SEALED. THIS MOTION MAY BE INFORMAL,  
11 AND THE WRITTEN ADVISEMENT MUST CONTAIN A CHECK-OFF BOX  
12 INDICATING WHETHER OR NOT THE DEFENDANT IS MOVING OR NOT MOVING  
13 IMMEDIATELY TO HAVE HIS OR HER CRIMINAL JUSTICE RECORDS SEALED.  
14 IF THE DEFENDANT MOVES UNDER THIS SUBSECTION (1) TO SEAL HIS OR  
15 HER CRIMINAL JUSTICE RECORDS, THE COURT SHALL PROMPTLY PROCESS  
16 THE DEFENDANT'S REQUEST TO SEAL THE CRIMINAL JUSTICE RECORDS. THE  
17 SUPREME COURT MAY SET AND COLLECT REASONABLE FEES FOR THE  
18 SEALING OF CRIMINAL JUSTICE RECORDS BY THE COURTS IN AMOUNTS  
19 NECESSARY TO RECOVER THE DIRECT AND INDIRECT COSTS OF SEALING  
20 CRIMINAL JUSTICE RECORDS THROUGH THE SIMPLIFIED PROCESS INITIATED

1     UNDER THIS SUBSECTION (1).

2             (2) IF A DEFENDANT ELIGIBLE TO HAVE HIS OR HER CRIMINAL  
3     JUSTICE RECORDS SEALED OPTS TO UTILIZE OTHER PROVISIONS OF THIS  
4     PART 7 TO SEAL HIS OR HER CRIMINAL JUSTICE RECORDS RATHER THAN THE  
5     SIMPLIFIED PROCEDURE IN SUBSECTION (1) OF THIS SECTION, THE COURT  
6     SHALL REFER THE DEFENDANT TO SUPPORT SERVICES TO ASSIST THE  
7     DEFENDANT IN SEALING HIS OR HER CRIMINAL JUSTICE RECORDS.

8             **SECTION 2. Act subject to petition - effective date -**  
9     **applicability.** (1) This act takes effect at 12:01 a.m. on the day following  
10    the expiration of the ninety-day period after final adjournment of the  
11    general assembly (August 10, 2016, if adjournment sine die is on May 11,  
12    2016); except that, if a referendum petition is filed pursuant to section 1  
13    (3) of article V of the state constitution against this act or an item, section,  
14    or part of this act within such period, then the act, item, section, or part  
15    will not take effect unless approved by the people at the general election  
16    to be held in November 2016 and, in such case, will take effect on the  
17    date of the official declaration of the vote thereon by the governor.

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