

CHAPTER 285

GOVERNMENT - STATE

SENATE BILL 16-116

BY SENATOR(S) Johnston, Aguilar, Baumgardner, Cooke, Donovan, Guzman, Heath, Hill, Jahn, Jones, Kefalas, Kerr, Lundberg, Marble, Martinez Humenik, Merrifield, Neville T., Newell, Roberts, Scheffel, Scott, Steadman, Tate, Todd, Woods, Cadman; also REPRESENTATIVE(S) Lee and Lebsock, Kagan, Pabon, Ryden, Vigil, Young.

AN ACT

CONCERNING THE CREATION OF AN ALTERNATIVE SIMPLIFIED PROCESS FOR THE SEALING OF CRIMINAL JUSTICE RECORDS OTHER THAN CONVICTIONS, AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION.

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

SECTION 1. In Colorado Revised Statutes, **add** 24-72-702.5 as follows:

24-72-702.5. Sealing criminal justice records other than convictions - simplified process - defendant option - processing fees. (1) IN ADDITION TO THE PROCEDURES IN SECTION 24-72-702, ANY TIME A CASE AGAINST A PERSON IN INTEREST IS COMPLETELY DISMISSED, WHERE THE PERSON IN INTEREST IS ACQUITTED, THE PERSON IN INTEREST COMPLETES A DIVERSION AGREEMENT UNDER SECTION 18-1.3-101, C.R.S., OR THE PERSON IN INTEREST COMPLETES A DEFERRED JUDGMENT AND SENTENCE UNDER SECTION 18-1.3-102, C.R.S., THE COURT SHALL GIVE THE DEFENDANT ELIGIBLE TO HAVE HIS OR HER CRIMINAL JUSTICE RECORDS SEALED THE OPTION OF IMMEDIATELY MOVING TO HAVE HIS OR HER CRIMINAL JUSTICE RECORDS SEALED. THIS MOTION MAY BE INFORMAL AND MAY BE MADE IN OPEN COURT AT THE TIME OF THE DISMISSAL OF THE CASE OR THE ACQUITTAL OF THE DEFENDANT. THE MOTION MAY ALSO BE MADE BY THE DEFENDANT AT A TIME SUBSEQUENT TO THE DISMISSAL OR ACQUITTAL THROUGH THE FILING OF A WRITTEN MOTION. IF THE DEFENDANT MOVES UNDER THIS SUBSECTION (1) TO SEAL HIS OR HER CRIMINAL JUSTICE RECORDS UNDER THE EXPEDITED PROCEDURES OF THIS SECTION, THE COURT SHALL PROMPTLY PROCESS THE DEFENDANT'S REQUEST TO SEAL THE CRIMINAL JUSTICE RECORDS WITHIN THE CRIMINAL CASE WITHOUT THE FILING OF AN INDEPENDENT CIVIL ACTION. WHEN THE COURT SEALS CRIMINAL JUSTICE RECORDS UNDER THIS SECTION THE COURT SHALL PROVIDE A COPY OF THE COURT'S ORDER TO EACH CUSTODIAN WHO MAY HAVE CUSTODY OF ANY OF THE RECORDS SUBJECT TO

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

THE ORDER. THE PERSON IN INTEREST MAY ALSO PROVIDE A COPY OF THE ORDER TO ANY OTHER CUSTODIAN OF RECORDS SUBJECT TO THE ORDER.

(2) (a) A PERSON IN INTEREST MOVING TO HAVE HIS OR HER CRIMINAL JUSTICE RECORDS SEALED UNDER THIS SECTION SHALL PAY A PROCESSING FEE OF SIXTY-FIVE DOLLARS TO COVER THE ACTUAL COSTS RELATED TO THE SEALING OF THE CRIMINAL JUSTICE RECORDS.

(b) THE PROCESSING FEES COLLECTED UNDER PARAGRAPH (a) OF THIS SUBSECTION (2) MUST BE TRANSMITTED TO THE STATE TREASURER AND CREDITED TO THE JUDICIAL STABILIZATION CASH FUND CREATED IN SECTION 13-32-101 (6), C.R.S.

SECTION 2. Appropriation. (1) For the 2016-17 state fiscal year, \$178,173 is appropriated to the judicial department. This appropriation is from the judicial stabilization cash fund created in section 13-32-101 (6), C.R.S. To implement this act, the department may use this appropriation as follows:

(a) \$159,361 for trial court programs, which amount is based on an assumption that the department will require an additional 3.5 FTE; and

(b) \$18,812 for courthouse capital and infrastructure maintenance.

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

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

Approved: June 10, 2016