

Please Support HB21-1214
Second Chances - Collateral Consequences Reduction
 Rep. Weissman & Bacon + Sens. Lee & Coleman

The inability to seal records for older offenses once a sentence has been served makes it more difficult to find employment and housing and those barriers increase the risk of recidivism. The opportunity for redemption and a belief in a second chance have roots in both our civic and religious traditions in our country and should find in expression in our criminal records laws.

Background

- **Until 1988** – sealing / limiting access broadly available 7 years after end of supervision
- **2013** – SB 123 creates process for collateral relief orders (73-27)
- **2016** – SB 116 creates “simplified process” for sealing non-conviction records (99-0)
- **2017** – HB 1208 revises simplified process (100-0)
- **2018** – HB 1344 (CCJJ bill) expands when a collateral relief order may be sought (97-0)
- **2019** – HB 1275 recodifies sealing statutes & creates process to seal low level conviction offenses (91-6)

Issue

- With very few exceptions (e.g. a life sentence), whether probation, community corrections, jail, prison, or otherwise, punishment for an offense is supposed to be FINITE
- Criminal system records (government records) are not per se punishment. However, they can and do operate IN FACT to make it harder for people to re-integrate subsequent to criminal system involvement, especially when it comes to seeking housing and employment
- Barriers to housing and employment reduce chances of successful re-entry and thereby jeopardize public safety and militate against the idea that punishment is supposed to be limited in time
- Even where sealing is available, the burden is often on the individual to be aware of eligibility & complete the process

What HB 1214 Does (including amendments to be offered)

- Expand access to collateral relief motions
- Allow OSPD & ADC to accept gifts, grants and donations to represent clients in sealing matters
- Automate certain processes that are currently manual / case by case in nature
- Allow individuals with more than one offense to petition the court for sealing – with many limitations and no guarantee of receiving sealing order – judicial discretion controls
- Allow individuals who receive a gubernatorial pardon to seek sealing
- Expand victim rights in sealing hearings via VRA cross-reference

Section by Section Summary (pre-amended version i.e. w/ amendments to be offered)

1. Expand access to collateral relief orders for adult defendants
2. Expand access to collateral relief orders for juvenile defendants
3. Allow OSPD to accept gifts, grants & donations to represent clients in sealing matters
4. Allow ADC to accept gifts, grants & donations to represent clients in sealing matters
5. CBI to develop automated process for sealing non-charge arrest records, with some exceptions
6. Create petition process for consideration of sealing for offenders with more than one prior offense
 - a. Same limitations on what offenses may be considered as in HB19-1275
 - b. Same balancing factors to be considered / applied by court as in HB19-1275
 - c. Waiting periods up to 10 years
 - d. Also create petition process for consideration of sealing for offenders who receive a gubernatorial pardon
7. VRA conforming amendment
8. VRA conforming amendment
9. VRA conforming amendment
10. CCJJ Drug Offense Task Force recommendation - Judicial branch to develop automated process for already eligible low-level drug offenses
11. MTCF amendment to allow use of funds for collateral consequence reduction
12. Petition Clause