

HOUSE COMMITTEE OF REFERENCE REPORT

\_\_\_\_\_  
Chairman of Committee

February 7, 2007  
Date

Committee on Judiciary.

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

HB07-1107 be amended as follows, and as so amended, be referred to the Committee on Appropriations with favorable recommendation:

1 Amend printed bill, page 3, strike lines 11 through 15 and substitute the  
2 following:

3 "him OR HER dismissed OR NOT FILED, OR WHENEVER THE DEFENDANT is  
4 acquitted, ~~or is sentenced following a conviction~~, the court shall provide  
5 him OR HER with a written advisement of his OR HER rights PURSUANT TO  
6 THIS SECTION concerning the sealing of his OR HER criminal justice  
7 records if he OR SHE complies with the applicable provisions of this  
8 section.";

9 strike line 18 and substitute the following:

10 "(I) IF A DEFENDANT'S CASE IS DISMISSED AFTER A PERIOD OF  
11 SUPERVISION OR PROBATION, THE PROBATION";

12 line 21, after "RIGHTS", insert "PURSUANT TO THIS SECTION";

13 line 22, strike "PURSUANT TO THIS SECTION".

14 Page 4, line 6, strike "or" and substitute "or";

15 strike lines 8 through 10 and substitute the following:

16 "(2), C.R.S.";

1 line 17, after "AND", insert "ANY";  
2 line 19, strike "AFTER";

3 strike lines 20 through 26 and substitute the following:

4 "A DEFENDANT MAY PETITION THE DISTRICT COURT OF THE DISTRICT IN  
5 WHICH ANY CONVICTION RECORDS PERTAINING TO THE DEFENDANT ARE  
6 LOCATED FOR THE SEALING OF THE CONVICTION RECORDS, EXCEPT BASIC  
7 IDENTIFYING INFORMATION, IF:

8 (A) THE PETITION IS FILED TEN OR MORE YEARS AFTER THE DATE  
9 OF THE FINAL DISPOSITION OF ALL CRIMINAL PROCEEDINGS AGAINST THE  
10 DEFENDANT OR THE RELEASE OF THE DEFENDANT FROM SUPERVISION  
11 CONCERNING A CRIMINAL CONVICTION, WHICHEVER IS LATER; AND

12 (B) THE DEFENDANT HAS NOT BEEN CHARGED OR CONVICTED FOR  
13 A CRIMINAL OFFENSE IN THE TEN YEARS SINCE THE DATE OF THE FINAL  
14 DISPOSITION OF ALL CRIMINAL PROCEEDINGS AGAINST HIM OR HER.

15 (II) AN ORDER SEALING CONVICTION RECORDS SHALL NOT DENY  
16 ACCESS TO THE CRIMINAL RECORDS OF A DEFENDANT BY ANY COURT, LAW  
17 ENFORCEMENT AGENCY, OR CRIMINAL JUSTICE AGENCY, ANY  
18 PROSECUTING ATTORNEY, OR ANY PARTY OR AGENCY REQUIRED BY LAW  
19 TO CONDUCT A CRIMINAL HISTORY RECORDS CHECK ON AN INDIVIDUAL.  
20 AN ORDER SEALING CONVICTION RECORDS SHALL NOT BE CONSTRUED TO  
21 VACATE A CONVICTION. A CONVICTION SEALED PURSUANT TO THIS  
22 SECTION MAY BE USED BY ANY CRIMINAL JUSTICE AGENCY, LAW  
23 ENFORCEMENT AGENCY, COURT, OR PROSECUTING ATTORNEY FOR ANY  
24 LAWFUL PURPOSE RELATING TO THE INVESTIGATION OF ANY CRIMINAL  
25 CASE OR FOR ANY OTHER LAWFUL PURPOSE WITHIN THE SCOPE OF THEIR  
26 DUTIES. ANY PARTY OR AGENCY REQUIRED BY LAW TO CONDUCT A  
27 CRIMINAL HISTORY RECORDS CHECK SHALL BE AUTHORIZED TO USE ANY  
28 SEALED CONVICTION FOR THE LAWFUL PURPOSE FOR WHICH THE CRIMINAL  
29 HISTORY RECORDS CHECK IS REQUIRED BY LAW.";

30 line 27, strike "(II)" and substitute "(III)".

31 Page 6, line 15, strike "UPON" and substitute "EXCEPT AS OTHERWISE  
32 PROVIDED IN SUBPARAGRAPH (II) OF PARAGRAPH (a) OF THIS SUBSECTION  
33 (2), UPON";

1 strike lines 20 through 24 and substitute the following:

2 "(e) EXCEPT AS OTHERWISE PROVIDED IN SUBPARAGRAPH (II) OF  
3 PARAGRAPH (a) OF THIS SUBSECTION (2), INSPECTION OF THE RECORDS  
4 INCLUDED IN AN ORDER SEALING CONVICTION RECORDS MAY THEREAFTER  
5 BE PERMITTED BY THE COURT ONLY UPON PETITION BY THE DEFENDANT.";

6 line 25, strike "EMPLOYERS," and substitute "EXCEPT AS OTHERWISE  
7 PROVIDED IN SUBPARAGRAPHS (II) AND (III) OF THIS PARAGRAPH (f),  
8 EMPLOYERS,";

9 line 26, after "OFFICIALS,", insert "LANDLORDS,".

10 Page 7, after line 19, insert the following:

11 "(III) THE PROVISIONS OF SUBPARAGRAPH (I) OF THIS PARAGRAPH  
12 (f) SHALL NOT APPLY TO A CRIMINAL JUSTICE AGENCY OR TO AN  
13 APPLICANT TO A CRIMINAL JUSTICE AGENCY.".

14 Page 9, strike lines 26 and 27.

15 Page 10, strike lines 1 through 10 and substitute the following:

16 "(b) FOR ANY CONVICTION PRIOR TO JULY 1, 2007, FOR WHICH THE  
17 DEFENDANT WOULD QUALIFY FOR RELIEF UNDER THIS SECTION, THE  
18 DEFENDANT MAY OBTAIN AN ORDER FROM THE COURT TO SEAL  
19 CONVICTION RECORDS IF:

20 (I) THE PROSECUTING ATTORNEY DOES NOT OBJECT TO THE  
21 SEALING; AND

22 (II) THE DEFENDANT PAYS TO THE OFFICE OF THE PROSECUTING  
23 ATTORNEY ALL REASONABLE ATTORNEY FEES AND COSTS OF THE  
24 PROSECUTING ATTORNEY RELATING TO THE PETITION TO SEAL PRIOR TO  
25 THE ENTRY OF AN ORDER SEALING THE CRIMINAL RECORDS; AND

26 (III) THE DEFENDANT PAYS AN INCREASED FILING FEE SET BY THE  
27 STATE JUDICIAL DEPARTMENT TO COVER THE ACTUAL COSTS RELATED TO  
28 THE FILING OF THE PETITION TO SEAL RECORDS.

29 (c) THE INCREASE IN FILING FEES COLLECTED UNDER

1 SUBPARAGRAPH (III) OF PARAGRAPH (b) OF THIS SUBSECTION (5) SHALL BE  
2 TRANSMITTED TO THE STATE TREASURER FOR DEPOSIT IN THE JUDICIAL  
3 STABILIZATION CASH FUND CREATED IN SECTION 13-32-101 (1.5), C.R.S."

\*\* \*\*\* \*\* \*\*\* \*\*

