

NO FISCAL IMPACT**Drafting Number:** LLS 09-0424**Date:** January 20, 2009**Prime Sponsor(s):** Rep. Roberts**Bill Status:** House Judiciary

Sen. Morse

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TITLE: CONCERNING EXPUNGEMENT OF RECORDS RELATING TO A CRIMINAL MATTER FOR WHICH A JUVENILE IS SENTENCED AS A JUVENILE AFTER BEING CHARGED BY THE DIRECT FILING OF CHARGES IN A DISTRICT COURT.

Summary of Legislation

Current law allows certain juvenile offenders to petition the court to have their juvenile criminal records permanently removed or expunged, provided they meet certain criteria (i.e., a mandatory waiting period, no new offenses or pending charges, and whether the expungement is in the best interests of the community). Some offenders are not eligible to file such a petition. These include individuals who have been:

- designated by the court as aggravated or violent juvenile offenders;
- convicted of an offense involving unlawful sexual behavior;
- convicted of an offense that is considered a crime of violence under Colorado law; and
- charged as an adult for a crime committed as a juvenile, a process known as "direct file."

This bill allows a juvenile who was charged as an adult, but ultimately sentenced as a juvenile, to later petition the court to have his or her record expunged. All of the other conditions for expungement will still apply. The bill becomes effective September 1, 2009, unless a referendum petition is filed.

Assessment

Judicial. A district attorney may choose to direct file charges against a juvenile and then later change to juvenile charges. The district attorney may also file charges in juvenile court and petition to transfer the case to adult court. An average of 145 cases each year were direct filed in district court for FY 2005-06 through FY 2007-08, however the Judicial Branch is unable to identify how many of those defendants were ultimately sentenced as juveniles, or if any of the cases were transferred to juvenile court entirely. The number who were sentenced as juveniles is assumed to be very small and the number of those that meet all of the previously listed criteria for expungement of records is even smaller. As such, the impact of the bill on the Judicial Branch is expected to be minimal and can be absorbed using existing resources.

Public Safety. The Identification Unit of the Colorado Bureau of Investigation (CBI), Department of Public Safety, is responsible for processing expungement orders. Each expungement takes between 10 and 20 minutes to process. One FTE can process an average of 8,250 expungement orders per year. Given the low number of individuals who would qualify for expungement under this bill, it is expected to have a minimal impact to the CBI and can be met using existing appropriations.

Additionally, due to the waiting periods associated with petitions for expungement and the applicability date of this bill, most of the juvenile offenders to which this bill applies would not be eligible to petition the court until September 2014.

Departments Contacted

Human Services

Judicial

Public Safety