

Second Regular Session
Sixty-seventh General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 10-0726.01 Michael Dohr

HOUSE BILL 10-1251

HOUSE SPONSORSHIP

Court, Gardner B., Levy, McCann, Miklosi, Nikkel, Pace, Priola, Ryden, Waller

SENATE SPONSORSHIP

Steadman,

House Committees
Judiciary

Senate Committees

A BILL FOR AN ACT

101 CONCERNING FILE RETENTION BY ATTORNEYS OF RECORD IN FELONY
102 CRIMINAL CASES.

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/billsummaries>.)

The bill requires an attorney who is an attorney of record in a criminal case that results in a conviction for a felony to retain his or her case file for a specified period.

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.

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

2 **SECTION 1.** Part 4 of article 5 of title 16, Colorado Revised
3 Statutes, is amended BY THE ADDITION OF A NEW SECTION to
4 read:

5 **16-5-403. File retention in criminal cases.** (1) AN ATTORNEY
6 OF RECORD IN A CRIMINAL CASE THAT RESULTS IN A CONVICTION OR
7 DEFERRED JUDGMENT AND SENTENCE FOR A FELONY SHALL RETAIN HIS OR
8 HER FILE RELATING TO THE CRIMINAL CASE FOR AT LEAST THE PERIOD
9 SPECIFIED IN SUBSECTION (2) OF THIS SECTION.

10 (2) THE PERIOD THAT AN ATTORNEY SHALL RETAIN A CASE FILE
11 PURSUANT TO SUBSECTION (1) OF THIS SECTION SHALL BE AS FOLLOWS:

12 (a) FOR A CASE INVOLVING A CONVICTION FOR A CLASS 1 FELONY,
13 THE ATTORNEY SHALL RETAIN THE FILE FOR THE LIFE OF THE DEFENDANT;

14 (b) FOR A CASE INVOLVING A CONVICTION FOR A FELONY SEX
15 OFFENSE TO WHICH PART 10 OF ARTICLE 1.3 OF TITLE 18, C.R.S., APPLIES,
16 THE ATTORNEY SHALL RETAIN THE FILE FOR THE LIFE OF THE DEFENDANT;

17 (c) EXCEPT AS OTHERWISE PROVIDED IN PARAGRAPHS (a), (b), AND
18 (d) OF THIS SUBSECTION (2), FOR A CASE INVOLVING A CONVICTION OR
19 DEFERRED JUDGMENT AND SENTENCE FOR A FELONY, THE ATTORNEY
20 SHALL RETAIN THE FILE FOR FIVE YEARS. THE FIVE-YEAR PERIOD SHALL
21 COMMENCE:

22 (I) FROM THE DATE OF SENTENCING IF THE DEFENDANT DOES NOT
23 APPEAL THE CONVICTION;

24 (II) FROM THE DATE OF THE ISSUANCE OF THE MANDATE IF THE
25 DEFENDANT DOES APPEAL THE CONVICTION; OR

26 (III) FROM THE DATE OF THE ACCEPTANCE OF THE PLEA IF A
27 DEFERRED JUDGMENT AND SENTENCE IS ENTERED.

1 (d) IF THE DEFENDANT FILES A MOTION FOR POSTCONVICTION
2 RELIEF IN A CASE IN WHICH PARAGRAPH (c) OF THIS SUBSECTION (2)
3 APPLIES, THE ATTORNEY SHALL RETAIN THE FILE UNTIL THE RESOLUTION
4 OF THE POSTCONVICTION RELIEF MATTERS.

5 **SECTION 2. Act subject to petition - specified effective date**
6 **- applicability.** (1) This act shall take effect September 1, 2010; except
7 that, if a referendum petition is filed pursuant to section 1 (3) of article V
8 of the state constitution against this act or an item, section, or part of this
9 act within the ninety-day period after final adjournment of the general
10 assembly, then the act, item, section, or part shall not take effect unless
11 approved by the people at the general election to be held in November
12 2010 and shall take effect on the date of the official declaration of the
13 vote thereon by the governor.

14 (2) The provisions of this act shall apply to criminal cases in
15 which a sentence is entered on or after the applicable effective date of this
16 act.