

**First Regular Session
Sixty-eighth General Assembly
STATE OF COLORADO**

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 11-0847.01 Michael Dohr

HOUSE BILL 11-1282

HOUSE SPONSORSHIP

Gardner B., Kerr J., Liston

SENATE SPONSORSHIP

Carroll,

House Committees
State, Veterans, & Military Affairs

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING THE JUDICIAL PUBLIC ACCESS SYSTEM.**

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 judicial department is required to provide a public access system for certain court records that direct-paying users and nonpaying users can access remotely. The judicial department may not prohibit a direct-paying user from replicating the information on its system. The bill creates the judicial public access system advisory board (board) to govern the system. The board will consist of 9 members, including 4 legislators, 1 office of information technology staff member, 2 judicial department

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.

employees, and 2 vendors. The board will set the price schedule for access by direct-paying users and approve any changes to the schedule, determine what information will be available through the system and in what form it will be available, and address any other matter relevant to the system. The board will meet at least once every 6 months, announce its meeting a week in advance, and publish an agenda 48 hours in advance.

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

2 **SECTION 1. Legislative declaration.** The Colorado general
3 assembly finds and declares that transparency and accountability are
4 important public policy initiatives for all branches of government. The
5 judicial department's public access system is a vital government service
6 for both public safety and the private sector. The judicial department's
7 public access system shall provide meaningful access to the records of the
8 judicial department to the public, without imposing undue burden or cost
9 so that the public is able to monitor the conduct of the judicial branch of
10 government. The integrity of the system is vital for the state of Colorado,
11 so it is necessary to develop the highest standards possible for its
12 transparency of governance and its accountability to its users. Therefore,
13 the general assembly determines it is necessary to provide a governance
14 structure for the system.

15 **SECTION 2.** Article 3 of title 13, Colorado Revised Statutes, is
16 amended BY THE ADDITION OF A NEW SECTION to read:

17 **13-3-114. Judicial department public access system -**
18 **definitions.** (1) (a) THE JUDICIAL DEPARTMENT SHALL OFFER A PUBLIC
19 ACCESS SYSTEM THAT ALLOWS DIRECT-PAYING USERS AND NONPAYING
20 USERS REMOTE ACCESS TO COURT RECORDS FROM THE JUDICIAL
21 DEPARTMENT. THE JUDICIAL DEPARTMENT SHALL, THROUGH
22 DIRECT-PAYING USERS AND NONPAYING USERS, PROVIDE REMOTE ACCESS

1 TO COURT RECORDS TO THE PUBLIC WITHOUT UNDUE BURDEN OR COST.
2 THE JUDICIAL DEPARTMENT SHALL NOT PROHIBIT A DIRECT-PAYING USER
3 FROM REPLICATING THE DATA ON ITS OWN SYSTEM.

4 (b) THE PUBLIC ACCESS SYSTEM SHALL BE GOVERNED BY THE
5 PROVISIONS OF THIS SECTION AND BY THE BOARD APPOINTED PURSUANT
6 TO SUBSECTION (3) OF THIS SECTION.

7 (2) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE
8 REQUIRES:

9 (a) (I) "COURT RECORDS" INCLUDES ANY DOCUMENT,
10 INFORMATION, OR OTHER ITEM THAT IS COLLECTED, RECEIVED, OR
11 MAINTAINED BY A COURT OR CLERK OF COURT IN CONNECTION WITH A
12 JUDICIAL PROCEEDING AND ANY INDEX, CALENDAR, DOCKET, REGISTER OF
13 ACTIONS, OFFICIAL RECORD OF THE PROCEEDINGS, ORDER, DECREE,
14 JUDGMENT, OR MINUTE ORDER, THAT IS RELATED TO A JUDICIAL
15 PROCEEDING.

16 (II) "COURT RECORDS" DOES NOT INCLUDE RECORDS MAINTAINED
17 BY THE COURT OR CLERK OF COURT PERTAINING TO THE ADMINISTRATION
18 OF THE COURT OR CLERK OF COURT'S OFFICE THAT ARE NOT ASSOCIATED
19 WITH A PARTICULAR CASE; ADMINISTRATIVE AND MANAGEMENT REPORTS;
20 JUDGES' NOTES AND JUDICIAL WORK PRODUCT RELATED TO THE
21 DELIBERATIVE PROCESS; AND INFORMATION GATHERED, MAINTAINED, OR
22 STORED BY A GOVERNMENTAL AGENCY OR OTHER ENTITY TO WHICH THE
23 COURT HAS ACCESS BUT THAT IS NOT PART OF THE COURT RECORD.

24 (b) "DIRECT-PAYING USER" MEANS A PERSON OR ENTITY THAT
25 PROVIDES COURT RECORDS TO OTHERS, INCLUDING THE GENERAL PUBLIC,
26 AS A PART OF ITS BUSINESS.

27 (c) "NONPAYING USER" MEANS A GOVERNMENTAL ENTITY THAT IS

1 PROVIDED WITH COURT RECORDS THROUGH THE REMOTE PUBLIC ACCESS
2 SYSTEM WITHOUT CHARGE.

3 (3) (a) THERE IS HEREBY CREATED IN THE JUDICIAL DEPARTMENT
4 THE JUDICIAL PUBLIC ACCESS SYSTEM BOARD, REFERRED TO IN THIS
5 SECTION AS THE "BOARD".

6 (b) (I) THE BOARD SHALL CONSIST OF ELEVEN MEMBERS
7 APPOINTED AS FOLLOWS:

8 (A) THE PRESIDENT OF THE SENATE AND THE SPEAKER OF THE
9 HOUSE OF REPRESENTATIVES SHALL EACH APPOINT TWO MEMBERS. ONE
10 MEMBER APPOINTED BY THE PRESIDENT SHALL REPRESENT THE INTEREST
11 OF THE PRESS. ONE MEMBER APPOINTED BY THE SPEAKER SHALL BE A
12 MEMBER OF THE GENERAL PUBLIC.

13 (B) THE MINORITY LEADER OF THE SENATE AND THE MINORITY
14 LEADER OF THE HOUSE OF REPRESENTATIVES SHALL EACH APPOINT ONE
15 MEMBER;

16 (C) THE GOVERNOR SHALL APPOINT ONE MEMBER FROM THE
17 OFFICE OF INFORMATION TECHNOLOGY; AND

18 (D) THE CHIEF JUSTICE SHALL APPOINT FOUR MEMBERS, TWO OF
19 WHOM SHALL BE JUDICIAL DEPARTMENT EMPLOYEES AND TWO OF WHOM
20 SHALL BE DIRECT-PAYING USERS. THE CHIEF JUSTICE SHALL DESIGNATE
21 ONE OF THE JUDICIAL DEPARTMENT APPOINTEES TO SERVE AS CHAIR OF
22 THE BOARD.

23 (II) THE APPOINTING AUTHORITIES SHALL MAKE THEIR INITIAL
24 APPOINTMENTS TO THE BOARD NO LATER THAN THIRTY DAYS AFTER THE
25 EFFECTIVE DATE OF THIS SECTION.

26 (III) EACH MEMBER OF THE BOARD WHO IS APPOINTED PURSUANT
27 TO SUB-SUBPARAGRAPHS (A), (B), AND (C) OF SUBPARAGRAPH (I) OF THIS

1 PARAGRAPH (b) SHALL SERVE AT THE PLEASURE OF THE OFFICIAL WHO
2 APPOINTED THE MEMBER. EACH MEMBER OF THE BOARD APPOINTED BY
3 THE CHIEF JUSTICE SHALL SERVE A FOUR-YEAR TERM; EXCEPT THAT THE
4 NONCHAIR MEMBER FROM THE JUDICIAL DEPARTMENT INITIALLY
5 APPOINTED SHALL SERVE A TWO-YEAR TERM AND ONE OF THE
6 DIRECT-PAYING USER MEMBERS INITIALLY APPOINTED SHALL SERVE A
7 TWO-YEAR TERM.

8 (IV) EACH LEGISLATIVE MEMBER SHALL RECEIVE REIMBURSEMENT
9 FOR ACTUAL AND NECESSARY EXPENSES INCURRED IN THE PERFORMANCE
10 OF HIS OR HER DUTIES AS A MEMBER OF THE BOARD. THE NONLEGISLATIVE
11 MEMBERS OF THE BOARD SHALL SERVE WITHOUT COMPENSATION AND
12 WITHOUT REIMBURSEMENT FOR EXPENSES.

13 (c) THE BOARD SHALL MEET AT LEAST ONCE EVERY SIX MONTHS.
14 THE CHAIR MAY CALL SUCH ADDITIONAL MEETINGS AS MAY BE NECESSARY
15 FOR THE BOARD TO COMPLETE ITS DUTIES. THE MEETING DATES SHALL BE
16 MADE PUBLIC AT LEAST SEVEN DAYS BEFORE THE MEETING, AND AN
17 AGENDA FOR EACH MEETING SHALL BE MADE PUBLIC AT LEAST
18 FORTY-EIGHT HOURS PRIOR TO THE MEETING DATE. THE BOARD SHALL BE
19 A STATE PUBLIC BODY AS DEFINED IN SECTION 24-6-402 (1) (d), C.R.S.,
20 AND SHALL BE SUBJECT TO SECTION 24-6-402, C.R.S. THE BOARD SHALL
21 PUBLISH THE MEETING MINUTES ON THE JUDICIAL DEPARTMENT WEB SITE.

22 (d) THE BOARD SHALL HAVE THE FOLLOWING POWERS AND DUTIES:

23 (I) TO CONDUCT BUSINESS AND MAKE DECISIONS IN ACCORDANCE
24 WITH THIS SECTION, UPON AFFIRMATIVE VOTE OF THE MAJORITY OF THE
25 QUORUM PRESENT AT ANY MEETING;

26 (II) TO APPROVE A PRICING SCHEDULE FOR THE PUBLIC ACCESS
27 SYSTEM FOR ONGOING ACCESS AND A PER-TIME BASIS, AND TO APPROVE

1 ANY CHANGES TO THE SCHEDULE;

2 (III) TO DETERMINE WHAT INFORMATION IS AVAILABLE IN THE
3 PUBLIC ACCESS SYSTEM AND IN WHAT FORM THE INFORMATION IS
4 AVAILABLE, IN ACCORDANCE WITH AND SUBJECT TO THE LIMITATIONS OF
5 ARTICLE 72 OF TITLE 24, C.R.S.; AND

6 (IV) TO ADDRESS ANY OTHER MATTERS RELEVANT TO THE PUBLIC
7 ACCESS SYSTEM.

8 (e) UPON REQUEST BY THE BOARD, THE JUDICIAL DEPARTMENT
9 SHALL PROVIDE OFFICE SPACE, EQUIPMENT, AND STAFF SERVICES AS MAY
10 BE NECESSARY TO IMPLEMENT THE PROVISIONS OF THIS SECTION.

11 (f) ALL EXPENDITURES NECESSARY FOR THE OPERATION OF THE
12 BOARD SHALL BE PAID OUT OF THE JUDICIAL DEPARTMENT INFORMATION
13 TECHNOLOGY CASH FUND, CREATED IN SECTION 13-32-114.

14 **SECTION 3. Safety clause.** The general assembly hereby finds,
15 determines, and declares that this act is necessary for the immediate
16 preservation of the public peace, health, and safety.