



*Colorado Legislative Council Staff Fiscal Note*  
**STATE and LOCAL  
 FISCAL IMPACT**

**Drafting Number:** LLS 12-0114  
**Prime Sponsor(s):** Sen. Steadman  
 Rep. Levy

**Date:** February 9, 2012  
**Bill Status:** Senate Judiciary  
**Fiscal Analyst:** Jessika Shipley (303-866-3528)

**TITLE:** CONCERNING PROVISIONS THAT IMPROVE THE REINTEGRATION OPPORTUNITIES FOR PERSONS INVOLVED IN THE CRIMINAL JUSTICE SYSTEM.

<b>Fiscal Impact Summary</b>	<b>FY 2012-2013</b>	<b>FY 2013-2014</b>
<b>State Revenue</b>	<b><u>\$925,226</u></b>	<b><u>\$925,226</u></b>
General Fund	91,000	91,000
Cash Funds		
Judicial Stabilization Cash Fund	783,000	783,000
CBI Identification Unit Cash Fund	51,226	51,226
<b>State Expenditures</b>	<b><u>\$615,895</u></b>	<b><u>\$523,520</u></b>
General Fund	279,763	179,588
Cash Funds		
Judicial Stabilization Cash Fund	336,132	343,932
<b>FTE Position Change</b>	8.2 FTE	8.2 FTE
<b>Effective Date:</b> August 8, 2012, if the General Assembly adjourns on May 9, 2012, as scheduled, and no referendum petition is filed.		
<b>Appropriation Summary for FY 2012-2013:</b> For FY 2012-13, the Judicial Branch requires an appropriation from the Judicial Stabilization Cash Fund of \$336,132 and 5.2 FTE. The Department of Public Safety requires a General Fund appropriation of \$279,763 and 3.0 FTE.		
<b>Local Government Impact:</b> Minimal increase.		

**Summary of Legislation**

This bill creates a judicial process for individuals seeking relief from the collateral consequences of a criminal conviction. Collateral consequences are penalties, disabilities, or disadvantages imposed on an individual as a result of a criminal conviction that apply by operation of law whether or not the penalties, disabilities, or disadvantages are included in the judgment or sentence. They may be imposed by an administrative agency, governmental official, or court in a civil proceeding on grounds relating to the individual's criminal conviction. The court, at a defendant's first appearance and at sentencing, is required to inform the defendant about the possibility of collateral consequences. Additionally, a releasing agency must inform an offender about collateral consequences prior to release from incarceration.

A court may issue an order of collateral relief (at sentencing for a defendant sentenced to probation or community corrections) or a certificate of rehabilitation (after sentencing for eligible applicants) that relieves the individual of any collateral consequences of a criminal conviction. An order of collateral relief or a certificate of rehabilitation cannot relieve any employment-related collateral consequences that would prevent an individual's employment by the Department of Corrections, the Division of Youth Correction in the Department of Human Services, or any other law enforcement agency.

An individual may not apply for a certificate of rehabilitation for at least three years after the termination of a sentence for a felony offense and at least one year after the termination of a sentence for a misdemeanor offense. The following criteria render an individual ineligible to apply for a certificate of rehabilitation:

- two or more felony convictions;
- a felony conviction that resulted in permanent disability or serious bodily injury of another;
- a felony assault conviction involving domestic violence;
- a designation as a habitual offender; and
- a requirement to register as a sex offender.

The bill specifies the application requirements for a certificate of rehabilitation, including a \$225 application fee, and the process and standards for granting such a certification. It also discusses when a certificate may be revoked and creates a new class 1 misdemeanor offense for knowingly using a revoked certificate.

The court that issues an order of collateral relief or a certificate of rehabilitation is required to provide a copy of the order or the certificate to the chief information officer of the Colorado Integrated Criminal Justice Information System (CICJIS). The chief information officer is required to enter the order or the certificate into CICJIS and to annually purge from CICJIS all records that did not result in a conviction and for which the statute of limitations has run.

Additionally, the bill allows an individual to petition the court to seal conviction records, except basic identifying information, pertaining to petty offenses or municipal violations, provided the petition is filed three or more years after the date of the final disposition of the case and the individual has not been charged or convicted of a criminal offense in the previous three years. Petitioners are required to pay a total filing fee of \$424. An order sealing conviction records for petty offenses or municipal violations carries the same requirements and limitations as those in current law for the sealing of criminal conviction records.

The Department of Regulatory Agencies (DORA), as part of the sunrise process, is required to determine whether a state agency, through its licensing or certification process, imposes any collateral consequence. As part of such a determination, DORA is required to include a description of the disqualification and how it serves public safety or consumer protection interests.

**State Revenue**

The bill will increase state revenue to the General Fund, the Judicial Stabilization Cash Fund, and the CBI Identification Unit Cash Fund from application fees for certificates of rehabilitation; filing fees for petitions to seal criminal conviction records related to petty offenses and municipal violations; and fees to cover the Colorado Bureau of Investigation (CBI) costs for sealing criminal conviction records. Section 2-2-322, C.R.S., requires legislative service agency review of measures which create or increase any fee collected by a state agency. Table 1 below identifies the fee impact of this bill.

The fiscal note assumes that applications for certificates of relief will be limited to mainly individuals seeking to reestablish an occupational license or eliminate a bar to housing. Not all individuals who are eligible are likely to pay the application fee and go through the application process, but the fiscal note assumes that at least 4,000 applications will be filed.

Similarly, due to the high filing fee and the time and effort involved, the fiscal note assumes that only a small percentage of the total number of eligible individuals will petition to seal criminal conviction records related to petty offenses and municipal violations. No data was available about the number of annual eligible petty offense and municipal violation convictions, but 2,000 was used as an example.

Historical data shows that, on average, defendants only end up paying about half of the total filing fee and about 87% of petitions result in an order to seal records. In the absence of specific data, the number of individuals affected by the bill is simply an estimate.

<b>Table 1. Fee Impact of SB 12-105</b>					
<b>Type of Fee</b>	<b>Proposed Fee</b>	<b>Deposit Fund</b>	<b>Number Affected</b>	<b>Portion of Fee Paid</b>	<b>Total Fee Impact</b>
Application fee for certificate of rehabilitation	\$225	Judicial Stabilization Cash Fund	4,000	50%	\$450,000
Filing fee for petition to seal criminal conviction records	\$424	General Fund - \$91 Judicial Stabilization Cash Fund - \$333	2,000	50%	\$424,000
Fee to cover CBI costs to seal criminal conviction records	\$29.44	CBI Identification Unit Cash Fund	1,740	100%	\$51,226
<b>TOTAL</b>					<b>\$925,226</b>

Additionally, the bill creates a new class 1 misdemeanor for knowingly using a revoked certificate. The bill may increase state revenue from fines, although less than \$5,000 in new state revenue is expected per year. According to Section 18-1.3-501, C.R.S., the penalty for a class 1 misdemeanor is 6 to 18 months imprisonment in a county jail, a fine of \$500 to \$5,000, or both. Fine revenue that is not otherwise appropriated is deposited into the Fines Collection Cash Fund. Because the courts have the discretion of incarceration, imposing a fine, or both, the impact to state revenue cannot be determined, but it is expected to be minimal.

**State Expenditures**

**Judicial Branch.** The bill will increase expenditures in the Judicial Branch by at least \$336,132 and 5.2 FTE in FY 2012-13 and at least \$343,932 and 5.2 FTE each year thereafter. The fiscal note assumes that the workload of the trial courts will increase as applications for certificates of rehabilitation, and petitions for orders sealing criminal conviction records increase. Additionally, some number of certificates will be revoked. It is difficult to anticipate how many individuals will choose to apply for a certificate of rehabilitation, but if there are 4,000 additional hearings, at 30 minutes per hearing, an additional 2,000 hours of court time will be required. These include both existing Colorado criminal cases and new filings for convictions from other states and the federal level. This will require an additional 0.96 FTE at the magistrate level and 2.9 FTE for support staff.

Additionally, the bill allows for the revocation of certificates under certain circumstances. Each hearing on revocation is expected to last one hour. If half of the petitions are granted and revocations follow the general recidivism rate of 7 percent, 140 additional hours of court time, or 0.1 FTE at the magistrate level and 0.3 FTE for support staff. The bill creates a new class 1 misdemeanor for knowingly using a revoked certificate. The fiscal note assumes there will be very few cases filed under this charge and those that are filed will be absorbed within existing resources.

Finally, if 2,000 new petitions are filed to seal criminal conviction records related to petty offenses and municipal violations, the expected impact to the courts will be 0.24 FTE at the magistrate level and 0.72 FTE for support staff. While these cases will be heard in district court, in terms of workload, they are more similar to county court civil cases. As such, they require fewer staffing resources. Table 2 details the costs to the Judicial Branch.

<b>Cost Components</b>	<b>FY 2012-13</b>	<b>FY 2013-14</b>
Personal Services	\$250,575	\$334,099
FTE	5.2	5.2
Operating Expenses and Capital Outlay	\$85,557	\$9,833
<b>TOTAL</b>	<b>\$336,132</b>	<b>\$343,932</b>

**Department of Public Safety (DPS).** The bill will increase expenditures for the DPS by \$279,763 and 3.0 FTE in FY 2012-13 and \$179,588 and 3.0 FTE each year thereafter. The bill requires a function of the CICJIS that it does not currently have. CICJIS is an aggregation of data, rather than a discreet database. Its function is to allow selected entities to enter criminal justice information into a number of source databases and for the information in all of those databases to be accessed by the selected entities. In order to implement the provisions of the bill related to CICJIS, the DPS will require additional computer equipment at a one-time cost of \$129,000 and ongoing costs of \$5,000 a year for maintenance and software updates. Additionally, 2.0 FTE will be required for database administration and software development.

The CBI will also require an additional 1.0 FTE in order to seal the 1,740 criminal conviction records that the fiscal note estimates the courts will order to be sealed each year. It is possible this number will increase as time goes on and public awareness of the process increases. Any future increased workload as a result will be addressed through the annual budget process. The costs to the DPS associated with the bill are detailed in Table 3.

<b>Table 3. Department of Public Safety Expenditures Under SB 12-105</b>		
<b>Cost Components</b>	<b>FY 2012-13</b>	<b>FY 2013-14</b>
Personal Services	\$128,804	\$171,738
FTE	3.0	3.0
Operating Expenses	\$7,850	\$7,850
Capital Outlay	\$14,109	\$0
Specialized Computer Hardware and Software	\$129,000	\$0
<b>TOTAL</b>	<b>\$279,763</b>	<b>\$179,588</b>

**Department of Law.** To the extent that defendants, who are not eligible to petition for sealing of a criminal conviction record, appeal denials of their petitions, the Department of Law will be required represent the state in those appellate matters. If 36 appeals were filed, at an average of 50 attorney hours each, the department would require an additional \$72,447 and 1.0 FTE in the first full year of implementation. The fiscal note assumes, however, that the number of appeals filed will be far lower, due to the time, effort, and expense involved. Any increase in workload for the Appellate Division in the department will be addressed through the annual budget process.

**Expenditures Not Included**

Pursuant to a Joint Budget Committee policy, certain costs associated with this bill are addressed through the annual budget process and centrally appropriated in the Long Bill or supplemental appropriations bills, rather than in this bill. The centrally appropriated costs subject to this policy are summarized in Table 4.

<b>Table 4. Expenditures Not Included Under SB 12-105*</b>		
<b>Cost Components</b>	<b>FY 2012-13</b>	<b>FY 2013-14</b>
Employee Insurance (Health, Life, Dental, and Short-term Disability)	\$50,447	\$50,646
Supplemental Employee Retirement Payments	\$20,019	\$30,730
<b>TOTAL</b>	<b>\$70,466</b>	<b>\$81,376</b>

\*More information is available at: <http://colorado.gov/fiscalnotes>

**Local Government Impact**

The bill may increase the workload of county sheriffs who are required to provide notice of possible collateral consequences when they release individuals from incarceration. Some local government agencies may be custodians of criminal conviction records. As petitions to seal these records are granted, these agencies will be required file the orders received from the petitioners. Finally, county and municipal courts will be required to provide an individual convicted of petty offenses and municipal violations with a written advisement of his or her rights concerning the sealing of conviction records. All of these workload increases to county governments are expected to be minimal.

**State Appropriations**

For FY 2012-13, the following appropriations are required:

Judicial Branch	\$336,132	5.2 FTE	Judicial Stabilization Cash Fund
Public Safety	\$279,763	3.0 FTE	General Fund

**Departments Contacted**

Corrections    Counties    District Attorneys    Human Services    Judicial    Law  
Public Safety    Regulatory Agencies