

SENATE COMMITTEE OF REFERENCE REPORT

Chairman of Committee

February 13, 2012

Date

Committee on Judiciary.

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

SB12-105 be amended as follows, and as so amended, be referred to the Committee on Finance with favorable recommendation:

- 1 Amend printed bill, page 5, line 22, strike "OR".
- 2 Page 5, line 25, strike "16-24-106." and substitute "16-24-106;".
- 3 Page 5, after line 25 insert:
 - 4 "(d) INVALIDATING OR CHANGING THE REQUIREMENTS IMPOSED BY
 - 5 THE "COLORADO SEX OFFENDER REGISTRATION ACT", ARTICLE 22 OF THIS
 - 6 TITLE, OR ANY ASSOCIATED REGULATIONS; OR
 - 7 (e) A CHALLENGE TO THE CONDITIONS OF PROBATION IMPOSED
 - 8 PURSUANT TO SECTION 18-1.3-204, C.R.S., OR THE CONDITIONS OF PAROLE
 - 9 IMPOSED PURSUANT TO ARTICLE 17, C.R.S."
- 10 Page 6, after line 4 insert:
 - 11 "(4) A COURT'S DECISION DENYING OR GRANTING RELIEF
 - 12 PURSUANT TO SECTIONS 16-24-107 AND 16-24-108 IS NOT PART OF THE
 - 13 DEFENDANT'S CRIMINAL CASE AND MAY NOT BE APPEALED."
- 14 Page 7, strike lines 16 through 18.
- 15 Reletter succeeding paragraph accordingly.
- 16 Page 8, line 16, strike "(3)" and substitute "(3) (a)".
- 17 Page 8, after line 22 insert:
 - 18 "(b) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, AN ORDER
 - 19 OF COLLATERAL RELIEF CANNOT RELIEVE ANY COLLATERAL
 - 20 CONSEQUENCES IMPOSED BY LAW FOR LICENSURE BY THE DEPARTMENT OF

1 EDUCATION OR ANY COLLATERAL CONSEQUENCES IMPOSED BY LAW FOR
2 EMPLOYMENT WITH THE JUDICIAL DEPARTMENT.".

3 Page 8, line 25, strike "COLORADO INTEGRATED CRIMINAL" and substitute
4 "COLORADO CRIME INFORMATION CENTER,".

5 Page 8, line 26, strike "JUSTICE INFORMATION SYSTEM,".

6 Page 8, line 27, strike "CRIMINAL" and substitute "COLORADO CRIME
7 INFORMATION CENTER.".

8 Page 9, strike line 1.

9 Page 9, after line 1 insert:

10 "(5) THE COURT MAY REVOKE AN ORDER OF COLLATERAL RELIEF
11 UPON CLEAR AND CONVINCING EVIDENCE OF A SUBSEQUENT CRIMINAL
12 CONVICTION OR PROOF THAT THE HOLDER OF THE JUDGMENT HAS BECOME
13 A PRESENT RISK TO PUBLIC SAFETY. ANY BARS, PROHIBITIONS, SANCTIONS,
14 AND DISQUALIFICATIONS THEREBY RELIEVED SHALL BE REINSTATED AS OF
15 THE DATE OF THE WRITTEN ORDER OF REVOCATION. THE COURT SHALL
16 PROVIDE A COPY OF THE ORDER OF REVOCATION TO THE HOLDER.".

17 Page 9, line 10, strike "(2)" and substitute "(2) (a)".

18 Page 9, after line 17 insert:

19 "(b) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, A
20 CERTIFICATE OF REHABILITATION CANNOT RELIEVE ANY COLLATERAL
21 CONSEQUENCES IMPOSED BY LAW FOR LICENSURE BY THE DEPARTMENT OF
22 EDUCATION OR ANY COLLATERAL CONSEQUENCES IMPOSED BY LAW FOR
23 EMPLOYMENT WITH THE JUDICIAL DEPARTMENT.".

24 Page 11, line 9, strike "THAT RESULTED IN" and substitute "THAT
25 INCLUDES AN ELEMENT THAT REQUIRES A VICTIM TO SUFFER"

26 Page 11, line 10, strike "INJURY OF ANOTHER;" and substitute "INJURY;".

27 Page 12, line 6, strike "APPLICATION." and substitute "APPLICATION AND
28 MAY HEAR ARGUMENT FROM THE PETITIONER AND THE DISTRICT
29 ATTORNEY.".

30 Page 13, line 1, strike "COLORADO INTEGRATED CRIMINAL" and substitute
31 "COLORADO CRIME INFORMATION CENTER,".

- 1 Page 13, line 2, strike "JUSTICE INFORMATION SYSTEM,".
- 2 Page 13, line 3, strike "CRIMINAL" and substitute "COLORADO CRIME
3 INFORMATION CENTER.".
- 4 Page 13, strike line 4.
- 5 Page 13, strike lines 10 through 19.
- 6 Renumber succeeding sections accordingly.
- 7 Page 15, line 22, strike "**convictions**" and substitute "**convictions.**"
- 8 Page 15, strike line 23.
- 9 Page 16, after line 20 insert:
10 "(III) A PETITION TO SEAL RECORDS PURSUANT TO THIS SECTION
11 MAY ONLY BE FILED ONCE DURING A TWELVE MONTH PERIOD. THE COURT
12 SHALL IMMEDIATELY DISMISS A SECOND OR SUBSEQUENT PETITION FILED
13 WITHIN TWELVE MONTHS OF ANOTHER PETITION."
- 14 Renumber succeeding subparagraph accordingly.
- 15 Page 22, after line 24 insert:
16 "**SECTION 5.** In Colorado Revised Statutes, 8-2-201, **add** (3) as
17 follows:
18 **8-2-201. Damages - fellow servant rule abolished - limitation**
19 **on admission of criminal history.** (3) IN A JUDICIAL OR ADMINISTRATIVE
20 PROCEEDING ALLEGING NEGLIGENCE OR OTHER FAULT, AN ORDER OF
21 COLLATERAL RELIEF OR A CERTIFICATE OF REHABILITATION ISSUED UNDER
22 ARTICLE 24 OF TITLE 16 MAY BE INTRODUCED AS EVIDENCE OF A PERSON'S
23 DUE CARE IN HIRING, RETAINING, LICENSING, LEASING TO, ADMITTING TO
24 A SCHOOL OR PROGRAM, OR OTHERWISE TRANSACTING BUSINESS OR
25 ENGAGING IN ACTIVITY WITH THE INDIVIDUAL TO WHOM THE ORDER OR
26 CERTIFICATE WAS ISSUED, IF THE PERSON KNEW OF THE ORDER OR
27 CERTIFICATE AT THE TIME OF THE ALLEGED NEGLIGENCE OR OTHER FAULT.
28 **SECTION 6.** In Colorado Revised Statutes, 24-5-101, **add** (3) as
29 follows:
30 **24-5-101. Effect of criminal conviction on employment rights.**
31 (3) WHENEVER A STATE OR LOCAL AGENCY IS REQUIRED TO MAKE A
32 FINDING DESCRIBED IN SUBSECTION (2) OF THIS SECTION, AN ORDER OF
33 COLLATERAL RELIEF OR A CERTIFICATE OF REHABILITATION ISSUED UNDER

1 ARTICLE 24 OF TITLE 16, IF ISSUED TO A PERSON SEEKING EMPLOYMENT
2 AND APPLICABLE TO THE TYPE OF EMPLOYMENT SOUGHT, SHALL CREATE
3 A PRESUMPTION THAT THE PERSON IS OF GOOD MORAL CHARACTER AS IT
4 RELATES TO THE EMPLOYMENT SOUGHT.

5 **SECTION 7.** In Colorado Revised Statutes, 24-72-308, **amend**
6 (1) (a) (I) and (1) (a) (III) introductory portion as follows:

7 **24-72-308. Sealing of arrest and criminal records other than**
8 **convictions.** (1) (a) (I) Except as otherwise provided in subparagraphs
9 (II) and (III) of this paragraph (a), any person in interest may petition the
10 district court of the district in which any arrest and criminal records
11 information pertaining to said person in interest is located for the sealing
12 of all of said records, except basic identification information, if the
13 records are a record of official actions involving a criminal offense for
14 which said person in interest was not charged AND THE STATUTE OF
15 LIMITATIONS FOR THE OFFENSE FOR WHICH THE PERSON WAS ARRESTED
16 THAT HAS THE LONGEST STATUTE OF LIMITATIONS HAS RUN, in any case
17 which was completely dismissed, or in any case in which said person in
18 interest was acquitted.

19 (III) A person in interest may petition the district court of the
20 district in which any arrest and criminal records information pertaining
21 to said person in interest is located for the sealing of all of said records,
22 except basic identification information, if the records are a record of
23 official actions involving ~~a criminal offense that was not charged~~ or a
24 case that was dismissed due to a plea agreement in a separate case, and
25 if:".

26 Renumber succeeding section accordingly.

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