

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

REENGROSSED

*This Version Includes All Amendments
Adopted in the House of Introduction*

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.*

HOUSE
Amended 3rd Reading
April 7, 2011

HOUSE
Amended 2nd Reading
April 6, 2011

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. In addition,
13 it is necessary for the judicial department to maintain its revenue
14 generated from the operation of the public access system to ensure proper
15 dissemination of public judicial information. Therefore, the general
16 assembly determines it is necessary to provide a governance structure for
17 the system.

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

20 **13-3-114. Judicial department public access system -**
21 **definitions.** (1) (a) (I) THE JUDICIAL DEPARTMENT SHALL OFFER A PUBLIC
22 ACCESS SYSTEM THAT ALLOWS DIRECT-PAYING USERS AND NONPAYING

1 USERS REMOTE ACCESS TO COURT RECORDS FROM THE JUDICIAL
2 DEPARTMENT. THE JUDICIAL DEPARTMENT SHALL, THROUGH
3 DIRECT-PAYING USERS AND NONPAYING USERS, PROVIDE REMOTE ACCESS
4 TO COURT RECORDS TO THE PUBLIC WITHOUT UNDUE BURDEN OR COST.
5 THE JUDICIAL DEPARTMENT SHALL NOT PROHIBIT A DIRECT-PAYING USER
6 FROM REPLICATING THE DATA ON ITS OWN SYSTEM IF THE REPLICATED
7 DATA IS AUDITED PURSUANT TO STANDARDS ADOPTED BY THE AMERICAN
8 INSTITUTE OF CERTIFIED PUBLIC ACCOUNTANTS FOR INTERNAL CONTROLS
9 OF A SERVICE ORGANIZATION.

10 (II) A DIRECT-PAYING USER WHO REPLICATES THE DATA ON ITS
11 OWN SYSTEM SHALL NOT PROVIDE THE COMPLETE REPLICATED DATA TO
12 ANOTHER PERSON.

13 (b) THE PUBLIC ACCESS SYSTEM SHALL BE GOVERNED BY THE
14 PROVISIONS OF THIS SECTION AND BY THE BOARD APPOINTED PURSUANT
15 TO SUBSECTION (3) OF THIS SECTION.

16 (2) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE
17 REQUIRES:

18 (a) (I) "COURT RECORDS" INCLUDES ANY DOCUMENT,
19 INFORMATION, OR OTHER ITEM THAT IS COLLECTED, RECEIVED, OR
20 MAINTAINED BY A COURT OR CLERK OF COURT IN CONNECTION WITH A
21 JUDICIAL PROCEEDING AND ANY INDEX, CALENDAR, DOCKET, REGISTER OF
22 ACTIONS, OFFICIAL RECORD OF THE PROCEEDINGS, ORDER, DECREE,
23 JUDGMENT, OR MINUTE ORDER, THAT IS RELATED TO A JUDICIAL
24 PROCEEDING.

25 (II) "COURT RECORDS" DOES NOT INCLUDE RECORDS MAINTAINED
26 BY THE COURT OR CLERK OF COURT PERTAINING TO THE ADMINISTRATION
27 OF THE COURT OR CLERK OF COURT'S OFFICE THAT ARE NOT ASSOCIATED

1 WITH A PARTICULAR CASE; ADMINISTRATIVE AND MANAGEMENT REPORTS;
2 JUDGES' NOTES AND JUDICIAL WORK PRODUCT RELATED TO THE
3 DELIBERATIVE PROCESS; AND INFORMATION GATHERED, MAINTAINED, OR
4 STORED BY A GOVERNMENTAL AGENCY OR OTHER ENTITY TO WHICH THE
5 COURT HAS ACCESS BUT THAT IS NOT PART OF THE COURT RECORD.

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

9 (c) "NONPAYING USER" MEANS A GOVERNMENTAL ENTITY THAT IS
10 PROVIDED WITH COURT RECORDS THROUGH THE REMOTE PUBLIC ACCESS
11 SYSTEM WITHOUT CHARGE.

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

15 (b) (I) THE BOARD SHALL CONSIST OF ELEVEN MEMBERS
16 APPOINTED AS FOLLOWS:

17 (A) THE PRESIDENT OF THE SENATE AND THE SPEAKER OF THE
18 HOUSE OF REPRESENTATIVES SHALL EACH APPOINT TWO MEMBERS. ONE
19 MEMBER APPOINTED BY THE PRESIDENT SHALL REPRESENT THE INTEREST
20 OF THE PRESS. ONE MEMBER APPOINTED BY THE SPEAKER SHALL BE A
21 MEMBER OF THE GENERAL PUBLIC.

22 (B) THE MINORITY LEADER OF THE SENATE AND THE MINORITY
23 LEADER OF THE HOUSE OF REPRESENTATIVES SHALL EACH APPOINT ONE
24 MEMBER;

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

27 (D) THE CHIEF JUSTICE SHALL APPOINT TWO MEMBERS WHO SHALL

1 BE JUDICIAL DEPARTMENT EMPLOYEES, AND TWO ADVISORY, NONVOTING
2 MEMBERS WHO [REDACTED] SHALL BE DIRECT-PAYING USERS. THE CHIEF
3 JUSTICE SHALL DESIGNATE ONE OF THE JUDICIAL DEPARTMENT APPOINTEES
4 TO SERVE AS CHAIR OF THE BOARD.

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

8 (III) EACH MEMBER OF THE BOARD WHO IS APPOINTED PURSUANT
9 TO SUB-SUBPARAGRAPHS (A), (B), AND (C) OF SUBPARAGRAPH (I) OF THIS
10 PARAGRAPH (b) SHALL SERVE AT THE PLEASURE OF THE OFFICIAL WHO
11 APPOINTED THE MEMBER. EACH MEMBER OF THE BOARD APPOINTED BY
12 THE CHIEF JUSTICE SHALL SERVE A FOUR-YEAR TERM; EXCEPT THAT THE
13 NONCHAIR MEMBER FROM THE JUDICIAL DEPARTMENT INITIALLY
14 APPOINTED SHALL SERVE A TWO-YEAR TERM AND ONE OF THE
15 DIRECT-PAYING USER MEMBERS INITIALLY APPOINTED SHALL SERVE A
16 TWO-YEAR TERM.

17 (IV) EACH LEGISLATIVE MEMBER SHALL RECEIVE REIMBURSEMENT
18 FOR ACTUAL AND NECESSARY EXPENSES INCURRED IN THE PERFORMANCE
19 OF HIS OR HER DUTIES AS A MEMBER OF THE BOARD. THE NONLEGISLATIVE
20 MEMBERS OF THE BOARD SHALL SERVE WITHOUT COMPENSATION AND
21 WITHOUT REIMBURSEMENT FOR EXPENSES.

22 (c) THE BOARD SHALL MEET AT LEAST ONCE EVERY SIX MONTHS.
23 THE CHAIR MAY CALL SUCH ADDITIONAL MEETINGS AS MAY BE NECESSARY
24 FOR THE BOARD TO COMPLETE ITS DUTIES. THE MEETING DATES SHALL BE
25 MADE PUBLIC AT LEAST SEVEN DAYS BEFORE THE MEETING, AND AN
26 AGENDA FOR EACH MEETING SHALL BE MADE PUBLIC AT LEAST
27 FORTY-EIGHT HOURS PRIOR TO THE MEETING DATE. THE BOARD SHALL BE

1 A STATE PUBLIC BODY AS DEFINED IN SECTION 24-6-402 (1) (d), C.R.S.,
2 AND SHALL BE SUBJECT TO SECTION 24-6-402, C.R.S. THE BOARD SHALL
3 PUBLISH THE MEETING MINUTES ON THE JUDICIAL DEPARTMENT WEB SITE.

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

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

8 (II) TO APPROVE A PRICING SCHEDULE FOR THE PUBLIC ACCESS
9 SYSTEM FOR ONGOING ACCESS AND A PER-TIME BASIS, AND TO APPROVE
10 ANY CHANGES TO THE SCHEDULE;

11 (III) TO DETERMINE WHAT INFORMATION IS AVAILABLE IN THE
12 PUBLIC ACCESS SYSTEM AND IN WHAT FORM THE INFORMATION IS
13 AVAILABLE, IN ACCORDANCE WITH AND SUBJECT TO THE LIMITATIONS OF
14 ARTICLE 72 OF TITLE 24, C.R.S.; AND

15 (IV) TO ADDRESS ANY OTHER MATTERS RELEVANT TO THE PUBLIC
16 ACCESS SYSTEM.

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

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

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