

SENATE COMMITTEE OF REFERENCE REPORT

Chair of Committee

February 24, 2022

Date

Committee on Judiciary.

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

SB22-099 be amended as follows, and as so amended, be referred to the Committee on Appropriations with favorable recommendation:

- 1 Amend printed bill, page 2, strike lines 2 through 14.
- 2 Page 3, strike lines 1 through 17 and substitute:
 - 3 "SECTION 1. In Colorado Revised Statutes, **amend** 5-18-105 as
 - 4 follows:
 - 5 **5-18-105. Consumer reports - accuracy of information.**
 - 6 Whenever a consumer reporting agency prepares a consumer report, the
 - 7 agency shall follow reasonable procedures to assure maximum possible
 - 8 accuracy of the information concerning the consumer about whom the
 - 9 report relates, including the use of the consumer's social security number
 - 10 if, in accordance with section 5-18-104 (1)(c)(I), the consumer's social
 - 11 security number is provided to the consumer reporting agency by a person
 - 12 intending to use the information contained in a consumer report in
 - 13 connection with a credit transaction involving the consumer and the social
 - 14 security number was initially provided to the user by the consumer in
 - 15 connection with that transaction. A CONSUMER REPORTING AGENCY'S
 - 16 DUTY OF ACCURACY PURSUANT TO THIS SECTION INCLUDES THE
 - 17 ACCURACY OF CRIMINAL JUSTICE RECORDS, AND THE CONSUMER REPORT
 - 18 AGENCY SHALL EXCLUDE SEALED AND EXPUNGED RECORDS FROM A
 - 19 CONSUMER REPORT, UNLESS OTHERWISE REQUIRED TO DISCLOSE SUCH
 - 20 INFORMATION UNDER STATE OR FEDERAL STATUTE, RULES, OR
 - 21 REGULATIONS."
- 22 Renumber succeeding sections accordingly.
- 23 Page 3, lines 24 and 25, strike "RECORDS OF CHARGES OR INDICTMENTS
- 24 PENDING TRIAL, SEALED" and substitute "SEALED".

1 Page 4, line 11, after "amend" insert "(1)(b),".

2 Page 4, line 19, strike "CONVICTION" and substitute "JUDGMENT".

3 Page 5, after line 1 insert:

4 "(b) The state court administrator shall use the state conviction
5 database and the conviction databases of entities that do not report
6 convictions to the state database to compile the list. The state court
7 administrator shall compile the list based on a name-based review with
8 sufficient points of reference for identification validation as determined
9 by the state court administrator. The state court administrator must only
10 include convictions on the list if sufficient points of validation, as
11 determined by the state court administrator, are present. THE STATE
12 COURT ADMINISTRATOR SHALL NOT INCLUDE ANY CASE IN WHICH THERE
13 IS NO FINAL DISPOSITION ON ALL CHARGES IN THE CASE. THE STATE COURT
14 ADMINISTRATOR SHALL NOT INCLUDE ANY JUDGMENTS FOR WHICH THE
15 DEFENDANT HAS AN INTERVENING JUDGMENT DURING THE FOUR-YEAR
16 WAITING PERIOD IF THE JUDGEMENT IS FOR A CIVIL INFRACTION AND SHALL
17 NOT INCLUDE ANY CONVICTIONS FOR WHICH THE DEFENDANT HAS AN
18 INTERVENING CONVICTION DURING THE SEVEN-YEAR WAITING PERIOD IF
19 THE CONVICTION IS FOR A PETTY OFFENSE OR MISDEMEANOR OR DURING
20 THE TEN-YEAR WAITING PERIOD IF THE CONVICTION IS FOR A FELONY. The
21 state court administrator shall sort the list by judicial district of
22 conviction."

23 Page 5, line 3, strike "the list" and substitute "the A list OF DRUG
24 CONVICTIONS, MISDEMEANORS, AND PETTY OFFENSES THAT ARE ELIGIBLE".

25 Page 5, line 9, after the period add "THE STATE COURT ADMINISTRATOR
26 SHALL INCLUDE THE ELIGIBLE FELONY CONVICTIONS NOT FOUND IN
27 ARTICLE 18 OF TITLE 18 PURSUANT TO SUBSECTION (1)(a.5) OF THIS
28 SECTION BEGINNING ON JULY 1, 2025."

29 Page 5, lines 11 and 12, strike "the Colorado bureau of investigation." and
30 substitute "~~the Colorado bureau of investigation~~ EACH DISTRICT
31 ATTORNEY, EXCEPT FOR CIVIL INFRACTIONS. THE STATE COURT
32 ADMINISTRATOR SHALL SEND THE LIST OF CIVIL INFRACTIONS TO BE
33 SEALED WITH THE FINAL LIST PURSUANT TO SUBSECTION (3)(b) OF THIS
34 SECTION TO THE CHIEF JUDGE FOR EACH JUDICIAL DISTRICT."

35 Page 5, line 12, strike "The Colorado bureau of investigation shall
36 compare the list" and substitute "~~The Colorado bureau of investigation~~

1 ~~shall compare the list".~~

2 Page 5, strike lines 13 through 27 and substitute:

3 "with criminal history reports. The Colorado bureau of investigation shall
4 ~~complete the comparison based on a fingerprint-based review with~~
5 ~~sufficient points of reference for identification validation as determined~~
6 ~~by the Colorado bureau of investigation. The Colorado bureau of~~
7 ~~investigation shall remove any convictions from the list from the state~~
8 ~~court administrator in which sufficient identification validation cannot be~~
9 ~~made by the Colorado bureau of investigation and any convictions for~~
10 ~~which the defendant has an intervening conviction during the seven-year~~
11 ~~waiting period if the conviction is for a petty offense or misdemeanor, or~~
12 ~~during the ten-year waiting period if the conviction is for a felony. The~~
13 ~~Colorado bureau of investigation shall forward each amended list to each~~
14 ~~district attorney."~~

15 Page 6, strike line 1.

16 Page 6, line 2, strike "(3) (a)" and substitute "(3) (a) (I)".

17 Page 6, lines 2 and 3, strike "Colorado bureau of investigation," and
18 substitute "~~Colorado bureau of investigation~~ STATE COURT
19 ADMINISTRATOR,".

20 Page 6, line 3, strike "district attorney" and substitute insert "ELECTED
21 district attorney, OR HIS OR HER DESIGNEE,".

22 Page 6, strike lines 5 through 17 and substitute "CONVICTION ON THE LIST
23 FOR CIRCUMSTANCES in which a condition of THE plea was that the
24 defendant agreed to not have the conviction record sealed, ~~and~~
25 convictions in which the defendant has a pending criminal charge, AN
26 INTERVENING CONVICTION, OR CONVICTIONS THAT ARE INELIGIBLE FOR
27 SEALING. ~~Each district attorney shall send its amended list to the state~~
28 ~~court administrator. The state court administrator shall compile each of~~
29 ~~the lists into one final list and sort the convictions by judicial district.~~

30 (II) FOR A FELONY CONVICTION FOR AN OFFENSE NOT IN ARTICLE
31 18 OF TITLE 18, IN ADDITION TO THE OBJECTIONS IN SUBSECTION (3)(a)(I)
32 OF THIS SECTION, EACH DISTRICT ATTORNEY MAY, WITHIN FORTY-FIVE
33 DAYS, OBJECT WHEN THE DISTRICT ATTORNEY HAS A REASONABLE BELIEF,
34 GROUNDED IN SUPPORTING FACTS, THAT THE PUBLIC INTEREST AND PUBLIC
35 SAFETY IN RETAINING PUBLIC ACCESS TO THE CURRENT RECORD OR CASE
36 OUTWEIGHS THE PRIVACY INTEREST OF, OR ADVERSE CONSEQUENCES TO,
37 THE DEFENDANT.

1 (III) EACH DISTRICT ATTORNEY SHALL FILE A NOTICE WITH THE
2 COURT IN THE CRIMINAL CASE THAT IS THE SUBJECT OF THE RECORD
3 WITHOUT THE NEED FOR ADDITIONAL SERVICE ON ANY PARTY, NOTING THE
4 BASIS OF THE OBJECTION.

5 (IV) FOR OBJECTIONS PURSUANT TO SUBSECTION (3)(a)(II) OF THIS
6 SECTION, THE NOTICE MUST EXPLAIN THE BASIS FOR THE OBJECTION AND
7 INCLUDE ANY AVAILABLE SUPPORTING DOCUMENTS. IN SUCH CASES, THE
8 COURT SHALL SERVE NOTICE ON THE DEFENDANT AT THE DEFENDANT'S
9 LAST KNOWN ADDRESS AND EXPLAIN IN PLAIN LANGUAGE THAT THE
10 DEFENDANT MAY REQUEST A HEARING ON THE MATTER. IF THE
11 DEFENDANT REQUESTS A HEARING, THE COURT SHALL PROCEED PURSUANT
12 TO SECTION 24-72-706.

13 (V) THE STATE COURT ADMINISTRATOR SHALL REMOVE THE
14 CONVICTIONS OBJECTED TO BY THE DISTRICT ATTORNEYS FROM THE LIST,
15 IF ANY, AND THEN COMPILE EACH OF THE LISTS INTO ONE FINAL LIST AND
16 SORT THE CONVICTIONS BY JUDICIAL DISTRICT. ALL CONVICTIONS FROM
17 THE INITIAL LISTS SHALL BE INCLUDED UNLESS OBJECTED TO WITHIN THE
18 FORTY-FIVE-DAY PERIOD AS INELIGIBLE UNDER SUBSECTION (3)(a)(I),
19 (3)(a)(II), or (3)(a)(III) OF THIS SECTION."."

20 Page 6, line 19, strike "subsection (3)(a)" and substitute "~~subsection (3)(a)~~
21 SUBSECTION (3)(a)(IV)".

22 Page 6, lines 24 through 26, strike "investigation, the law enforcement
23 agency that investigated the case, and the district attorney's office that
24 prosecuted the case" and substitute "investigation ~~the law enforcement~~
25 ~~agency that investigated the case~~, and the district attorney's office that
26 ~~prosecuted the case~~ WITHIN THE DISTRICT COURT'S JUDICIAL DISTRICT".

27 Page 6, line 26, strike "those entities." and substitute "~~those entities~~ THE
28 COLORADO BUREAU OF INVESTIGATION.".

29 Page 7, line 13, strike "ETHNICITY" and substitute "SEX".

30 Page 7, lines 13 and 14, strike "MISDEMEANORS AND FELONIES," and
31 substitute "BY OFFENSE LEVEL,".

32 Page 7, lines 14 and 15, strike "RECEIVED FROM THE STATE COURT
33 ADMINISTRATOR'S OFFICE".

34 Page 7, strike lines 18 through 26 and substitute:

35 "(II) THE STATE COURT ADMINISTRATOR SENT TO THE CHIEF

1 JUDGES FOR EACH JUDICIAL DISTRICT; AND
2 (III) THE DISTRICT ATTORNEYS OBJECTED TO DUE TO:
3 (A) INTERVENING CONVICTIONS;
4 (B) THE INELIGIBILITY OF THE OFFENSE;
5 (C) PENDING CHARGES;
6 (D) PLEA AGREEMENTS WAIVING THE RIGHT TO RECORD SEALING;
7 AND
8 (E) OBJECTIONS PURSUANT TO SUBSECTION (3)(a)(II) OF THIS
9 SECTION."

10 Page 8, line 3, strike "(10)(c)" and substitute "(10)(c); and **add** (10)(f)".

11 Page 8, after line 10 insert:

12 "(f) (I) UPON COMPLETION OF DIVERSION IN A CASE MANAGED BY
13 A DISTRICT ATTORNEY DIVERSION PROGRAM PRIOR TO CHARGES BEING
14 FILED, THE DISTRICT ATTORNEY SHALL SEAL THE DISTRICT ATTORNEY'S
15 DIVERSION RECORD WITHOUT A COURT ORDER. THIS SUBSECTION (10)(f)
16 DOES NOT APPLY TO CASES WITH OFFENSES LISTED IN SECTION 24-4.1-302
17 (1).

18 (II) THE DISTRICT ATTORNEY SHALL NOTIFY THE COLORADO
19 BUREAU OF INVESTIGATION AND THE LAW ENFORCEMENT AGENCY THAT
20 HAD CONTACT WITH THE INDIVIDUAL THAT DIVERSION IS COMPLETE AND
21 THE CRIMINAL JUSTICE RECORDS ARE SEALED. ANY LAW ENFORCEMENT
22 AGENCY THAT RECEIVES A NOTICE SHALL ACKNOWLEDGE RECEIPT OF THE
23 NOTICE. THE COLORADO BUREAU OF INVESTIGATION, LAW ENFORCEMENT
24 AGENCY, DIVERSION PROVIDER, AND DISTRICT ATTORNEY SHALL TREAT
25 THE RECORDS AS SEALED WITHIN THIRTY-FIVE DAYS AFTER THE
26 COMPLETION OF DIVERSION, AND ALL PROVISIONS OF SECTION 24-72-703
27 SHALL APPLY TO THOSE RECORDS."

28 Page 13, line 6, after "(2)(b)," insert "(2)(c)," and strike "**repeal** (2)(c);".

29 Page 13, line 7, strike "(2)(a)(VII), (2)(d)(IV), and (13)" and substitute
30 "(2)(a)(VII), (2)(a)(VIII), and (2)(d)(IV)".

31 Page 13, line 11, after "criminal" insert "JUSTICE" and after the period add
32 "SUBSECTIONS (2), (4), (5), (6), (7), AND (12) OF THIS SECTION APPLY TO
33 THE AUTOMATIC SEALING OF CRIMINAL JUSTICE RECORDS PURSUANT TO
34 SECTION 13-3-117."

35 Page 13, line 15, strike "~~or party~~" and substitute "~~or~~ party,".

1 Page 13, line 16, after "STATUTE" insert "OR RULES OR REGULATIONS".

2 Page 13, line 17, after "OF" insert "A PROSECUTOR".

3 Page 13, line 21, after "72" insert "AND SECTION 13-3-117".

4 Page 13, line 26, strike "RESTITUTION,".

5 Page 14, line 5, after "72" insert "AND SECTION 13-3-117".

6 Page 14, after line 16 insert:

7 "(VIII) A PROSECUTING ATTORNEY'S ACCESS TO RECORDS
8 PURSUANT TO THIS SUBSECTION (2) DOES NOT REQUIRE A COURT ORDER.

9 (IV) SEALED COURT RECORDS ARE OPEN TO INSPECTION WITHOUT
10 COURT ORDER TO ANY PERSON OR AGENCY FOR RESEARCH PURPOSES IF
11 ALL OF THE FOLLOWING CONDITIONS ARE MET:

12 (A) THE PERSON OR AGENCY CONDUCTING THE RESEARCH IS
13 EMPLOYED BY THE STATE OF COLORADO OR IS UNDER CONTRACT WITH THE
14 STATE OF COLORADO OR OTHER GOVERNMENTAL SUBDIVISION AND IS
15 AUTHORIZED BY THE STATE OR SUBDIVISION TO CONDUCT THE RESEARCH;

16 (B) THE PERSON OR AGENCY CONDUCTING THE RESEARCH ENSURES
17 THAT ALL DOCUMENTS CONTAINING IDENTIFYING INFORMATION ARE
18 MAINTAINED IN SECURE LOCATIONS AND ACCESS TO SUCH DOCUMENTS BY
19 UNAUTHORIZED PERSONS IS PROHIBITED, THAT NO IDENTIFYING
20 INFORMATION IS INCLUDED IN DOCUMENTS GENERATED FROM THE
21 RESEARCH CONDUCTED, AND THAT ALL IDENTIFYING INFORMATION IS
22 DELETED FROM DOCUMENTS USED IN THE RESEARCH WHEN THE RESEARCH
23 IS COMPLETED;

24 (C) THE PERSON OR AGENCY ONLY RELEASES ANY DATA IN
25 AGGREGATE FORM;

26 (D) IF APPLICABLE, WHEN PUBLICLY REPORTING DE-IDENTIFIED
27 AGGREGATE INFORMATION ABOUT CRIMINAL JUSTICE ISSUES, THE
28 INFORMATION WOULD BE INACCURATE WITHOUT THE INCLUSION OF
29 SEALED RECORD INFORMATION;

30 (E) IF APPLICABLE, WHEN THE PURPOSE OF THE RESEARCH CANNOT
31 BE ACCOMPLISHED WITHOUT THE INCLUSION OF DE-IDENTIFIED SEALED
32 RECORD INFORMATION; AND

33 (F) IF APPLICABLE, WHEN THE PERSON OR AGENCY CONDUCTING
34 THE RESEARCH IS ALSO CONDUCTING DATA MAINTENANCE OR DATA
35 LINKAGE ON BEHALF OF A CUSTODIAN OF CRIMINAL JUSTICE RECORDS AND
36 REQUIRES ACCESS TO IDENTIFIED SEALED RECORD INFORMATION."

37 Page 14, line 21, strike "A QUERY" and substitute "AN INQUIRY".

- 1 Page 15, line 1, after the period add "THE PERSON WHO IS THE SUBJECT OF
2 THE RECORDS AND THE PROSECUTING ATTORNEY MAY INSPECT THE
3 RECORDS INCLUDED IN AN ORDER SEALING CRIMINAL RECORDS WITHOUT
4 A COURT ORDER AND ONLY FOR THE PURPOSES PERMITTED BY LAW."
- 5 Page 15, strike lines 13 through 26.
- 6 Page 16, line 23, before "NEITHER" insert "~~restitution,~~".
- 7 Page 16, line 25, strike "restitution,".
- 8 Page 17, strike lines 2 through 4.
- 9 Page 17, line 6, strike "(2)(b)(I)(B); **repeal**" and substitute "(2)(b)(I)(B)
10 and".
- 11 Page 17, line 11, after the period add "THE PERSON WHO IS THE SUBJECT
12 OF THE RECORDS AND THE PROSECUTING ATTORNEY MAY INSPECT THE
13 RECORDS INCLUDED IN AN ORDER SEALING CRIMINAL RECORDS WITHOUT
14 A COURT ORDER AND ONLY FOR THE PURPOSES PERMITTED BY LAW."
- 15 Page 17, line 22, after "REPORT" insert "THE NUMBER OF ARREST RECORDS
16 SEALED".
- 17 Page 17, line 26, strike "ETHNICITY" and substitute "SEX" and strike "FOR
18 MISDEMEANORS AND FELONIES:" and substitute "BY OFFENSE LEVEL."
- 19 Page 17, strike line 27.
- 20 Page 18, strike lines 1 through 5.
- 21 Page 18, line 9, strike "(2)" and substitute "(2); and **add** (1)(a.5)".
- 22 Page 18, line 12, strike "MOTION AND AT THE TIME OF DISPOSITION," and
23 substitute "MOTION,".
- 24 Page 18, after line 13 insert:
25 "(a.5) THE COURT SHALL NOT REQUIRE A WRITTEN MOTION OR ANY
26 OTHER WRITTEN PLEADINGS FOR SEALING PURSUANT TO THIS SECTION. THE
27 COURT SHALL ENTER AN ORDER SEALING RECORDS PURSUANT TO THIS
28 SUBSECTION (1) AT THE TIME OF DISPOSITION AND SHALL SERVE THE
29 SEALING ORDER PURSUANT TO SECTION 24-72-703(8) NO LATER THAN
30 TWENTY-EIGHT DAYS AFTER THE DATE OF DISPOSITION."

1 Page 19, line 26, after "(1)(b)(I)," insert "(1)(e)," and strike "(1)(e) and".

2 Page 19, line 27, strike "and (1)(b)(III.5)" and substitute "(1)(b)(III.5),
3 and (1)(i)".

4 Page 20, line 11, strike "AND" and substitute "OR".

5 Page 21, strike lines 2 through 6 and substitute:

6 "(e) Conviction records may not be sealed if the defendant still
7 owes restitution, ~~finer, court costs, late fees, or other fees ordered by the~~
8 ~~court in the case that is the subject of the motion to seal conviction~~
9 ~~records,~~ unless the court that entered the order for restitution ~~finer, court~~
10 ~~costs, late fees, or other fees~~ vacated the order."

11 Page 22, after line 1 insert:

12 "(i) THE COURT SHALL DETERMINE ELIGIBILITY OF A DRUG OFFENSE
13 COMMITTED ON OR AFTER OCTOBER 1, 2013, BY THE CLASSIFICATION OF
14 THE OFFENSE AT THE TIME OF CONSIDERING THE RECORD SEALING."

15 Page 22, strike lines 24 and 25 and substitute:

16 "**SECTION 15.** In Colorado Revised Statutes, **amend** 24-72-708
17 as follows:"

18 Strike page 23.

19 Page 24, strike lines 1 through 7 and substitute:

20 "**records.** (a) (I) A defendant may file a motion IN THE CRIMINAL CASE
21 in which any conviction records pertaining to the defendant for a
22 municipal violation are located for the sealing of the conviction records
23 WITHIN THE TIME FRAMES DESCRIBED IN SUBSECTION (1)(a)(II) OF THIS
24 SECTION, except basic identification information, if:

25 (A) ~~The motion is filed three or more years after the date of the~~
26 ~~final disposition of all criminal proceedings against the defendant or the~~
27 ~~release of the defendant from supervision concerning a criminal~~
28 ~~conviction, whichever is later; and~~ THE DEFENDANT HAS NOT BEEN
29 CHARGED WITH OR CONVICTED OF A FELONY, MISDEMEANOR, OR
30 MISDEMEANOR TRAFFIC OFFENSE IN THREE OR MORE YEARS SINCE THE
31 DATE OF THE FINAL DISPOSITION OF ALL CRIMINAL PROCEEDINGS AGAINST
32 THE DEFENDANT OR THE DATE OF THE DEFENDANT'S RELEASE FROM
33 SUPERVISION, WHICHEVER IS LATER; OR

34 (B) ~~The defendant has not been charged or convicted of a felony,~~

1 ~~misdemeanor, or misdemeanor traffic offense in the three or more years~~
2 ~~since the date of the final disposition of all criminal proceedings against~~
3 ~~him or her or the date of the defendant's release from supervision,~~
4 ~~whichever is later; and THE DEFENDANT HAS A SINGLE SUBSEQUENT~~
5 ~~CONVICTION THAT WAS NOT A FELONY AND DID NOT INVOLVE DOMESTIC~~
6 ~~VIOLENCE, AS DEFINED IN SECTION 18-6-800.3(1); UNLAWFUL SEXUAL~~
7 ~~BEHAVIOR, AS DEFINED IN SECTION 16-22-102(9); OR CHILD ABUSE, AS~~
8 ~~DEFINED IN SECTION 18-6-401.~~

9 (C) ~~The conviction records to be sealed are not for a misdemeanor~~
10 ~~traffic offense committed either by a holder of a commercial learner's~~
11 ~~permit or a commercial driver's license, as defined in section 42-2-402,~~
12 ~~or by the operator of a commercial motor vehicle, as defined in section~~
13 ~~42-2-402.~~

14 (II) (A) ~~Notwithstanding the provisions of subsection (1)(a)(I)(B)~~
15 ~~of this section, a defendant may petition the district court of the district~~
16 ~~in which any conviction records pertaining to the defendant for a~~
17 ~~municipal violation, except a municipal assault or battery offense in~~
18 ~~which the underlying factual basis involves domestic violence, as defined~~
19 ~~in section 18-6-800.3 (1), or any other municipal violation in which the~~
20 ~~underlying factual basis involves domestic violence, as defined in section~~
21 ~~18-6-800.3 (1), or petty offense are located for the sealing of the~~
22 ~~conviction records, except basic identification information, if: A MOTION~~
23 ~~FILED PURSUANT TO SUBSECTION (1)(a)(I) OF THIS SECTION MAY BE FILED~~
24 ~~THREE YEARS AFTER THE LATER OF THE DATE OF THE FINAL DISPOSITION~~
25 ~~OF ALL CRIMINAL PROCEEDINGS AGAINST THE DEFENDANT OR THE RELEASE~~
26 ~~OF THE DEFENDANT FROM SUPERVISION CONCERNING A CRIMINAL~~
27 ~~CONVICTION.~~

28 (A) ~~The defendant was convicted of a single offense that was not~~
29 ~~a felony and did not involve domestic violence as defined in section~~
30 ~~18-6-800.3 (1), unlawful sexual behavior as defined in section 16-22-102~~
31 ~~(9), or child abuse as defined in section 18-6-401;~~

32 (B) ~~That offense occurred within three years of the date of the~~
33 ~~final disposition of all criminal proceedings against him or her related to~~
34 ~~the conviction that the defendant is seeking to have sealed or within three~~
35 ~~years of the date of the defendant's release from supervision related to the~~
36 ~~conviction that the defendant is seeking to have sealed, whichever is later;~~
37 ~~and A MOTION FILED PURSUANT TO SUBSECTION (1)(a)(II) OF THIS SECTION~~
38 ~~MAY BE FILED TEN YEARS AFTER THE DATE OF THE FINAL DISPOSITION OF~~
39 ~~ALL CRIMINAL PROCEEDINGS AGAINST THE DEFENDANT FOR THE~~
40 ~~SUBSEQUENT CRIMINAL CASE OR TEN YEARS AFTER THE DATE OF THE~~
41 ~~DEFENDANT'S RELEASE FROM SUPERVISION FOR THE SUBSEQUENT~~
42 ~~CRIMINAL CASE, WHICHEVER IS LATER. TO FILE A MOTION PURSUANT TO~~
43 ~~SUBSECTION (1)(A)(II) OF THIS SECTION, THE DEFENDANT MUST NOT HAVE~~

1 BEEN CONVICTED OF A FELONY, MISDEMEANOR, OR MISDEMEANOR TRAFFIC
2 OFFENSE IN TEN OR MORE YEARS SINCE THE DATE OF THE FINAL
3 DISPOSITION OF ALL CRIMINAL PROCEEDINGS AGAINST THE DEFENDANT
4 FOR THE SUBSEQUENT CRIMINAL CASE OR IN THE TEN OR MORE YEARS
5 SINCE THE DATE OF THE DEFENDANT'S RELEASE FROM SUPERVISION FOR
6 THE SUBSEQUENT CASE, WHICHEVER IS LATER.

7 ~~(C) The defendant has not been convicted of a felony,~~
8 ~~misdemeanor, or misdemeanor traffic offense in the ten or more years~~
9 ~~since the date of the final disposition of all criminal proceedings against~~
10 ~~him or her for the subsequent criminal case or in the ten or more years~~
11 ~~since the date of the defendant's release from supervision for the~~
12 ~~subsequent case, whichever is later.~~

13 (b) Upon filing the ~~petition~~ MOTION, the defendant shall pay the
14 filing fee required by law.

15 (2) (a) Upon the filing of a motion, the court shall review the
16 motion and determine whether there are grounds pursuant to this section
17 to proceed to a hearing on the ~~petition~~ MOTION. If the court determines
18 that the motion on its face is insufficient or if the court determines that,
19 after taking judicial notice of matters outside the motion, the defendant
20 is not entitled to relief pursuant to this section, the court shall enter an
21 order denying the motion and mail a copy of the order to the defendant.
22 The court's order shall specify the reasons for the denial of the motion.

23 (b) IF THE PROSECUTOR FILES A WRITTEN OBJECTION, THE COURT
24 SHALL SET A DATE WITHIN FORTY-TWO DAYS OF THE FILING OF THE
25 MOTION FOR A HEARING AND THE COURT SHALL NOTIFY THE PROSECUTING
26 ATTORNEY, THE MUNICIPAL POLICE DEPARTMENT OR LOCAL LAW
27 ENFORCEMENT AGENCY, AND ANY OTHER PERSON OR AGENCY IDENTIFIED
28 BY THE DEFENDANT. If the court determines that the ~~petition~~ MOTION is
29 sufficient on its face and that no other grounds exist at that time for the
30 court to deny the ~~petition pursuant to this section~~ MOTION, the court shall
31 ~~set a date for a hearing and the court shall notify by certified mail the~~
32 ~~prosecuting attorney, the arresting agency, and any other person or agency~~
33 ~~identified by the defendant~~ GRANT THE MOTION.

34 ~~(3)~~ (c) After the hearing described in ~~subsection (2)~~ SUBSECTION
35 (2)(b) of this section is conducted and if the court finds that the harm to
36 the privacy of the defendant or the dangers of unwarranted, adverse
37 consequences to the defendant outweigh the public interest in retaining
38 public access to the conviction records, the court may order the
39 conviction records, except basic identification information, to be sealed.
40 In making this determination, the court shall, at a minimum, consider the
41 factors in section 24-72-706 (1)(g).".

42 Page 24, strike line 9 and substitute "(2)(a) and (4)(b) as follows:".

1 Page 24, line 12, strike "INFRACTION," and substitute "INFRACTION AND
2 NOT AN OFFENSE OR CIVIL INFRACTION LISTED IN SUBSECTION (5)(a) OF
3 THIS SECTION,".

4 Page 24, strike lines 18 through 22 and substitute:

5 "(4)(b) Conviction records may not be sealed if the defendant still
6 owes restitution, ~~finer, court costs, late fees, or other fees ordered by the~~
7 ~~court in the case that is the subject of the petition to seal conviction~~
8 ~~records,~~ unless the court that entered the order for restitution ~~finer, court~~
9 ~~costs, late fees, or other fees~~ has vacated the order."

** ** ** ** **