

First Regular Session
Seventy-first General Assembly
STATE OF COLORADO

REREVISED

*This Version Includes All Amendments
Adopted in the Second House*

LLS NO. 17-1020.01 Richard Sweetman x4333

HOUSE BILL 17-1266

HOUSE SPONSORSHIP

Hooton and Melton,

SENATE SPONSORSHIP

Fenberg and Marble,

House Committees

Judiciary
Finance
Appropriations

Senate Committees

Finance
Appropriations

A BILL FOR AN ACT

101 **CONCERNING ALLOWING PERSONS WHO WERE CONVICTED OF**
102 **MISDEMEANORS FOR MARIJUANA-RELATED BEHAVIORS THAT**
103 **ARE NO LONGER ILLEGAL TO PETITION FOR THE SEALING OF**
104 **CRIMINAL RECORDS RELATING TO SUCH CONVICTIONS.**

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://leg.colorado.gov>.)

The bill allows persons who were convicted of misdemeanors for the use or possession of marijuana to petition for the sealing of criminal records relating to such convictions if their behavior would not have been

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.

SENATE
3rd Reading Unamended
May 10, 2017

SENATE
2nd Reading Unamended
May 9, 2017

HOUSE
3rd Reading Unamended
May 3, 2017

HOUSE
Amended 2nd Reading
May 2, 2017

a criminal offense if the behavior had occurred on or after December 10, 2012. The court shall order the record sealed after the filing fees are paid and the petitioner establishes the offense is eligible for sealing.

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

SECTION 1. In Colorado Revised Statutes, **add** 24-72-710 as follows:

24-72-710. Sealing of criminal conviction records information for misdemeanor offenses involving possession or use of marijuana.

(1) A DEFENDANT MAY PETITION THE DISTRICT COURT OF THE DISTRICT IN WHICH ANY CONVICTION RECORDS PERTAINING TO THE DEFENDANT FOR A MISDEMEANOR OFFENSE FOR THE USE OR POSSESSION OF MARIJUANA THAT WOULD NOT HAVE BEEN A CRIMINAL OFFENSE IF THE ACT OCCURRED ON OR AFTER DECEMBER 10, 2012, ARE LOCATED FOR THE SEALING OF THE CONVICTION RECORDS, EXCEPT BASIC IDENTIFYING INFORMATION.

(2) (a) IF A PETITION IS FILED PURSUANT TO SUBSECTION (1) OF THIS SECTION FOR THE SEALING OF A RECORD OF CONVICTION FOR A MISDEMEANOR OFFENSE FOR THE USE OR POSSESSION OF MARIJUANA THAT WOULD NOT HAVE BEEN A CRIMINAL OFFENSE IF THE ACT OCCURRED ON OR AFTER DECEMBER 10, 2012, THE COURT SHALL ORDER THE RECORD SEALED AFTER:

- (I) THE PETITION IS FILED;
- (II) THE FILING FEE AND AN ADDITIONAL FILING FEE OF SIXTY-FIVE DOLLARS TO COVER THE ACTUAL COSTS RELATED TO THE FILING OF THE PETITION TO SEAL RECORDS IS PAID;
- (III) THE PETITIONER ESTABLISHES BY A PREPONDERANCE OF THE EVIDENCE THAT THE OFFENSE WOULD NOT HAVE BEEN A CRIMINAL

1 OFFENSE IF THE ACT OCCURRED ON OR AFTER DECEMBER 10, 2012; AND

2 (IV) THE PETITION HAS BEEN POSTED ON THE WEBSITE OF THE
3 STATE COURT ADMINISTRATOR, AND AT LEAST THIRTY DAYS HAVE
4 ELAPSED SINCE SUCH POSTING, AS PROVIDED IN SECTION 24-72-703 (5).

5 (b) THE ADDITIONAL FILING FEE COLLECTED UNDER SUBSECTION
6 (2)(a)(II) OF THIS SECTION MUST BE TRANSMITTED TO THE STATE
7 TREASURER FOR DEPOSIT IN THE JUDICIAL STABILIZATION CASH FUND
8 CREATED IN SECTION 13-32-101 (6).

9 (3) AN ORDER ENTERED PURSUANT TO THIS SECTION MUST BE
10 DIRECTED TO EACH CUSTODIAN WHO MAY HAVE CUSTODY OF ANY PART OF
11 THE CONVICTION RECORDS THAT ARE THE SUBJECT OF THE ORDER.
12 WHENEVER A COURT ENTERS AN ORDER SEALING CONVICTION RECORDS
13 PURSUANT TO THIS SECTION, THE DEFENDANT SHALL PROVIDE THE
14 COLORADO BUREAU OF INVESTIGATION AND EACH CUSTODIAN OF THE
15 CONVICTION RECORDS WITH A COPY OF THE ORDER AND SHALL PAY TO THE
16 BUREAU ANY COSTS RELATED TO THE SEALING OF HIS OR HER CRIMINAL
17 CONVICTION RECORDS THAT ARE IN THE CUSTODY OF THE BUREAU.
18 THEREAFTER, THE DEFENDANT MAY REQUEST AND THE COURT MAY GRANT
19 AN ORDER SEALING THE CIVIL CASE IN WHICH THE CONVICTION RECORDS
20 WERE SEALED.

21 (4) THE PROVISIONS OF THIS SECTION DO NOT APPLY TO
22 CONVICTION RECORDS THAT ARE IN THE POSSESSION OF A CRIMINAL
23 JUSTICE AGENCY WHEN AN INQUIRY CONCERNING THE CONVICTION
24 RECORDS IS MADE BY ANOTHER CRIMINAL JUSTICE AGENCY.

25 **SECTION 2. Act subject to petition - effective date.** This act
26 takes effect at 12:01 a.m. on the day following the expiration of the
27 ninety-day period after final adjournment of the general assembly (August

1 9, 2017, if adjournment sine die is on May 10, 2017); except that, if a
2 referendum petition is filed pursuant to section 1 (3) of article V of the
3 state constitution against this act or an item, section, or part of this act
4 within such period, then the act, item, section, or part will not take effect
5 unless approved by the people at the general election to be held in
6 November 2018 and, in such case, will take effect on the date of the
7 official declaration of the vote thereon by the governor.