

## CHAPTER 380

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**CRIMINAL LAW AND PROCEDURE**

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## HOUSE BILL 17-1266

BY REPRESENTATIVE(S) Hooton and Melton, Arndt, Benavidez, Bridges, Coleman, Exum, Garnett, Ginal, Gray, Hamner, Herod, Jackson, Kennedy, Lebsack, Lee, Lontine, Mitsch Bush, Pabon, Pettersen, Rosenthal, Salazar, Singer, Weissman, Young; also SENATOR(S) Fenberg and Marble, Aguilar, Court, Fields, Guzman, Hill, Holbert, Jahn, Jones, Kagan, Kefalas, Kerr, Martinez Humenik, Merrifield, Moreno, Neville T., Scott, Smallwood, Tate, Todd, Williams A., Zenzinger.

## AN ACT

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

*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

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*Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.*

RECORDS IS PAID;

(III) THE PETITIONER ESTABLISHES BY A PREPONDERANCE OF THE EVIDENCE THAT THE OFFENSE WOULD NOT HAVE BEEN A CRIMINAL OFFENSE IF THE ACT OCCURRED ON OR AFTER DECEMBER 10, 2012; AND

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

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

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

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

**SECTION 2. Act subject to petition - effective date.** This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly (August 9, 2017, if adjournment sine die is on May 10, 2017); except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2018 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

Approved: June 6, 2017