

**First Regular Session
Seventy-second General Assembly
STATE OF COLORADO**

REENGROSSED

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

LLS NO. 19-0336.03 Michael Dohr x4347

HOUSE BILL 19-1275

HOUSE SPONSORSHIP

Weissman and Soper, Arndt, Benavidez, Duran, Exum, Galindo, Herod, Hooton, Jackson, Kennedy, Melton, Michaelson Jenet, Singer, Sirota, Snyder, Sullivan, Titone, Valdez A.

SENATE SPONSORSHIP

Lee,

House Committees

Judiciary
Finance
Appropriations

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING INCREASED ELIGIBILITY FOR THE SEALING OF CRIMINAL**
102 **JUSTICE RECORDS BY INDIVIDUALS WHO ARE NOT UNDER**
103 **SUPERVISION, AND, IN CONNECTION THEREWITH, MAKING AN**
104 **APPROPRIATION.**

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 repeals and reenacts the statutes related to sealing criminal justice records. The bill creates a simplified process to seal criminal justice records when:

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
*Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.*

HOUSE
3rd Reading Unamended
April 26, 2019

HOUSE
Amended 2nd Reading
April 25, 2019

- ! A case against a defendant is completely dismissed because the defendant is acquitted of all counts in the case;
- ! The defendant completes a diversion agreement when a criminal case has been filed; or
- ! The defendant completes a deferred judgment and sentence and all counts are dismissed.

The court seals those records within the criminal case without requiring the defendant to file a separate civil action.

The bill allows a defendant to petition for sealing criminal justice records when there is a criminal conviction and without requiring the defendant to file a separate civil action as follows:

- ! If the offense is a petty offense or a drug petty offense, the motion may be filed one year after the later of the date of the final disposition of all criminal proceedings against the defendant or the release of the defendant from supervision concerning a criminal conviction. The court seals the records if the defendant has not been convicted of a criminal offense since the later of the above dates.
- ! If the offense is a class 2 or 3 misdemeanor or any drug misdemeanor, the motion may be filed 2 years after the later of the date of the final disposition of all criminal proceedings against the defendant or the release of the defendant from supervision concerning a criminal conviction. The district attorney can object to the sealing. If the district attorney does not object, the court seals the case if the defendant has not been convicted of a criminal offense since the later of the above dates. If the district attorney objects, the court makes the determination after a hearing.
- ! If the offense is a class 4, 5, or 6 felony, a level 3 or 4 drug felony, or a class 1 misdemeanor, the motion may be filed 3 years after the later of the date of the final disposition of all criminal proceedings against the defendant or the release of the defendant from supervision concerning a criminal conviction. The district attorney can object to the sealing. If the district attorney does not object, the court seals the case if the defendant has not been convicted of a criminal offense since the later of the above dates. If the district attorney objects, the court makes the determination after a hearing and considering the district attorney's position.
- ! For all other offenses, the petition may be filed 5 years after the later of the date of the final disposition of all criminal proceedings against the defendant or the release of the defendant from supervision concerning a criminal

1 (5) "CUSTODIAN" HAS THE SAME MEANING AS IN SECTION
2 24-72-302.

3 (6) "OFFICIAL ACTIONS" HAS THE SAME MEANING AS IN SECTION
4 24-72-302.

5 (7) "PERSON IN INTEREST" HAS THE SAME MEANING AS IN SECTION
6 24-72-302.

7 (8) "PRIVATE CUSTODIAN" HAS THE SAME MEANING AS IN SECTION
8 24-72-302.

9 (9) "VICTIM" MEANS ANY NATURAL PERSON AGAINST WHOM ANY
10 CRIME HAS BEEN PERPETRATED OR ATTEMPTED, UNLESS THE PERSON IS
11 ACCOUNTABLE FOR THE CRIME OR A CRIME ARISING FROM THE SAME
12 CONDUCT OR PLAN AS THE CRIME IS DEFINED UNDER THE LAWS OF THIS
13 STATE OR OF THE UNITED STATES, OR, IF SUCH PERSON IS DECEASED OR
14 INCAPACITATED, THE PERSON'S SPOUSE, PARENT, LEGAL GUARDIAN, CHILD,
15 SIBLING, GRANDPARENT, GRANDCHILD, SIGNIFICANT OTHER, OR OTHER
16 LAWFUL REPRESENTATIVE.

17 **24-72-702. Expungement of arrest records in case of mistaken**
18 **identity - definitions.** (1) (a) NOTWITHSTANDING ANY OTHER PROVISION
19 OF LAW, A COURT SHALL EXPUNGE THE ARREST AND CRIMINAL RECORDS
20 INFORMATION OF A PERSON WHO WAS ARRESTED AS A RESULT OF
21 MISTAKEN IDENTITY AND WHO DID NOT HAVE CHARGES FILED AGAINST HIM
22 OR HER.

23 (b) NO LATER THAN NINETY DAYS AFTER AN INVESTIGATION BY A
24 LAW ENFORCEMENT AGENCY FINDS THAT A PERSON WAS ARRESTED AS A
25 RESULT OF MISTAKEN IDENTITY AND NO CHARGES WERE FILED, THE LAW
26 ENFORCEMENT AGENCY THAT MADE THE ARREST SHALL PETITION THE
27 DISTRICT COURT IN THE JUDICIAL DISTRICT WHERE THE PERSON WAS

1 ARRESTED FOR AN EXPUNGEMENT ORDER FOR THE ARREST AND CRIMINAL
2 RECORDS INFORMATION MADE AS A RESULT OF THE MISTAKEN IDENTITY,
3 AT NO COST TO THE PERSON ARRESTED. A PETITION FILED PURSUANT TO
4 THIS SUBSECTION (1)(b) IS NOT SUBJECT TO A FILING FEE.

5 (c) NO LATER THAN NINETY DAYS AFTER RECEIVING THE PETITION,
6 THE COURT SHALL ORDER THE EXPUNGEMENT OF THE ARREST AND
7 CRIMINAL RECORDS INFORMATION AND ALL OTHER ADMINISTRATIVE
8 RECORDS OF THE LAW ENFORCEMENT AGENCY RELATING TO THE PERSON'S
9 ARREST AS A RESULT OF MISTAKEN IDENTITY.

10 (2) THE COURTS SHALL DIRECT ANY ORDER ENTERED PURSUANT TO
11 SUBSECTION (1)(c) OF THIS SECTION TO EVERY CUSTODIAN WHO MAY HAVE
12 CUSTODY OF ANY PART OF THE ARREST AND CRIMINAL RECORDS
13 INFORMATION THAT IS THE SUBJECT OF THE ORDER. WHEN A COURT
14 ENTERS AN ORDER EXPUNGING CRIMINAL RECORDS PURSUANT TO
15 SUBSECTION (1)(c) OF THIS SECTION, THE PETITIONER SHALL PROVIDE THE
16 COLORADO BUREAU OF INVESTIGATION AND EVERY CUSTODIAN OF SUCH
17 RECORDS WITH A COPY OF THE ORDER. THE PETITIONER SHALL PROVIDE A
18 PRIVATE CUSTODIAN WITH A COPY OF THE ORDER AND SEND THE PRIVATE
19 CUSTODIAN AN ELECTRONIC NOTIFICATION OF THE ORDER. EACH PRIVATE
20 CUSTODIAN THAT RECEIVES A COPY OF THE ORDER FROM THE PETITIONER
21 SHALL REMOVE THE RECORDS THAT ARE SUBJECT TO THE ORDER FROM ITS
22 DATABASE. THEREAFTER, THE COURT MAY ISSUE AN ORDER SEALING THE
23 CIVIL CASE IN WHICH THE RECORDS WERE SEALED.

24 (3) UPON THE ENTRY OF AN ORDER TO EXPUNGE THE RECORDS, THE
25 PETITIONER AND ALL CRIMINAL JUSTICE AGENCIES MAY PROPERLY REPLY,
26 UPON ANY INQUIRY INTO THE MATTER, THAT NO SUCH RECORDS EXIST
27 WITH RESPECT TO THE PERSON.

1 (4) EMPLOYERS, EDUCATIONAL INSTITUTIONS, STATE AND LOCAL
2 GOVERNMENT AGENCIES, OFFICIALS, AND EMPLOYEES SHALL NOT, IN ANY
3 APPLICATION OR INTERVIEW OR IN ANY OTHER WAY, REQUIRE AN
4 APPLICANT TO DISCLOSE ANY INFORMATION CONTAINED IN EXPUNGED
5 RECORDS. AN APPLICANT NEED NOT, IN ANSWER TO ANY QUESTION
6 CONCERNING ARREST AND CRIMINAL RECORDS INFORMATION THAT HAS
7 BEEN EXPUNGED, INCLUDE A REFERENCE TO OR INFORMATION
8 CONCERNING THE EXPUNGED INFORMATION AND MAY STATE THAT NO
9 SUCH ACTION HAS EVER OCCURRED. SUCH AN APPLICATION MAY NOT BE
10 DENIED SOLELY BECAUSE OF THE APPLICANT'S REFUSAL TO DISCLOSE
11 ARREST AND CRIMINAL RECORDS INFORMATION THAT HAS BEEN
12 EXPUNGED.

13 (5) FOR PURPOSES OF THIS SECTION:

14 (a) "LAW ENFORCEMENT AGENCY" MEANS THE COLORADO STATE
15 PATROL OR THE AGENCY OF A STATE OR LOCAL GOVERNMENT AUTHORIZED
16 TO ENFORCE THE LAWS OF COLORADO.

17 (b) "MISTAKEN IDENTITY" MEANS THE MISIDENTIFICATION BY A
18 WITNESS OR LAW ENFORCEMENT, CONFUSION ON THE PART OF A WITNESS
19 OR LAW ENFORCEMENT AS TO THE IDENTITY OF THE PERSON WHO
20 COMMITTED THE CRIME, MISINFORMATION PROVIDED TO LAW
21 ENFORCEMENT AS TO THE IDENTITY OF THE PERSON WHO COMMITTED THE
22 CRIME, OR SOME OTHER MISTAKE ON THE PART OF A WITNESS OR LAW
23 ENFORCEMENT AS TO THE IDENTITY OF THE PERSON WHO COMMITTED THE
24 CRIME.

25 **24-72-703. Sealing of arrest and criminal records - general**
26 **provisions - order applicability - discovery and advisements.**

27 (1) **Applicability.** THE PROVISIONS OF THIS SECTION SHALL APPLY TO

1 THE SEALING OF ARREST AND CRIMINAL RECORDS PURSUANT TO SECTIONS
2 24-72-704 TO 24-72-709.

3 (2) **Effect of a sealing order.** (a) (I) AN ORDER SEALING ARREST
4 OR OTHER CRIMINAL RECORDS DOES NOT DENY ACCESS TO THE CRIMINAL
5 RECORDS OF A PETITIONER OR DEFENDANT BY ANY COURT, LAW
6 ENFORCEMENT AGENCY, CRIMINAL JUSTICE AGENCY, PROSECUTING
7 ATTORNEY, OR PARTY OR AGENCY REQUIRED BY LAW TO CONDUCT A
8 CRIMINAL HISTORY RECORD CHECK ON AN INDIVIDUAL.

9 (II) AN ORDER SEALING CONVICTION RECORDS DOES NOT VACATE
10 A CONVICTION.

11 (III) A CONVICTION SEALED PURSUANT TO THIS ARTICLE 72 MAY
12 BE USED BY A CRIMINAL JUSTICE AGENCY, LAW ENFORCEMENT AGENCY,
13 COURT, OR PROSECUTING ATTORNEY FOR ANY LAWFUL PURPOSE RELATING
14 TO THE INVESTIGATION OR PROSECUTION OF ANY CASE, INCLUDING BUT
15 NOT LIMITED TO ANY SUBSEQUENT CASE THAT IS FILED AGAINST THE
16 PETITIONER OR DEFENDANT, OR FOR ANY OTHER LAWFUL PURPOSE WITHIN
17 THE SCOPE OF HIS, HER, OR ITS DUTIES. A PARTY OR AGENCY REQUIRED BY
18 LAW TO CONDUCT A CRIMINAL HISTORY RECORD CHECK IS AUTHORIZED TO
19 USE ANY SEALED CONVICTION FOR THE LAWFUL PURPOSE FOR WHICH THE
20 CRIMINAL HISTORY RECORD CHECK IS REQUIRED BY LAW.

21 (IV) CRIMINAL JUSTICE INFORMATION AND CRIMINAL JUSTICE
22 RECORDS IN THE POSSESSION OF A CRIMINAL JUSTICE AGENCY MAY BE
23 SHARED WITH ANY OTHER CRIMINAL JUSTICE AGENCY WHEN AN INQUIRY
24 CONCERNING THE ARREST AND CRIMINAL JUSTICE INFORMATION OR
25 RECORDS IS MADE.

26 (V) IF A DEFENDANT IS CONVICTED OF A NEW CRIMINAL OFFENSE
27 AFTER AN ORDER SEALING CONVICTION RECORDS IS ENTERED, THE COURT

1 SHALL ORDER THE CONVICTION RECORDS TO BE UNSEALED.

2 (b) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (2)(a)(I) OF
3 THIS SECTION, UPON THE ENTRY OF AN ORDER TO SEAL THE CRIMINAL
4 RECORDS, THE DEFENDANT AND ALL CRIMINAL JUSTICE AGENCIES MAY
5 PROPERLY REPLY, UPON AN INQUIRY INTO THE MATTER, THAT PUBLIC
6 CRIMINAL RECORDS DO NOT EXIST WITH RESPECT TO THE PETITIONER OR
7 DEFENDANT.

8 (c) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (2)(a)(I) OF
9 THIS SECTION, INSPECTION OF THE RECORDS INCLUDED IN AN ORDER
10 SEALING CRIMINAL RECORDS MAY THEREAFTER BE PERMITTED BY THE
11 COURT ONLY UPON PETITION BY THE PETITIONER OR DEFENDANT.

12 (d) (I) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (2)(a)(I)
13 OF THIS SECTION, EMPLOYERS, STATE AND LOCAL GOVERNMENT AGENCIES,
14 OFFICIALS, LANDLORDS, AND EMPLOYEES SHALL NOT REQUIRE AN
15 APPLICANT TO DISCLOSE ANY INFORMATION CONTAINED IN SEALED
16 CONVICTION RECORDS IN ANY APPLICATION OR INTERVIEW OR IN ANY
17 OTHER WAY. AN APPLICANT DOES NOT NEED TO INCLUDE A REFERENCE TO
18 OR INFORMATION CONCERNING THE SEALED CONVICTION RECORDS IN
19 ANSWER TO ANY QUESTION CONCERNING CONVICTION RECORDS THAT
20 HAVE BEEN SEALED AND MAY STATE THAT THE APPLICANT HAS NOT BEEN
21 CRIMINALLY CONVICTED. AN APPLICATION MAY NOT BE DENIED SOLELY
22 BECAUSE OF THE APPLICANT'S REFUSAL TO DISCLOSE CONVICTION
23 RECORDS THAT HAVE BEEN SEALED.

24 (II) SUBSECTION (2)(d)(I) OF THIS SECTION DOES NOT PRECLUDE
25 THE BAR COMMITTEE OF THE COLORADO STATE BOARD OF LAW
26 EXAMINERS FROM MAKING FURTHER INQUIRIES INTO THE FACT OF A
27 CONVICTION THAT COMES TO THE ATTENTION OF THE BAR COMMITTEE

1 THROUGH OTHER MEANS. THE BAR COMMITTEE OF THE COLORADO STATE
2 BOARD OF LAW EXAMINERS HAS A RIGHT TO INQUIRE INTO THE MORAL AND
3 ETHICAL QUALIFICATIONS OF AN APPLICANT, AND THE APPLICANT HAS NO
4 RIGHT TO PRIVACY OR PRIVILEGE THAT JUSTIFIES HIS OR HER REFUSAL TO
5 ANSWER ANY QUESTION CONCERNING ARREST AND CRIMINAL RECORDS
6 INFORMATION THAT HAS COME TO THE ATTENTION OF THE BAR COMMITTEE
7 THROUGH OTHER MEANS.

8 (III) NOTWITHSTANDING THE PROVISIONS OF SUBSECTION (2)(d)(I)
9 OF THIS SECTION, THE DEPARTMENT OF EDUCATION SHALL REQUIRE A
10 LICENSED EDUCATOR OR AN APPLICANT FOR AN EDUCATOR'S LICENSE WHO
11 FILES A PETITION TO SEAL A CRIMINAL RECORD TO NOTIFY THE
12 DEPARTMENT OF EDUCATION OF THE PENDING PETITION TO SEAL. THE
13 DEPARTMENT OF EDUCATION HAS THE RIGHT TO INQUIRE INTO THE FACTS
14 OF THE CRIMINAL OFFENSE FOR WHICH THE PETITION TO SEAL IS PENDING.
15 THE EDUCATOR OR APPLICANT HAS NO RIGHT TO PRIVACY OR PRIVILEGE
16 THAT JUSTIFIES HIS OR HER REFUSAL TO ANSWER ANY QUESTIONS OF THE
17 DEPARTMENT OF EDUCATION CONCERNING THE ARREST AND CRIMINAL
18 RECORDS INFORMATION CONTAINED IN THE PENDING PETITION TO SEAL.

19 (3) A PERSON MAY ONLY FILE A PETITION WITH THE COURT FOR
20 SEALING OF EACH CASE ONCE EVERY TWELVE-MONTH PERIOD, UNLESS
21 OTHERWISE PROVIDED BY THE COURT.

22 (4) NOTHING IN THIS PART 7 REGARDING SEALING OF RECORDS
23 AUTHORIZES THE PHYSICAL DESTRUCTION OF ANY CONVICTION RECORDS.

24 (5) (a) INSPECTION OF THE COURT RECORDS INCLUDED IN AN
25 ORDER SEALING CRIMINAL RECORDS MAY BE PERMITTED BY THE COURT
26 ONLY UPON PETITION BY THE PETITIONER OR THE DEFENDANT WHO IS THE
27 SUBJECT OF THE RECORDS OR BY THE PROSECUTING ATTORNEY AND ONLY

1 FOR THOSE PURPOSES NAMED IN THE PETITION. THIS PETITION TO INSPECT
2 THE CRIMINAL JUSTICE RECORDS MUST BE FILED BY THE PETITIONING
3 PARTY WITHIN THE CASE IN WHICH THE SEALING ORDER WAS ENTERED.

4 (b) NOTWITHSTANDING THE PROVISIONS OF SUBSECTIONS (2)(b)
5 AND (2)(c) OF THIS SECTION, THE PROSECUTING ATTORNEY OR THE LAW
6 ENFORCEMENT AGENCY MAY RELEASE TO THE VICTIM IN THE SEALED CASE
7 COPIES OF POLICE REPORTS OR ANY PROTECTION ORDERS ISSUED IN THE
8 SEALED CASE IF THE VICTIM DEMONSTRATES TO THE PROSECUTING
9 ATTORNEY OR LAW ENFORCEMENT AGENCY A NEED FOR THE REPORTS OR
10 COURT ORDERS FOR A LAWFUL PURPOSE. THE PROSECUTING ATTORNEY,
11 INCLUDING STAFF OF THE PROSECUTING ATTORNEY'S OFFICE OR A VICTIM
12 OR WITNESS ASSISTANCE PROGRAM, OR THE STAFF OF A LAW
13 ENFORCEMENT AGENCY OR LAW ENFORCEMENT VICTIM ASSISTANCE
14 PROGRAM, MAY DISCUSS THE SEALED CASE, THE RESULTS OF THE SEALING
15 PROCEEDINGS, AND INFORMATION RELATED TO ANY VICTIM SERVICES
16 AVAILABLE TO THE VICTIM.

17 (c) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION,
18 ANY MEMBER OF THE PUBLIC MAY PETITION THE COURT TO UNSEAL ANY
19 COURT FILE OF A CRIMINAL CONVICTION THAT HAS PREVIOUSLY BEEN
20 SEALED UPON A SHOWING THAT CIRCUMSTANCES HAVE COME INTO
21 EXISTENCE SINCE THE ORIGINAL SEALING AND, AS A RESULT, THE PUBLIC
22 INTEREST IN DISCLOSURE NOW OUTWEIGHS THE DEFENDANT'S INTEREST IN
23 PRIVACY.

24 (6) FOR THE PURPOSE OF PROTECTING THE AUTHOR OF ANY
25 CORRESPONDENCE THAT BECOMES A PART OF CRIMINAL JUSTICE RECORDS,
26 THE COURT HAVING JURISDICTION IN THE JUDICIAL DISTRICT IN WHICH THE
27 CRIMINAL JUSTICE RECORDS ARE LOCATED MAY, IN ITS DISCRETION, WITH

1 OR WITHOUT A HEARING, ENTER AN ORDER TO SEAL ANY INFORMATION,
2 INCLUDING BUT NOT LIMITED TO BASIC IDENTIFICATION INFORMATION
3 CONTAINED IN THE CORRESPONDENCE THAT IS PART OF THE RECORD IN THE
4 CRIMINAL CASE. HOWEVER, THE COURT MAY, IN ITS DISCRETION, ENTER AN
5 ORDER THAT ALLOWS THE DISCLOSURE OF SEALED INFORMATION TO
6 DEFENSE COUNSEL OR, IF THE DEFENDANT IS NOT REPRESENTED BY
7 COUNSEL, TO THE DEFENDANT.

8 (7) **Rules of discovery - rules of evidence - witness testimony.**
9 COURT ORDERS SEALING RECORDS OF OFFICIAL ACTIONS PURSUANT TO
10 THIS PART 7 DO NOT LIMIT THE OPERATIONS OF:

11 (a) THE RULES OF DISCOVERY OR THE RULES OF EVIDENCE
12 PROMULGATED BY THE SUPREME COURT OF COLORADO OR ANY OTHER
13 STATE OR FEDERAL COURT;

14 (b) THE PROVISIONS OF SECTION 13-90-101 CONCERNING WITNESS
15 TESTIMONY.

16 (8) **Service of sealing order.** THE COURT SHALL DIRECT A
17 SEALING ORDER ENTERED PURSUANT TO THIS PART 7 TO EACH CUSTODIAN
18 WHO MAY HAVE CUSTODY OF ANY PART OF THE CONVICTION RECORDS
19 THAT ARE THE SUBJECT OF THE ORDER. WHENEVER A COURT ENTERS AN
20 ORDER SEALING CONVICTION RECORDS, THE DEFENDANT SHALL PROVIDE
21 THE COLORADO BUREAU OF INVESTIGATION AND EACH CUSTODIAN OF THE
22 CONVICTION RECORDS WITH A COPY OF THE ORDER. THE PETITIONER SHALL
23 PROVIDE A PRIVATE CUSTODIAN WITH A COPY OF THE ORDER AND SEND
24 THE PRIVATE CUSTODIAN AN ELECTRONIC NOTIFICATION OF THE ORDER.
25 EACH PRIVATE CUSTODIAN THAT RECEIVES A COPY OF THE ORDER FROM
26 THE PETITIONER SHALL REMOVE THE RECORDS THAT ARE SUBJECT TO AN
27 ORDER FROM ITS DATABASE. THE DEFENDANT SHALL PAY TO THE BUREAU

1 ANY COSTS RELATED TO THE SEALING OF HIS OR HER CRIMINAL
2 CONVICTION RECORDS IN THE CUSTODY OF THE BUREAU. THEREAFTER, THE
3 DEFENDANT MAY REQUEST AND THE COURT MAY GRANT AN ORDER
4 SEALING THE CIVIL CASE IN WHICH THE CONVICTION RECORDS WERE
5 SEALED.

6 (9) **Advisements.** (a) WHENEVER A DEFENDANT IS SENTENCED
7 FOLLOWING A CONVICTION FOR AN OFFENSE DESCRIBED IN SECTIONS
8 24-72-706 TO 24-72-708, THE COURT SHALL PROVIDE HIM OR HER WITH A
9 WRITTEN ADVISEMENT OF HIS OR HER RIGHTS CONCERNING THE SEALING
10 OF HIS OR HER CONVICTION RECORDS PURSUANT TO THIS SECTION IF HE OR
11 SHE COMPLIES WITH THE APPLICABLE PROVISIONS OF THIS SECTION.

12 (b) IN ADDITION TO, AND NOT IN LIEU OF, THE REQUIREMENT
13 DESCRIBED IN SUBSECTION (9)(a) OF THIS SECTION:

14 (I) IF A DEFENDANT IS SENTENCED TO PROBATION FOLLOWING A
15 CONVICTION FOR AN OFFENSE DESCRIBED IN SECTIONS 24-72-706 TO
16 24-72-708, THE PROBATION DEPARTMENT, UPON THE TERMINATION OF THE
17 DEFENDANT'S PROBATION, SHALL PROVIDE THE DEFENDANT WITH A
18 WRITTEN ADVISEMENT OF HIS OR HER RIGHTS CONCERNING THE SEALING
19 OF HIS OR HER CONVICTION RECORDS PURSUANT TO THIS SECTION IF HE OR
20 SHE COMPLIES WITH THE APPLICABLE PROVISIONS OF THIS SECTION; OR

21 (II) IF A DEFENDANT IS RELEASED ON PAROLE FOLLOWING A
22 CONVICTION FOR AN OFFENSE DESCRIBED IN SECTIONS 24-72-706 TO
23 24-72-708, THE DEFENDANT'S PAROLE OFFICER, UPON THE TERMINATION
24 OF THE DEFENDANT'S PAROLE, SHALL PROVIDE THE DEFENDANT WITH A
25 WRITTEN ADVISEMENT OF HIS OR HER RIGHTS CONCERNING THE SEALING
26 OF HIS OR HER CONVICTION RECORDS PURSUANT TO THIS SECTION IF HE OR
27 SHE COMPLIES WITH THE APPLICABLE PROVISIONS OF THIS SECTION.

1 (10) IF THE PERSON IN INTEREST HAS SUCCESSFULLY COMPLETED
2 A VETERANS TREATMENT PROGRAM ESTABLISHED PURSUANT TO SECTION
3 13-5-144 IN THE CASE THAT IS THE SUBJECT OF THE PETITION TO SEAL, THE
4 COURT SHALL CONSIDER SUCH FACTOR FAVORABLY IN DETERMINING
5 WHETHER TO ISSUE AN ORDER TO SEAL RECORDS PURSUANT TO THIS
6 SECTION.

7 (11) A DEFENDANT SHALL NOT BE REQUIRED TO WAIVE HIS OR HER
8 RIGHT TO FILE A MOTION TO SEAL PURSUANT TO THE PROVISIONS OF THIS
9 SECTION AS A CONDITION OF A PLEA AGREEMENT IN ANY CASE.

10 (12) **Exclusions.** (a) (I) NOTWITHSTANDING ANY PROVISION IN
11 THIS PART 7 TO THE CONTRARY, IN REGARD TO ANY CONVICTION OF THE
12 DEFENDANT RESULTING FROM A SINGLE CASE IN WHICH THE DEFENDANT
13 IS CONVICTED OF MORE THAN ONE OFFENSE, RECORDS OF THE CONVICTION
14 MAY BE SEALED PURSUANT TO THE PROVISIONS OF THIS PART 7 ONLY IF
15 THE RECORDS OF EVERY CONVICTION OF THE DEFENDANT RESULTING FROM
16 THAT CASE MAY BE SEALED PURSUANT TO THE PROVISIONS OF THIS PART
17 7.

18 (II) IF A CRIMINAL CASE IS DISMISSED OR IF A CRIMINAL OFFENSE
19 IS NOT CHARGED DUE TO A PLEA AGREEMENT IN A SEPARATE CASE, THE
20 RECORDS ARE ELIGIBLE FOR SEALING AT SUCH TIME AS THE CRIMINAL CASE
21 IN WHICH THE CONVICTION WAS ENTERED IS ELIGIBLE FOR SEALING
22 PURSUANT TO THE PROVISIONS OF THIS PART 7.

23 (b) CONVICTION RECORDS MUST NOT BE SEALED IF THE
24 DEFENDANT STILL OWES RESTITUTION, FINES, COURT COSTS, LATE FEES, OR
25 OTHER FEES ORDERED BY THE COURT IN THE CASE THAT IS THE SUBJECT OF
26 THE MOTION TO SEAL, UNLESS THE COURT THAT ENTERED THE ORDER HAS
27 VACATED THE ORDER.

1 (c) SEALING IS NOT AVAILABLE FOR CASES WHEN THE ONLY
2 CHARGES WERE AS FOLLOWS:

3 (I) A CLASS 1 OR 2 MISDEMEANOR TRAFFIC OFFENSE; OR

4 (II) A CLASS A OR B TRAFFIC OFFENSE.

5 (d) SEALING IS NOT BE AVAILABLE FOR:

6 (I) RECORDS PERTAINING TO A DEFERRED JUDGMENT AND
7 SENTENCE CONCERNING THE HOLDER OF A COMMERCIAL DRIVER'S LICENSE
8 AS DEFINED IN SECTION 42-2-402 OR THE OPERATOR OF A COMMERCIAL
9 MOTOR VEHICLE AS DEFINED IN SECTION 42-2-402; AND

10 (II) RECORDS PERTAINING TO A DEFFERED JUDGMENT AND
11 SENTENCE FOR A FELONY OFFENSE FOR THE FACTUAL BASIS INVOLVED IN
12 UNLAWFUL SEXUAL BEHAVIOR AS DEFINED IN SECTION 16-22-102 (9).

13 **24-72-704. Sealing of arrest records when no charges filed.**

14 (1) (a) ANY PERSON IN INTEREST MAY PETITION THE DISTRICT COURT OF
15 THE DISTRICT IN WHICH ANY ARREST AND CRIMINAL RECORDS
16 INFORMATION PERTAINING TO THE PERSON IN INTEREST IS LOCATED FOR
17 THE SEALING OF ALL OF THE RECORDS, EXCEPT BASIC IDENTIFICATION
18 INFORMATION, IF THE RECORDS ARE A RECORD OF OFFICIAL ACTIONS
19 INVOLVING A CRIMINAL OFFENSE FOR WHICH THE PERSON IN INTEREST:

20 (I) COMPLETED A DIVERSION AGREEMENT PURSUANT TO SECTION
21 18-1.3-101 AND NO CRIMINAL CHARGES WERE EVER FILED;

22 (II) WAS NOT CHARGED AND THE STATUTE OF LIMITATIONS FOR
23 THE OFFENSE FOR WHICH THE PERSON WAS ARRESTED THAT HAS THE
24 LONGEST STATUTE OF LIMITATIONS HAS RUN; OR

25 (III) WAS NOT CHARGED AND THE STATUTE OF LIMITATIONS HAS
26 NOT RUN BUT THE PERSON IS NO LONGER BEING INVESTIGATED BY LAW
27 ENFORCEMENT FOR COMMISSION OF THE OFFENSE.

1 (b) ANY PETITION TO SEAL CRIMINAL RECORDS SHALL INCLUDE A
2 LISTING OF EACH CUSTODIAN OF THE RECORDS TO WHOM THE SEALING
3 ORDER IS DIRECTED AND ANY INFORMATION THAT ACCURATELY AND
4 COMPLETELY IDENTIFIES THE RECORDS TO BE SEALED.

5 (c) (I) UPON THE FILING OF A PETITION, THE COURT SHALL REVIEW
6 THE PETITION AND DETERMINE WHETHER THE PETITION IS SUFFICIENT ON
7 ITS FACE. IF THE COURT DETERMINES THAT THE PETITION ON ITS FACE IS
8 INSUFFICIENT OR IF THE COURT DETERMINES THAT, AFTER TAKING
9 JUDICIAL NOTICE OF MATTERS OUTSIDE THE PETITION, THE PETITIONER IS
10 NOT ENTITLED TO RELIEF PURSUANT TO THIS SECTION, THE COURT SHALL
11 ENTER AN ORDER DENYING THE PETITION AND MAIL A COPY OF THE ORDER
12 TO THE PETITIONER OR, AS PERMITTED, SERVE THE ORDER PURSUANT TO
13 COLORADO SUPREME COURT RULES. THE COURT'S ORDER MUST SPECIFY
14 THE REASONS FOR THE DENIAL OF THE PETITION.

15 (II) IF THE COURT DETERMINES THAT THE PETITION IS SUFFICIENT
16 ON ITS FACE AND THAT NO OTHER GROUNDS EXIST AT THAT TIME FOR THE
17 COURT TO DENY THE PETITION PURSUANT TO THIS SECTION, THE COURT
18 SHALL SET A DATE FOR A HEARING AT LEAST THIRTY-FIVE DAYS AFTER THE
19 DETERMINATION AND NOTIFY THE PROSECUTING ATTORNEY, THE
20 ARRESTING AGENCY, AND ANY OTHER PERSON OR AGENCY IDENTIFIED BY
21 THE PETITIONER OF THE HEARING DATE. IF NO OBJECTION IS RECEIVED BY
22 THE COURT SEVEN DAYS PRIOR TO THE HEARING DATE, THE COURT SHALL
23 VACATE THE HEARING AND ORDER SUCH RECORDS, EXCEPT FOR BASIC
24 IDENTIFICATION INFORMATION, TO BE SEALED. IF AN OBJECTION IS FILED
25 AND THE COURT DETERMINES AT A HEARING OR OTHERWISE THAT THE
26 OBJECTION PROVIDES FACTS THAT MAKE THE PETITIONER INELIGIBLE FOR
27 SEALING OF THE ARREST RECORDS, THE COURT SHALL DENY THE PETITION

1 AND PROVIDE A COPY OF THE ORDER TO THE PETITIONER. THE COURT'S
2 ORDER MUST SPECIFY THE REASONS FOR THE DENIAL OF THE PETITION. IF
3 THE OBJECTION DOES NOT PROVIDE FACTS THAT MAKE THE PETITIONER
4 INELIGIBLE FOR SEALING OF THE ARREST RECORDS, THE COURT SHALL
5 ORDER SUCH RECORDS, EXCEPT BASIC IDENTIFICATION INFORMATION, TO
6 BE SEALED.

7 (d) INSPECTION OF THE RECORDS INCLUDED IN AN ORDER SEALING
8 CRIMINAL RECORDS MAY BE PERMITTED BY THE COURT ONLY UPON
9 PETITION BY THE PERSON WHO IS THE SUBJECT OF THE RECORDS OR BY THE
10 PROSECUTING ATTORNEY AND ONLY FOR THOSE PURPOSES NAMED IN THE
11 PETITION.

12 **24-72-705. Sealing criminal justice records other than**
13 **convictions - simplified process - processing fees - applicability.**

14 (1) (a) THE COURT SHALL ORDER THE DEFENDANT'S CRIMINAL JUSTICE
15 RECORDS SEALED WHEN:

- 16 (I) A CASE AGAINST A DEFENDANT IS COMPLETELY DISMISSED;
- 17 (II) THE DEFENDANT IS ACQUITTED OF ALL COUNTS IN THE CASE;
- 18 (III) THE DEFENDANT COMPLETES A DIVERSION AGREEMENT
19 PURSUANT TO SECTION 18-1.3-101 WHEN A CRIMINAL CASE HAS BEEN
20 FILED; OR
- 21 (IV) THE DEFENDANT COMPLETES A DEFERRED JUDGMENT AND
22 SENTENCE PURSUANT TO SECTION 18-1.3-102 AND ALL COUNTS ARE
23 DISMISSED.

24 (b) IF THE COURT DID NOT ORDER THE RECORD SEALING AT THE
25 TIME OF THE DISMISSAL OR ACQUITTAL, THE DEFENDANT MAY MAKE SUCH
26 MOTION AT ANY TIME SUBSEQUENT TO THE DISMISSAL OR ACQUITTAL
27 THROUGH THE FILING OF A WRITTEN MOTION IN THE CRIMINAL CASE WITH

1 WRITTEN NOTICE TO THE PROSECUTING ATTORNEY.

2 (c) IF THE DEFENDANT MOVES PURSUANT TO SUBSECTION (1)(a) OF
3 THIS SECTION TO SEAL HIS OR HER CRIMINAL JUSTICE RECORDS PURSUANT
4 TO THE EXPEDITED PROCEDURES OF THIS SECTION, THE COURT SHALL
5 PROMPTLY PROCESS THE DEFENDANT'S REQUEST TO SEAL THE CRIMINAL
6 JUSTICE RECORDS WITHIN THE CRIMINAL CASE WITHOUT THE FILING OF AN
7 INDEPENDENT CIVIL ACTION AND WITHOUT ANY FURTHER EVIDENCE
8 EXCEPT FOR EVIDENCE OF THE DISMISSAL OR ACQUITTAL. MOTIONS FILED
9 PURSUANT TO THIS SECTION ARE PROCEDURAL IN NATURE, AND SEALING
10 PURSUANT TO THIS SECTION APPLIES RETROACTIVELY FOR ALL ELIGIBLE
11 CASES WHEN THE CASE HAS BEEN COMPLETELY DISMISSED OR THE
12 DEFENDANT HAS BEEN ACQUITTED OF ALL COUNTS IN A STATE OR
13 MUNICIPAL CRIMINAL CASE.

14 (d) NOTWITHSTANDING THE PROVISION OF SUBSECTION (1)(c) OF
15 THIS SECTION, IF THE DEFENDANT IS ACQUITTED OR IF THE CASE DISMISSED
16 IS A CRIME ENUMERATED IN SECTION 24-4.1-302 (1) IN WHICH NOTICE OF
17 A HEARING ON A MOTION TO SEAL IS REQUIRED PURSUANT TO SECTION
18 24-4.1-303 (11)(b.7), THE COURT SHALL ALLOW THE DISTRICT ATTORNEY
19 THE OPPORTUNITY TO INFORM THE VICTIM THAT THE RECORD WILL BE
20 SEALED AND SHALL SET A RETURN DATE FOR THE SEALING MOTION NO
21 LATER THAN FORTY-TWO DAYS AFTER RECEIPT OF THE MOTION.

22 (e) THE PROVISIONS OF SECTION 24-72-703 (2)(b) AND SECTION
23 24-72-703 (5) APPLY TO THIS SECTION.

24 (f) THIS SECTION DOES NOT APPLY TO RECORDS THAT ARE SUBJECT
25 TO THE PROCEDURE SET FORTH IN SECTION 18-13-122 (13).

26 (2) (a) A DEFENDANT MOVING TO HAVE HIS OR HER CRIMINAL
27 JUSTICE RECORDS SEALED OR A DEFENDANT WHO HAS HIS OR HER

1 CRIMINAL JUSTICE RECORDS SEALED BY THE COURT PURSUANT TO THIS
2 SECTION SHALL PAY A PROCESSING FEE OF SIXTY-FIVE DOLLARS TO COVER
3 THE ACTUAL COSTS RELATED TO THE SEALING OF THE CRIMINAL JUSTICE
4 RECORDS, WHICH THE COURT MAY WAIVE UPON A DETERMINATION OF
5 INDIGENCY.

6 (b) WHEN THE MOTION TO SEAL THE CRIMINAL CASE IS FILED IN
7 STATE COURT, THE PROCESSING FEES COLLECTED PURSUANT TO
8 SUBSECTION (2)(a) OF THIS SECTION MUST BE TRANSMITTED TO THE STATE
9 TREASURER AND CREDITED TO THE JUDICIAL STABILIZATION CASH FUND
10 CREATED IN SECTION 13-32-101 (6).

11 (c) WHEN THE MOTION TO SEAL THE CRIMINAL CASE IS FILED IN
12 MUNICIPAL COURT, THE PROCESSING FEES COLLECTED PURSUANT TO
13 SUBSECTION (2)(a) OF THIS SECTION MUST BE REPORTED AND PAID AS
14 MUNICIPAL COSTS AND MUST BE TRANSMITTED TO THE TREASURER OF THE
15 MUNICIPALITY AND DEPOSITED IN THE GENERAL FUND OF THE
16 MUNICIPALITY PURSUANT TO SECTION 13-10-115.

17

18 **24-72-706. Sealing of criminal conviction records. (1) Sealing**
19 **of conviction records. (a)** SUBJECT TO THE LIMITATIONS DESCRIBED IN
20 SUBSECTION (2) OF THIS SECTION, A DEFENDANT MAY FILE A MOTION IN
21 THE CRIMINAL CASE IN THE COURT IN WHICH ANY CONVICTION RECORDS
22 PERTAINING TO THE DEFENDANT ARE LOCATED FOR THE SEALING OF THE
23 CONVICTION RECORDS, EXCEPT BASIC IDENTIFICATION INFORMATION, IF
24 THE MOTION IS FILED WITHIN THE TIME FRAME DESCRIBED IN SUBSECTION
25 (1)(b) OF THIS SECTION AND PROPER NOTICE IS GIVEN TO THE DISTRICT
26 ATTORNEY.

27 (b) (I) IF THE OFFENSE IS A PETTY OFFENSE OR A DRUG PETTY

1 OFFENSE, THE MOTION MAY BE FILED ONE YEAR AFTER THE LATER OF THE
2 DATE OF THE FINAL DISPOSITION OF ALL CRIMINAL PROCEEDINGS AGAINST
3 THE DEFENDANT OR THE RELEASE OF THE DEFENDANT FROM SUPERVISION
4 CONCERNING A CRIMINAL CONVICTION.

5 (II) IF THE OFFENSE IS A CLASS 2 OR CLASS 3 MISDEMEANOR OR
6 ANY DRUG MISDEMEANOR, THE MOTION MAY BE FILED TWO YEARS AFTER
7 THE LATER OF THE DATE OF THE FINAL DISPOSITION OF ALL CRIMINAL
8 PROCEEDINGS AGAINST THE DEFENDANT OR THE RELEASE OF THE
9 DEFENDANT FROM SUPERVISION CONCERNING A CRIMINAL CONVICTION.

10 (III) IF THE OFFENSE IS A CLASS 4, CLASS 5, OR CLASS 6 FELONY, A
11 LEVEL 3 OR LEVEL 4 DRUG FELONY, OR A CLASS 1 MISDEMEANOR, THE
12 MOTION MAY BE FILED THREE YEARS AFTER THE LATER OF THE DATE OF
13 THE FINAL DISPOSITION OF ALL CRIMINAL PROCEEDINGS AGAINST THE
14 DEFENDANT OR THE RELEASE OF THE DEFENDANT FROM SUPERVISION
15 CONCERNING A CRIMINAL CONVICTION.

16 (IV) SUBJECT TO THE LIMITATIONS IN SUBSECTION (2) OF THIS
17 SECTION, FOR ALL OTHER OFFENSES, THE PETITION MAY BE FILED FIVE
18 YEARS AFTER THE LATER OF THE DATE OF THE FINAL DISPOSITION OF ALL
19 CRIMINAL PROCEEDINGS AGAINST THE DEFENDANT OR THE RELEASE OF
20 THE DEFENDANT FROM SUPERVISION CONCERNING A CRIMINAL
21 CONVICTION.

22 (c) A MOTION TO SEAL CONVICTION RECORDS PURSUANT TO THIS
23 SECTION SHALL INCLUDE A LISTING OF EACH CUSTODIAN OF THE RECORDS
24 TO WHOM THE SEALING ORDER IS DIRECTED AND ANY INFORMATION THAT
25 ACCURATELY AND COMPLETELY IDENTIFIES THE RECORDS TO BE SEALED.
26 THE DEFENDANT SHALL SUBMIT A VERIFIED COPY OF THE DEFENDANT'S
27 CRIMINAL HISTORY, CURRENT THROUGH AT LEAST THE TWENTIETH DAY

1 BEFORE THE DATE OF THE FILING OF THE PETITION TO THE COURT, ALONG
2 WITH THE MOTION AT THE TIME OF FILING, BUT IN NO EVENT LATER THAN
3 THE TENTH DAY AFTER THE MOTION IS FILED. THE DEFENDANT SHALL PAY
4 FOR HIS OR HER CRIMINAL HISTORY RECORD.

5 (d) UPON THE FILING OF ANY MOTION PURSUANT TO THIS SECTION,
6 THE COURT SHALL INITIALLY REVIEW THE MOTION AND DETERMINE
7 WHETHER THERE ARE GROUNDS PURSUANT TO THIS SECTION TO PROCEED
8 TO A HEARING ON THE MOTION. IF THE COURT DETERMINES THAT THE
9 MOTION ON ITS FACE IS INSUFFICIENT OR IF THE COURT DETERMINES THAT,
10 AFTER TAKING JUDICIAL NOTICE OF MATTERS OUTSIDE THE MOTION, THE
11 DEFENDANT IS NOT ENTITLED TO RELIEF PURSUANT TO THIS SECTION, THE
12 COURT SHALL ENTER AN ORDER DENYING THE MOTION AND MAIL A COPY
13 OF THE ORDER TO THE DEFENDANT. THE COURT'S ORDER SHALL SPECIFY
14 THE REASONS FOR THE DENIAL OF THE MOTION. IF THE COURT DETERMINES
15 THAT THE MOTION IS SUFFICIENT ON ITS FACE AND THAT NO OTHER
16 GROUNDS EXIST AT THAT TIME FOR THE COURT TO DENY THE MOTION
17 PURSUANT TO THIS SECTION, THE COURT SHALL PROCEED PURSUANT TO
18 THE PROVISIONS OF THIS SECTION.

19 (e) CONVICTION RECORDS MAY NOT BE SEALED IF THE DEFENDANT
20 STILL OWES RESTITUTION, FINES, COURT COSTS, LATE FEES, OR OTHER FEES
21 ORDERED BY THE COURT IN THE CASE THAT IS THE SUBJECT OF THE MOTION
22 TO SEAL CONVICTION RECORDS, UNLESS THE COURT THAT ENTERED THE
23 ORDER FOR RESTITUTION, FINES, COURT COSTS, LATE FEES, OR OTHER FEES
24 VACATED THE ORDER.

25 (f) (I) IF A MOTION IS FILED FOR THE SEALING OF A PETTY OFFENSE
26 OR A PETTY DRUG OFFENSE, THE COURT SHALL ORDER THAT THE RECORDS
27 BE SEALED AFTER THE MOTION IS FILED AND THE CRIMINAL HISTORY FILED

1 WITH THE COURT DOCUMENTS TO THE COURT THAT THE DEFENDANT HAS
2 NOT BEEN CONVICTED OF A CRIMINAL OFFENSE SINCE THE DATE OF THE
3 FINAL DISPOSITION OF ALL CRIMINAL PROCEEDINGS AGAINST HIM OR HER
4 OR SINCE THE DATE OF THE DEFENDANT'S RELEASE FROM SUPERVISION,
5 WHICHEVER IS LATER.

6 (II) IF A MOTION IS FILED FOR THE SEALING OF A CLASS 2 OR CLASS
7 3 MISDEMEANOR OR ANY DRUG MISDEMEANOR, THE DEFENDANT SHALL
8 PROVIDE NOTICE OF THE MOTION TO THE DISTRICT ATTORNEY. THE
9 DISTRICT ATTORNEY SHALL DETERMINE WHETHER TO OBJECT TO THE
10 MOTION AFTER CONSIDERING THE FACTORS IN SUBSECTION (1)(g) OF THIS
11 SECTION. IF THE DISTRICT ATTORNEY DOES NOT OBJECT AND THE OFFENSE
12 IS NOT A CRIME ENUMERATED IN SECTION 24-4.1-302 (1), THE COURT
13 SHALL ORDER THAT THE RECORDS BE SEALED IF THE CRIMINAL HISTORY
14 FILED WITH THE COURT DOCUMENTS TO THE COURT THAT THE DEFENDANT
15 HAS NOT BEEN CONVICTED OF A CRIMINAL OFFENSE SINCE THE DATE OF
16 THE FINAL DISPOSITION OF ALL CRIMINAL PROCEEDINGS AGAINST HIM OR
17 HER OR SINCE THE DATE OF THE DEFENDANT'S RELEASE FROM
18 SUPERVISION, WHICHEVER IS LATER. THE DISTRICT ATTORNEY SHALL
19 ADVISE THE COURT OF A VICTIM'S OBJECTION AND REQUEST FOR HEARING
20 WHEN KNOWN. IF THE DISTRICT ATTORNEY OBJECTS TO THE MOTION OR
21 THE OFFENSE IS A CRIME ENUMERATED IN SECTION 24-4.1-302 (1) AND THE
22 VICTIM REQUESTS A HEARING, THE COURT SHALL SET THE MATTER FOR
23 HEARING. THE COURT MAY ONLY SEAL THE RECORDS IF THE CRIMINAL
24 HISTORY FILED WITH THE MOTION AS REQUIRED BY SUBSECTION (1)(c) OF
25 THIS SECTION DOCUMENTS TO THE COURT THAT THE DEFENDANT HAS NOT
26 BEEN CONVICTED OF A CRIMINAL OFFENSE SINCE THE DATE OF THE FINAL
27 DISPOSITION OF ALL CRIMINAL PROCEEDINGS AGAINST HIM OR HER OR

1 SINCE THE DATE OF THE DEFENDANT'S RELEASE FROM SUPERVISION,
2 WHICHEVER IS LATER. THE COURT SHALL DECIDE THE MOTION AFTER
3 CONSIDERING THE FACTORS IN SUBSECTION (1)(g) OF THIS SECTION.

4 (III) IF A MOTION IS FILED FOR THE SEALING OF A CLASS 4, CLASS
5 5, OR CLASS 6 FELONY, A LEVEL 3 OR LEVEL 4 DRUG FELONY, OR A CLASS
6 1 MISDEMEANOR, THE DEFENDANT SHALL PROVIDE NOTICE OF THE MOTION
7 TO THE DISTRICT ATTORNEY. THE DISTRICT ATTORNEY SHALL DETERMINE
8 WHETHER TO OBJECT TO THE MOTION AFTER CONSIDERING THE FACTORS
9 IN SUBSECTION (1)(g) OF THIS SECTION. IF THE DISTRICT ATTORNEY DOES
10 NOT OBJECT AND THE OFFENSE IS NOT A CRIME ENUMERATED IN SECTION
11 24-4.1-302 (1), THE COURT MAY GRANT THE MOTION WITH OR WITHOUT
12 THE BENEFIT OF A HEARING. THE DISTRICT ATTORNEY SHALL ADVISE THE
13 COURT OF A VICTIM'S OBJECTION AND REQUEST FOR HEARING WHEN
14 KNOWN. IF THE DISTRICT ATTORNEY OBJECTS TO THE MOTION OR THE
15 OFFENSE IS A CRIME ENUMERATED IN SECTION 24-4.1-302 (1) AND THE
16 VICTIM REQUESTS A HEARING, THE COURT SHALL SET THE MATTER FOR
17 HEARING. THE COURT MAY ONLY SEAL THE RECORDS IF THE CRIMINAL
18 HISTORY FILED WITH THE MOTION AS REQUIRED BY SUBSECTION (1)(c) OF
19 THIS SECTION DOCUMENTS TO THE COURT THAT THE DEFENDANT HAS NOT
20 BEEN CONVICTED OF A CRIMINAL OFFENSE SINCE THE DATE OF THE FINAL
21 DISPOSITION OF ALL CRIMINAL PROCEEDINGS AGAINST HIM OR HER OR
22 SINCE THE DATE OF THE DEFENDANT'S RELEASE FROM SUPERVISION,
23 WHICHEVER IS LATER. THE COURT SHALL DECIDE THE MOTION AFTER
24 CONSIDERING THE POSITION OF THE DISTRICT ATTORNEY AND THE FACTORS
25 IN SUBSECTION (1)(g) OF THIS SECTION.

26 (IV) IF A MOTION IS FILED FOR ANY OTHER OFFENSE, THE
27 DEFENDANT SHALL PROVIDE NOTICE OF THE PETITION TO THE DISTRICT

1 ATTORNEY. THE DISTRICT ATTORNEY SHALL DETERMINE WHETHER TO
2 OBJECT TO THE MOTION AFTER CONSIDERING THE FACTORS IN SUBSECTION
3 (1)(g) OF THIS SECTION. THE COURT SHALL SET ANY MOTION FILED FOR A
4 HEARING. THE COURT MAY ONLY SEAL THE RECORDS IF THE CRIMINAL
5 HISTORY FILED WITH THE MOTION AS REQUIRED BY SUBSECTION (1)(c) OF
6 THIS SECTION DOCUMENTS TO THE COURT THAT THE DEFENDANT HAS NOT
7 BEEN CONVICTED OF A CRIMINAL OFFENSE SINCE THE DATE OF THE FINAL
8 DISPOSITION OF ALL CRIMINAL PROCEEDINGS AGAINST HIM OR HER OR
9 SINCE THE DATE OF THE DEFENDANT'S RELEASE FROM SUPERVISION,
10 WHICHEVER IS LATER. THE COURT SHALL DECIDE THE MOTION AFTER
11 CONSIDERATION OF THE POSITION OF THE DISTRICT ATTORNEY AND THE
12 FACTORS IN SUBSECTION (1)(g) OF THIS SECTION.

13 (g) AT ANY HEARING TO DETERMINE WHETHER RECORDS MAY BE
14 SEALED, EXCEPT FOR BASIC IDENTIFICATION INFORMATION, THE COURT
15 MUST DETERMINE THAT THE HARM TO THE PRIVACY OF THE DEFENDANT OR
16 THE DANGERS OF UNWARRANTED, ADVERSE CONSEQUENCES TO THE
17 DEFENDANT OUTWEIGH THE PUBLIC INTEREST IN RETAINING PUBLIC
18 ACCESS TO THE CONVICTION RECORDS. IN MAKING THIS DETERMINATION,
19 THE COURT SHALL, AT A MINIMUM, CONSIDER THE SEVERITY OF THE
20 OFFENSE THAT IS THE BASIS OF THE CONVICTION RECORDS SOUGHT TO BE
21 SEALED, THE CRIMINAL HISTORY OF THE DEFENDANT, THE NUMBER OF
22 CONVICTIONS AND DATES OF THE CONVICTIONS FOR WHICH THE
23 DEFENDANT IS SEEKING TO HAVE THE RECORDS SEALED, AND THE NEED
24 FOR THE GOVERNMENT AGENCY TO RETAIN THE RECORDS.

25 (h) A DEFENDANT WHO FILES A MOTION TO SEAL CRIMINAL JUSTICE
26 CONVICTION RECORDS PURSUANT TO THIS SECTION SHALL PAY A
27 PROCESSING FEE OF SIXTY-FIVE DOLLARS TO COVER THE ACTUAL COSTS

1 RELATED TO THE SEALING OF THE CRIMINAL JUSTICE RECORDS, WHICH THE
2 COURT MAY WAIVE UPON A DETERMINATION OF INDIGENCY. THE
3 DEFENDANT SHALL PAY TO THE COLORADO BUREAU OF INVESTIGATION
4 ANY COSTS RELATED TO THE SEALING OF HIS OR HER CRIMINAL
5 CONVICTION RECORDS IN THE CUSTODY OF THE BUREAU.

6 (2) (a) THE PROVISIONS OF THIS SECTION DO NOT APPLY TO
7 RECORDS PERTAINING TO:

8 (I) A CLASS 1 OR CLASS 2 MISDEMEANOR TRAFFIC OFFENSE;

9 (II) A CLASS A OR CLASS B TRAFFIC INFRACTION;

10 (III) A CONVICTION FOR A VIOLATION OF SECTION 42-4-1301 (1) OR
11 (2);

12 (IV) A CONVICTION FOR AN OFFENSE FOR WHICH THE UNDERLYING
13 FACTUAL BASIS INVOLVED UNLAWFUL SEXUAL BEHAVIOR AS DEFINED IN
14 SECTION 16-22-102 (9);

15 (V) A CONVICTION FOR A VIOLATION OF SECTION 18-6-401; OR

16 (VI) A CONVICTION THAT IS SUBJECT TO ONE OR MORE OF THE
17 FOLLOWING PROVISIONS:

18 (A) SENTENCES FOR A CRIME INVOLVING EXTRAORDINARY
19 AGGRAVATING CIRCUMSTANCES PURSUANT TO SECTION 18-1.3-401 (8);

20 (B) A SENTENCE FOR AN EXTRAORDINARY RISK CRIME PURSUANT
21 TO SECTION 18-1.3-401 (10);

22 (C) SENTENCING FOR A CRIME INVOLVING A PREGNANT VICTIM,
23 PURSUANT TO SECTION 18-1.3-401 (13);

24 (D) SENTENCING FOR A CRIME PERTAINING TO A SPECIAL
25 OFFENDER PURSUANT TO SECTION 18-18-407;

26 (E) SENTENCING FOR A CRIMINAL CONVICTION FOR WHICH THE
27 UNDERLYING FACTUAL BASIS INVOLVES DOMESTIC VIOLENCE AS DEFINED

1 IN SECTION 18-6-800.3;

2 (F) SENTENCING FOR A CRIMINAL CONVICTION FOR A SEXUAL
3 OFFENSE, PURSUANT TO PART 4 OF ARTICLE 3 OF TITLE 18; █

4 (G) SENTENCING FOR ANY CRIME OF VIOLENCE PURSUANT TO
5 SECTION 18-1.3-406;

6 (H) SENTENCING FOR A FELONY CRIME ENUMERATED IN SECTION
7 24-4.1-302 (1);

8 (I) SENTENCING FOR A FELONY OFFENSE IN VIOLATION OF SECTION
9 18-9-202;

10 (J) SENTENCING FOR AN OFFENSE CLASSIFIED AS A CLASS 1, 2, OR
11 3 FELONY OR A LEVEL 1 DRUG FELONY PURSUANT TO ANY SECTION OF
12 TITLE 18;

13 (K) SENTENCING FOR AN OFFENSE IN VIOLATION OF PART 1 OF
14 ARTICLE 6 OF TITLE 18;

15 (L) SENTENCING FOR AN OFFENSE IN VIOLATION OF SECTION
16 18-5-902 (1);

17 (M) SENTENCING FOR AN OFFENSE IN VIOLATION OF SECTION
18 18-3.5-103 (4), (5), (6), (7), (8), AND (9); OR

19 (N) SENTENCING FOR AN OFFENSE IN VIOLATION OF SECTION
20 18-7-203.

21 (b) NOTWITHSTANDING THE PROVISIONS OF THIS SECTION, A
22 MISDEMEANOR OFFENSE INELIGIBLE PURSUANT TO THE PROVISIONS OF THIS
23 SECTION OR SUBSECTION (2)(a) OF THIS SECTION IS ELIGIBLE FOR SEALING
24 PURSUANT TO THIS SECTION IF THE DISTRICT ATTORNEY CONSENTS TO THE
25 SEALING OR IF THE COURT FINDS, BY CLEAR AND CONVINCING EVIDENCE,
26 THAT THE PETITIONER'S NEED FOR SEALING OF THE RECORD IS SIGNIFICANT
27 AND SUBSTANTIAL, THE PASSAGE OF TIME IS SUCH THAT THE PETITIONER

1 IS NO LONGER A THREAT TO PUBLIC SAFETY, AND THE PUBLIC DISCLOSURE
2 OF THE RECORD IS NO LONGER NECESSARY TO PROTECT OR INFORM THE
3 PUBLIC.

4 (c) THIS SECTION DOES NOT APPLY TO RECORDS THAT ARE SUBJECT
5 TO THE PROCEDURE SET FORTH IN SECTION 18-13-122 (13).

6 (3) **Applicability.** MOTIONS FILED PURSUANT TO THIS SECTION
7 ARE PROCEDURAL IN NATURE, AND SEALING PURSUANT TO THIS SECTION
8 APPLIES RETROACTIVELY TO ALL ELIGIBLE CASES.

9 **24-72-707. Sealing of criminal conviction records information**
10 **for offenses committed by victims of human trafficking. (1) Sealing**
11 **of conviction records.** AT ANY TIME AFTER CONVICTION, A DEFENDANT
12 MAY FILE A MOTION IN THE CASE IN WHICH ANY CONVICTION RECORDS
13 EXIST PERTAINING TO THE DEFENDANT'S CONVICTION FOR ANY
14 MISDEMEANOR OFFENSE OR MUNICIPAL CODE OR ORDINANCE VIOLATION,
15 EXCLUDING ANY OFFENSE OF A CRIME AS DEFINED IN SECTION 24-4.1-302
16 (1).

17 (2) A DEFENDANT MOVING TO HAVE HIS OR HER CRIMINAL
18 RECORDS SEALED PURSUANT TO THIS SECTION IS NOT REQUIRED TO PAY A
19 PROCESSING FEE.

20 (3) THE COURT SHALL ORDER THE RECORDS SEALED AFTER:

21 (a) THE PETITION IS FILED; AND

22 (b) THE DEFENDANT ESTABLISHES BY A PREPONDERANCE OF THE
23 EVIDENCE THAT, AT THE TIME HE OR SHE COMMITTED THE OFFENSE, HE OR
24 SHE HAD BEEN TRAFFICKED BY ANOTHER PERSON, AS DESCRIBED IN
25 SECTION 18-3-503 OR 18-3-504, FOR THE PURPOSE OF PERFORMING THE
26 OFFENSE.

27 **24-72-708. Sealing of criminal conviction records information**

1 **for municipal offenses for convictions. (1) Sealing of conviction**

2 **records. (a) (I)** A DEFENDANT MAY FILE A MOTION IN WHICH ANY
3 CONVICTION RECORDS PERTAINING TO THE DEFENDANT FOR A MUNICIPAL
4 VIOLATION ARE LOCATED FOR THE SEALING OF THE CONVICTION RECORDS,
5 EXCEPT BASIC IDENTIFICATION INFORMATION, IF:

6 (A) THE MOTION IS FILED THREE OR MORE YEARS AFTER THE DATE
7 OF THE FINAL DISPOSITION OF ALL CRIMINAL PROCEEDINGS AGAINST THE
8 DEFENDANT OR THE RELEASE OF THE DEFENDANT FROM SUPERVISION
9 CONCERNING A CRIMINAL CONVICTION, WHICHEVER IS LATER; AND

10 (B) THE DEFENDANT HAS NOT BEEN CHARGED OR CONVICTED OF
11 A FELONY, MISDEMEANOR, OR MISDEMEANOR TRAFFIC OFFENSE IN THE
12 THREE OR MORE YEARS SINCE THE DATE OF THE FINAL DISPOSITION OF ALL
13 CRIMINAL PROCEEDINGS AGAINST HIM OR HER OR THE DATE OF THE
14 DEFENDANT'S RELEASE FROM SUPERVISION, WHICHEVER IS LATER; AND

15 (C) THE CONVICTION RECORDS TO BE SEALED ARE NOT FOR A
16 MISDEMEANOR TRAFFIC OFFENSE COMMITTED EITHER BY A HOLDER OF A
17 COMMERCIAL LEARNER'S PERMIT OR A COMMERCIAL DRIVER'S LICENSE, AS
18 DEFINED IN SECTION 42-2-402, OR BY THE OPERATOR OF A COMMERCIAL
19 MOTOR VEHICLE, AS DEFINED IN SECTION 42-2-402.

20 (II) NOTWITHSTANDING THE PROVISIONS OF SUBSECTION
21 (1)(a)(I)(B) OF THIS SECTION, A DEFENDANT MAY PETITION THE DISTRICT
22 COURT OF THE DISTRICT IN WHICH ANY CONVICTION RECORDS PERTAINING
23 TO THE DEFENDANT FOR A MUNICIPAL VIOLATION, EXCEPT A MUNICIPAL
24 ASSAULT OR BATTERY OFFENSE IN WHICH THE UNDERLYING FACTUAL
25 BASIS INVOLVES DOMESTIC VIOLENCE, AS DEFINED IN SECTION 18-6-800.3
26 (1), OR ANY OTHER MUNICIPAL VIOLATION IN WHICH THE UNDERLYING
27 FACTUAL BASIS INVOLVES DOMESTIC VIOLENCE, AS DEFINED IN SECTION

1 18-6-800.3 (1), OR PETTY OFFENSE ARE LOCATED FOR THE SEALING OF THE
2 CONVICTION RECORDS, EXCEPT BASIC IDENTIFICATION INFORMATION, IF:

3 (A) THE DEFENDANT WAS CONVICTED OF A SINGLE OFFENSE THAT
4 WAS NOT A FELONY AND DID NOT INVOLVE DOMESTIC VIOLENCE AS
5 DEFINED IN SECTION 18-6-800.3 (1), UNLAWFUL SEXUAL BEHAVIOR AS
6 DEFINED IN SECTION 16-22-102 (9), OR CHILD ABUSE AS DEFINED IN
7 SECTION 18-6-401;

8 (B) THAT OFFENSE OCCURRED WITHIN THREE YEARS OF THE DATE
9 OF THE FINAL DISPOSITION OF ALL CRIMINAL PROCEEDINGS AGAINST HIM
10 OR HER RELATED TO THE CONVICTION THAT THE DEFENDANT IS SEEKING
11 TO HAVE SEALED OR WITHIN THREE YEARS OF THE DATE OF THE
12 DEFENDANT'S RELEASE FROM SUPERVISION RELATED TO THE CONVICTION
13 THAT THE DEFENDANT IS SEEKING TO HAVE SEALED, WHICHEVER IS LATER;
14 AND

15 (C) THE DEFENDANT HAS NOT BEEN CONVICTED OF A FELONY,
16 MISDEMEANOR, OR MISDEMEANOR TRAFFIC OFFENSE IN THE TEN OR MORE
17 YEARS SINCE THE DATE OF THE FINAL DISPOSITION OF ALL CRIMINAL
18 PROCEEDINGS AGAINST HIM OR HER FOR THE SUBSEQUENT CRIMINAL CASE
19 OR IN THE TEN OR MORE YEARS SINCE THE DATE OF THE DEFENDANT'S
20 RELEASE FROM SUPERVISION FOR THE SUBSEQUENT CASE, WHICHEVER IS
21 LATER.

22 (b) UPON FILING THE PETITION, THE DEFENDANT SHALL PAY THE
23 FILING FEE REQUIRED BY LAW.

24 (2) (a) UPON THE FILING OF A MOTION, THE COURT SHALL REVIEW
25 THE MOTION AND DETERMINE WHETHER THERE ARE GROUNDS PURSUANT
26 TO THIS SECTION TO PROCEED TO A HEARING ON THE PETITION. IF THE
27 COURT DETERMINES THAT THE MOTION ON ITS FACE IS INSUFFICIENT OR IF

1 THE COURT DETERMINES THAT, AFTER TAKING JUDICIAL NOTICE OF
2 MATTERS OUTSIDE THE MOTION, THE DEFENDANT IS NOT ENTITLED TO
3 RELIEF PURSUANT TO THIS SECTION, THE COURT SHALL ENTER AN ORDER
4 DENYING THE MOTION AND MAIL A COPY OF THE ORDER TO THE
5 DEFENDANT. THE COURT'S ORDER SHALL SPECIFY THE REASONS FOR THE
6 DENIAL OF THE MOTION.

7 (b) IF THE COURT DETERMINES THAT THE PETITION IS SUFFICIENT
8 ON ITS FACE AND THAT NO OTHER GROUNDS EXIST AT THAT TIME FOR THE
9 COURT TO DENY THE PETITION PURSUANT TO THIS SECTION, THE COURT
10 SHALL SET A DATE FOR A HEARING AND THE COURT SHALL NOTIFY BY
11 CERTIFIED MAIL THE PROSECUTING ATTORNEY, THE ARRESTING AGENCY,
12 AND ANY OTHER PERSON OR AGENCY IDENTIFIED BY THE DEFENDANT.

13 (3) AFTER THE HEARING DESCRIBED IN SUBSECTION (2) OF THIS
14 SECTION IS CONDUCTED AND IF THE COURT FINDS THAT THE HARM TO THE
15 PRIVACY OF THE DEFENDANT OR THE DANGERS OF UNWARRANTED,
16 ADVERSE CONSEQUENCES TO THE DEFENDANT OUTWEIGH THE PUBLIC
17 INTEREST IN RETAINING PUBLIC ACCESS TO THE CONVICTION RECORDS, THE
18 COURT MAY ORDER THE CONVICTION RECORDS, EXCEPT BASIC
19 IDENTIFICATION INFORMATION, TO BE SEALED. IN MAKING THIS
20 DETERMINATION, THE COURT SHALL, AT A MINIMUM, CONSIDER THE
21 FACTORS IN SECTION 24-72-706 (1)(g).

22 [REDACTED]

23 **SECTION 2.** In Colorado Revised Statutes, 18-1.3-101, **amend**
24 (10)(c) as follows:

25 **18-1.3-101. Pretrial diversion. (10)(c) Diversion outcomes.** At
26 any point after a diversion agreement is completed, a defendant may
27 petition the court to seal all arrest and other criminal records pertaining

1 to the offense using the procedure described in ~~section 24-72-702, C.R.S.~~
2 ~~SECTIONS 24-72-704 AND 24-72-705.~~ Unless otherwise prohibited under
3 ~~section 24-72-702 (4)(a), C.R.S. SECTION 24-72-703 (11),~~ the court shall
4 issue a sealing order if requested by the defendant following successful
5 completion of a diversion agreement.

6 **SECTION 3.** In Colorado Revised Statutes, 18-7-201.3, **amend**
7 (2)(a) as follows:

8 **18-7-201.3. Affirmative defense - human trafficking -**
9 **expungement of record protective order - definitions.** (2) (a) On or
10 after January 1, 2016, a person charged with or convicted of prostitution,
11 as described in section 18-7-201 or any corresponding municipal code or
12 ordinance, for an offense committed before July 1, 2015, which offense
13 was committed as a direct result of being a victim of human trafficking,
14 as defined in subsection (4) of this section, may apply to the court for a
15 sealing of his or her records pursuant to ~~section 24-72-702 or 24-72-706,~~
16 ~~C.R.S. SECTION 24-72-704 OR 24-72-707,~~ as applicable.

17 **SECTION 4.** In Colorado Revised Statutes, 24-4.1-302, **amend**
18 (2)(t); and **add** (2)(v) as follows:

19 **24-4.1-302. Definitions.** As used in this part 3, and for no other
20 purpose, including the expansion of the rights of any defendant:

21 (2) "Critical stages" means the following stages of the criminal
22 justice process:

23 (t) A hearing held pursuant to section 18-1-414 (2)(b), C.R.S.; and

24 (v) A HEARING HELD PURSUANT TO SECTION 24-72-706 OR
25 24-72-709.

26 **SECTION 5.** In Colorado Revised Statutes, 24-4.1-302.5, **amend**
27 (1)(z) as follows:

1 **24-4.1-302.5. Rights afforded to victims - definitions.** (1) In
2 order to preserve and protect a victim's rights to justice and due process,
3 each victim of a crime has the following rights:

4 (z) The right to be notified of a hearing concerning a ~~ANY MOTION~~
5 ~~FILED FOR~~ OR petition for sealing of records described in ~~section~~
6 ~~24-72-702~~ SECTION 24-72-704 filed by a defendant in the criminal case
7 whose crime falls under section 24-4.1-302 (1);

8 **SECTION 6.** In Colorado Revised Statutes, 24-4.1-303, **amend**
9 (11)(b.7) as follows:

10 **24-4.1-303. Procedures for ensuring rights of victims of**
11 **crimes.** (11) The district attorney shall inform a victim of the following:

12 (b.7) Any ~~MOTION FILED OR ANY~~ hearing concerning a ~~MOTION OR~~
13 ~~petition for sealing of records as~~ described in ~~section 24-72-702~~ SECTION
14 ~~24-72-706 OR 24-72-709~~ that was filed by a defendant in the criminal case
15 and whose crime falls under section 24-4.1-302 (1). The notification
16 should be made using the last known contact information that is available
17 for the victim.

18 **SECTION 7. Appropriation.** (1) For the 2019-20 state fiscal
19 year, \$47,361 is appropriated to the judicial department for use by the trial
20 courts. This appropriation is from the judicial stabilization cash fund
21 created in section 13-32-101 (6), C.R.S., and is based on an assumption
22 that the department will require an additional 0.8 FTE. To implement this
23 act, the department may use this appropriation for trial court programs.

24 (2) For the 2019-20 state fiscal year, \$443,847 is appropriated to
25 the department of public safety for use by the biometric identification and
26 records unit. This appropriation is from the Colorado bureau of
27 investigation identification unit fund created in section 24-33.5-426,

1 C.R.S., and is based on an assumption that the unit will require an
2 additional 6.6 FTE.

3 **SECTION 8. Act subject to petition - effective date.** This act
4 takes effect at 12:01 a.m. on the day following the expiration of the
5 ninety-day period after final adjournment of the general assembly (August
6 2, 2019, if adjournment sine die is on May 3, 2019); except that, if a
7 referendum petition is filed pursuant to section 1 (3) of article V of the
8 state constitution against this act or an item, section, or part of this act
9 within such period, then the act, item, section, or part will not take effect
10 unless approved by the people at the general election to be held in
11 November 2020 and, in such case, will take effect on the date of the
12 official declaration of the vote thereon by the governor.