

Second Regular Session
Seventy-third General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 22-0502.01 Michael Dohr x4347

SENATE BILL 22-099

SENATE SPONSORSHIP

Hisey and Rodriguez,

HOUSE SPONSORSHIP

Tipper,

Senate Committees
Judiciary

House Committees

A BILL FOR AN ACT

101 CONCERNING THE PROCEDURE FOR SEALING OF CRIMINAL RECORDS
102 FOR NONVIOLENT OFFENSES, AND, IN CONNECTION THEREWITH,
103 ADDRESSING WORKFORCE SHORTAGES AND MINIMIZING
104 BARRIERS TO EMPLOYMENT FOR JOB SEEKERS.

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 requires a consumer reporting agency, upon written request from a consumer, to disclose to each consumer whose report contains information from criminal justice records:

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.

- Each source from which the agency compiled the information; and
- The date on which the information was requested.

Currently, there is a process that allows for automatic sealing of criminal justice records for certain drug offenses. The bill extends that automatic sealing to all of the offenses, including civil infractions, that allow the defendant to petition the court for sealing criminal justice records that are not subject to the victims rights act. The bill streamlines the automatic record sealing process. The bill requires the state court administrator to produce an annual report regarding automatic record sealing.

The bill makes it an unfair employment practice to discharge or refuse to promote a person based solely on the contents of a sealed criminal record and makes it an unfair housing practice to refuse to show, sell, transfer, rent, or lease housing based on the contents of a sealed criminal record.

The bill requires the Colorado bureau of investigation to produce an annual report regarding record sealing.

The bill makes clarifying and organizational changes to the record sealing statutes.

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

2 **SECTION 1.** In Colorado Revised Statutes, 5-18-103, **add** (1)(d)
3 as follows:

4 **5-18-103. Definitions.** As used in this article 18, unless the
5 context otherwise requires:

6 (1) "Adverse action" includes:

7 (d) THE DENIAL OF HOUSING OR ANY OTHER DECISION FOR
8 HOUSING PURPOSES THAT ADVERSELY AFFECTS A CURRENT OR
9 PROSPECTIVE TENANT.

10 **SECTION 2.** In Colorado Revised Statutes, 5-18-104, **amend** (2);
11 and **add** (3) as follows:

12 **5-18-104. Permissible purposes - prohibition.** (2) A consumer
13 reporting agency may not, by contract or otherwise, prohibit a user of any
14 consumer report or investigative consumer report from, upon request of

1 ~~the consumer, disclosing and explaining the contents of the report or~~
2 ~~providing~~ SHALL DISCLOSE OR PROVIDE a copy of the report, INCLUDING
3 THE NAME AND CONTACT INFORMATION OF THE CONSUMER REPORTING
4 AGENCY, to the consumer to whom it relates if adverse action against the
5 consumer has been taken or is contemplated by the user of the consumer
6 report or investigative consumer report, based in whole or in part on the
7 report. No user or consumer reporting agency shall be held liable or
8 otherwise responsible for a disclosed or copied report when acting
9 pursuant to this subsection (2) nor shall disclosure or provision of a copy
10 of the report, by themselves, make the user a consumer reporting agency.

11 (3) UPON WRITTEN REQUEST FROM THE CONSUMER, A CONSUMER
12 REPORTING AGENCY SHALL DISCLOSE TO EACH CONSUMER WHOSE REPORT
13 CONTAINS INFORMATION FROM CRIMINAL JUSTICE RECORDS, AS DEFINED
14 IN SECTION 24-72-302 (4):

15 (a) EACH SOURCE FROM WHICH THE AGENCY COMPILED THE
16 INFORMATION; AND

17 (b) THE DATE ON WHICH THE INFORMATION WAS REQUESTED.

18 **SECTION 3.** In Colorado Revised Statutes, 5-18-109, **amend** (2);
19 and **add** (1)(e.5) as follows:

20 **5-18-109. Reporting of information prohibited - exceptions.**

21 (1) Except as authorized under subsection (2) of this section, no
22 consumer reporting agency shall make any consumer report containing
23 any of the following items of information:

24 (e.5) RECORDS OF CHARGES OR INDICTMENTS PENDING TRIAL,
25 SEALED RECORDS, EXPUNGED RECORDS, AND RECORDS THAT DID NOT
26 RESULT IN A CONVICTION;

27 (2) The provisions of subsection (1) of this section do not apply

1 to the case of any consumer report to be used in connection with:

2 (a) A credit transaction involving, or that may reasonably be
3 expected to involve, a principal amount of one hundred fifty thousand
4 dollars or more; OR

5 (b) The underwriting of life insurance involving, or that may
6 reasonably be expected to involve, a face amount of one hundred fifty
7 thousand dollars or more. ~~or~~

8 ~~(c) The employment of an individual at an annual salary that~~
9 ~~equals or is reasonably expected to equal seventy-five thousand dollars~~
10 ~~or more.~~

11 **SECTION 4.** In Colorado Revised Statutes, 13-3-117, **amend**
12 (1)(d), (2), and (3); and **add** (1)(a.5) and (4) as follows:

13 **13-3-117. State court administrator - automatic conviction**
14 **sealing.** (1) (a.5) THE STATE COURT ADMINISTRATOR SHALL COMPILE A
15 LIST OF ELIGIBLE CONVICTIONS, EXCLUDING CRIMES PURSUANT TO SECTION
16 24-4.1-302 (1):

17 (I) THAT ARE ELIGIBLE FOR SEALING PURSUANT TO SECTIONS
18 24-72-703 AND 24-72-706; AND

19 (II) (A) IF THE CONVICTION IS FOR A CIVIL INFRACTION, THAT FOUR
20 YEARS HAVE PASSED SINCE THE FINAL DISPOSITION OF THE CASE;

21 (B) IF THE CONVICTION IS FOR A PETTY OFFENSE OR MISDEMEANOR,
22 THAT AT LEAST SEVEN YEARS HAVE PASSED SINCE THE FINAL DISPOSITION
23 OF THE CASE;

24 (C) IF THE CONVICTION IS FOR AN ELIGIBLE FELONY, THAT AT
25 LEAST TEN YEARS HAVE PASSED SINCE THE DATE OF THE FINAL
26 DISPOSITION OF ALL CRIMINAL PROCEEDINGS AGAINST THE DEFENDANT OR
27 THE RELEASE OF THE DEFENDANT FROM SUPERVISION CONCERNING A

1 CRIMINAL CONVICTION, WHICHEVER IS LATER.

2 (d) Beginning July 1, 2024, the state court administrator shall
3 compile the list pursuant to this subsection (1) on ~~the first Monday of~~
4 ~~every month and the Colorado bureau of investigation and district~~
5 ~~attorneys shall complete their review within thirty-five days of receiving~~
6 ~~a new list. The court shall seal all conviction records eligible for sealing~~
7 ~~pursuant to the list compiled pursuant to subsection (3)(a) of this section~~
8 ~~within fourteen days of receipt of the amended list from each district~~
9 ~~attorney~~ A QUARTERLY BASIS.

10 (2) The state court administrator shall forward the list compiled
11 pursuant to subsection (1) of this section to the Colorado bureau of
12 investigation. The Colorado bureau of investigation shall compare the list
13 with criminal history reports. The Colorado bureau of investigation shall
14 complete the comparison based on a fingerprint-based review with
15 sufficient points of reference for identification validation as determined
16 by the Colorado bureau of investigation. The Colorado bureau of
17 investigation shall remove any convictions from the list from the state
18 court administrator in which sufficient identification validation cannot be
19 made by the Colorado bureau of investigation and any convictions for
20 which the defendant has an intervening conviction during the FOUR-YEAR
21 WAITING PERIOD IF THE CONVICTION IS FOR A CIVIL INFRACTION, DURING
22 THE seven-year waiting period if the conviction is for a petty offense or
23 misdemeanor, or during the ten-year waiting period if the conviction is
24 for a felony. The Colorado bureau of investigation shall COMPLETE ITS
25 REVIEW PURSUANT TO THIS SUBSECTION (2) WITHIN THIRTY-FIVE DAYS
26 AFTER RECEIVING A NEW LIST FROM THE STATE COURT ADMINISTRATOR
27 AND SHALL forward each amended list to each district attorney AND TO

1 THE STATE COURT ADMINISTRATOR.

2 (3) (a) Upon receipt of the list from the Colorado bureau of
3 investigation, each district attorney ~~shall remove convictions from the list~~
4 MAY, WITHIN FORTY-FIVE DAYS, OBJECT TO THE INCLUSION OF A
5 CONVICTION ON THE LIST, FOR CIRCUMSTANCES in which ~~a condition of~~
6 ~~plea was that the defendant agreed to not have the conviction record~~
7 ~~sealed and convictions in which~~ the defendant has a pending criminal
8 charge OR AN INTERVENING CONVICTION. Each district attorney shall
9 ANNOTATE THE LIST WITH THE SPECIFIC GROUND FOR ANY OBJECTION AND
10 KEEP A RECORD OF THE OBJECTIONS. IF THERE ARE OBJECTIONS, THE
11 DISTRICT ATTORNEY SHALL send its ~~amended~~ ANNOTATED list to the state
12 court administrator. ALL CONVICTIONS MUST BE SEALED UNLESS OBJECTED
13 TO WITHIN THE FORTY-FIVE-DAY PERIOD AS INELIGIBLE DUE TO PENDING
14 CHARGES. The state court administrator shall REMOVE CONVICTIONS
15 OBJECTED TO BY THE DISTRICT ATTORNEYS FROM THE LIST, IF ANY, AND
16 THEN compile each of the lists into one final list and sort the convictions
17 by judicial district.

18 (b) The ~~district attorney~~ STATE COURT ADMINISTRATOR shall send
19 the final list compiled pursuant to subsection (3)(a) of this section to the
20 chief judge for the judicial district. ~~and~~ The courts of that judicial district
21 shall enter sealing orders based on the list received WITHIN FOURTEEN
22 DAYS AFTER RECEIPT OF THE AMENDED LIST FROM THE STATE COURT
23 ADMINISTRATOR. The district court shall send a copy of the sealing order
24 to the Colorado bureau of investigation, the law enforcement agency that
25 investigated the case, and the district attorney's office that prosecuted the
26 case to facilitate sealing of the records held by those entities. The court
27 shall also send a copy to the defendant if the contact information for the

1 defendant is available and to the state court administrator for purposes of
2 subsection (3)(c) of this section.

3 (c) ON OR BEFORE JULY 1, 2024, the state court administrator shall
4 develop a website that allows a defendant to confidentially determine
5 whether ~~his or her~~ THE DEFENDANT'S conviction has been sealed pursuant
6 to this section and information about how to receive a copy of the sealing
7 order.

8 (4) (a) ON OR BEFORE FEBRUARY 1, 2024, AND ON OR BEFORE
9 JANUARY 1 EACH YEAR THEREAFTER, THE STATE COURT ADMINISTRATOR
10 SHALL REPORT TO THE JUDICIARY COMMITTEES OF THE SENATE AND THE
11 HOUSE OF REPRESENTATIVES, OR THEIR SUCCESSOR COMMITTEES, BY
12 JUDICIAL DISTRICT AND, TO THE EXTENT POSSIBLE, WITH DATA
13 DISAGGREGATED BY RACE AND ETHNICITY AND MISDEMEANORS AND
14 FELONIES, THE NUMBER OF CONVICTION RECORDS RECEIVED FROM THE
15 STATE COURT ADMINISTRATOR'S OFFICE IN THE PRIOR CALENDAR YEAR
16 THAT:

17 (I) WERE CONSIDERED FOR AUTOMATIC RECORD SEALING;

18 (II) THE COLORADO BUREAU OF INVESTIGATION SEALED
19 AUTOMATICALLY;

20 (III) THE COLORADO BUREAU OF INVESTIGATION DID NOT
21 CONSIDER FOR AUTOMATIC SEALING DUE TO LACK OF IDENTIFYING
22 INFORMATION;

23 (IV) THE COLORADO BUREAU OF INVESTIGATION DID NOT SEAL
24 DUE TO PENDING CHARGES; AND

25 (V) THE COLORADO BUREAU OF INVESTIGATION DID NOT SEAL FOR
26 ANY OTHER REASON AND THE REASON WHY THE RECORD WAS NOT SEALED.

27 (b) NOTWITHSTANDING SECTION 24-1-136 (11)(a)(I), THE REPORT

1 REQUIRED IN THIS SUBSECTION (4) CONTINUES INDEFINITELY.

2 **SECTION 5.** In Colorado Revised Statutes, 18-1.3-101, **amend**
3 (10)(c) as follows:

4 **18-1.3-101. Pretrial diversion. (10) Diversion outcomes.** (c) At
5 any point after a diversion agreement is completed, ~~a defendant may~~
6 ~~petition the court to~~ SHALL seal all arrest and other criminal records
7 pertaining to the offense using the procedure described in sections
8 24-72-704 and 24-72-705. ~~Unless otherwise prohibited under section~~
9 ~~24-72-703 (11), the court shall issue a sealing order if requested by the~~
10 ~~defendant following successful completion of a diversion agreement.~~

11 **SECTION 6.** In Colorado Revised Statutes, 18-7-201.3, **repeal**
12 (2)(a) and (2)(c) as follows:

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

22 (c) ~~An official determination or documentation is not required to~~
23 ~~grant a motion pursuant to this subsection (2), but official documentation~~
24 ~~from a federal, state, local, or tribal government agency indicating that the~~
25 ~~defendant was a victim at the time of the offense creates a presumption~~
26 ~~that his or her participation in the offense was a direct result of being a~~
27 ~~victim.~~

1 **SECTION 7.** In Colorado Revised Statutes, 18-13-107.3, **repeal**
2 (3) as follows:

3 **18-13-107.3. Intentional misrepresentation of entitlement to**
4 **an assistance animal - penalty - definitions.** (3) ~~(a) A defendant may~~
5 ~~petition the district court of the district in which any conviction records~~
6 ~~pertaining to the defendant's first conviction for intentional~~
7 ~~misrepresentation of entitlement to an assistance animal, as described in~~
8 ~~subsection (1) of this section, are located for the sealing of the conviction~~
9 ~~records, except for basic identifying information.~~

10 ~~(b) If a petition is filed pursuant to paragraph (a) of this subsection~~
11 ~~(3) for the sealing of a record of conviction for intentional~~
12 ~~misrepresentation of entitlement to an assistance animal, the court shall~~
13 ~~order the record sealed if the following criteria are met:~~

14 ~~(I) The petition is filed;~~

15 ~~(II) The filing fee is paid or the defendant has filed a motion to~~
16 ~~file without payment with a supporting financial affidavit and the court~~
17 ~~has granted the motion;~~

18 ~~(III) The defendant's first conviction for intentional~~
19 ~~misrepresentation of entitlement to an assistance animal was at least three~~
20 ~~years prior to the date of the filing of the petition; and~~

21 ~~(IV) The defendant has not had a subsequent conviction for~~
22 ~~intentional misrepresentation of entitlement to an assistance animal.~~

23 ~~(c) An order entered pursuant to this subsection (3) must be~~
24 ~~directed to each custodian who may have custody of any part of the~~
25 ~~conviction records that are the subject of the order. Whenever a court~~
26 ~~enters an order sealing conviction records pursuant to this subsection (3),~~
27 ~~the defendant shall provide the Colorado bureau of investigation and each~~

1 custodian of the conviction records with a copy of the order and shall pay
2 to the bureau any costs related to the sealing of his or her criminal
3 conviction records that are in the custody of the bureau unless the court
4 has granted the motion specified in subparagraph (H) of paragraph (b) of
5 this subsection (3). Thereafter, the defendant may request and the court
6 may grant an order sealing the civil case in which the conviction records
7 were sealed.

8 **SECTION 8.** In Colorado Revised Statutes, 18-13-107.7, **repeal**
9 (3) as follows:

10 **18-13-107.7. Intentional misrepresentation of a service animal**
11 **for a person with a disability - penalty - definitions.** (3) (a) ~~A~~
12 ~~defendant may petition the district court of the district in which any~~
13 ~~conviction records pertaining to the defendant's first conviction for~~
14 ~~intentional misrepresentation of a service animal, as described in~~
15 ~~subsection (1) of this section, are located for the sealing of the conviction~~
16 ~~records, except for basic identifying information.~~

17 ~~(b) If a petition is filed pursuant to paragraph (a) of this subsection~~
18 ~~(3) for the sealing of a record of conviction for intentional~~
19 ~~misrepresentation of a service animal, the court shall order the record~~
20 ~~sealed if the following criteria are met:~~

21 ~~(I) The petition is filed;~~

22 ~~(II) The filing fee is paid or the defendant has filed a motion to~~
23 ~~file without payment with a supporting financial affidavit and the court~~
24 ~~has granted the motion;~~

25 ~~(III) The defendant's first conviction for intentional~~
26 ~~misrepresentation of a service animal was at least three years prior to the~~
27 ~~date of the filing of the petition; and~~

1 ~~(IV) The defendant has not had a subsequent conviction for~~
2 ~~intentional misrepresentation of a service animal.~~

3 ~~(c) An order entered pursuant to this subsection (3) must be~~
4 ~~directed to each custodian who may have custody of any part of the~~
5 ~~conviction records that are the subject of the order. Whenever a court~~
6 ~~enters an order sealing conviction records pursuant to this subsection (3),~~
7 ~~the defendant shall provide the Colorado bureau of investigation and each~~
8 ~~custodian of the conviction records with a copy of the order and shall pay~~
9 ~~to the bureau any costs related to the sealing of his or her criminal~~
10 ~~conviction records that are in the custody of the bureau unless the court~~
11 ~~has granted the motion specified in subparagraph (H) of paragraph (b) of~~
12 ~~this subsection (3). Thereafter, the defendant may request and the court~~
13 ~~may grant an order sealing the civil case in which the conviction records~~
14 ~~were sealed.~~

15 **SECTION 9.** In Colorado Revised Statutes, 18-13-122, **amend**
16 **(13)** as follows:

17 **18-13-122. Illegal possession or consumption of ethyl alcohol**
18 **or marijuana by an underage person - illegal possession of marijuana**
19 **paraphernalia by an underage person - definitions - adolescent**
20 **substance abuse prevention and treatment fund - legislative**
21 **declaration. (13) Sealing of record. (a)** ~~Upon dismissal of a case~~
22 ~~pursuant to this section after completion of a deferred judgment or~~
23 ~~diversion or any other action resulting in dismissal of the case or Upon~~
24 ~~completion of the court-ordered substance abuse education and payment~~
25 ~~of any fine for a first conviction of subsection (3) of this section, the court~~
26 ~~shall immediately order the case sealed PURSUANT TO SECTION 24-72-704~~
27 ~~and provide to the underage person and the prosecutor a copy of the order~~

1 sealing the case for distribution by the appropriate party to all law
2 enforcement agencies in the case.

3 ~~(b) Upon the expiration of one year from the date of a second or~~
4 ~~subsequent conviction for a violation of subsection (3) of this section, the~~
5 ~~underage person convicted of such violation may petition the court in~~
6 ~~which the conviction was assigned for an order sealing the record of the~~
7 ~~conviction. The petitioner shall submit a verified copy of his or her~~
8 ~~criminal history, current through at least the twentieth day prior to the~~
9 ~~date of the filing of the petition, along with the petition at the time of~~
10 ~~filing, but in no event later than the tenth day after the petition is filed.~~
11 ~~The petitioner shall be responsible for obtaining and paying for his or her~~
12 ~~criminal history record. The court shall grant the petition if the petitioner~~
13 ~~has not been arrested for, charged with, or convicted of any felony,~~
14 ~~misdemeanor, or petty offense during the period of one year following the~~
15 ~~date of the petitioner's conviction for a violation of subsection (3) of this~~
16 ~~section.~~

17 **SECTION 10.** In Colorado Revised Statutes, 24-72-701, **add**
18 (4.5) and (5.5) as follows:

19 **24-72-701. Definitions.** As used in this part 7, unless the context
20 otherwise requires:

21 (4.5) "CRIMINAL JUSTICE RECORDS" MEANS ALL BOOKS, PAPERS,
22 CARDS, PHOTOGRAPHS, TAPES, RECORDINGS, OR OTHER DOCUMENTARY
23 MATERIALS, REGARDLESS OF FORM OR CHARACTERISTICS, THAT ARE MADE,
24 MAINTAINED, OR KEPT BY ANY CRIMINAL JUSTICE AGENCY OR OTHER
25 ENTITY, PUBLIC OR PRIVATE, IN THE STATE FOR USE IN THE EXERCISE OF
26 FUNCTIONS REQUIRED OR AUTHORIZED BY LAW OR ADMINISTRATIVE RULE,
27 INCLUDING THE RESULTS OF CHEMICAL BIOLOGICAL SUBSTANCE TESTING

1 TO DETERMINE GENETIC MARKERS CONDUCTED PURSUANT TO SECTIONS
2 16-11-102.4 AND 16-23-104.

3 (5.5) "DISPOSITION" HAS THE SAME MEANING AS SET FORTH IN
4 SECTION 24-72-302.

5 **SECTION 11.** In Colorado Revised Statutes, 24-72-703, **amend**
6 (1), (2)(a)(I), (2)(a)(III), (2)(b), (2)(d)(I), (8), and (12)(b); **repeal** (2)(c);
7 and **add** (2)(a)(VI), (2)(a)(VII), (2)(d)(IV), and (13) as follows:

8 **24-72-703. Sealing of records - general provisions - order**
9 **applicability - discovery and advisements.** (1) **Applicability.** ~~The~~
10 ~~provisions of~~ This section ~~shall apply~~ APPLIES to the sealing of arrest and
11 criminal records pursuant to sections 24-72-704 to 24-72-710.

12 (2) **Effect of a sealing order.** (a) (I) An order sealing arrest or
13 other criminal records does not deny access to the criminal records of a
14 petitioner or defendant by any court, law enforcement agency, criminal
15 justice agency, prosecuting attorney, ~~or party~~ or GOVERNMENTAL agency
16 required by ~~law~~ STATUTE to conduct a criminal history record check on
17 an individual, INCLUDING FOR THE PURPOSE OF COMPLYING WITH
18 PROSECUTORIAL DUTIES UNDER RULE 16 OF THE COLORADO RULES OF
19 CRIMINAL PROCEDURE TO DISCLOSE CRIMINAL JUSTICE RECORDS IN
20 CRIMINAL PROCEEDINGS.

21 (III) A ~~conviction~~ RECORD sealed pursuant to this article 72 may
22 be used by a criminal justice agency, law enforcement agency, court, or
23 prosecuting attorney for any lawful purpose relating to the investigation
24 or prosecution of any case, including ~~but not limited to~~ any subsequent
25 case that is filed against the petitioner or defendant; FOR COLLECTING
26 RESTITUTION, FINES, COURT COSTS, LATE FEES, OR OTHER FEES; or for any
27 other lawful purpose within the scope of ~~his, her, or its~~ THE AGENCY'S,

1 COURT'S, OR ATTORNEY'S duties. A party or agency required by law to
2 conduct a criminal history record check is authorized to use any sealed
3 conviction for the lawful purpose for which the criminal history record
4 check is required by law.

5 (VI) THE SEALING OF A RECORD PURSUANT TO THIS ARTICLE 72
6 DOES NOT PRECLUDE A COURT'S JURISDICTION OVER ANY SUBSEQUENTLY
7 FILED MOTION, INCLUDING A MOTION TO AMEND THE RECORD, A
8 POSTCONVICTION RELIEF MOTION OR PETITION, OR ANY OTHER MOTION
9 CONCERNING A SEALED CONVICTION RECORD.

10 (VII) A DEFENDANT WHOSE RECORD HAS BEEN SEALED OR
11 EXPUNGED MAY ACCESS INFORMATION CONTAINED IN THE SEALED RECORD
12 FROM THE COLORADO BUREAU OF INVESTIGATION WITHOUT A COURT
13 ORDER. IN RESPONSE TO AN INQUIRY FROM THE DEFENDANT, THE
14 COLORADO BUREAU OF INVESTIGATION SHALL REPLY BOTH PURSUANT TO
15 SUBSECTION (2)(b) OF THIS SECTION AND WITH THE INFORMATION AND
16 RECORDS UNDERLYING THE SEALED RECORD.

17 (b) Except as otherwise provided in subsection (2)(a)(I) of this
18 section, upon the entry of an order to seal the criminal records, the
19 defendant ~~and all criminal justice agencies~~ may properly reply, upon an
20 inquiry into the matter, that public criminal records do not exist with
21 respect to the petitioner or defendant. UPON A QUERY INTO A SEALED
22 RECORD, A CRIMINAL JUSTICE AGENCY SHALL REPLY THAT A PUBLIC
23 CRIMINAL RECORD DOES NOT EXIST WITH RESPECT TO THE DEFENDANT
24 WHO IS THE SUBJECT OF THE SEALED RECORD.

25 ~~(c) Except as otherwise provided in subsection (2)(a)(I) of this~~
26 ~~section, inspection of the records included in an order sealing criminal~~
27 ~~records may thereafter be permitted by the court only upon petition by the~~

1 ~~petitioner or defendant.~~

2 (d) (I) Except as otherwise provided in subsection (2)(a)(I) of this
3 section, employers, state and local government agencies, officials,
4 landlords, ~~and~~ employees, AND ANY OTHER ENTITY shall not require an
5 applicant to disclose any information contained in sealed ~~conviction~~
6 CRIMINAL JUSTICE records in any application or interview or in any other
7 way. An applicant does not need to include a reference to or information
8 concerning the sealed ~~conviction~~ records in answer to any question
9 concerning ~~conviction~~ records that have been sealed and may state that
10 the applicant has not been criminally convicted. An application may not
11 be denied solely because of the applicant's refusal to disclose ~~conviction~~
12 records that have been sealed.

13 (IV) (A) IT IS AN UNFAIR EMPLOYMENT PRACTICE PURSUANT TO
14 SECTION 24-34-402 FOR AN EMPLOYER TO DISCHARGE OR REFUSE TO
15 PROMOTE AN EMPLOYEE OR TO REFUSE TO HIRE AN INDIVIDUAL BECAUSE
16 OF THE CONTENTS OF A RECORD SEALED PURSUANT TO THIS ARTICLE 72
17 UNLESS THE EMPLOYER IS AUTHORIZED BY LAW TO CONSIDER SEALED
18 CRIMINAL JUSTICE RECORDS.

19 (B) IT IS AN UNFAIR HOUSING PRACTICE PURSUANT TO SECTION
20 24-34-502 FOR A PERSON TO REFUSE TO SHOW, SELL, TRANSFER, RENT, OR
21 LEASE ANY HOUSING; REFUSE TO RECEIVE AND TRANSMIT ANY BONA FIDE
22 OFFER TO BUY, SELL, RENT, OR LEASE ANY HOUSING; OR OTHERWISE MAKE
23 UNAVAILABLE OR DENY OR WITHHOLD FROM AN INDIVIDUAL ANY HOUSING
24 BECAUSE OF THE CONTENTS OF A RECORD SEALED PURSUANT TO THIS
25 ARTICLE 72 UNLESS THE PERSON IS AUTHORIZED BY LAW TO CONSIDER
26 SEALED CRIMINAL JUSTICE RECORDS.

27 (8) **Service of sealing order.** The court shall direct a sealing order

1 entered pursuant to this part 7 to each custodian who may have custody
2 of any part of the ~~conviction~~ CRIMINAL JUSTICE records OR ARREST AND
3 CRIMINAL RECORDS INFORMATION that are the subject of the order. THE
4 COURT SHALL DIRECT THAT THE SEALING ORDER APPLIES TO PUBLIC AND
5 PRIVATE CUSTODIANS OF THE RECORDS. Whenever a court enters an order
6 sealing ~~conviction~~ CRIMINAL JUSTICE records, the ~~defendant~~ COURT shall
7 provide the Colorado bureau of investigation and each custodian of the
8 ~~conviction~~ records with a copy of the order. The ~~petitioner shall provide~~
9 DEFENDANT MAY SERVE a private OR PUBLIC custodian with a copy of the
10 order. ~~and send the private custodian an electronic notification of the~~
11 ~~order.~~ Each private custodian that receives a copy of the order from the
12 ~~petitioner~~ DEFENDANT shall remove the records that are subject to an
13 order from its database AND SHALL SECURE AND KEEP CONFIDENTIAL ANY
14 RECORDS IN THE CUSTODIAN'S POSSESSION. The defendant shall pay to the
15 bureau any costs related to the sealing of ~~his or her~~ THE DEFENDANT'S
16 criminal ~~conviction~~ JUSTICE records in the custody of the bureau, UNLESS
17 THE DEFENDANT DEMONSTRATES THAT THE RECORDS SHOULD HAVE BEEN
18 AUTOMATICALLY SEALED PURSUANT TO SECTION 13-3-117, 24-72-704, OR
19 24-72-705. Thereafter, the defendant may request and the court may grant
20 an order sealing the ~~civil~~ case in which the ~~conviction~~ records were
21 sealed.

22 (12) **Exclusions.** (b) ~~Conviction records must not be sealed if the~~
23 ~~defendant still owes~~ NEITHER THE COURT NOR THE STATE COURT
24 ADMINISTRATOR'S OFFICE SHALL FACTOR IN OR TAKE INTO CONSIDERATION
25 ANY UNPAID restitution, fines, court costs, late fees, or other fees ordered
26 by the court in the case that is the subject of the motion to seal ~~unless the~~
27 ~~court that entered the order has vacated the order~~ WHEN THE COURT IS

1 DETERMINING WHETHER THE RECORD SHOULD BE SEALED.

2 (13) THE ELIGIBILITY OF AN OFFENSE MUST BE DETERMINED BY
3 THE CLASSIFICATION OF THE OFFENSE AT THE TIME OF CONSIDERING
4 RECORD SEALING.

5 **SECTION 12.** In Colorado Revised Statutes, 24-72-704, **amend**
6 **(2)(b)(I)(B); repeal (1)(d); and add (6)** as follows:

7 **24-72-704. Sealing of arrest records when no charges filed -**
8 **automatic sealing.** ~~(1) (d) Inspection of the records included in an order~~
9 ~~sealing criminal records may be permitted by the court only upon petition~~
10 ~~by the person who is the subject of the records or by the prosecuting~~
11 ~~attorney and only for those purposes named in the petition.~~

12 (2) (b) (I) For arrests without a conviction after January 1, 2019,
13 but before January 1, 2022, the Colorado bureau of investigation shall
14 automatically seal an arrest record that is in its custody and control of a
15 person when no criminal charges have been filed:

16 (B) Within eighteen months after the date of arrest for a
17 misdemeanor offense, a misdemeanor traffic offense, A CIVIL INFRACTION,
18 a petty offense, a municipal ordinance violation for which the statute of
19 limitations is eighteen months or less, or if there is no indication of the
20 classification of the crime in the arrest data.

21 (6) (a) BEGINNING NOVEMBER 1, 2023, AND ANNUALLY
22 THEREAFTER, THE COLORADO BUREAU OF INVESTIGATION SHALL REPORT
23 TO THE JUDICIARY COMMITTEES OF THE SENATE AND THE HOUSE OF
24 REPRESENTATIVES, OR THEIR SUCCESSOR COMMITTEES, BY JUDICIAL
25 DISTRICT AND, TO THE EXTENT POSSIBLE, WITH DATA DISAGGREGATED BY
26 RACE AND ETHNICITY AND FOR MISDEMEANORS AND FELONIES:

27 (I) THE NUMBER OF ARREST RECORDS CONSIDERED FOR SEALING;

- 1 (II) THE NUMBER OF ARREST RECORDS SEALED;
2 (III) THE NUMBER OF ARREST RECORDS NOT SEALED BECAUSE
3 CHARGES WERE FILED; AND
4 (IV) THE NUMBER OF ARREST RECORDS NOT SEALED FOR ANY
5 OTHER REASON AND THE REASON WHY EACH RECORD WAS NOT SEALED.

6 (b) NOTWITHSTANDING SECTION 24-1-136 (11)(a)(I), THE REPORT
7 REQUIRED IN THIS SUBSECTION (6) CONTINUES INDEFINITELY.

8 **SECTION 13.** In Colorado Revised Statutes, 24-72-705, **amend**
9 (1)(a) introductory portion, (1)(b), (1)(c), and (2) as follows:

10 **24-72-705. Sealing criminal justice records other than**
11 **convictions - simplified process - applicability.** (1) (a) ON ITS OWN
12 MOTION AND AT THE TIME OF DISPOSITION, the court shall order the
13 defendant's criminal justice records sealed when:

14 (b) If the court did not order the record sealing at the time of the
15 dismissal or acquittal, ~~the defendant may make such motion at any time~~
16 ~~subsequent to the dismissal or acquittal through the filing of a written~~
17 ~~motion in the criminal case with written notice to the prosecuting attorney~~
18 COLORADO BUREAU OF INVESTIGATION SHALL AUTOMATICALLY SEAL THE
19 RECORD UPON RECEIPT OF DISPOSITION IN THE CASE, UNLESS THE
20 DEFERRED JUDGMENT IS INELIGIBLE FOR SEALING PURSUANT TO SECTION
21 24-72-703 (12)(d).

22 (c) ~~If the defendant moves pursuant to subsection (1)(a) of this~~
23 ~~section to seal his or her criminal justice records pursuant to the expedited~~
24 ~~procedures of this section, the court shall promptly process the~~
25 ~~defendant's request to seal the criminal justice records within the criminal~~
26 ~~case without the filing of an independent civil action and without any~~
27 ~~further evidence except for evidence of the dismissal or acquittal.~~

1 Motions filed pursuant to this section are procedural in nature, and
2 sealing pursuant to this section applies retroactively for all eligible cases
3 when the case has been completely dismissed or the defendant has been
4 acquitted of all counts in a state or municipal criminal case.

5 ~~(2) (a) A defendant moving to have his or her criminal justice~~
6 ~~records sealed or a defendant who has his or her criminal justice records~~
7 ~~sealed by the court pursuant to this section shall pay a processing fee of~~
8 ~~sixty-five dollars to cover the actual costs related to the sealing of the~~
9 ~~criminal justice records, which the court may waive upon a determination~~
10 ~~of indigency~~ IF THE AUTOMATIC SEALING OF A CRIMINAL RECORD DOES
11 NOT OCCUR, THE DEFENDANT MAY MAKE A MOTION TO SEAL IN THE
12 CRIMINAL CASE THE RECORD AT ANY TIME SUBSEQUENT TO THE DISMISSAL
13 OR ACQUITTAL THROUGH THE FILING OF A WRITTEN MOTION. THE
14 DEFENDANT MAY MAKE THE MOTION WITHOUT BEING CHARGED FEES OR
15 COSTS.

16 ~~(b) When the motion to seal the criminal case is filed in state~~
17 ~~court, the processing fees collected pursuant to subsection (2)(a) of this~~
18 ~~section must be transmitted to the state treasurer and credited to the~~
19 ~~judicial stabilization cash fund created in section 13-32-101 (6).~~

20 ~~(c) When the motion to seal the criminal case is filed in municipal~~
21 ~~court, the processing fees collected pursuant to subsection (2)(a) of this~~
22 ~~section must be reported and paid as municipal costs and must be~~
23 ~~transmitted to the treasurer of the municipality and deposited in the~~
24 ~~general fund of the municipality pursuant to section 13-10-115.~~

25 **SECTION 14.** In Colorado Revised Statutes, 24-72-706, **amend**
26 **(1)(b)(I), (1)(f)(I), and (1)(h); repeal (1)(e) and (2)(c); and add**
27 **(1)(b)(I.5), (1)(b)(III.3), and (1)(b)(III.5) as follows:**

1 **24-72-706. Sealing of criminal justice records - processing fee.**

2 **(1) Sealing of conviction records.** (b) (I) If the offense is a CIVIL
3 INFRACTION, A petty offense, or a drug petty offense, the motion may be
4 filed one year after the later of the date of the final disposition of all
5 ~~criminal~~ proceedings against the defendant or the release of the defendant
6 from supervision concerning a ~~criminal~~ conviction.

7 (I.5) IF THE OFFENSE IS A SECOND OR SUBSEQUENT CONVICTION
8 FOR A VIOLATION OF SECTION 18-13-122 (3), THE MOTION MAY BE FILED
9 ONE YEAR AFTER THE DATE OF THE SECOND OR SUBSEQUENT CONVICTION,
10 AND THE COURT SHALL ORDER THAT THE MOTION BE GRANTED IF THE
11 DEFENDANT HAS NOT BEEN CONVICTED OF AND IS NOT CURRENTLY
12 CHARGED WITH ANY FELONY, MISDEMEANOR, OR PETTY OFFENSE DURING
13 THE PERIOD OF ONE YEAR AFTER THE DATE OF THE DEFENDANT'S
14 CONVICTION FOR A VIOLATION OF SECTION 18-13-122 (3).

15 (III.3) NOTWITHSTANDING SUBSECTION (1)(b)(I) OF THIS SECTION,
16 IF THE OFFENSE IS A FIRST CONVICTION FOR INTENTIONAL
17 MISREPRESENTATION OF ENTITLEMENT TO AN ASSISTANCE ANIMAL AS
18 DESCRIBED IN SECTION 18-13-107.3 (1), THE DEFENDANT MAY FILE A
19 MOTION THREE YEARS AFTER THE CONVICTION AND THE COURT SHALL
20 ORDER THE RECORD SEALED IF THE DEFENDANT DOES NOT HAVE A
21 SUBSEQUENT CONVICTION FOR INTENTIONAL MISREPRESENTATION OF
22 ENTITLEMENT TO AN ASSISTANCE ANIMAL.

23 (III.5) IF THE OFFENSE IS A FIRST CONVICTION FOR INTENTIONAL
24 MISREPRESENTATION OF A SERVICE ANIMAL, AS DESCRIBED IN SECTION
25 18-13-107.7(1), THE DEFENDANT MAY FILE A MOTION THREE YEARS AFTER
26 THE CONVICTION, AND THE COURT SHALL ORDER THE RECORD SEALED IF
27 THE DEFENDANT DOES NOT HAVE A SUBSEQUENT CONVICTION FOR

1 INTENTIONAL MISREPRESENTATION OF A SERVICE ANIMAL.

2 (e) ~~Conviction records may not be sealed if the defendant still~~
3 ~~owes restitution, fines, court costs, late fees, or other fees ordered by the~~
4 ~~court in the case that is the subject of the motion to seal conviction~~
5 ~~records, unless the court that entered the order for restitution, fines, court~~
6 ~~costs, late fees, or other fees vacated the order.~~

7 (f) (I) If a motion is filed for the sealing of a CIVIL INFRACTION, A
8 petty offense, A petty drug offense, or, notwithstanding any provision of
9 this part 7 to the contrary, an offense for the possession of marijuana, the
10 court shall order that the records be sealed after the motion is filed and
11 the criminal history filed with the court documents to the court that the
12 defendant has not been convicted of a ~~criminal~~ AN offense since the date
13 of the final disposition of all ~~criminal~~ proceedings against the defendant
14 or since the date of the defendant's release from supervision, whichever
15 is later.

16 (h) A defendant who files a motion to seal criminal justice
17 ~~conviction~~ records pursuant to this section shall pay a processing fee of
18 sixty-five dollars to cover the actual costs related to the sealing of the
19 criminal justice records. ~~which the court may waive upon a determination~~
20 ~~of indigency.~~ The defendant shall pay to the Colorado bureau of
21 investigation any costs related to the sealing of ~~his or her~~ THE
22 DEFENDANT'S criminal ~~conviction~~ JUSTICE records in the custody of the
23 bureau. THE COURT SHALL WAIVE THE PROCESSING FEE UPON A
24 DETERMINATION THAT:

25 (I) THE DEFENDANT IS INDIGENT; OR

26 (II) THE DEFENDANT'S RECORDS SHOULD HAVE BEEN
27 AUTOMATICALLY SEALED PURSUANT TO SECTION 13-3-117, 24-72-704, OR

1 24-72-705.

2 (2) (c) ~~This section does not apply to records that are subject to~~
3 ~~the procedure set forth in section 18-13-122 (13).~~

4 **SECTION 15.** In Colorado Revised Statutes, 24-72-707, **amend**
5 (3)(b); and **add** (1.5) as follows:

6 **24-72-707. Sealing of criminal conviction records information**
7 **for offenses committed by victims of human trafficking.** (1.5) A
8 PERSON CHARGED WITH OR CONVICTED OF PROSTITUTION, AS DESCRIBED
9 IN SECTION 18-7-201, OR ANY CORRESPONDING MUNICIPAL CODE OR
10 ORDINANCE, WHICH OFFENSE WAS COMMITTED AS A DIRECT RESULT OF
11 BEING A VICTIM OF HUMAN TRAFFICKING, AS DEFINED IN SECTION
12 18-7-201.3 (4) , MAY FILE A MOTION WITH THE COURT FOR A SEALING OF
13 THE PERSON'S RECORDS.

14 (3) The court shall order the records sealed after:

15 (b) The defendant establishes by a preponderance of the evidence
16 that, at the time ~~he or she~~ THE DEFENDANT committed the offense, ~~he or~~
17 ~~she~~ THE DEFENDANT had been trafficked by another person, as described
18 in section 18-3-503 or 18-3-504, for the purpose of performing the
19 offense. OFFICIAL DOCUMENTATION FROM A FEDERAL, STATE, LOCAL, OR
20 TRIBAL GOVERNMENT AGENCY INDICATING THAT THE DEFENDANT WAS A
21 VICTIM OF HUMAN TRAFFICKING AT THE TIME OF THE OFFENSE CREATES A
22 PRESUMPTION THAT THE DEFENDANT'S PARTICIPATION IN THE OFFENSE
23 WAS THE DIRECT RESULT OF BEING A VICTIM OF HUMAN TRAFFICKING.

24 **SECTION 16.** In Colorado Revised Statutes, 24-72-708, **amend**
25 (1)(a)(I) introductory portion and (1)(a)(II) as follows:

26 **24-72-708. Sealing of criminal conviction records information**
27 **for municipal offenses for convictions.** (1) **Sealing of conviction**

1 **records.** (a) (I) A defendant may file a motion IN THE CRIMINAL CASE IN
2 THE MUNICIPAL COURT in which any conviction records pertaining to the
3 defendant for a municipal violation are located for the sealing of the
4 conviction records, except basic identification information, if:

5 (II) Notwithstanding the provisions of subsection (1)(a)(I)(B) of
6 this section, a defendant may ~~petition the district court of the district in~~
7 ~~which any conviction records pertaining to the defendant for a municipal~~
8 ~~violation, except a municipal assault or battery offense in which the~~
9 ~~underlying factual basis involves domestic violence, as defined in section~~
10 ~~18-6-800.3 (1), or any other municipal violation in which the underlying~~
11 ~~factual basis involves domestic violence, as defined in section 18-6-800.3~~
12 ~~(1), or petty offense~~ FILE A MOTION IN WHICH ANY CONVICTION RECORDS
13 PERTAINING TO THE DEFENDANT FOR A MUNICIPAL VIOLATION are located
14 for the sealing of the conviction records, except basic identification
15 information, if:

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

20 (B) That offense occurred ~~within three years of~~ AFTER the date of
21 the final disposition of all criminal proceedings against ~~him or her~~ THE
22 DEFENDANT related to the conviction that the defendant is seeking to have
23 sealed or ~~within three years of~~ AFTER the date of the defendant's release
24 from supervision related to the conviction that the defendant is seeking
25 to have sealed, whichever is later; ~~and~~

26 (C) The defendant has not been convicted of a felony,
27 misdemeanor, or misdemeanor traffic offense in the ten or more years

1 since the date of the final disposition of all criminal proceedings against
2 ~~him or her~~ THE DEFENDANT for the subsequent criminal case or in the ten
3 or more years since the date of the defendant's release from supervision
4 for the subsequent case, whichever is later; AND

5 (D) THE CONVICTION THAT THE DEFENDANT IS SEEKING TO HAVE
6 SEALED IS NOT AN OFFENSE IN WHICH THE UNDERLYING FACTUAL BASIS
7 INVOLVES DOMESTIC VIOLENCE, AS DEFINED IN SECTION 18-6-800.3 (1).

8 **SECTION 17.** In Colorado Revised Statutes, 24-72-709, **amend**
9 (2)(a); and **repeal** (4)(b) as follows:

10 **24-72-709. Sealing of criminal conviction records information**
11 **for multiple conviction records.** (2) (a) If the offense or highest offense
12 of the multiple offenses is an ELIGIBLE CIVIL INFRACTION, eligible petty
13 offense, or eligible petty drug offense, the petition may be filed two years
14 after the later of the date of the final disposition of all ~~criminal~~
15 proceedings against the defendant or the release of the defendant from
16 supervision concerning the conviction, or the latest in time ~~criminal~~
17 conviction of the multiple convictions.

18 (4) (b) ~~Conviction records may not be sealed if the defendant still~~
19 ~~owes restitution, fines, court costs, late fees, or other fees ordered by the~~
20 ~~court in the case that is the subject of the petition to seal conviction~~
21 ~~records, unless the court that entered the order for restitution, fines, court~~
22 ~~costs, late fees, or other fees has vacated the order.~~

23 **SECTION 18. Act subject to petition - effective date.** This act
24 takes effect at 12:01 a.m. on the day following the expiration of the
25 ninety-day period after final adjournment of the general assembly; except
26 that, if a referendum petition is filed pursuant to section 1 (3) of article V
27 of the state constitution against this act or an item, section, or part of this

1 act within such period, then the act, item, section, or part will not take
2 effect unless approved by the people at the general election to be held in
3 November 2022 and, in such case, will take effect on the date of the
4 official declaration of the vote thereon by the governor.