

**First Regular Session
Sixty-ninth General Assembly
STATE OF COLORADO**

REVISED

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

LLS NO. 13-0375.01 Richard Sweetman x4333

HOUSE BILL 13-1082

HOUSE SPONSORSHIP

Labuda,

SENATE SPONSORSHIP

Steadman,

House Committees
Judiciary

Senate Committees
Judiciary

A BILL FOR AN ACT

101 **CONCERNING JUVENILE DELINQUENCY RECORDS.**

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://www.leg.state.co.us/billsummaries>.)

A court that adjudicates a person a juvenile delinquent shall consider initiating expungement proceedings for the person's records not more than 30 days after the person's sentence is discharged.

A court that adjudicates a person an aggravated juvenile offender or a violent juvenile offender, or that adjudicates a person a juvenile delinquent for a felony offense of unlawful sexual behavior, shall consider initiating expungement proceedings for the person's records not

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

SENATE
2nd Reading Unamended
April 29, 2013

HOUSE
3rd Reading Unamended
April 11, 2013

HOUSE
Amended 2nd Reading
April 10, 2013

more than 5 years after the person's sentence is discharged.

The bill permits a court to order a petitioner's records expunged in cases where the petitioner has been convicted of a misdemeanor since the termination of the court's jurisdiction or the petitioner's unconditional release from parole supervision.

Under current law, the public has access to arrest and criminal records information, including a physical description, that concerns a juvenile who is adjudicated a juvenile delinquent or is subject to a revocation of probation for:

- ! Committing the crime of possession of a handgun by a juvenile;
- ! Committing an act that would constitute a class 1, 2, 3, or 4 felony; or
- ! Committing an act that would constitute any crime that involves the use or possession of a weapon if such act were committed by an adult.

The bill limits the public's access to include only arrest and criminal records information, including a physical description, that concerns a juvenile who is adjudicated a juvenile delinquent or is subject to a revocation of probation for:

- ! Committing the crime of possession of a handgun by a juvenile; or
- ! Committing an act that would constitute a class 1 felony.

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

2 **SECTION 1.** In Colorado Revised Statutes, 19-1-306, **amend** (2)
3 (a), (3), (5) (c) (I), (6), and (7); and **add** (5) (a.5) and (10) as follows:

4 **19-1-306. Expungement of juvenile delinquent records.**

5 (2) (a) AT THE TIME OF THE ADJUDICATION, the court shall advise THE
6 ADJUDICATED JUVENILE AND any **person** RESPONDENT PARENT OR
7 GUARDIAN of the right to petition the court for the expungement of ~~such~~
8 **person's** THE JUVENILE'S record. ~~at the time of adjudication, or~~ The court,
9 on its own motion or the motion of the juvenile probation department, ~~or~~
10 the juvenile parole department, THE JUVENILE, A RESPONDENT PARENT OR
11 GUARDIAN, OR A COURT-APPOINTED GUARDIAN AD LITEM, may initiate
12 expungement proceedings concerning the record of any juvenile who has

1 been under the jurisdiction of the court.

2 (3) AFTER EXPUNGEMENT, basic identification information on the
3 juvenile and a list of any state and local agencies and officials having
4 contact with the juvenile, as they appear from the records, shall not be
5 open to the public but shall be available to a district attorney, local law
6 enforcement agency, ~~and~~ the department of human services, THE STATE
7 JUDICIAL DEPARTMENT, AND THE VICTIM AS DEFINED IN SECTION
8 24-4.1-302(5), C.R.S.; except that such information shall not be available
9 to an agency of the military forces of the United States.

10 (5) (a.5) NOTWITHSTANDING ANY ORDER FOR EXPUNGEMENT
11 PURSUANT TO THIS SECTION, ANY CRIMINAL JUSTICE RECORD OF A
12 JUVENILE WHO HAS BEEN CHARGED, ADJUDICATED, OR CONVICTED AS A
13 REPEAT OR MANDATORY JUVENILE OFFENDER SHALL BE AVAILABLE FOR
14 USE BY A COURT, A DISTRICT ATTORNEY, ANY LAW ENFORCEMENT
15 AGENCY, ANY AGENCY OF THE STATE JUDICIAL DEPARTMENT IN ANY
16 SUBSEQUENT CRIMINAL INVESTIGATION, PROSECUTION, OR ADJUDICATION
17 UNDER THIS TITLE OR DURING PROBATION OR PAROLE SUPERVISION, IF
18 OTHERWISE PERMITTED BY LAW.

19 (c) The court may order expunged all records in the petitioner's
20 case in the custody of the court and any records in the custody of any
21 other agency or official if at the hearing the court finds that:

22 (I) The petitioner who is the subject of the hearing has not been
23 convicted of, OR ADJUDICATED A JUVENILE DELINQUENT FOR, ~~a~~ ANY
24 felony OFFENSE or of a misdemeanor ~~and has not been adjudicated a~~
25 ~~juvenile delinquent~~ OFFENSE INVOLVING DOMESTIC VIOLENCE, UNLAWFUL
26 SEXUAL BEHAVIOR, OR POSSESSION OF A WEAPON since the termination of
27 the court's jurisdiction or the petitioner's unconditional release from

1 parole supervision;

2 (6) A person is eligible to petition for an expungement order:

3 (a) Immediately upon: ~~a finding of not guilty at an adjudicatory~~

4 ~~trial;~~

5 (I) A FINDING OF NOT GUILTY AT AN ADJUDICATORY TRIAL;

6 (II) DISMISSAL OF THE PETITION IN ITS ENTIRETY AS A RESULT OF

7 NONPROSECUTION OF THE OFFENSE; OR

8 (III) SUCCESSFUL COMPLETION OF A JUVENILE DIVERSION

9 PROGRAM, A DEFERRED ADJUDICATION, OR AN INFORMAL ADJUSTMENT;

10 (a.5) At any time for the purposes described in paragraph (d) of

11 subsection (5) of this section;

12 (b) One year from THE DATE OF:

13 (I) ~~The date of~~ A law enforcement contact that did not result in a

14 referral to another agency; OR

15 (II) ~~The completion of a juvenile diversion program or informal~~

16 ~~adjustment~~ TERMINATION OF THE COURT'S JURISDICTION OVER THE

17 PETITIONER AFTER SUCCESSFUL COMPLETION OF PROBATION;

18 (c) ~~Four~~ THREE years from the date of:

19 (I) ~~The termination of the court's jurisdiction over the petitioner;~~

20 (II) The petitioner's unconditional release from commitment to the

21 department of human services; or

22 (III) The petitioner's unconditional release from parole

23 supervision; OR

24 (IV) (Deleted by amendment, L. 96, p. 1163, § 6, effective

25 January 1, 1997.)

26 (d) ~~Ten~~ FIVE years from the date of THE TERMINATION OF THE

27 COURT'S JURISDICTION OVER THE PETITIONER OR THE PETITIONER'S

1 UNCONDITIONAL RELEASE FROM PROBATION OR PAROLE SUPERVISION,
2 WHICHEVER DATE IS LATER, IF ~~the termination of the court's jurisdiction~~
3 ~~over the juvenile or the juvenile's unconditional release from parole~~
4 ~~supervision, whichever date is later, if the juvenile has been adjudicated~~
5 a repeat or mandatory juvenile offender and if the juvenile has not further
6 violated any criminal statute.

7 (7) The following persons are not eligible to petition for the
8 expungement of any juvenile record:

9 (a) Any person who has been adjudicated as an aggravated
10 juvenile offender PURSUANT TO SECTION 19-2-516(4) or a violent juvenile
11 offender PURSUANT TO SECTION 19-2-516 (3);

12 (b) ~~Any person who has been adjudicated for an offense that~~
13 ~~would constitute a crime of violence under section 18-1.3-406, C.R.S.,~~
14 ~~had the person been an adult at the time the offense was committed;~~

15 (c) Any person who, as a juvenile, has been charged by the direct
16 filing of an information in the district court or by indictment pursuant to
17 section 19-2-517, unless the person was sentenced as a juvenile in the
18 same matter;

19 (d) Any person who has been adjudicated for an offense involving
20 unlawful sexual behavior as defined in section 16-22-102 (9), C.R.S.;

21 (e) ANY PERSON WHO HAS FAILED TO PAY COURT-ORDERED
22 RESTITUTION TO A VICTIM OF THE OFFENSE THAT IS THE BASIS FOR THE
23 JUVENILE RECORD.

24 (10) NOTHING IN THIS SECTION SHALL BE CONSTRUED TO
25 AUTHORIZE THE PHYSICAL DESTRUCTION OF ANY CRIMINAL JUSTICE
26 RECORD.

27 **SECTION 2.** In Colorado Revised Statutes, 24-4.1-302, **add** (2)

1 (r.3) as follows:

2 **24-4.1-302. Definitions.** As used in this part 3, and for no other
3 purpose, including the expansion of the rights of any defendant:

4 (2) "Critical stages" means the following stages of the criminal
5 justice process:

6 (r.3) ANY HEARING CONCERNING A PETITION FOR EXPUNGEMENT
7 AS DESCRIBED IN SECTION 19-1-306 (5) (a), C.R.S.;

8 **SECTION 3.** In Colorado Revised Statutes, 24-4.1-302.5, **amend**
9 (1) (d) (VI) and (1) (d) (VII); and **add** (1) (d) (VIII) as follows:

10 **24-4.1-302.5. Rights afforded to victims.** (1) In order to
11 preserve and protect a victim's rights to justice and due process, each
12 victim of a crime shall have the following rights:

13 (d) The right to be heard at any court proceeding:

14 (VI) At which the defendant requests a modification of the no
15 contact provision of the mandatory criminal protection order under
16 section 18-1-1001, C.R.S., or section 19-2-707, C.R.S.; ~~or~~

17 (VII) Involving a subpoena for records concerning the victim's
18 medical history, mental health, education, or victim compensation, or any
19 other records that are privileged pursuant to section 13-90-107, C.R.S.;

20 OR

21 (VIII) INVOLVING A PETITION FOR EXPUNGEMENT AS DESCRIBED
22 IN SECTION 19-1-306 (5) (a), C.R.S.

23 **SECTION 4.** In Colorado Revised Statutes, 24-4.1-303, **add** (11)
24 (b.5) as follows:

25 **24-4.1-303. Procedures for ensuring rights of victims of**
26 **crimes.** (11) The district attorney shall inform a victim of the following:

27 (b.5) ANY CRITICAL STAGE DESCRIBED IN SECTION 24-4.1-302 (2)

1 (r.3) RELATING TO A HEARING CONCERNING A PETITION FOR THE
2 EXPUNGEMENT OF JUVENILE RECORDS, WHICH RECORDS CONCERN AN
3 OFFENSE COMMITTED BY THE JUVENILE AGAINST THE VICTIM;

4 **SECTION 5. Act subject to petition - effective date.** This act
5 takes effect at 12:01 a.m. on the day following the expiration of the
6 ninety-day period after final adjournment of the general assembly (August
7 7, 2013, if adjournment sine die is on May 8, 2013); except that, if a
8 referendum petition is filed pursuant to section 1 (3) of article V of the
9 state constitution against this act or an item, section, or part of this act
10 within such period, then the act, item, section, or part will not take effect
11 unless approved by the people at the general election to be held in
12 November 2014 and, in such case, will take effect on the date of the
13 official declaration of the vote thereon by the governor.