

First Regular Session
Sixty-ninth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 13-0297.01 Michael Dohr x4347

SENATE BILL 13-123

SENATE SPONSORSHIP

Steadman,

HOUSE SPONSORSHIP

Levy,

Senate Committees
Judiciary

House Committees

A BILL FOR AN ACT

101 CONCERNING PROVISIONS THAT IMPROVE THE REINTEGRATION
102 OPPORTUNITIES FOR PERSONS INVOLVED IN THE CRIMINAL
103 JUSTICE SYSTEM.

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>.)

Under current law prior to a person's release on probation or parole the person's probation or parole officer provides the person with a notice regarding sealing criminal records. The bill specifies what the notice must contain.

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.

The bill provides that a pardon issued by the governor waives all collateral consequences associated with each conviction for which the person received a pardon unless the pardon limits the scope of the pardon regarding collateral consequences. If the governor grants a pardon or a request for clemency, the governor shall provide a copy of the pardon or clemency to the Colorado bureau of investigation, and the Colorado bureau of investigation shall include a note in the individual's record in the Colorado crime information center that a pardon was issued or clemency was granted.

Under current law, certain drug convictions are subject to sealing; the bill extends sealing to most other crimes.

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

2 **SECTION 1.** In Colorado Revised Statutes, 16-11-209, **add** (4)
3 as follows:

4 **16-11-209. Duties of probation officers.** (4) (a) PRIOR TO AN
5 OFFENDER BEING RELEASED FROM PROBATION, THE PROBATION OFFICER
6 RELEASING THE INDIVIDUAL SHALL PROVIDE THE NOTICE DESCRIBED IN
7 PARAGRAPH (b) OF THIS SUBSECTION (4) AT THE LAST MEETING THE
8 OFFICER HAS WITH THE PERSON.

9 (b) THE NOTICE SHALL CONTAIN THE FOLLOWING INFORMATION:

10 (I) THAT A PERSON CONVICTED OF CERTAIN CRIMES HAS THE RIGHT
11 TO SEEK TO HAVE HIS OR HER CRIMINAL RECORD SEALED;

12 (II) THAT THERE ARE COLLATERAL CONSEQUENCES ASSOCIATED
13 WITH A CRIMINAL CONVICTION THAT A SEALING ORDER CAN ALLEVIATE;

14 (III) THE LIST OF CRIMES THAT ARE ELIGIBLE FOR SEALING AND
15 THE ASSOCIATED TIME PERIOD THAT A PERSON MUST WAIT PRIOR TO
16 SEEKING SEALING; AND

17 (IV) THAT THE PERSON SHOULD SEEK LEGAL COUNSEL IF HE OR SHE
18 HAS ANY QUESTIONS REGARDING RECORD SEALING.

19 **SECTION 2.** In Colorado Revised Statutes, 17-2-102, **add** (12)

1 as follows:

2 **17-2-102. Division of adult parole - general powers, duties, and**
3 **functions - definitions.** (12) (a) PRIOR TO AN OFFENDER BEING RELEASED
4 FROM PAROLE, THE COMMUNITY PAROLE OFFICER RELEASING THE
5 INDIVIDUAL SHALL PROVIDE THE NOTICE DESCRIBED IN PARAGRAPH (b) OF
6 THIS SUBSECTION (12) AT THE LAST MEETING THE OFFICER HAS WITH THE
7 PERSON.

8 (b) THE NOTICE SHALL CONTAIN THE FOLLOWING INFORMATION:

9 (I) THAT A PERSON CONVICTED OF CERTAIN CRIMES HAS THE RIGHT
10 TO SEEK TO HAVE HIS OR HER CRIMINAL RECORD SEALED;

11 (II) THAT THERE ARE COLLATERAL CONSEQUENCES ASSOCIATED
12 WITH A CRIMINAL CONVICTION THAT A SEALING ORDER CAN ALLEVIATE;

13 (III) THE LIST OF CRIMES THAT ARE ELIGIBLE FOR SEALING AND
14 THE ASSOCIATED TIME PERIOD THAT A PERSON MUST WAIT PRIOR TO
15 SEEKING SEALING; AND

16 (IV) THAT THE PERSON SHOULD SEEK LEGAL COUNSEL IF HE OR SHE
17 HAS ANY QUESTIONS REGARDING RECORD SEALING.

18 **SECTION 3.** In Colorado Revised Statutes, **add** 16-17-103 as
19 follows:

20 **16-17-103. Effect of pardon and clemency.** (1) A PARDON
21 ISSUED BY THE GOVERNOR SHALL WAIVE ALL COLLATERAL CONSEQUENCES
22 ASSOCIATED WITH EACH CONVICTION FOR WHICH THE PERSON RECEIVED
23 A PARDON UNLESS THE PARDON LIMITS THE SCOPE OF THE PARDON
24 REGARDING COLLATERAL CONSEQUENCES.

25 (2) IF THE GOVERNOR GRANTS A PARDON OR A REQUEST FOR
26 CLEMENCY, THE GOVERNOR SHALL PROVIDE A COPY OF THE PARDON OR
27 CLEMENCY TO THE COLORADO BUREAU OF INVESTIGATION, AND THE

1 COLORADO BUREAU OF INVESTIGATION SHALL INCLUDE A NOTE IN THE
2 INDIVIDUAL'S RECORD IN THE COLORADO CRIME INFORMATION CENTER
3 THAT A PARDON WAS ISSUED OR CLEMENCY WAS GRANTED.

4 **SECTION 4.** In Colorado Revised Statutes, 24-34-102, **amend**
5 (8.7) as follows:

6 **24-34-102. Division of professions and occupations - creation**
7 **- duties of division and department heads - license renewal,**
8 **reinstatement, and endorsement - definitions - rules - review of**
9 **functions - repeal.** (8.7) Unless there is a specific statutory
10 disqualification that prohibits an applicant from obtaining licensure based
11 on a criminal conviction, if ~~the~~ A licensing entity IN TITLE 10 OR 12,
12 C.R.S., determines than an applicant for licensure has a criminal record,
13 the licensing entity is governed by section 24-5-101 for purposes of
14 granting or denying licensure or placing any conditions on licensure.

15 **SECTION 5.** In Colorado Revised Statutes, 24-34-104, **add** (9)
16 (b) (VIII.5) as follows:

17 **24-34-104. General assembly review of regulatory agencies**
18 **and functions for termination, continuation, or reestablishment.**

19 (9) (b) In such hearings, the determination as to whether an agency has
20 demonstrated a public need for continued existence of the agency or
21 function and for the degree of regulation it practices shall be based on the
22 following factors, among others:

23 (VIII.5) WHETHER THE AGENCY THROUGH ITS LICENSING OR
24 CERTIFICATION PROCESS IMPOSES ANY DISQUALIFICATIONS ON APPLICANTS
25 BASED ON PAST CRIMINAL HISTORY AND, IF SO, WHETHER THE
26 DISQUALIFICATIONS SERVE PUBLIC SAFETY OR COMMERCIAL OR CONSUMER
27 PROTECTION INTERESTS. TO ASSIST IN CONSIDERING THIS FACTOR, THE

1 ANALYSIS PREPARED PURSUANT TO SUBPARAGRAPH (I) OF PARAGRAPH (a)
2 OF SUBSECTION (8) OF THIS SECTION SHALL INCLUDE DATA ON THE
3 NUMBER OF LICENSES OR CERTIFICATIONS THAT WERE DENIED, REVOKED,
4 OR SUSPENDED BASED ON A DISQUALIFICATION AND THE BASIS FOR THE
5 DISQUALIFICATION.

6 **SECTION 6.** In Colorado Revised Statutes, 24-34-104.1, **amend**
7 (2) (d), (2) (e), (4) (b) (II), and (4) (b) (III); and **add** (2) (f) and (4) (b)
8 (IV) as follows:

9 **24-34-104.1. General assembly sunrise review of new**
10 **regulation of occupations and professions.** (2) Any professional or
11 occupational group or organization, any individual, or any other interested
12 party that proposes the regulation of any unregulated professional or
13 occupational group shall submit the following information to the
14 department of regulatory agencies. A proposal to regulate a professional
15 or occupational group shall be reviewed only when the party requesting
16 such review files with the department a statement of support for the
17 proposed regulation that has been signed by at least ten members of the
18 professional or occupational group for which regulation is being sought
19 or at least ten individuals who are not members of such professional or
20 occupational group, along with the following information:

21 (d) The benefit to the public that would result from the proposed
22 regulation; **and**

23 (e) The cost of the proposed regulation; **AND**

24 (f) A DESCRIPTION OF ANY ANTICIPATED DISQUALIFICATIONS ON
25 AN APPLICANT FOR LICENSURE, CERTIFICATION, RELICENSURE, OR
26 RECERTIFICATION BASED ON CRIMINAL HISTORY AND HOW THE
27 DISQUALIFICATIONS SERVE PUBLIC SAFETY OR CONSUMER PROTECTION

1 INTERESTS.

2 (4) (b) In such hearings, the determination as to whether such
3 regulation of an occupation or a profession is needed shall be based upon
4 the following considerations:

5 (II) Whether the public needs, and can reasonably be expected to
6 benefit from, an assurance of initial and continuing professional or
7 occupational competence; ~~and~~

8 (III) Whether the public can be adequately protected by other
9 means in a more cost-effective manner; AND

10 (IV) WHETHER THE IMPOSITION OF ANY DISQUALIFICATIONS ON
11 APPLICANTS FOR LICENSURE, CERTIFICATION, RELICENSURE, OR
12 RECERTIFICATION BASED ON CRIMINAL HISTORY SERVES PUBLIC SAFETY OR
13 COMMERCIAL OR CONSUMER PROTECTION INTERESTS.

14 **SECTION 7.** In Colorado Revised Statutes, 24-72-308, **amend**
15 (2) (b) as follows:

16 **24-72-308. Sealing of arrest and criminal records other than**
17 **convictions.** (2) **Advisements.** (b) In addition to, and not in lieu of, the
18 requirement described in paragraph (a) of this subsection (2):

19 (I) If a defendant's case is dismissed after a period of supervision
20 by probation, the probation department, upon the termination of the
21 defendant's probation, shall provide the defendant with a written
22 advisement of his or her rights pursuant to this section concerning the
23 sealing of his or her criminal justice records if he or she complies with the
24 applicable provisions of this section.

25 (II) IF A DEFENDANT IS RELEASED ON PAROLE, THE DEFENDANT'S
26 PAROLE OFFICER, UPON THE TERMINATION OF THE DEFENDANT'S PAROLE,
27 SHALL PROVIDE THE DEFENDANT WITH A WRITTEN ADVISEMENT OF HIS OR

1 HER RIGHTS CONCERNING THE SEALING OF HIS OR HER CRIMINAL JUSTICE
2 RECORDS PURSUANT TO THIS SECTION IF HE OR SHE COMPLIES WITH THE
3 APPLICABLE PROVISIONS OF THIS SECTION.

4 **SECTION 8.** In Colorado Revised Statutes, 24-72-308.5, **amend**
5 (2) (f) (I) as follows:

6 **24-72-308.5. Sealing of criminal conviction records**
7 **information for offenses involving controlled substances for**
8 **convictions entered on or after July 1, 2008, and prior to July 1, 2011.**

9 (2) **Sealing of conviction records.** (f) (I) Except as otherwise provided
10 in subparagraph (II) of paragraph (a) of this subsection (2) or in
11 subparagraphs (II) and (III) of this paragraph (f), employers, state and
12 local government agencies, officials, landlords, and employees shall not,
13 in any application or interview or in any other way, require an applicant
14 to disclose any information contained in sealed conviction records. An
15 applicant need not, in answer to any question concerning conviction
16 records that have been sealed, include a reference to or information
17 concerning the sealed conviction records and may state that the applicant
18 has not been criminally convicted. AN APPLICATION MAY NOT BE DENIED
19 SOLELY BECAUSE OF THE APPLICANT'S REFUSAL TO DISCLOSE CONVICTION
20 RECORDS THAT HAVE BEEN SEALED.

21 **SECTION 9.** In Colorado Revised Statutes, **add** 24-72-308.9 as
22 follows:

23 **24-72-308.9. Sealing of criminal conviction records**
24 **information for convictions entered on or after July 1, 2013 -**
25 **definitions.** (1) **Definitions.** AS USED IN THIS SECTION, UNLESS THE
26 CONTEXT OTHERWISE REQUIRES, "CONVICTION RECORDS" MEANS ARREST
27 AND CRIMINAL RECORDS INFORMATION AND ANY RECORDS PERTAINING TO

1 A JUDGMENT OF CONVICTION.

2 (2) **Sealing of conviction records.** (a) (I) SUBJECT TO THE
3 LIMITATIONS DESCRIBED IN PARAGRAPH (b) OF SUBSECTION (5) OF THIS
4 SECTION, A DEFENDANT MAY PETITION THE DISTRICT COURT OF THE
5 DISTRICT IN WHICH ANY CONVICTION RECORDS PERTAINING TO THE
6 DEFENDANT ARE LOCATED FOR THE SEALING OF THE CONVICTION
7 RECORDS, EXCEPT BASIC IDENTIFYING INFORMATION, IF THE PETITION IS
8 FILED WITHIN THE TIME FRAME DESCRIBED IN SUBPARAGRAPH (II) OF THIS
9 PARAGRAPH (a).

10 (II) (A) IF THE OFFENSE IS A PETTY OFFENSE OR A CLASS 2 OR 3
11 MISDEMEANOR, THE PETITION MAY BE FILED THREE YEARS AFTER THE
12 LATER OF THE DATE OF THE FINAL DISPOSITION OF ALL CRIMINAL
13 PROCEEDINGS AGAINST THE DEFENDANT OR THE RELEASE OF THE
14 DEFENDANT FROM SUPERVISION CONCERNING A CRIMINAL CONVICTION.

15 (B) IF THE OFFENSE IS A CLASS 1 MISDEMEANOR, THE PETITION
16 MAY BE FILED FIVE YEARS AFTER THE LATER OF THE DATE OF THE FINAL
17 DISPOSITION OF ALL CRIMINAL PROCEEDINGS AGAINST THE DEFENDANT OR
18 THE RELEASE OF THE DEFENDANT FROM SUPERVISION CONCERNING A
19 CRIMINAL CONVICTION.

20 (C) IF THE OFFENSE IS A CLASS 5 OR CLASS 6 FELONY, THE PETITION
21 MAY BE FILED SEVEN YEARS AFTER THE LATER OF THE DATE OF THE FINAL
22 DISPOSITION OF ALL CRIMINAL PROCEEDINGS AGAINST THE DEFENDANT OR
23 THE RELEASE OF THE DEFENDANT FROM SUPERVISION CONCERNING A
24 CRIMINAL CONVICTION.

25 (D) IF THE OFFENSE IS A CLASS 2 FELONY, CLASS 3 FELONY, OR
26 CLASS 4 FELONY, THE PETITION MAY BE FILED TEN YEARS AFTER THE
27 LATER OF THE DATE OF THE FINAL DISPOSITION OF ALL CRIMINAL

1 PROCEEDINGS AGAINST THE DEFENDANT OR THE RELEASE OF THE
2 DEFENDANT FROM SUPERVISION CONCERNING A CRIMINAL CONVICTION.

3 (III) (A) IF A PETITION IS FILED FOR THE SEALING OF A PETTY
4 OFFENSE, THE COURT SHALL ORDER THE RECORD SEALED AFTER THE
5 PETITION IS FILED, THE FILING FEE IS PAID, AND THE CRIMINAL HISTORY
6 FILED WITH THE PETITION AS REQUIRED BY PARAGRAPH (b) OF THIS
7 SUBSECTION (2) DOCUMENTS TO THE COURT THAT THE DEFENDANT HAS
8 NOT BEEN CHARGED OR CONVICTED FOR A CRIMINAL OFFENSE SINCE THE
9 DATE OF THE FINAL DISPOSITION OF ALL CRIMINAL PROCEEDINGS AGAINST
10 HIM OR HER OR SINCE THE DATE OF THE DEFENDANT'S RELEASE FROM
11 SUPERVISION, WHICHEVER IS LATER.

12 (B) IF A PETITION IS FILED FOR THE SEALING OF A CLASS 1, CLASS
13 2, OR CLASS 3 MISDEMEANOR, THE DEFENDANT SHALL PAY THE FILING FEE
14 AND PROVIDE NOTICE OF THE PETITION TO THE DISTRICT ATTORNEY. THE
15 DISTRICT ATTORNEY SHALL DETERMINE WHETHER TO OBJECT TO THE
16 PETITION AFTER CONSIDERING THE FACTORS IN SECTION 24-72-308.5 (2)
17 (c). IF THE DISTRICT ATTORNEY DOES NOT OBJECT, THE COURT SHALL
18 ORDER THAT THE RECORD BE SEALED AFTER THE DEFENDANT DOCUMENTS
19 TO THE COURT THAT HE OR SHE HAS NOT BEEN CHARGED OR CONVICTED
20 FOR A CRIMINAL OFFENSE SINCE THE DATE OF THE FINAL DISPOSITION OF
21 ALL CRIMINAL PROCEEDINGS AGAINST HIM OR HER OR THE DATE OF THE
22 DEFENDANT'S RELEASE FROM SUPERVISION, WHICHEVER IS LATER. IF THE
23 DISTRICT ATTORNEY OBJECTS TO THE PETITION, THE COURT SHALL SET THE
24 MATTER FOR HEARING. TO ORDER THE RECORD SEALED, THE CRIMINAL
25 HISTORY FILED WITH THE PETITION AS REQUIRED BY PARAGRAPH (b) OF
26 THIS SUBSECTION (2) MUST DOCUMENT TO THE COURT THAT THE
27 DEFENDANT HAS NOT BEEN CHARGED WITH OR CONVICTED OF A CRIMINAL

1 OFFENSE SINCE THE DATE OF THE FINAL DISPOSITION OF ALL CRIMINAL
2 PROCEEDINGS AGAINST HIM OR HER OR SINCE THE DATE OF THE
3 DEFENDANT'S RELEASE FROM SUPERVISION, WHICHEVER IS LATER. THE
4 COURT SHALL DECIDE THE PETITION AFTER CONSIDERING THE FACTORS IN
5 SECTION 24-72-308.5 (2) (c).

6 (C) IF A PETITION IS FILED FOR THE SEALING OF A CLASS 5 OR CLASS
7 6 FELONY, THE DEFENDANT SHALL PAY THE FILING FEE AND PROVIDE
8 NOTICE OF THE PETITION TO THE DISTRICT ATTORNEY. THE DISTRICT
9 ATTORNEY SHALL DETERMINE WHETHER TO OBJECT TO THE PETITION
10 AFTER CONSIDERING THE FACTORS IN SECTION 24-72-308.5 (2) (c). IF THE
11 DISTRICT ATTORNEY DOES NOT OBJECT, THE COURT MAY DECIDE THE
12 PETITION WITH OR WITHOUT THE BENEFIT OF A HEARING. IF THE DISTRICT
13 ATTORNEY OBJECTS TO THE PETITION, THE COURT SHALL SET THE MATTER
14 FOR HEARING. TO ORDER THE RECORD SEALED, THE CRIMINAL HISTORY
15 FILED WITH THE PETITION AS REQUIRED BY PARAGRAPH (b) OF THIS
16 SUBSECTION (2) MUST DOCUMENT TO THE COURT THAT THE DEFENDANT
17 HAS NOT BEEN CHARGED OR CONVICTED FOR A CRIMINAL OFFENSE SINCE
18 THE DATE OF THE FINAL DISPOSITION OF ALL CRIMINAL PROCEEDINGS
19 AGAINST HIM OR HER OR SINCE THE DATE OF THE DEFENDANT'S RELEASE
20 FROM SUPERVISION, WHICHEVER IS LATER. THE COURT SHALL DECIDE THE
21 PETITION AFTER CONSIDERING THE FACTORS IN SECTION 24-72-308.5 (2)
22 (c).

23 (D) IF A PETITION IS FILED FOR A CLASS 2 FELONY, A CLASS 3
24 FELONY, OR A CLASS 4 FELONY, THE DEFENDANT SHALL PAY THE FILING
25 FEE AND PROVIDE NOTICE OF THE PETITION TO THE DISTRICT ATTORNEY.
26 THE DISTRICT ATTORNEY SHALL DETERMINE WHETHER TO OBJECT TO THE
27 PETITION AFTER CONSIDERING THE FACTORS IN SECTION 24-72-308.5 (2)

1 (c). IF THE DISTRICT ATTORNEY OBJECTS TO THE PETITION, THE COURT
2 SHALL DISMISS THE PETITION. IF THE DISTRICT ATTORNEY DOES NOT
3 OBJECT, THE COURT SHALL SET THE PETITION FOR A HEARING. TO ORDER
4 THE RECORD SEALED, THE CRIMINAL HISTORY FILED WITH THE PETITION AS
5 REQUIRED BY PARAGRAPH (b) OF THIS SUBSECTION (2) MUST DOCUMENT
6 TO THE COURT THAT THE DEFENDANT HAS NOT BEEN CHARGED OR
7 CONVICTED FOR A CRIMINAL OFFENSE SINCE THE DATE OF THE FINAL
8 DISPOSITION OF ALL CRIMINAL PROCEEDINGS AGAINST HIM OR HER OR THE
9 DATE OF THE DEFENDANT'S RELEASE FROM SUPERVISION, WHICHEVER IS
10 LATER. THE COURT SHALL DECIDE THE PETITION AFTER CONSIDERING THE
11 FACTORS IN SECTION 24-72-308.5 (2) (c).

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

24 (V) AN ORDER SEALING CONVICTION RECORDS DOES NOT DENY
25 ACCESS TO THE CRIMINAL RECORDS OF A DEFENDANT BY ANY COURT, LAW
26 ENFORCEMENT AGENCY, CRIMINAL JUSTICE AGENCY, PROSECUTING
27 ATTORNEY, OR PARTY OR AGENCY REQUIRED BY LAW TO CONDUCT A

1 CRIMINAL HISTORY RECORD CHECK ON AN INDIVIDUAL. AN ORDER SEALING
2 CONVICTION RECORDS SHALL NOT BE CONSTRUED TO VACATE A
3 CONVICTION. A CONVICTION SEALED PURSUANT TO THIS SECTION MAY BE
4 USED BY A CRIMINAL JUSTICE AGENCY, LAW ENFORCEMENT AGENCY,
5 COURT, OR PROSECUTING ATTORNEY FOR ANY LAWFUL PURPOSE RELATING
6 TO THE INVESTIGATION OR PROSECUTION OF ANY CASE, INCLUDING BUT
7 NOT LIMITED TO ANY SUBSEQUENT CASE THAT IS FILED AGAINST THE
8 DEFENDANT, OR FOR ANY OTHER LAWFUL PURPOSE WITHIN THE SCOPE OF
9 HIS, HER, OR ITS DUTIES. IF A DEFENDANT IS CONVICTED OF A NEW
10 CRIMINAL OFFENSE AFTER AN ORDER SEALING CONVICTION RECORDS IS
11 ENTERED, THE COURT SHALL ORDER THE CONVICTION RECORDS TO BE
12 UNSEALED. A PARTY OR AGENCY REQUIRED BY LAW TO CONDUCT A
13 CRIMINAL HISTORY RECORD CHECK IS AUTHORIZED TO USE ANY SEALED
14 CONVICTION FOR THE LAWFUL PURPOSE FOR WHICH THE CRIMINAL
15 HISTORY RECORD CHECK IS REQUIRED BY LAW.

16 (VI) CONVICTION RECORDS MAY NOT BE SEALED IF THE
17 DEFENDANT STILL OWES RESTITUTION, FINES, COURT COSTS, LATE FEES, OR
18 OTHER FEES ORDERED BY THE COURT IN THE CASE THAT IS THE SUBJECT OF
19 THE PETITION TO SEAL CONVICTION RECORDS, UNLESS THE COURT THAT
20 ENTERED THE ORDER FOR RESTITUTION, FINES, COURT COSTS, LATE FEES,
21 OR OTHER FEES HAS VACATED THE ORDER.

22 (b) A PETITION TO SEAL CONVICTION RECORDS MUST INCLUDE A
23 LISTING OF EACH CUSTODIAN OF THE RECORDS TO WHOM THE SEALING
24 ORDER IS DIRECTED AND ANY INFORMATION THAT ACCURATELY AND
25 COMPLETELY IDENTIFIES THE RECORDS TO BE SEALED. A VERIFIED COPY OF
26 THE PETITIONER'S CRIMINAL HISTORY, CURRENT THROUGH AT LEAST THE
27 TWENTIETH DAY PRIOR TO THE DATE OF THE FILING OF THE PETITION, MUST

1 BE SUBMITTED TO THE COURT BY THE PETITIONER ALONG WITH THE
2 PETITION AT THE TIME OF FILING OR NOT LATER THAN THE TENTH DAY
3 AFTER THE PETITION IS FILED. THE PETITIONER SHALL BE RESPONSIBLE FOR
4 OBTAINING AND PAYING FOR HIS OR HER CRIMINAL HISTORY.

5 (c) EXCEPT AS OTHERWISE PROVIDED IN SUBPARAGRAPH (II) OF
6 PARAGRAPH (a) OF THIS SUBSECTION (2), UPON THE ENTRY OF AN ORDER
7 TO SEAL THE CONVICTION RECORDS, THE PETITIONER AND ALL CRIMINAL
8 JUSTICE AGENCIES MAY PROPERLY REPLY, UPON AN INQUIRY IN THE
9 MATTER, THAT CONVICTION RECORDS DO NOT EXIST WITH RESPECT TO THE
10 PERSON WHO IS THE SUBJECT OF THE SEALED CONVICTION RECORDS.

11 (d) EXCEPT AS OTHERWISE PROVIDED IN SUBPARAGRAPH (II) OF
12 PARAGRAPH (a) OF THIS SUBSECTION (2), INSPECTION OF THE RECORDS
13 INCLUDED IN AN ORDER SEALING CONVICTION RECORDS MAY THEREAFTER
14 BE PERMITTED BY THE COURT ONLY UPON PETITION BY THE DEFENDANT.

15 (e) (I) EXCEPT AS OTHERWISE PROVIDED IN SUBPARAGRAPHS (II)
16 AND (III) OF THIS PARAGRAPH (e), EMPLOYERS, EDUCATIONAL
17 INSTITUTIONS, STATE AND LOCAL GOVERNMENT AGENCIES, OFFICIALS,
18 LANDLORDS, AND EMPLOYEES SHALL NOT, IN ANY APPLICATION OR
19 INTERVIEW OR IN ANY OTHER WAY, REQUIRE AN APPLICANT TO DISCLOSE
20 ANY INFORMATION CONTAINED IN SEALED CONVICTION RECORDS. AN
21 APPLICANT NEED NOT, IN ANSWER TO ANY QUESTION CONCERNING
22 CONVICTION RECORDS THAT HAVE BEEN SEALED, INCLUDE A REFERENCE
23 TO OR INFORMATION CONCERNING THE SEALED CONVICTION RECORDS AND
24 MAY STATE THAT THE APPLICANT HAS NOT BEEN CRIMINALLY CONVICTED.
25 AN APPLICATION MAY NOT BE DENIED SOLELY BECAUSE OF THE
26 APPLICANT'S REFUSAL TO DISCLOSE CONVICTION RECORDS THAT HAVE
27 BEEN SEALED.

1 (II) SUBPARAGRAPH (I) OF THIS PARAGRAPH (e) DOES NOT
2 PRECLUDE THE BAR COMMITTEE OF THE COLORADO STATE BOARD OF LAW
3 EXAMINERS FROM MAKING FURTHER INQUIRIES INTO THE FACT OF A
4 CONVICTION THAT COMES TO THE ATTENTION OF THE BAR COMMITTEE
5 THROUGH OTHER MEANS. THE BAR COMMITTEE OF THE COLORADO STATE
6 BOARD OF LAW EXAMINERS HAS A RIGHT TO INQUIRE INTO THE MORAL AND
7 ETHICAL QUALIFICATIONS OF AN APPLICANT, AND THE APPLICANT DOES
8 NOT HAVE A RIGHT TO PRIVACY OR PRIVILEGE THAT JUSTIFIES HIS OR HER
9 REFUSAL TO ANSWER A QUESTION CONCERNING SEALED CONVICTION
10 RECORDS THAT HAVE COME TO THE ATTENTION OF THE BAR COMMITTEE
11 THROUGH OTHER MEANS.

12 (III) THE PROVISIONS OF SUBPARAGRAPH (I) OF THIS PARAGRAPH
13 (e) DO NOT APPLY TO A CRIMINAL JUSTICE AGENCY OR TO AN APPLICANT
14 TO A CRIMINAL JUSTICE AGENCY.

15 (IV) ANY MEMBER OF THE PUBLIC MAY PETITION THE COURT TO
16 UNSEAL ANY FILE THAT HAS BEEN PREVIOUSLY SEALED UPON A SHOWING
17 THAT CIRCUMSTANCES HAVE COME INTO EXISTENCE SINCE THE ORIGINAL
18 SEALING AND, AS A RESULT, THE PUBLIC INTEREST IN DISCLOSURE NOW
19 OUTWEIGHS THE SUBJECT'S INTEREST IN PRIVACY.

20 (f) THE OFFICE OF THE STATE COURT ADMINISTRATOR SHALL POST
21 ON ITS WEBSITE A LIST OF ALL PETITIONS TO SEAL CONVICTION RECORDS
22 THAT ARE FILED WITH A DISTRICT COURT. A DISTRICT COURT MAY NOT
23 GRANT A PETITION TO SEAL CONVICTION RECORDS UNTIL AT LEAST THIRTY
24 DAYS AFTER THE POSTING. AFTER THE EXPIRATION OF THIRTY DAYS
25 FOLLOWING THE POSTING, THE PETITION TO SEAL CONVICTION RECORDS
26 AND INFORMATION PERTINENT THERETO SHALL BE REMOVED FROM THE
27 WEBSITE OF THE OFFICE OF THE STATE COURT ADMINISTRATOR.

1 (g) NOTHING IN THIS SECTION SHALL BE CONSTRUED TO
2 AUTHORIZE THE PHYSICAL DESTRUCTION OF ANY CONVICTION RECORDS.

3 (3) **Advisements.** (a) WHENEVER A DEFENDANT IS SENTENCED
4 FOLLOWING A CONVICTION, THE COURT SHALL PROVIDE HIM OR HER WITH
5 A WRITTEN ADVISEMENT OF HIS OR HER RIGHTS CONCERNING THE SEALING
6 OF HIS OR HER CONVICTION RECORDS PURSUANT TO THIS SECTION IF HE OR
7 SHE COMPLIES WITH THE APPLICABLE PROVISIONS OF THIS SECTION.

8 (b) IN ADDITION TO, AND NOT IN LIEU OF, THE REQUIREMENT
9 DESCRIBED IN PARAGRAPH (a) OF THIS SUBSECTION (3):

10 (I) IF A DEFENDANT IS SENTENCED TO PROBATION, THE PROBATION
11 DEPARTMENT, UPON THE TERMINATION OF THE DEFENDANT'S PROBATION,
12 SHALL PROVIDE THE DEFENDANT WITH A WRITTEN ADVISEMENT OF HIS OR
13 HER RIGHTS CONCERNING THE SEALING OF HIS OR HER CONVICTION
14 RECORDS PURSUANT TO THIS SECTION IF HE OR SHE COMPLIES WITH THE
15 APPLICABLE PROVISIONS OF THIS SECTION; AND

16 (II) IF A DEFENDANT IS RELEASED ON PAROLE, THE DEFENDANT'S
17 PAROLE OFFICER, UPON THE TERMINATION OF THE DEFENDANT'S PAROLE,
18 SHALL PROVIDE THE DEFENDANT WITH A WRITTEN ADVISEMENT OF HIS OR
19 HER RIGHTS CONCERNING THE SEALING OF HIS OR HER CONVICTION
20 RECORDS PURSUANT TO THIS SECTION IF HE OR SHE COMPLIES WITH THE
21 APPLICABLE PROVISIONS OF THIS SECTION.

22 (4) **Exceptions.** (a) THIS SECTION DOES NOT APPLY TO RECORDS
23 PERTAINING TO:

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

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

26 (III) A CONVICTION FOR A VIOLATION OF SECTION 42-4-1301 (1) OR
27 (2), C.R.S.;

1 (IV) A CONVICTION OF AN OFFENSE FOR WHICH THE FACTUAL
2 BASIS INVOLVED UNLAWFUL SEXUAL BEHAVIOR, AS DEFINED IN SECTION
3 16-22-102 (9), C.R.S.;

4 (V) A CONVICTION FOR A VIOLATION OF SECTION 18-6-401, C.R.S.;

5 OR

6 (VI) A CONVICTION THAT IS SUBJECT TO SENTENCING UNDER ONE
7 OR MORE OF THE FOLLOWING PROVISIONS:

8 (A) SENTENCING FOR A CRIME INVOLVING EXTRAORDINARY
9 AGGRAVATING CIRCUMSTANCES, PURSUANT TO SECTION 18-1.3-401 (8),
10 C.R.S.;

11 (B) SENTENCING FOR A CRIME INVOLVING SENTENCE-ENHANCING
12 CIRCUMSTANCES, PURSUANT TO SECTION 18-1.3-401 (9), C.R.S.;

13 (C) SENTENCING FOR AN EXTRAORDINARY RISK CRIME, PURSUANT
14 TO SECTION 18-1.3-401 (10), C.R.S.;

15 (D) SENTENCING FOR A CRIME INVOLVING A PREGNANT VICTIM,
16 PURSUANT TO SECTION 18-1.3-401 (13), C.R.S.;

17 (E) SENTENCING FOR A CRIME PERTAINING TO A SPECIAL
18 OFFENDER, PURSUANT TO SECTION 18-18-407, C.R.S.; OR

19 (F) SENTENCING FOR A CRIMINAL CONVICTION FOR A SEXUAL
20 OFFENSE, PURSUANT TO PART 4 OF ARTICLE 3 OF TITLE 18, C.R.S.

21 (b) COURT ORDERS SEALING RECORDS OF OFFICIAL ACTIONS
22 ENTERED PURSUANT TO THIS SECTION DO NOT LIMIT THE OPERATION OF
23 RULES OF DISCOVERY PROMULGATED BY THE SUPREME COURT OF
24 COLORADO.

25 (c) THIS SECTION DOES NOT APPLY TO CONVICTION RECORDS IN
26 THE POSSESSION AND CUSTODY OF A CRIMINAL JUSTICE AGENCY WHEN AN
27 INQUIRY CONCERNING THE CONVICTION RECORDS IS MADE BY ANOTHER

1 CRIMINAL JUSTICE AGENCY.

2 (5) (a) **Applicability.** EXCEPT AS OTHERWISE PROVIDED IN
3 PARAGRAPH (b) OF THIS SUBSECTION (5), THE PROVISIONS OF THIS SECTION
4 APPLY TO CONVICTION RECORDS PERTAINING TO JUDGMENTS OF
5 CONVICTION ENTERED ON AND AFTER JULY 1, 2013.

6 (b) FOR ANY CONVICTION PRIOR TO JULY 1, 2013, FOR WHICH THE
7 DEFENDANT WOULD QUALIFY FOR RELIEF UNDER THIS SECTION, THE
8 DEFENDANT MAY OBTAIN AN ORDER FROM THE COURT TO SEAL
9 CONVICTION RECORDS IF:

10 (I) THE PROSECUTING ATTORNEY DOES NOT OBJECT TO THE
11 SEALING; AND

12 (II) THE DEFENDANT PAYS:

13 (A) TO THE OFFICE OF THE PROSECUTING ATTORNEY ALL
14 REASONABLE ATTORNEY FEES AND COSTS OF THE PROSECUTING ATTORNEY
15 RELATING TO THE PETITION TO SEAL PRIOR TO THE ENTRY OF AN ORDER
16 SEALING THE CRIMINAL RECORDS;

17 (B) THE FILING FEE REQUIRED BY LAW; AND

18 (C) AN ADDITIONAL FILING FEE OF TWO HUNDRED DOLLARS TO
19 COVER THE ACTUAL COSTS RELATED TO THE FILING OF THE PETITION TO
20 SEAL RECORDS.

21 (c) THE ADDITIONAL FILING FEES COLLECTED UNDER
22 SUB-SUBPARAGRAPH (C) OF SUBPARAGRAPH (II) OF PARAGRAPH (b) OF
23 THIS SUBSECTION (5) SHALL BE TRANSMITTED TO THE STATE TREASURER
24 FOR DEPOSIT IN THE JUDICIAL STABILIZATION CASH FUND CREATED IN
25 SECTION 13-32-101 (6), C.R.S.

26 **SECTION 10. Safety clause.** The general assembly hereby finds,

- 1 determines, and declares that this act is necessary for the immediate
- 2 preservation of the public peace, health, and safety.