

**Second Regular Session
Seventy-fourth General Assembly
STATE OF COLORADO**

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 24-0738.01 Michael Dohr x4347

HOUSE BILL 24-1133

HOUSE SPONSORSHIP

Mabrey and Soper,

SENATE SPONSORSHIP

Rodriguez,

House Committees

Judiciary
Appropriations

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING MATTERS RELATED TO ACCESS TO CRIMINAL 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://leg.colorado.gov>.)

Under current law, when a person is arrested in a case of mistaken identity, the arresting agency is required to petition the court for an expungement order. The bill allows the defendant in a mistaken identity case to petition for an expungement order if the arresting agency does not file a petition. The defendant is not subject to any fees or costs associated with expunging the record.

A court can grant an attorney access to a sealed record if the defendant in the sealed case provides permission and the attorney is

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

accessing the record for the sole purpose of providing legal advice to or representing the defendant.

The bill clarifies procedures for automatic sealing.

The bill allows a hearing related to sealing matters to be conducted remotely.

The waiting period for sealing a municipal record without a subsequent conviction is lowered from 3 years to one year and for sealing a municipal record with a single subsequent conviction from 10 years to 3 years.

The bill creates a record sealing procedure for convictions records for when a statutory change legalizes previously prohibited conduct.

On or before January 1, 2025, the state court administrator shall compile a list of certain types of non-conviction criminal justice records (non-conviction records) with dispositions prior to August 2022. The state court administrator shall sort the non-conviction records by judicial district and send the final list to the chief judge of each judicial district.

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

2

3 **SECTION 1.** In Colorado Revised Statutes, 24-72-702, **amend**
4 (1)(b) as follows:

5 **24-72-702. Expungement of arrest records in case of mistaken**
6 **identity - definitions.** (1) (b) No later than ninety days after an
7 investigation by a law enforcement agency finds that a person was
8 arrested as a result of mistaken identity and no charges were filed, the law
9 enforcement agency that made the arrest shall petition the district court
10 in the judicial district where the person was arrested for an expungement
11 order for the arrest and criminal records information made as a result of
12 the mistaken identity, at no cost to the person arrested. IF THE ARRESTING
13 AGENCY FAILS TO SUBMIT A PETITION WITHIN THE PRESCRIBED TIMEFRAME
14 PURSUANT TO THIS SECTION, A DEFENDANT MAY PETITION THE DISTRICT
15 COURT IN THE JUDICIAL DISTRICT WHERE THE PERSON WAS ARRESTED FOR
16 AN EXPUNGEMENT ORDER FOR THE ARREST AND CRIMINAL RECORDS

1 CREATED AS A RESULT OF THE MISTAKEN IDENTITY. A petition filed
2 pursuant to this subsection (1)(b) is not subject to a filing fee, AND AN
3 ELIGIBLE DEFENDANT FILING FOR EXPUNGEMENT PURSUANT TO THIS
4 SECTION MUST NOT BE CHARGED ANY OTHER FEES OR COSTS ASSOCIATED
5 WITH EXPUNGING THE RECORD.

6 **SECTION 2.** In Colorado Revised Statutes, 24-72-703, **amend**
7 (12)(d)(I); and **add** (2)(a)(IX), (12)(a)(III), and (13) as follows:

8 **24-72-703. Sealing of records - general provisions - order**
9 **applicability - discovery and advisements. (2) Effect of a sealing**
10 **order. (a) (IX) A COURT SHALL ALLOW A PERSON TO ACCESS A SEALED**
11 **CRIMINAL JUSTICE RECORD IF THE PERSON AFFIRMS TO THE COURT, IN**
12 **WRITING OR ELECTRONICALLY, THAT:**

13 (A) THE PERSON IS AN ATTORNEY, OR IS ACTING ON BEHALF OF AN
14 ATTORNEY;

15 (B) THE DEFENDANT IN THE UNDERLYING CRIMINAL CASE HAS
16 GIVEN WRITTEN PERMISSION FOR THE PERSON TO ACCESS THE SEALED
17 RECORD; AND

18 (C) THE PERSON IS ACCESSING THE RECORD FOR THE SOLE PURPOSE
19 OF PROVIDING LEGAL ADVICE TO, OR EVALUATING WHETHER TO ENTER AN
20 APPEARANCE ON BEHALF OF, THE DEFENDANT WHO GAVE PERMISSION FOR
21 THE PERSON TO ACCESS THE RECORD.

22 (12) **Exclusions. (a) (III) IF A DEFENDANT IS CONVICTED OF AN**
23 **OFFENSE IN THE SAME CASE IN WHICH THE DEFENDANT SUCCESSFULLY**
24 **COMPLETED A DEFERRED JUDGMENT, RECORDS OF THE DEFERRED**
25 **JUDGMENT ARE ELIGIBLE FOR SEALING WHEN THE CRIMINAL CASE IN**
26 **WHICH THE CONVICTION WAS ENTERED IS ELIGIBLE FOR SEALING**
27 **PURSUANT TO THE PROVISIONS OF THIS PART 7, UNLESS THE DEFERRED**

1 JUDGMENT IS INELIGIBLE FOR SEALING PURSUANT TO SECTION
2 24-72-703(12)(d).

3 (d) Sealing is not available for:

4 (I) Records pertaining to a deferred judgment and sentence
5 concerning TRAFFIC CONTROL LAWS RELATED TO the holder of a
6 commercial driver's license as defined in section 42-2-402 or the operator
7 of a commercial motor vehicle as defined in section 42-2-402; and

8 (13) **Remote participation.** FOR ANY MOTION FILED TO SEAL
9 CRIMINAL JUSTICE RECORDS:

10 (a) THE COURT SHALL ALLOW THE DEFENDANT, THE PROSECUTION,
11 THE NAMED VICTIM, AND ANY WITNESS TO APPEAR IN PERSON OR
12 REMOTELY BY PHONE OR VIDEO ON A PLATFORM DESIGNATED BY THE
13 COURT AT ANY HEARING OR OTHER COURT PROCEEDING. EITHER PARTY,
14 THE NAMED VICTIM, AND ANY WITNESS MAY ELECT TO CHANGE HOW THE
15 PARTY OR WITNESS INTENDS TO PARTICIPATE BY CONTACTING THE COURT;
16 EXCEPT THAT, IF A PARTY, NAMED VICTIM, OR WITNESS CONTACTS THE
17 COURT WITHIN FORTY-EIGHT HOURS BEFORE THE SCHEDULED
18 APPEARANCE, THE COURT HAS DISCRETION WHETHER TO APPROVE THE
19 PARTY'S OR WITNESS'S REQUESTED CHANGE IN PARTICIPATION.

20 (b) THE COURT SHALL COMPLY WITH ANY FEDERAL OR STATE LAW
21 OR REGULATION, INCLUDING ANY SUPREME COURT DIRECTIVE OR POLICY,
22 REGARDING THE PROVISION OF ACCOMMODATIONS FOR PEOPLE WITH A
23 DISABILITY OR FOR PEOPLE WITH LIMITED ENGLISH PROFICIENCY DURING
24 ANY PROCEEDING, REGARDLESS OF WHETHER THE PROCEEDING IS
25 CONDUCTED IN PERSON OR REMOTELY BY PHONE OR VIDEO ON A
26 PLATFORM DESIGNATED BY THE COURT.

27 (c) IN THE EVENT A PARTY IS DISCONNECTED OR THERE IS A

1 TECHNOLOGY FAILURE, THE COURT SHALL MAKE ALL REASONABLE
2 EFFORTS TO CONTACT THE PARTY AND SHALL ALLOW THE PARTY
3 REASONABLE TIME TO REESTABLISH CONNECTION WITH THE COURT. IF THE
4 PARTY IS UNABLE TO REESTABLISH CONNECTION, THE COURT SHALL
5 RESCHEDULE THE HEARING, TO BE HELD IN PERSON OR REMOTELY BY
6 PHONE OR VIDEO ON A PLATFORM DESIGNATED BY THE COURT, FOR THE
7 FIRST AVAILABLE DATE AFTER THE DATE OF THE ORIGINALLY SCHEDULED
8 HEARING, BUT NO LATER THAN ONE WEEK AFTER THE ORIGINALLY
9 SCHEDULED HEARING, TO THE EXTENT PRACTICABLE.

10 **SECTION 3.** In Colorado Revised Statutes, 24-72-704, **add** (1.5)
11 as follows:

12 **24-72-704. Sealing of arrest records when no charges filed -**
13 **automatic sealing.** (1.5) (a) ON ITS OWN MOTION, THE COURT SHALL
14 ORDER THE DEFENDANT'S CRIMINAL JUSTICE RECORDS SEALED WHEN THE
15 DISTRICT ATTORNEY NOTIFIES THE COURT THAT A PERSON IN INTEREST
16 MEETS ONE OF THE CONDITIONS OF SUBSECTION (1) OF THIS SECTION TO
17 FACILITATE SEALING OF THE RECORDS HELD BY THE COURT.

18 (b) THE COURT SHALL NOT REQUIRE A WRITTEN MOTION OR ANY
19 OTHER WRITTEN PLEADINGS FOR SEALING PURSUANT TO THIS SECTION. THE
20 COURT SHALL ENTER AN ORDER SEALING RECORDS PURSUANT TO THIS
21 SUBSECTION (1.5) AT THE TIME OF NOTICE AND SHALL SERVE THE SEALING
22 ORDER PURSUANT TO SECTION 24-72-703 (8) NO LATER THAN
23 TWENTY-EIGHT DAYS AFTER THE DATE OF SEALING.

24 (c) IF THE AUTOMATIC SEALING OF A CRIMINAL RECORD DOES NOT
25 OCCUR, THE DEFENDANT MAY FILE A MOTION TO SEAL THE CRIMINAL CASE
26 AT ANY TIME SUBSEQUENT TO THE DISTRICT ATTORNEY'S NOTICE THROUGH
27 THE FILING OF A WRITTEN MOTION PURSUANT TO SUBSECTION (1) OF THIS

1 SECTION. THE COURT SHALL NOT CHARGE OR ASSESS THE DEFENDANT ANY
2 FEES OR COSTS ASSOCIATED WITH FILING A MOTION PURSUANT TO THIS
3 SUBSECTION (1.5)(c).

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

6 **SECTION 4.** In Colorado Revised Statutes, 24-72-705, **amend**
7 (1)(d); and **add** (1)(g) and (3) as follows:

8 **24-72-705. Sealing criminal justice records other than**
9 **convictions - simplified process - applicability.** (1) (d) Notwithstanding
10 ~~the provision of subsection (1)(c) of this section, if the defendant is~~
11 ~~acquitted or if the case dismissed is a crime enumerated in section~~
12 ~~24-4.1-302 (1), in which notice of a hearing on a motion to seal is~~
13 ~~required pursuant to section 24-4.1-303 (11)(b.7), the court shall allow~~
14 ~~the district attorney the opportunity to inform the victim that the record~~
15 ~~will be sealed. and IF THERE IS AN OBJECTION BY THE VICTIM, THE~~
16 ~~DISTRICT ATTORNEY SHALL NOTIFY THE COURT AND THE COURT shall set~~
17 ~~a return date for the sealing motion no later than forty-two THIRTY-FIVE~~
18 ~~days after receipt of the motion. IF A RETURN DATE IS SET, THE~~
19 ~~DEFENDANT IS NOT REQUIRED TO APPEAR. IF THERE IS NO OBJECTION~~
20 ~~WITHIN THIRTY-FIVE DAYS AFTER THE MOTION IS FILED, THE COURT SHALL~~
21 ~~GRANT THE MOTION.~~

22 (g) CHARGES THAT ARE DISMISSED PURSUANT TO SECTION
23 16-8.5-116 ARE NOT ELIGIBLE FOR SEALING.

24 (3) NOTWITHSTANDING THE PROVISIONS OF ANY SECTION TO THE
25 CONTRARY, WHEN A DEFENDANT HAS A NON-CONVICTION RECORD THAT
26 IS INELIGIBLE FOR SEALING BECAUSE THE DEFENDANT WAS CONVICTED OF
27 A TRAFFIC OFFENSE IN THE SAME CASE, THE DEFENDANT MAY FILE A

1 MOTION TO SEAL THE RECORD THROUGH THE PROCEDURES SET FORTH IN
2 SUBSECTION (2) OF THIS SECTION.

3 **SECTION 5.** In Colorado Revised Statutes, 24-72-706, **amend**
4 **(1)(i) and (2)(b); and repeal (1)(f.5) as follows:**

5 **24-72-706. Sealing of criminal conviction and criminal justice**
6 **records - processing fee. (1) Sealing of conviction records.**
7 ~~(f.5) (I) Notwithstanding any provision of this part 7 to the contrary, a~~
8 ~~motion filed for the sealing of conviction records for an offense that was~~
9 ~~unlawful at the time of conviction, but is no longer unlawful pursuant to~~
10 ~~section 18-18-434, may be filed at any time. The court shall order the~~
11 ~~records sealed unless the district attorney objects pursuant to subsection~~
12 ~~(1)(f.5)(II) of this section.~~

13 ~~(II) If a motion is filed for the sealing of an offense described in~~
14 ~~this subsection (1)(f.5), the defendant shall provide notice of the motion~~
15 ~~to the district attorney, who may object. The district attorney shall~~
16 ~~determine whether to object to the motion based on whether the~~
17 ~~underlying conviction for an offense is no longer unlawful pursuant to~~
18 ~~section 18-18-434. The district attorney shall determine whether to object~~
19 ~~and provide notice to the court within forty-two days of receipt of the~~
20 ~~motion. If the district attorney objects to the motion, the court shall set the~~
21 ~~matter for hearing and the burden is on the defendant to show by a~~
22 ~~preponderance of the evidence that the underlying factual basis of the~~
23 ~~conviction sought to be sealed is no longer unlawful pursuant to section~~
24 ~~18-18-434.~~

25 ~~(III) (A) A defendant who files a motion pursuant to this~~
26 ~~subsection (1)(f.5) must not be charged fees or costs.~~


27 ~~(B) Notwithstanding subsection (1)(c) of this section, a defendant~~

1 who files a motion pursuant to this subsection (1)(f.5) is not required to
2 submit a verified copy of the defendant's criminal history with a filed
3 motion.

4 ~~(C) Section 24-72-703 (2)(a)(V) does not apply to conviction~~
5 ~~records sealed pursuant to this subsection (1)(f.5).~~

6 (i) The court shall determine eligibility of a drug offense
7 committed before October 1, 2013, by the classification of the offense at
8 the time of considering the record sealing, INCLUDING, BUT NOT LIMITED
9 TO, SECTION 18-18-106 (8)(a)(II)(B), AS IT EXISTED PRIOR TO JULY 1,
10 1992; OR SECTION 18-18-406 (8)(a)(II)(B), AS IT EXISTED PRIOR TO
11 AUGUST 11, 2010; OR SECTION 18-18-406 (6)(a)(II)(B), AS IT EXISTED
12 PRIOR TO OCTOBER 1, 2013.

13 (2) (b) Notwithstanding the provisions of this section, a
14 misdemeanor OR PETTY offense ineligible pursuant to the provisions of
15 this section or subsection (2)(a) of this section is eligible for sealing
16 pursuant to this section if the district attorney consents to the sealing or
17 if the court finds, by clear and convincing evidence, that the petitioner's
18 need for sealing of the record is significant and substantial, the passage
19 of time is such that the petitioner is no longer a threat to public safety, and
20 the public disclosure of the record is no longer necessary to protect or
21 inform the public.

22 
23 **SECTION 6.** In Colorado Revised Statutes, 24-72-709, **amend**
24 (1)(a) as follows:

25 **24-72-709. Sealing of criminal conviction records information**
26 **for multiple conviction records.** (1) (a) Subject to the provisions of
27 subsection (5) of this section, a defendant with multiple conviction

1 records in the state may ~~petition~~ MOTION the court of the jurisdiction
2 where the conviction record or records pertaining to the defendant are
3 located for the sealing of the conviction records, except basic identifying
4 information, if the record or records are not eligible for sealing pursuant
5 to any other section in this part 7 because of an intervening conviction
6 and if the ~~petition~~ MOTION is filed within the time frame described in
7 subsection (2) of this section and proper notice is given to the district
8 attorney. If the multiple conviction records are in different jurisdictions,
9 the defendant shall file a ~~petition~~ MOTION in each jurisdiction with a
10 conviction record that includes a copy of each ~~petition~~ MOTION filed in the
11 other jurisdictions and provide notice of the ~~petition~~ MOTION to each
12 district attorney. IF THE CONVICTION RECORDS ARE IN THE SAME
13 JURISDICTION, THE DEFENDANT MAY FILE A MOTION TO SEAL ALL
14 CONVICTION RECORDS IN A SINGLE CASE, AND THE DEFENDANT SHALL
15 IDENTIFY THE OTHER CONVICTION RECORDS BY CASE NAME AND NUMBER
16 IN THE MOTION.

17 **SECTION 7.** In Colorado Revised Statutes, **add** 24-72-711 as
18 follows:

19 **24-72-711. Record sealing - change in the law - conduct no**
20 **longer prohibited.** (1) PURSUANT TO THE TIMELINES IN THIS SUBSECTION
21 (1), IF A STATUTORY CHANGE LEGALIZES PREVIOUSLY PROHIBITED
22 CONDUCT, A DEFENDANT MAY FILE A MOTION IN ANY CASE IN WHICH A
23 CONVICTION RECORD EXISTS PERTAINING TO THE DEFENDANT'S
24 CONVICTION FOR AN OFFENSE THAT IS NO LONGER PROHIBITED BY STATUTE
25 AND PROVIDE NOTICE OF THE MOTION TO THE DISTRICT ATTORNEY. A
26 DEFENDANT MAY FILE THE MOTION AFTER THE DATE OF THE FINAL
27 DISPOSITION AGAINST THE DEFENDANT OR THE DATE OF THE DEFENDANT'S

1 RELEASE FROM SUPERVISION, WHICHEVER IS LATER.

2 (2) A DEFENDANT WHO MAKES A MOTION TO HAVE THE
3 DEFENDANT'S CRIMINAL RECORDS SEALED PURSUANT TO THIS SECTION IS
4 NOT REQUIRED TO PAY ANY FEES OR COSTS ASSOCIATED WITH SEALING THE
5 RECORD.

6 (3) THE DISTRICT ATTORNEY MAY ONLY OBJECT TO THE SEALING
7 OF A RECORD PURSUANT TO THIS SECTION IF THE DISTRICT ATTORNEY HAS
8 A GOOD-FAITH BELIEF THAT THE OFFENSE THE DEFENDANT IS SEEKING TO
9 SEAL IS ILLEGAL AT THE TIME THE MOTION TO SEAL IS MADE. IF THE
10 DISTRICT ATTORNEY DOES NOT OBJECT WITHIN FORTY-TWO DAYS AFTER
11 THE DATE OF THE MOTION TO SEAL THE RECORD, THE COURT SHALL ORDER
12 THE RECORD SEALED REGARDLESS OF OTHER CONVICTIONS ON THE
13 DEFENDANT'S RECORD.

14 (4) NOTWITHSTANDING THE PROVISIONS OF SECTION 24-72-706
15 (1)(c), A DEFENDANT WHO FILES A MOTION PURSUANT TO THIS SECTION
16 SHALL NOT BE REQUIRED TO SUBMIT A VERIFIED COPY OF THE
17 DEFENDANT'S CRIMINAL HISTORY WITH THE MOTION. SECTION 24-72-703
18 (2)(a)(V) DOES NOT APPLY TO CONVICTION RECORDS SEALED PURSUANT
19 TO THIS SECTION.

20 **SECTION 8.** In Colorado Revised Statutes, 13-3-117, **add** (5) as
21 follows:

22 **13-3-117. State court administrator - automatic conviction**
23 **sealing.** (5) (a) ON OR BEFORE JULY 1, 2025, THE STATE COURT
24 ADMINISTRATOR SHALL COMPILE A LIST OF ALL CRIMINAL JUSTICE
25 RECORDS OF DEFERRED JUDGMENTS THAT HAVE BEEN SUCCESSFULLY
26 COMPLETED AND THE CHARGES HAVE BEEN DISMISSED, ACQUITTALS, AND
27 DIVERSION CASES PURSUANT TO SECTION 24-72-705 (1)(a) WITH

1 DISPOSITIONS PRIOR TO AUGUST 2022. THE STATE COURT ADMINISTRATOR
2 SHALL SORT THOSE CRIMINAL JUSTICE RECORDS BY JUDICIAL DISTRICT AND
3 SEND THE FINAL LIST TO THE CHIEF JUDGE OF EACH JUDICIAL DISTRICT.

4 (b) (I) THE STATE COURT ADMINISTRATOR SHALL SEND THE FINAL
5 LIST COMPILED PURSUANT TO SUBSECTION (5)(a) OF THIS SECTION TO THE
6 CHIEF JUDGE FOR THE JUDICIAL DISTRICT. THE COURTS OF THAT JUDICIAL
7 DISTRICT SHALL ENTER SEALING ORDERS BASED ON THE LIST RECEIVED
8 WITHIN FOURTEEN DAYS AFTER RECEIPT OF THE FINAL LIST FROM THE
9 STATE COURT ADMINISTRATOR.

10 (II) THE DISTRICT COURT SHALL SEND A COPY OF THE SEALING
11 ORDER TO THE DISTRICT ATTORNEY'S OFFICE THAT PROSECUTED THE CASE,
12 AND UPON RECEIPT OF THE ORDER THE DISTRICT ATTORNEY'S OFFICE SHALL
13 SEAL THE RECORDS HELD BY IT. THE COURT SHALL ALSO SEND A COPY TO
14 THE STATE COURT ADMINISTRATOR FOR PURPOSES OF SUBSECTION
15 (5)(b)(III) OF THIS SECTION.

16 (III) THE STATE COURT ADMINISTRATOR SHALL ELECTRONICALLY
17 SEND ALL ORDERS SEALING RECORDS PURSUANT TO THIS SUBSECTION
18 (5)(b) TO THE COLORADO BUREAU OF INVESTIGATION USING AN
19 INFORMATION-SHARING DATA TRANSFER. UPON RECEIPT OF THE ORDERS,
20 THE COLORADO BUREAU OF INVESTIGATION SHALL SEAL ALL RECORDS
21 HELD BY THE ORDERS.

22 (IV) THE DEFENDANT MAY OBTAIN A COPY OF THE SEALING ORDER
23 PURSUANT TO SECTION 24-72-703 (2)(c) AND SERVE THE SEALING ORDER
24 ON ANY CUSTODIAN OF THE RECORDS PURSUANT TO SECTION 24-72-703
25 (8), INCLUDING THE LAW ENFORCEMENT AGENCY THAT INVESTIGATED THE
26 CASE.

27 **SECTION 9.** In Colorado Revised Statutes, 16-8.5-116, **repeal**

1 (12) as follows:

2 **16-8.5-116. Certification - reviews - termination of**
3 **proceedings - rules.** (12) ~~If charges against a defendant are dismissed~~
4 ~~pursuant to this section, such charges are not eligible for sealing pursuant~~
5 ~~to section 24-72-705.~~

6 **SECTION 10. Act subject to petition - effective date.** This act
7 takes effect July 1, 2025; except that, if a referendum petition is filed
8 pursuant to section 1 (3) of article V of the state constitution against this
9 act or an item, section, or part of this act within the ninety-day period
10 after final adjournment of the general assembly, then the act, item,
11 section, or part will not take effect unless approved by the people at the
12 general election to be held in November 2024 and, in such case, will take
13 effect on July 1, 2025, or on the date of the official declaration of the vote
14 thereon by the governor, whichever is later.