

HOUSE COMMITTEE OF REFERENCE REPORT

\_\_\_\_\_  
Chair of Committee

February 21, 2024  
Date

Committee on Judiciary.

After consideration on the merits, the Committee recommends the following:

HB24-1133 be amended as follows, and as so amended, be referred to the Committee on Appropriations with favorable recommendation:

- 1 Amend printed bill, page 2, strike lines 2 through 8.
- 2 Renumber succeeding sections accordingly.
- 3 Page 3, line 3, after "PETITION" insert "WITHIN THE PRESCRIBED  
4 TIMEFRAME".
- 5 Page 3, line 12, strike "**repeal** (12)(c);", and strike "(2)(a)(X), (2)(a)(XI),"  
6 and substitute "(12)(a)(III)".
- 7 Page 4, strike lines 1 through 11 and substitute:  
8           "(12) **Exclusions.** (a) (III) IF A DEFENDANT IS CONVICTED OF AN  
9 OFFENSE IN THE SAME CASE IN WHICH THE DEFENDANT SUCCESSFULLY  
10 COMPLETED A DEFERRED JUDGMENT, RECORDS OF THE DEFERRED  
11 JUDGMENT ARE ELIGIBLE FOR SEALING WHEN THE CRIMINAL CASE IN  
12 WHICH THE CONVICTION WAS ENTERED IS ELIGIBLE FOR SEALING  
13 PURSUANT TO THE PROVISIONS OF THIS PART 7, UNLESS THE DEFERRED  
14 JUDGMENT IS INELIGIBLE FOR SEALING PURSUANT TO SECTION  
15 24-72-703(12)(d)".
- 16 Page 5, line 14, strike "PERSON," and substitute "PERSON OR REMOTELY BY  
17 PHONE OR VIDEO ON A PLATFORM DESIGNATED BY THE COURT,".
- 18 Page 6, line 14, strike "**repeal**" and substitute "**amend**".
- 19 Page 6, strike lines 17 through 24 and substitute:  
20 "**convictions - simplified process - applicability.**

1 (1) (d) Notwithstanding ~~the provision of subsection (1)(c) of this section,~~  
2 if the defendant is acquitted or if the case dismissed is a crime  
3 enumerated in section 24-4.1-302 (1), ~~in which notice of a hearing on a~~  
4 ~~motion to seal is required pursuant to section 24-4.1-303 (11)(b.7),~~ the  
5 court shall allow the district attorney the opportunity to inform the victim  
6 that the record will be sealed. ~~and IF THERE IS AN OBJECTION BY THE~~  
7 ~~VICTIM, THE DISTRICT ATTORNEY SHALL NOTIFY THE COURT AND THE~~  
8 ~~COURT shall set a return date for the sealing motion no later than~~  
9 ~~forty-two~~ THIRTY-FIVE days after receipt of the motion. IF A RETURN DATE  
10 IS SET, THE DEFENDANT IS NOT REQUIRED TO APPEAR. IF THERE IS NO  
11 OBJECTION WITHIN THIRTY-FIVE DAYS AFTER THE MOTION IS FILED, THE  
12 COURT SHALL GRANT THE MOTION."

13 Page 7, strike line 7 and substitute "(1)(i) and (2)(b); and **repeal** (1)(f.5)  
14 as follows:".

15 Page 7, strike lines 9 through 20 and substitute:  
16 **"records - processing fee. (1) Sealing of conviction records.**  
17 (f.5) ~~(f) Notwithstanding any provision of this part 7 to the contrary, a~~  
18 ~~motion filed for the sealing of conviction records for an offense that was~~  
19 ~~unlawful at the time of conviction, but is no longer unlawful pursuant to~~  
20 ~~section 18-18-434, may be filed at any time. The court shall order the~~  
21 ~~records sealed unless the district attorney objects pursuant to subsection~~  
22 ~~(1)(f.5)(H) of this section.~~

23 ~~(H) If a motion is filed for the sealing of an offense described in~~  
24 ~~this subsection (1)(f.5), the defendant shall provide notice of the motion~~  
25 ~~to the district attorney, who may object. The district attorney shall~~  
26 ~~determine whether to object to the motion based on whether the~~  
27 ~~underlying conviction for an offense is no longer unlawful pursuant to~~  
28 ~~section 18-18-434. The district attorney shall determine whether to object~~  
29 ~~and provide notice to the court within forty-two days of receipt of the~~  
30 ~~motion. If the district attorney objects to the motion, the court shall set the~~  
31 ~~matter for hearing and the burden is on the defendant to show by a~~  
32 ~~preponderance of the evidence that the underlying factual basis of the~~  
33 ~~conviction sought to be sealed is no longer unlawful pursuant to section~~  
34 ~~18-18-434.~~

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

37 ~~(B) Notwithstanding subsection (1)(c) of this section, a defendant~~  
38 ~~who files a motion pursuant to this subsection (1)(f.5) is not required to~~  
39 ~~submit a verified copy of the defendant's criminal history with a filed~~  
40 ~~motion.~~

41 ~~(C) Section 24-72-703 (2)(a)(V) does not apply to conviction~~

- 1 ~~records sealed pursuant to this subsection (1)(f.5).~~
- 2 (i) The court shall determine eligibility of a drug offense  
3 committed before October 1, 2013, by the classification of the offense at  
4 the time of considering the record sealing, INCLUDING, BUT NOT LIMITED  
5 TO, SECTION 18-18-106 (8)(a)(II)(B), AS IT EXISTED PRIOR TO JULY 1,  
6 1992; OR SECTION 18-18-406 (8)(a)(II)(B), AS IT EXISTED PRIOR TO  
7 AUGUST 11, 2010; OR SECTION 18-18-406 (6)(a)(II)(B), AS IT EXISTED  
8 PRIOR TO OCTOBER 1, 2013.
- 9 (2) (b) Notwithstanding the provisions of this section, a  
10 misdemeanor".
- 11 Page 8, strike lines 2 through 22.
- 12 Renumber succeeding sections accordingly.
- 13 Page 9, line 14, strike "CASE." and substitute "CASE, AND THE DEFENDANT  
14 SHALL IDENTIFY THE OTHER CONVICTION RECORDS BY CASE NAME AND  
15 NUMBER IN THE MOTION."
- 16 Page 9, line 18, strike "AT ANY TIME AFTER" and substitute "PURSUANT  
17 TO THE TIMELINES IN THIS SUBSECTION (1), IF".
- 18 Page 9, line 23, after the period add "A DEFENDANT MAY FILE THE MOTION  
19 AFTER THE DATE OF THE FINAL DISPOSITION AGAINST THE DEFENDANT OR  
20 THE DATE OF THE DEFENDANT'S RELEASE FROM SUPERVISION, WHICHEVER  
21 IS LATER."
- 22 Page 10, line 5, strike "FOURTEEN" and substitute "FORTY-TWO".
- 23 Page 10, after line 8 insert:  
24 "(4) NOTWITHSTANDING THE PROVISIONS OF SECTION 24-72-706  
25 (1)(c), A DEFENDANT WHO FILES A MOTION PURSUANT TO THIS SECTION  
26 SHALL NOT BE REQUIRED TO SUBMIT A VERIFIED COPY OF THE  
27 DEFENDANT'S CRIMINAL HISTORY WITH THE MOTION. SECTION 24-72-703  
28 (2)(a)(V) DOES NOT APPLY TO CONVICTION RECORDS SEALED PURSUANT  
29 TO THIS SECTION."
- 30 Page 10, line 12, strike "JANUARY" and substitute "JULY".
- 31 Page 10, line 14, strike "JUDGMENTS," and substitute "JUDGMENTS THAT  
32 HAVE BEEN SUCCESSFULLY COMPLETED AND THE CHARGES HAVE BEEN  
33 DISMISSED,".

1 Page 11, strike lines 21 through 25 and substitute:

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

\*\* \*\*\* \*\* \*\*\* \*\*