

CHAPTER 382

CRIMINAL LAW AND PROCEDURE

HOUSE BILL 17-1360

BY REPRESENTATIVE(S) Pabon, Becker K., Benavidez, Coleman, Exum, Herod, Hooton, Humphrey, Kennedy, Lee, Lontine, Melton, Mitsch Bush, Rosenthal, Salazar, Valdez, Van Winkle, Weissman, Williams D., Duran;
also SENATOR(S) Moreno, Aguilar, Crowder, Fenberg, Jones, Kagan, Kefalas, Kerr, Merrifield, Todd, Williams A.

AN ACT**CONCERNING ALLOWING A PERSON WITH A SUBSEQUENT CRIMINAL CASE TO SEAL A LOW-LEVEL OFFENSE.**

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

SECTION 1. In Colorado Revised Statutes, 24-72-708, **amend** (1) as follows:

24-72-708. Sealing of criminal conviction records information for petty offenses and municipal offenses for convictions. (1) **Sealing of conviction records.** (a) (I) A defendant may petition the district court of the district in which any conviction records pertaining to the defendant for a petty offense or municipal violation are located for the sealing of the conviction records, except basic identifying information, if:

(⊕) (A) The petition is filed three or more years after the date of the final disposition of all criminal proceedings against the defendant or the release of the defendant from supervision concerning a criminal conviction, whichever is later; and

(⊕) (B) The defendant has not been charged or convicted for a felony, misdemeanor, or misdemeanor traffic offense in the three or more years since the date of the final disposition of all criminal proceedings against him or her or the date of the defendant's release from supervision, whichever is later; and

(⊕) (C) The conviction records to be sealed are not for a misdemeanor traffic offense committed either by a holder of a commercial learner's permit or a commercial driver's license, as defined in section 42-2-402, ~~C.R.S.~~, or by the operator of a commercial motor vehicle, as defined in section 42-2-402. ~~C.R.S.~~

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

(II) NOTWITHSTANDING THE PROVISIONS OF SUBSECTION (1)(a)(I)(B) OF THIS SECTION, A DEFENDANT MAY PETITION THE DISTRICT COURT OF THE DISTRICT IN WHICH ANY CONVICTION RECORDS PERTAINING TO THE DEFENDANT FOR A MUNICIPAL VIOLATION, EXCEPT A MUNICIPAL ASSAULT OR BATTERY OFFENSE IN WHICH THE UNDERLYING FACTUAL BASIS INVOLVES DOMESTIC VIOLENCE, AS DEFINED IN SECTION 18-6-800.3 (1), OR ANY OTHER MUNICIPAL VIOLATION IN WHICH THE UNDERLYING FACTUAL BASIS INVOLVES DOMESTIC VIOLENCE, AS DEFINED IN SECTION 18-6-800.3 (1), OR PETTY OFFENSE ARE LOCATED FOR THE SEALING OF THE CONVICTION RECORDS, EXCEPT BASIC IDENTIFYING INFORMATION, IF:

(A) THE DEFENDANT WAS CONVICTED OF A SINGLE OFFENSE THAT WAS NOT A FELONY AND DID NOT INVOLVE DOMESTIC VIOLENCE AS DEFINED IN SECTION 18-6-800.3 (1), UNLAWFUL SEXUAL BEHAVIOR AS DEFINED IN SECTION 16-22-102(9), OR CHILD ABUSE AS DEFINED IN SECTION 18-6-401;

(B) THAT OFFENSE OCCURRED WITHIN THREE YEARS OF THE DATE OF THE FINAL DISPOSITION OF ALL CRIMINAL PROCEEDINGS AGAINST HIM OR HER RELATED TO THE CONVICTION THAT THE DEFENDANT IS SEEKING TO HAVE SEALED OR WITHIN THREE YEARS OF THE DATE OF THE DEFENDANT'S RELEASE FROM SUPERVISION RELATED TO THE CONVICTION THAT THE DEFENDANT IS SEEKING TO HAVE SEALED, WHICHEVER IS LATER; AND

(C) THE DEFENDANT HAS NOT BEEN CONVICTED FOR A FELONY, MISDEMEANOR, OR MISDEMEANOR TRAFFIC OFFENSE IN THE TEN OR MORE YEARS SINCE THE DATE OF THE FINAL DISPOSITION OF ALL CRIMINAL PROCEEDINGS AGAINST HIM OR HER FOR THE SUBSEQUENT CRIMINAL CASE OR IN THE TEN OR MORE YEARS SINCE THE DATE OF THE DEFENDANT'S RELEASE FROM SUPERVISION FOR THE SUBSEQUENT CASE, WHICHEVER IS LATER.

(b) Upon filing the petition, the defendant shall pay the filing fee required by law. ~~and an additional filing fee of two hundred dollars to cover the actual costs related to the filing of the petition to seal records. The additional filing fees collected under this paragraph (b) must be transmitted to the state treasurer for deposit in the judicial stabilization cash fund created in section 13-32-101 (6), C.R.S.~~

SECTION 2. In Colorado Revised Statutes, 24-72-704, **amend** (2)(b)(III) as follows:

24-72-704. Sealing of criminal conviction records information for offenses involving controlled substances for convictions entered on or after July 1, 2008, and prior to July 1, 2011. (2) Applicability. (b) For any judgment of conviction entered prior to July 1, 2008, for which the defendant would otherwise qualify for relief under this section, the defendant may obtain an order from the court to seal conviction records if:

(III) The defendant pays

~~(A) the filing fee required by law. and~~

~~(B) An additional filing fee of two hundred dollars to cover the actual costs~~

~~related to the filing of the petition to seal records.~~

SECTION 3. Act subject to petition - effective date. This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly (August 9, 2017, if adjournment sine die is on May 10, 2017); except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2018 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

Approved: June 6, 2017