

**First Regular Session
Seventy-second General Assembly
STATE OF COLORADO**

ENGROSSED

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

LLS NO. 19-1119.01 Michael Dohr x4347

HOUSE BILL 19-1335

HOUSE SPONSORSHIP

Gonzales-Gutierrez and Bockenfeld,

SENATE SPONSORSHIP

Lee and Cooke,

House Committees
Judiciary

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING EXPUNGEMENT OF JUVENILE RECORDS, AND, IN**
102 **CONNECTION THEREWITH, MAKING CLARIFYING CHANGES TO**
103 **THE EXPUNGEMENT PROCESS AND PROCEDURE AND CLARIFYING**
104 **THAT JUVENILE RECORD EXPUNGEMENT APPLIES TO MUNICIPAL**
105 **COURTS.**

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>.)

The bill makes changes and clarifications to the juvenile record expungement provisions. The bill clarifies which dismissals and

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

HOUSE
Amended 2nd Reading
April 27, 2019

alternative dispositions are eligible for automatic expungement. The bill allows expungement of a diversion record without filing a case and allows a victim an opportunity to object. The bill clarifies when a sentence is complete, which triggers the expungement process. Under current law, a class 1 misdemeanor sex offense can be expunged. The bill allows class 2 and class 3 misdemeanor sex offenses to be expunged. The bill requires the juvenile court to determine whether a juvenile who has his or her record expunged for a sex offense should have a continuing duty to register as a sex offender. The bill clarifies to whom the notice of expungement needs to be sent so that only the agencies with the records receive the notice.

The bill makes clear that juvenile record expungement applies in municipal court by creating a new section for municipal court expungement.

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

2 **SECTION 1.** In Colorado Revised Statutes, 19-1-306, **amend**
3 (4)(a)(II), (4)(a)(III), (4)(b), (5)(a) introductory portion, (5)(a)(I),
4 (5)(a)(II), (5)(c), (5)(d), (5)(e), (6)(b), (6)(c), (6)(e), (10)(e), and (11);
5 **repeal** (5)(a)(III) and (5)(b); **repeal and reenact, with amendments,** (9);
6 and **add** (1)(c) and (5)(e.5) as follows:

7 **19-1-306. Expungement of juvenile delinquent records -**
8 **definition.** (1) (c) THE EXPUNGEMENT ORDER ONLY APPLIES TO THE
9 NAMED JUVENILE AND NOT TO ANY CO-PARTICIPANT.

10 (4) (a) The court shall order all records in a juvenile delinquency
11 case in the custody of the court, and any records related to the case and
12 charges in the custody of any other agency, person, company, or
13 organization, expunged within forty-two days after:

14 (II) Dismissal of the petition in its entirety PRIOR TO ANY
15 DISPOSITION OR ALTERNATIVE TO SENTENCING, INCLUDING DIVERSION, A
16 DEFERRED ADJUDICATION, OR AN INFORMAL ADJUSTMENT; or

17 (III) The completion of a sentence OR ALTERNATIVE TO

1 SENTENCING, INCLUDING DIVERSION, A DEFERRED ADJUDICATION, OR AN
2 INFORMAL ADJUSTMENT, for a petty offense, drug petty offense, class 2 or
3 class 3 misdemeanor offense, or level 1 or level 2 drug misdemeanor if
4 the offense does not involve unlawful sexual behavior as defined in
5 section 16-22-102 (9), is not an act of domestic violence as defined in
6 section 18-6-800.3, or is not a crime listed under section 24-4.1-302 (1),
7 and the defendant was under eighteen years of age at the time the offense
8 was committed.

9 (b) (I) ~~When an expungement order is issued pursuant to this~~
10 ~~section, the court shall send a copy of the order to the juvenile, the~~
11 ~~juvenile's last attorney of record, the prosecuting attorney, the law~~
12 ~~enforcement agency or agencies that investigated the case, the state court~~
13 ~~administrator's office, the division of youth services, and the Colorado~~
14 ~~bureau of investigation, directing the entity to expunge the records in its~~
15 ~~custody as directed in the order. The person who is the subject of records~~
16 ~~expunged pursuant to this section may petition the court to permit~~
17 ~~inspection of the records held by persons named in the order, and the~~
18 ~~court may so order~~ UPON SUCCESSFUL COMPLETION OF DIVERSION AT THE
19 PREFILING LEVEL AS AN ALTERNATIVE TO THE FILING OF A PETITION, THE
20 CUSTODIAN OF ANY RECORD SHALL EXPUNGE THE RECORD IN THE
21 CUSTODY OF LAW ENFORCEMENT, THE JUVENILE'S SCHOOL, THE DIVERSION
22 PROVIDER, AND THE DISTRICT ATTORNEY WITHOUT THE NEED FOR A COURT
23 ORDER.

24 (II) THE DISTRICT ATTORNEY OR OTHER DIVERSION PROVIDER
25 SHALL NOTIFY THE COLORADO BUREAU OF INVESTIGATION, THE LAW
26 ENFORCEMENT AGENCY THAT HAD CONTACT WITH THE JUVENILE, AND THE
27 JUVENILE'S SCHOOL, IF THE INCIDENT OCCURRED AT SCHOOL OR THE

1 DISTRICT ATTORNEY NOTIFIED THE SCHOOL OF THE CASE, THAT DIVERSION
2 IS COMPLETE AND THE RECORDS ARE EXPUNGED. ANY LAW ENFORCEMENT
3 AGENCY OR SCHOOL THAT RECEIVES A NOTICE SHALL ACKNOWLEDGE
4 RECEIPT OF THE NOTICE. THE COLORADO BUREAU OF INVESTIGATION, LAW
5 ENFORCEMENT AGENCY, SCHOOL, DIVERSION PROVIDER, AND DISTRICT
6 ATTORNEY SHALL TREAT THE RECORDS AS EXPUNGED WITHIN THIRTY-FIVE
7 DAYS AFTER THE COMPLETION OF DIVERSION, AND ALL PROVISIONS OF THIS
8 SECTION ADDRESSING EXPUNGED RECORDS APPLY TO THOSE RECORDS.

9 (III) IF VICTIM NOTIFICATION IS REQUIRED PURSUANT TO PART 4.1
10 OF TITLE 24, THE DISTRICT ATTORNEY SHALL NOTIFY THE VICTIM PRIOR
11 TO SENDING THE NOTICE PURSUANT TO SUBSECTION (4)(b)(II) OF THIS
12 SECTION, AND OFFER THE VICTIM AN OPPORTUNITY TO OBJECT. IF THE
13 VICTIM OBJECTS, THE DISTRICT ATTORNEY SHALL NOTIFY THE COURT AND
14 THE DIVERSION PROVIDER. UPON RECEIPT OF THE NOTICE OF OBJECTION
15 FROM THE DISTRICT ATTORNEY, THE DIVERSION PROVIDER SHALL
16 COMPLETE AND FILE A REPORT PURSUANT TO SUBSECTION (5)(c) OF THIS
17 SECTION, AND THE PROVISIONS OF SUBSECTIONS (5)(e), (5)(e.5), (5)(f),
18 AND (5)(g) OF THIS SECTION APPLY.

19 (5) (a) ~~The court shall send notice to the prosecuting attorney and~~
20 ~~supervising agency of the juvenile at least ninety-one days prior to the end~~
21 ~~of the juvenile's diversion program, deferred adjudication, informal~~
22 ~~adjustment, or sentence that all records in a juvenile delinquency case in~~
23 ~~the custody of the court, and any records related to the case and charges~~
24 ~~in the custody of any other agency, person, company, or organization, will~~
25 ~~be expunged after completion of~~ AT THE TIME THAT THE COURT ORDERS
26 THE FOLLOWING SENTENCES OR ALTERNATIVES TO SENTENCING, THE
27 COURT SHALL MAKE A FINDING THAT THE JUVENILE IS ELIGIBLE FOR

1 EXPUNGEMENT PURSUANT TO THIS SUBSECTION (5) AND INCLUDE THAT
2 FINDING ON THE WRITTEN MITTIMUS OR OTHER SENTENCING DOCUMENT:

3 (I) A juvenile diversion program, a deferred adjudication, or an
4 informal adjustment, EXCEPT FOR THOSE DESCRIBED IN SUBSECTION
5 (4)(a)(III) OF THIS SECTION;

6 (II) A juvenile sentence for an adjudication for a class 1
7 misdemeanor or a petty or a misdemeanor offense that is not eligible for
8 expungement ~~under~~ PURSUANT TO subsection (4) of this section; ~~if the~~
9 ~~offense did not involve unlawful sexual behavior as defined in section~~
10 ~~16-22-102 (9);~~ OR

11 (III) ~~A juvenile sentence for an adjudication for a misdemeanor~~
12 ~~offense involving unlawful sexual contact as described in section~~
13 ~~18-3-404; or~~

14 (b) ~~Upon receipt of the notice from the court in subsection (5)(a)~~
15 ~~of this section, the prosecuting attorney shall contact the victim regarding~~
16 ~~expungement.~~

17 (c) (I) ~~Upon issuance of the notice from the court in subsection~~
18 ~~(5)(a) of this section, the supervising agency must~~ IF THE COURT MAKES
19 A FINDING THAT A JUVENILE IS ELIGIBLE FOR EXPUNGEMENT PURSUANT TO
20 SUBSECTION (5)(a) OF THIS SECTION, THE AGENCY SUPERVISING THE
21 JUVENILE SHALL, AT THE CONCLUSION OF THE AGENCY'S SUPERVISION,
22 prepare a report and summary of supervision outlining the performance
23 of the juvenile while under supervision. ~~If the juvenile is no longer under~~
24 ~~supervision, the supervising agency must contact the juvenile and~~
25 ~~summarize the juvenile's activities since termination of supervision to~~
26 ~~assist the court in making its determination of the appropriateness for~~
27 ~~expungement.~~ The supervising agency shall provide the report to the court

1 AND PROVIDE A COPY OF THE REPORT TO the prosecuting attorney, the
2 juvenile, and the juvenile's attorney of record ~~within twenty-eight days of~~
3 ~~the notice from the court~~ NO EARLIER THAN THIRTY-FIVE DAYS PRIOR TO
4 THE END OF SUPERVISION AND NO LATER THAN FOURTEEN DAYS AFTER THE
5 CONCLUSION OF SUPERVISION. IF THERE IS NO SUPERVISING AGENCY, THE
6 COURT SHALL SEND A NOTICE THAT THE UNSUPERVISED SENTENCE IS
7 COMPLETE TO THE DISTRICT ATTORNEY WHEN THE SENTENCE IS COMPLETE.

8 (II) UPON RECEIPT OF THE REPORT OR NOTICE PURSUANT TO THIS
9 SUBSECTION (5)(c), THE PROSECUTING ATTORNEY SHALL CONTACT THE
10 VICTIM REGARDING EXPUNGEMENT IF NOTIFICATION IS REQUIRED
11 PURSUANT TO PART 4.1 OF TITLE 24.

12 (d) If neither the prosecuting attorney nor a victim files an
13 objection within ~~eighty-four~~ THIRTY-FIVE days after the ~~issuance~~ FILING
14 of the REPORT OR notice pursuant to ~~subsection (5)(a)~~ SUBSECTION (5)(c)
15 of this section, the court shall order all records in the juvenile delinquency
16 case in the custody of the court, and any records related to the case and
17 charges in the custody of any other agency, person, company, or
18 organization, expunged.

19 (e) If the prosecuting attorney or a victim files an objection within
20 ~~eighty-four~~ THIRTY-FIVE days after ~~receipt~~ THE FILING of the REPORT OR
21 notice ~~by the prosecuting attorney~~ pursuant to ~~subsection (5)(a)~~
22 SUBSECTION (5)(c) of this section, the court shall schedule a hearing on
23 the issue of expungement. The court shall notify all objecting parties of
24 the hearing date. The hearing must be set at least thirty-five days after the
25 date the court sends notice of the hearing.

26 (e.5) IF THE OFFENSE FOR WHICH THE RECORDS ARE ELIGIBLE FOR
27 EXPUNGEMENT REQUIRES THE JUVENILE TO REGISTER PURSUANT TO

1 SECTION 16-22-103 AND THE COURT HAS NOT ALREADY ISSUED A NOTICE
2 PURSUANT TO SECTION 16-22-113 (1.3)(b), UPON RECEIPT OF THE REPORT
3 FROM THE SUPERVISING AGENCY PURSUANT TO SUBSECTION (5)(c) OF THIS
4 SECTION, THE COURT SHALL ISSUE A NOTICE PURSUANT TO SECTION
5 16-22-113 (1.3)(b) AND THIS SUBSECTION (5)(e.5), AND THE VICTIM AND
6 PROSECUTION HAVE SIXTY-THREE DAYS FROM THE ISSUANCE OF THAT
7 NOTICE TO FILE AN OBJECTION TO EXPUNGEMENT OR THE
8 DISCONTINUATION OF REGISTRATION. ALL OTHER REQUIREMENTS OF
9 SUBSECTIONS (5)(d), (5)(e), (5)(f), AND (5)(g) OF THIS SECTION APPLY TO
10 THE EXPUNGEMENT. THE PROVISIONS OF SECTION 16-22-113 (1.3) APPLY
11 TO THE ISSUE OF DISCONTINUING REGISTRATION. THE COURT SHALL
12 CONSIDER BOTH ISSUES AT THE SAME HEARING. IF THE COURT HAS NOT
13 ALREADY ORDERED THAT THE JUVENILE MAY DISCONTINUE REGISTRATION
14 PURSUANT TO SECTION 16-22-113, THE COURT SHALL ENTER AN ORDER
15 GRANTING EXPUNGEMENT AND DISCONTINUING THE REGISTRATION
16 REQUIREMENT, DENYING EXPUNGEMENT AND DISCONTINUING THE
17 REGISTRATION REQUIREMENT, OR DENYING EXPUNGEMENT AND
18 CONTINUING THE REGISTRATION REQUIREMENT.

19 (6) (b) A person may petition the juvenile court to expunge
20 records in a closed case pursuant to subsection (5) of this section if the
21 records are otherwise eligible for expungement, have not been expunged
22 by the court, and a proceeding concerning a felony, misdemeanor, or
23 delinquency action is not pending against the petitioner. A filing fee,
24 notarization, or other formalities are not required. If the records are
25 eligible for expungement pursuant to subsection (5) of this section, the
26 court shall REQUEST A REPORT FROM THE AGENCY SUPERVISING THE
27 JUVENILE OR issue a notice pursuant to ~~subsection (5)(a)~~ SUBSECTION

1 (5)(c) of this section, and the provisions of subsection (5) of this section
2 apply.

3 (c) A person may petition the juvenile court to expunge records
4 related to a law enforcement contact that did not result in referral to
5 another agency after one year has passed since the law enforcement
6 contact and a proceeding concerning a felony, misdemeanor, or
7 delinquency action is not pending against the petitioner. A filing fee,
8 notarization, or other formalities are not required. If the records are
9 eligible for expungement pursuant to subsection (5) of this section, the
10 court shall issue a notice ~~pursuant to subsection (5)(a) of this section~~ TO
11 THE DISTRICT ATTORNEY THAT THE RECORDS WILL BE EXPUNGED IF NO
12 OBJECTION IS RECEIVED, and the provisions of subsection (5) of this
13 section apply.

14 (e) A juvenile who ~~was adjudicated as~~ DOES NOT QUALIFY FOR
15 EXPUNGEMENT PURSUANT TO SUBSECTION (4) OR (5) OF THIS SECTION,
16 INCLUDING a mandatory sentence offender pursuant to section 19-2-516
17 (1) or ~~as~~ a repeat offender pursuant to section 19-2-516 (2), and is not
18 otherwise ineligible for expungement pursuant to the provisions of
19 subsection (8) of this section and does not have a proceeding concerning
20 a felony, misdemeanor, or delinquency action pending against himself or
21 herself, may petition the court to request expungement of his or her record
22 thirty-six months after the date of the petitioner's unconditional release
23 from his or her juvenile sentence. A filing fee, notarization, or other
24 formalities are not required. The court shall ~~issue a notice pursuant to~~
25 ~~subsection (5)(a) of this section~~ SCHEDULE A HEARING, and the provisions
26 of ~~subsection (5)~~ SUBSECTIONS (5)(e), (5)(e.5), (5)(f), AND (5)(g) of this
27 section apply.

1 (9) **Municipal court records.** (a) MUNICIPAL COURT RECORDS
2 ARE EXPUNGED PURSUANT TO SECTION 13-10-115.5.

3 (b) IF MUNICIPAL COURT RECORDS HAVE NOT BEEN EXPUNGED
4 WITHIN SEVENTY DAYS FROM THE END OF THE CASE PURSUANT TO SECTION
5 13-10-115.5, AN INDIVIDUAL MAY PETITION THE JUVENILE COURT IN THE
6 JUDICIAL DISTRICT WHERE THE MUNICIPALITY IS LOCATED TO EXPUNGE
7 RECORDS OF A MUNICIPAL CASE BROUGHT AGAINST A JUVENILE.
8 EXPUNGEMENT PROCEEDINGS PURSUANT TO THIS SUBSECTION (9) MUST BE
9 INITIATED BY THE FILING OF A PETITION REQUESTING AN ORDER OF
10 EXPUNGEMENT. A FILING FEE, NOTARIZATION, OR OTHER FORMALITIES ARE
11 NOT REQUIRED. IF THE PETITION IS NOT GRANTED WITHOUT A HEARING,
12 THE COURT SHALL SET A DATE FOR A HEARING ON THE PETITION FOR
13 EXPUNGEMENT AND SHALL NOTIFY THE APPROPRIATE PROSECUTING
14 ATTORNEY.

15 (10) Upon the entry of an order expunging a record pursuant to
16 this section, the court shall order, in writing, the expungement of all case
17 records in the custody of the court and any records related to the case and
18 charges in the custody of any other agency, person, company, or
19 organization. The court may order expunged any records, but, at a
20 minimum, the following records must be expunged pursuant to every
21 expungement order:

22 (e) All department of human services records; ~~including~~
23 ~~disassociating the offense and the disposition information from the name~~
24 ~~of the youth in the management information system;~~

25 (11) (a) When an expungement order is issued pursuant to this
26 section, the court shall send a copy of the order to the juvenile, the
27 juvenile's last attorney of record, ~~and each agency, person, company, or~~

1 ~~organization named therein~~ THE PROSECUTING ATTORNEY, ANY LAW
2 ENFORCEMENT AGENCY THAT INVESTIGATED THE CASE, THE STATE COURT
3 ADMINISTRATOR'S OFFICE, AND THE COLORADO BUREAU OF
4 INVESTIGATION directing the entity to expunge its records within
5 thirty-five days after the receipt of the order. ~~Each such agency, person,~~
6 ~~company, or organization shall expunge the records in its custody as~~
7 ~~directed by the order. The person who is the subject of records expunged~~
8 ~~pursuant to this section may petition the court to permit inspection of the~~
9 ~~records held by persons named in the order, and the court may so order.~~

10 (b) THE COURT SHALL SEND A COPY OF AN EXPUNGEMENT ORDER
11 TO EACH OF THE FOLLOWING, DIRECTING THE ENTITY TO EXPUNGE THE
12 RECORDS IN ITS CUSTODY AS SOON AS PRACTICABLE BUT NO LATER THAN
13 NINETY DAYS AFTER THE RECEIPT OF THE ORDER:

14 (I) THE PROBATION OFFICE IF THE JUVENILE WAS PLACED ON
15 PROBATION AT ANY POINT DURING THE CASE;

16 (II) THE DIVISION OF YOUTH SERVICES IF THE JUVENILE WAS
17 DETAINED IN A FACILITY OPERATED BY THE DIVISION, COMMITTED TO THE
18 CUSTODY OF THE DIVISION, OR SCREENED THROUGH THE COLORADO
19 YOUTH DETENTION CONTINUUM AT ANY POINT DURING THE CASE;

20 (III) ANY COUNTY DEPARTMENT OF HUMAN SERVICES THROUGH
21 WHICH THE JUVENILE RECEIVED SERVICES AT ANY POINT DURING THE
22 JUVENILE'S CASE; AND

23 (IV) ANY OTHER AGENCY, PERSON, COMPANY, OR ORGANIZATION
24 NAMED IN THE ORDER IF THE COURT IS AWARE THAT THE ENTITY HAS
25 RECORDS RELATED TO THE CASE IN ITS POSSESSION.

26 (c) EACH ENTITY DESCRIBED IN THIS SUBSECTION (11) SHALL
27 EXPUNGE THE RECORDS IN ITS CUSTODY AS DIRECTED BY THE ORDER.

1 (d) THE PERSON WHO IS THE SUBJECT OF RECORDS EXPUNGED
2 PURSUANT TO THIS SECTION MAY PETITION THE COURT TO PERMIT
3 INSPECTION OF THE RECORDS HELD BY PERSONS NAMED IN THE ORDER,
4 AND THE COURT MAY SO ORDER.

5 **SECTION 2.** In Colorado Revised Statutes, **add** 13-10-115.5 as
6 follows:

7 **13-10-115.5. Expungement of juvenile delinquent records -**
8 **definition.** (1) (a) FOR THE PURPOSES OF THIS SECTION, "EXPUNGEMENT"
9 IS DEFINED IN SECTION 19-1-103 (48). UPON THE ENTRY OF AN
10 EXPUNGEMENT ORDER BY A MUNICIPAL COURT, THE PERSON WHO IS THE
11 SUBJECT OF THE RECORD THAT HAS BEEN EXPUNGED MAY ASSERT THAT HE
12 OR SHE HAS NO JUVENILE MUNICIPAL COURT RECORD. THE PERSON WHO IS
13 THE SUBJECT OF THE RECORD THAT HAS BEEN EXPUNGED MAY LAWFULLY
14 DENY THAT HE OR SHE HAS EVER BEEN ARRESTED, CHARGED,
15 ADJUDICATED, CONVICTED, OR SENTENCED IN REGARD TO THE EXPUNGED
16 CASE, MATTER, OR CHARGE.

17 (b) THE COURT, LAW ENFORCEMENT AGENCY, AND ALL OTHER
18 AGENCIES SHALL REPLY TO ANY INQUIRY REGARDING AN EXPUNGED
19 RECORD THAT NO RECORD EXISTS WITH RESPECT TO THE PERSON NAMED
20 IN THE RECORD, UNLESS INFORMATION MAY BE SHARED WITH THE
21 INQUIRING PARTY PURSUANT TO SUBSECTION (3) OF THIS SECTION.

22 (2) (a) IF A JUVENILE IS SENTENCED BY A MUNICIPAL COURT, THE
23 MUNICIPAL COURT, AT SENTENCING, SHALL PROVIDE THE JUVENILE AND
24 ANY RESPONDENT PARENT OR GUARDIAN WITH A WRITTEN ADVISEMENT OF
25 THE RIGHT TO EXPUNGEMENT AND THE TIME PERIOD AND PROCESS FOR
26 EXPUNGING THE RECORD. THE MUNICIPAL COURT MAY PROVIDE THE
27 NOTICE THROUGH A MUNICIPAL DIVERSION PROGRAM, THE CITY

1 ATTORNEY, OR A MUNICIPAL PROBATION PROGRAM.

2 (b) EXPUNGEMENT MUST BE EFFECTUATED BY PHYSICALLY
3 SEALING OR CONSPICUOUSLY INDICATING ON THE FACE OF THE RECORD OR
4 AT THE BEGINNING OF THE COMPUTERIZED FILE OF THE RECORD THAT THE
5 RECORD HAS BEEN DESIGNATED AS EXPUNGED.

6 (c) A PROSECUTING ATTORNEY SHALL NOT REQUIRE AS A
7 CONDITION OF A PLEA AGREEMENT THAT A JUVENILE WAIVE HIS OR HER
8 RIGHT TO EXPUNGEMENT PURSUANT TO THIS SECTION UPON THE
9 COMPLETION OF THE JUVENILE'S SENTENCE.

10 (d) PRIOR TO THE COURT ORDERING ANY RECORDS EXPUNGED, THE
11 COURT SHALL DETERMINE WHETHER THE JUVENILE HAS ANY ACTIONS
12 PENDING BEFORE THE MUNICIPAL COURT, AND, IF THE COURT DETERMINES
13 THAT THERE IS AN ACTION PENDING AGAINST THE JUVENILE, THE COURT
14 SHALL STAY THE PETITION FOR EXPUNGEMENT PROCEEDINGS UNTIL THE
15 RESOLUTION OF THE PENDING CASE.

16 (3) (a) AFTER EXPUNGEMENT, BASIC IDENTIFICATION
17 INFORMATION ON THE JUVENILE AND A LIST OF ANY STATE AND LOCAL
18 AGENCIES AND OFFICIALS HAVING CONTACT WITH THE JUVENILE, AS THEY
19 APPEAR IN THE RECORDS, ARE NOT OPEN TO THE PUBLIC BUT ARE
20 AVAILABLE TO A PROSECUTING ATTORNEY, LOCAL LAW ENFORCEMENT
21 AGENCY, THE DEPARTMENT OF HUMAN SERVICES, THE STATE AND
22 MUNICIPAL JUDICIAL DEPARTMENTS, AND THE VICTIM, AS DEFINED IN
23 SECTION 24-4.1-302 (5); EXCEPT THAT SUCH INFORMATION IS NOT
24 AVAILABLE TO AN AGENCY OF THE MILITARY FORCES OF THE UNITED
25 STATES.

26 (b) NOTWITHSTANDING ANY ORDER FOR EXPUNGEMENT PURSUANT
27 TO THIS SECTION, ANY RECORD THAT IS ORDERED EXPUNGED IS AVAILABLE

1 TO ANY JUDGE AND THE PROBATION DEPARTMENT FOR USE IN ANY FUTURE
2 PROCEEDING IN WHICH THE PERSON WHOSE RECORD WAS EXPUNGED IS
3 CHARGED WITH AN OFFENSE AS EITHER A JUVENILE OR AS AN ADULT. A
4 NEW CRIMINAL, DELINQUENCY, OR MUNICIPAL CHARGE MAY NOT BE
5 BROUGHT AGAINST THE JUVENILE BASED UPON INFORMATION GAINED
6 INITIALLY OR SOLELY FROM EXAMINATION OF THE EXPUNGED RECORDS.

7 (c) NOTWITHSTANDING AN ORDER FOR EXPUNGEMENT PURSUANT
8 TO THIS SECTION, ANY CRIMINAL JUSTICE RECORD OF A JUVENILE WHO HAS
9 BEEN CHARGED, ADJUDICATED, OR CONVICTED OF ANY OFFENSE MUST BE
10 AVAILABLE FOR USE BY THE JUVENILE, THE JUVENILE'S ATTORNEY, A
11 PROSECUTING ATTORNEY, ANY LAW ENFORCEMENT AGENCY, OR ANY
12 AGENCY OF THE STATE OR MUNICIPAL JUDICIAL DEPARTMENTS IN ANY
13 SUBSEQUENT CRIMINAL INVESTIGATION OR PROSECUTION AS A
14 SUBSTANTIVE PREDICATE OFFENSE CONVICTION OR ADJUDICATION OF
15 RECORD.

16 (d) NOTWITHSTANDING ANY ORDER FOR EXPUNGEMENT ISSUED
17 PURSUANT TO THIS SECTION, NOTHING PREVENTS THE PROSECUTING
18 ATTORNEY, INCLUDING THE STAFF OF A PROSECUTING ATTORNEY'S OFFICE,
19 A VICTIM OR WITNESS ASSISTANCE PROGRAM, A LAW ENFORCEMENT
20 AGENCY, OR LAW ENFORCEMENT VICTIM ASSISTANCE PROGRAM FROM
21 DISCUSSING WITH THE VICTIM THE CASE, THE RESULTS OF ANY
22 EXPUNGEMENT PROCEEDINGS, INFORMATION REGARDING RESTITUTION,
23 AND INFORMATION RELATED TO ANY VICTIM SERVICES AVAILABLE TO THE
24 VICTIM AS DEFINED IN SECTION 24-4.1-302 (5), BUT COPIES OF EXPUNGED
25 RECORDS MUST NOT BE PROVIDED TO THE VICTIM. THE VICTIM MAY
26 PETITION THE COURT AND REQUEST THAT A COPY OF THE EXPUNGED
27 RECORDS BE PROVIDED TO THE VICTIM. IF THE COURT FINDS THAT THERE

1 ARE COMPELLING REASONS FOR THE RELEASE, A COPY OF THE EXPUNGED
2 RECORDS MAY BE RELEASED TO THE VICTIM. IF THE COURT ORDERS THE
3 RELEASE OF A COPY OF THE EXPUNGED RECORDS TO THE VICTIM, THE
4 COURT MUST ISSUE A PROTECTIVE ORDER REGARDING THE USE OF THE
5 EXPUNGED RECORDS.

6 (e) NOTWITHSTANDING ANY ORDER FOR EXPUNGEMENT ISSUED
7 PURSUANT TO THIS SECTION, ANY INFORMATION, INCLUDING POLICE
8 AFFIDAVITS AND REPORTS AND RECORDS RELATED TO ANY PRIOR
9 CONVICTION OR ADJUDICATION, ARE AVAILABLE WITHOUT COURT ORDER
10 TO THE PERSONS, GOVERNMENT AGENCIES, OR ENTITIES ALLOWED ACCESS
11 TO OR ALLOWED TO EXCHANGE SUCH INFORMATION PURSUANT TO SECTION
12 19-1-303 FOR THE PURPOSES DESCRIBED THEREIN. ANY PERSON WHO
13 KNOWINGLY VIOLATES THE CONFIDENTIALITY PROVISIONS OF SECTION
14 19-1-303 IS SUBJECT TO THE PENALTY IN SECTION 19-1-303 (4.7).

15 (4) (a) IN A JUVENILE MUNICIPAL CASE WHERE NO NATURAL
16 PERSON IS LISTED AS A VICTIM, THE MUNICIPAL COURT SHALL ORDER ALL
17 RECORDS IN THE JUVENILE MUNICIPAL CASE IN THE CUSTODY OF THE
18 COURT, AND ANY RECORDS RELATED TO THE CASE AND CHARGES IN THE
19 CUSTODY OF ANY OTHER AGENCY, PERSON, COMPANY, OR ORGANIZATION,
20 EXPUNGED WITHIN FORTY-TWO DAYS AFTER THE CONCLUSION OF THE
21 CASE.

22 (b) IN A JUVENILE MUNICIPAL CASE WHERE A NATURAL PERSON IS
23 LISTED AS A VICTIM, THE MUNICIPAL COURT SHALL SEND NOTICE ON THE
24 DATE THE SENTENCE IS COMPLETED TO THE PROSECUTING ATTORNEY THAT
25 ALL RECORDS IN A CASE CHARGING A JUVENILE WITH A VIOLATION OF A
26 MUNICIPAL CODE OR ORDINANCE, EXCLUDING OFFENSES CHARGED
27 PURSUANT TO TITLE 42, ALL RECORDS OF THE CASE IN THE CUSTODY OF

1 THE COURT, AND ANY RECORDS RELATED TO THE CASE OR CHARGES IN THE
2 CUSTODY OF ANY OTHER AGENCY, PERSON, COMPANY, OR ORGANIZATION
3 WILL BE EXPUNGED FORTY-TWO DAYS AFTER COMPLETION OF THE
4 MUNICIPAL SENTENCE.

5 (c) IF THE PROSECUTING ATTORNEY DOES NOT FILE AN OBJECTION
6 WITHIN FORTY-TWO DAYS AFTER RECEIPT OF THE NOTICE FROM THE COURT
7 PURSUANT TO SUBSECTION (4)(b) OF THIS SECTION, THE MUNICIPAL COURT
8 SHALL ORDER ALL RECORDS RELATED TO THE CASE AND CHARGES IN THE
9 CUSTODY OF ANY OTHER AGENCY, PERSON, COMPANY, OR ORGANIZATION
10 EXPUNGED.

11 (d) IF THE PROSECUTING ATTORNEY FILES AN OBJECTION WITHIN
12 FORTY-TWO DAYS AFTER RECEIPT OF THE NOTICE BY THE COURT
13 PURSUANT TO SUBSECTION (4)(b) OF THIS SECTION, THE COURT SHALL
14 SCHEDULE A HEARING ON THE ISSUE OF EXPUNGEMENT. THE COURT SHALL
15 NOTIFY THE PROSECUTING ATTORNEY OF THE HEARING DATE.

16 (e) IF A HEARING IS SCHEDULED PURSUANT TO SUBSECTION (4)(d)
17 OF THIS SECTION, THE COURT SHALL SEND NOTICE TO THE LAST-KNOWN
18 ADDRESS OF THE JUVENILE NOTIFYING THE JUVENILE OF THE DATE OF THE
19 HEARING AND OF THE JUVENILE'S RIGHT TO APPEAR AT THE HEARING AND
20 TO PRESENT EVIDENCE TO THE COURT IN WRITING PRIOR TO THE HEARING
21 AND IN PERSON AT THE HEARING. THE NOTICE MUST INDICATE THAT, AT
22 THE HEARING, THE COURT WILL CONSIDER WHETHER THE JUVENILE HAS
23 BEEN REHABILITATED AND WHETHER THE EXPUNGEMENT IS IN THE BEST
24 INTERESTS OF THE JUVENILE AND THE COMMUNITY. THE JUVENILE IS NOT
25 REQUIRED TO APPEAR AT THE HEARING.

26 (f) AT A HEARING HELD PURSUANT TO THIS SUBSECTION (4), THE
27 COURT SHALL ORDER ALL RECORDS OF THE CASE IN THE CUSTODY OF THE

1 COURT, AND ANY RECORDS RELATED TO THE CASE OR CHARGES IN THE
2 CUSTODY OF ANY OTHER AGENCY, PERSON, COMPANY, OR ORGANIZATION,
3 EXPUNGED IF THE JUVENILE HAS SUCCESSFULLY COMPLETED THE
4 SENTENCE, OR THE MUNICIPAL COURT CASE IS CLOSED, UNLESS THE COURT
5 FINDS, BY CLEAR AND CONVINCING EVIDENCE, THAT THE JUVENILE HAS
6 NOT BEEN REHABILITATED AND THAT EXPUNGEMENT IS NOT IN THE BEST
7 INTERESTS OF THE JUVENILE OR THE COMMUNITY. IF THE COURT ENTERS
8 AN ORDER DENYING EXPUNGEMENT OF THE RECORDS, THE JUVENILE SHALL
9 HAVE THE RIGHT TO APPEAL TO THE DISTRICT COURT, AND ALL FEES
10 RELATED TO THE APPEAL MUST BE WAIVED.

11 (g) THE MUNICIPAL COURT SHALL, ON THE FIRST DAY OF EVERY
12 MONTH, REVIEW ALL JUVENILE MUNICIPAL COURT FILES FOR THAT SAME
13 MONTH FOR THE PREVIOUS TWO YEARS THAT RESULTED IN A FINDING OF
14 NOT GUILTY OR GUILTY OR RESULTED IN DIVERSION, DEFERRED
15 ADJUDICATION, DISMISSAL, OR OTHER DISPOSITION OR RESOLUTION, AND
16 ENTER AN EXPUNGEMENT ORDER FOR ALL JUVENILES ELIGIBLE FOR
17 EXPUNGEMENT PURSUANT TO THIS SUBSECTION (4) IF THE EXPUNGEMENT
18 ORDER WAS NOT PREVIOUSLY MADE.

19 (h) UNLESS A HEARING HAS TAKEN PLACE AND FINDINGS MADE
20 PURSUANT TO SUBSECTION (4)(f) OF THIS SECTION, THE COURT SHALL
21 ORDER ALL RECORDS RELATED TO THE MUNICIPAL CASE IN THE CUSTODY
22 OF THE COURT, AND ANY RECORDS RELATED TO THE CASE AND CHARGES
23 IN THE CUSTODY OF ANY OTHER AGENCY, PERSON, COMPANY, OR
24 ORGANIZATION, EXPUNGED PURSUANT TO THIS SUBSECTION (4) IF THE
25 COURT FINDS THAT THE SENTENCE HAS BEEN COMPLETED OR THE
26 MUNICIPAL COURT CASE IS CLOSED.

27 (i) WITH THE VICTIM'S CONSENT, OR IF THERE IS NO NAMED VICTIM,

1 THE PROSECUTING ATTORNEY MAY AGREE AT THE TIME OF A PLEA THAT
2 THERE WILL BE NO OBJECTION TO EXPUNGEMENT UPON THE COMPLETION
3 OF THE JUVENILE'S SENTENCE. IN SUCH A CASE, THE COURT SHALL ORDER
4 ALL RECORDS OF THE CASE IN THE CUSTODY OF THE COURT, AND ANY
5 RECORDS RELATED TO THE CASE OR CHARGES IN THE CUSTODY OF ANY
6 OTHER AGENCY, PERSON, COMPANY, OR ORGANIZATION, EXPUNGED UPON
7 COMPLETION OF THE JUVENILE'S SENTENCE. A HEARING IS NOT REQUIRED.

8 (5) NOTWITHSTANDING THE PROVISIONS OF SUBSECTION (4) OF
9 THIS SECTION, A MUNICIPAL COURT SHALL NOT EXPUNGE THE RECORD OF
10 A PERSON WHO IS CHARGED, ADJUDICATED, OR CONVICTED OF ANY
11 TRAFFIC OFFENSE OR TRAFFIC INFRACTION PURSUANT TO TITLE 42 OR A
12 CORRESPONDING MUNICIPAL TRAFFIC CODE.

13 (6) UPON THE ENTRY OF AN ORDER EXPUNGING A RECORD
14 PURSUANT TO THIS SECTION, THE COURT SHALL ORDER, IN WRITING, THE
15 EXPUNGEMENT OF ALL CASE RECORDS IN THE CUSTODY OF THE COURT AND
16 ANY RECORDS RELATED TO THE CASE AND CHARGES IN THE CUSTODY OF
17 ANY OTHER AGENCY, PERSON, COMPANY, OR ORGANIZATION. THE COURT
18 MAY ORDER EXPUNGED ANY RECORDS, BUT, AT A MINIMUM, THE
19 FOLLOWING RECORDS MUST BE EXPUNGED PURSUANT TO EVERY
20 EXPUNGEMENT ORDER:

- 21 (a) ALL COURT RECORDS;
- 22 (b) ALL RECORDS RETAINED WITHIN THE OFFICE OF THE
23 PROSECUTING ATTORNEY;
- 24 (c) ALL PROBATION AND PAROLE RECORDS;
- 25 (d) ALL LAW ENFORCEMENT RECORDS;
- 26 (e) ALL DIVISION OF YOUTH SERVICES RECORDS AND JAIL RECORDS
27 IF THE JUVENILE WAS DETAINED IN A DIVISION OF YOUTH SERVICES

1 FACILITY OR IN A JAIL;

2 (f) ALL DEPARTMENT OF HUMAN SERVICES RECORDS; AND

3 (g) REFERENCES TO THE MUNICIPAL CASE OR CHARGE CONTAINED
4 IN THE SCHOOL RECORDS.

5 (7) (a) WHEN AN EXPUNGEMENT ORDER IS ISSUED PURSUANT TO
6 THIS SECTION, THE COURT SHALL SEND A COPY OF THE ORDER TO THE
7 JUVENILE, THE JUVENILE'S LAST ATTORNEY OF RECORD, THE PROSECUTING
8 ATTORNEY, THE LAW ENFORCEMENT AGENCY OR AGENCIES THAT
9 INVESTIGATED THE CASE, AND THE COLORADO BUREAU OF INVESTIGATION
10 DIRECTING THE ENTITY TO EXPUNGE ITS RECORDS WITHIN THIRTY-FIVE
11 DAYS AFTER THE RECEIPT OF THE ORDER.

12 (b) THE COURT SHALL ALSO SEND A COPY OF THE ORDER TO THE
13 MUNICIPAL PROBATION DEPARTMENT IF THE JUVENILE WAS PLACED ON
14 MUNICIPAL PROBATION AT ANY POINT DURING THE CASE, THE DIVISION OF
15 YOUTH SERVICES IF THE JUVENILE WAS SENTENCED OR ORDERED TO ANY
16 PERIOD OF DETENTION IN A DIVISION OF YOUTH SERVICES FACILITY BY THE
17 MUNICIPAL COURT, AND THE JAIL IF THE JUVENILE WAS HELD IN OR
18 SENTENCED TO TIME IN A JAIL BY THE MUNICIPAL COURT, DIRECTING THE
19 ENTITY TO EXPUNGE THE RECORDS IN ITS CUSTODY AS SOON AS
20 PRACTICABLE BUT NO LATER THAN NINETY DAYS AFTER THE RECEIPT OF
21 THE ORDER.

22 (c) THE JUVENILE, THE JUVENILE'S ATTORNEY, OR THE JUVENILE'S
23 PARENT OR LEGAL GUARDIAN MAY PROVIDE TO THE COURT, WITHIN SEVEN
24 DAYS AFTER THE COMPLETION OF THE SENTENCE OR THE CASE BEING
25 CLOSED, A LIST OF ALL AGENCY CUSTODIANS THAT MAY HAVE CUSTODY
26 OF ANY RECORDS SUBJECT TO THE EXPUNGEMENT ORDER. AT NO COST TO
27 THE JUVENILE, THE COURT SHALL SEND A COPY OF THE EXPUNGEMENT

1 ORDER TO THE AGENCY, PERSON, COMPANY, OR ORGANIZATION, AS
2 REQUESTED, DIRECTING THE ENTITY TO EXPUNGE ITS RECORDS WITHIN
3 THIRTY-FIVE DAYS. ADDITIONALLY, THE JUVENILE OR HIS OR HER PARENT
4 OR GUARDIAN MAY ALSO PROVIDE A COPY OF THE ORDER TO ANY OTHER
5 CUSTODIAN OF RECORDS SUBJECT TO THE ORDER.

6 (d) EACH ENTITY DESCRIBED IN THIS SUBSECTION (7) THAT IS IN
7 POSSESSION OF SUCH RECORDS SHALL EXPUNGE THE RECORDS IN ITS
8 CUSTODY AS DIRECTED BY THE ORDER.

9 (e) THE PERSON WHO IS THE SUBJECT OF RECORDS EXPUNGED
10 PURSUANT TO THIS SECTION MAY PETITION THE COURT TO PERMIT
11 INSPECTION OF THE RECORDS HELD BY PERSONS NAMED IN THE ORDER,
12 AND THE COURT MAY SO ORDER.

13 (8) ANY AGENCY, PERSON, COMPANY, OR ORGANIZATION THAT
14 VIOLATES THIS SECTION AND KNEW THAT THE RECORDS IN QUESTION WERE
15 SUBJECT TO AN EXPUNGEMENT ORDER MAY BE SUBJECT TO CRIMINAL AND
16 CIVIL CONTEMPT OF COURT AND MAY BE PUNISHED BY A FINE.

17 (9) EMPLOYERS; EDUCATIONAL INSTITUTIONS; LANDLORDS; AND
18 STATE AND LOCAL GOVERNMENT AGENCIES, OFFICIALS, AND EMPLOYEES
19 SHALL NOT, IN ANY APPLICATION OR INTERVIEW OR IN ANY OTHER WAY,
20 REQUIRE AN APPLICANT TO DISCLOSE ANY INFORMATION CONTAINED IN
21 EXPUNGED RECORDS. IN ANSWER TO ANY QUESTION CONCERNING ARREST
22 OR JUVENILE AND CRIMINAL RECORDS INFORMATION THAT HAS BEEN
23 EXPUNGED, AN APPLICANT NEED NOT INCLUDE A REFERENCE TO OR
24 INFORMATION CONCERNING THE EXPUNGED INFORMATION AND MAY STATE
25 THAT NO RECORD EXISTS. AN APPLICATION MAY NOT BE DENIED SOLELY
26 BECAUSE OF THE APPLICANT'S REFUSAL TO DISCLOSE RECORDS OR
27 INFORMATION THAT HAS BEEN EXPUNGED.

1 (10) NOTHING IN THIS SECTION AUTHORIZES THE PHYSICAL
2 DESTRUCTION OF ANY JUVENILE OR CRIMINAL JUSTICE RECORD.

3 **SECTION 3. Safety clause.** The general assembly hereby finds,
4 determines, and declares that this act is necessary for the immediate
5 preservation of the public peace, health, and safety.