

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

REVISED

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

LLS NO. 21-0503.02 Michael Dohr x4347

HOUSE BILL 21-1214

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A BILL FOR AN ACT

101 **CONCERNING INCREASED ELIGIBILITY FOR PROCEDURES TO REDUCE**
102 **COLLATERAL SANCTIONS EXPERIENCED BY DEFENDANTS, AND,**
103 **IN CONNECTION THEREWITH, MAKING AN APPROPRIATION.**

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, adults and juveniles can file motions for relief from collateral consequences. The bill states that a motion can be filed related to convictions retroactively.

The bill allows the state public defender and the office of alternate defense counsel to seek and accept gifts, grants, and donations for the

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.

SENATE
2nd Reading Unamended
May 26, 2021

HOUSE
Amended 3rd Reading
May 11, 2021

HOUSE
Amended 2nd Reading
May 10, 2021

purposes of representing defendants in record sealing proceedings.

The bill creates an automatic sealing process for arrest records when no criminal charges are filed. For arrest records on or after January 1, 2022, the Colorado bureau of investigation (CBI) shall seal arrest records in its custody and control after a year has passed without the filing of criminal charges. For arrest records before January 1, 2022, CBI shall seal arrest records for:

- Felonies with a 3-year statute of limitations if 3 years has passed since the date of arrest without the filing of charges; and
- Misdemeanors, traffic misdemeanors, petty offenses, or municipal violations with an 18-month statute of limitations or less if 18 months has passed since the date of arrest without the filing of charges.

Felony arrest records with a statute of limitations of longer than 3 years or with no statute of limitation are not eligible for automatic sealing.

Under current law misdemeanor offenses ineligible for sealing are eligible if the district attorney consents to the sealing or if the court finds, by clear and convincing evidence, that the petitioner's need for sealing of the record is significant and substantial, the passage of time is such that the petitioner is no longer a threat to public safety, and the public disclosure of the record is no longer necessary to protect or inform the public. The bill adds drug level 1 felonies, class 4, class 5, or class 6 felonies, or unclassified felonies that are not a crimes of violence to those offenses eligible.

The bill creates a process for a person with multiple conviction records that are eligible for sealing due to an intervening conviction to petition the court in a civil proceeding to have the records sealed. The district attorney has an opportunity to object, and if the district attorney objects, the court sets the matter for hearing to determine whether to seal the records.

The bill allows a person who receives a full pardon to have his or her conviction record sealed.

The bill creates a process to automatically seal drug convictions. The state court administrator (administrator) shall compile a list of drug convictions that are eligible for sealing under current law, and:

- If the drug conviction is for a petty offense or misdemeanor, that 7 years have past since the disposition of the case; or
- If the drug conviction is for a felony, that at least 10 years have past since the disposition of the case.

After the administrator compiles the list, the administrator shall send the list to the Colorado bureau of investigation (bureau) for review and the bureau shall remove any convictions in which the identity of the defendant is unverifiable or convictions in the which defendant had

another conviction during the waiting period. The bureau shall send its list to each district attorney in the state. The district attorney shall remove any convictions in which a condition of a plea was that the defendant agreed to not have the case sealed and convictions in which the defendant has pending criminal charges. Each district attorney shall send its amended list to the administrator. The administrator shall compile each of the lists into one list and sort the convictions by judicial district.

If the chief judge of a judicial district authorizes the administrator to issue sealing orders, the administrator shall issue sealing orders based on the list received from the district attorneys. If the chief judge of a judicial district does not authorize the administrator to issue sealing orders, the district attorney shall send the list to the chief judge for the judicial district and the courts of that judicial district shall enter sealing orders based on the list received.

The administrator shall develop a website that allows defendants to confidentially determine whether his or her conviction has been sealed and information about how to receive a copy of the sealing order.

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

2 **SECTION 1.** In Colorado Revised Statutes, 18-1.3-107, **add** (9)
3 as follows:

4 **18-1.3-107. Conviction - collateral relief - applicability -**
5 **definitions.** (9) THE PROVISIONS OF THIS SECTION APPLY TO CONVICTIONS
6 ENTERED BEFORE, ON, OR AFTER THE EFFECTIVE DATE OF THIS SUBSECTION
7 (9).

8 **SECTION 2.** In Colorado Revised Statutes, 19-2-927, **add** (9) as
9 follows:

10 **19-2-927. Adjudication - collateral relief - applicability -**
11 **definitions.** (9) THE PROVISIONS OF THIS SECTION APPLY TO
12 ADJUDICATIONS ENTERED BEFORE, ON, OR AFTER THE EFFECTIVE DATE OF
13 THIS SUBSECTION (9).

14 **SECTION 3.** In Colorado Revised Statutes, **add** 21-1-107 as
15 follows:

16 **21-1-107. State public defender - gifts, grants, and donations**

1 **for record sealing - sealing defense fund - created.** (1) THE STATE
2 PUBLIC DEFENDER MAY APPLY FOR GRANTS AND ACCEPTS GIFTS OR
3 DONATIONS FROM PRIVATE OR PUBLIC SOURCES FOR THE PURPOSE OF
4 REPRESENTING INDIGENT CLIENTS IN MATTERS PURSUANT TO PART 7 OF
5 ARTICLE 72 OF TITLE 24 WHEN SUCH ACTION IS IN ACCORDANCE WITH THE
6 COLORADO RULES OF PROFESSIONAL CONDUCT AND THE AMERICAN BAR
7 ASSOCIATION STANDARDS RELATING TO CRIMINAL JUSTICE FOR THE
8 DEFENSE FUNCTION. THE STATE PUBLIC DEFENDER SHALL NOT ACCEPT A
9 GIFT, GRANT, OR DONATION IF THE GIFT, GRANT, OR DONATION IS
10 CONDITIONED ON ITS USE FOR SEALING RECORDS FOR A SPECIFIC
11 IDENTIFIED INDIVIDUAL OR INDIVIDUALS. THE STATE PUBLIC DEFENDER
12 SHALL TRANSMIT ALL MONEY RECEIVED THROUGH GIFTS, GRANTS, OR
13 DONATIONS TO THE STATE TREASURER, WHO SHALL CREDIT THE MONEY TO
14 THE SEALING DEFENSE FUND CREATED IN SUBSECTION (2) OF THIS SECTION.

15 (2) (a) THE SEALING DEFENSE FUND REFERRED TO IN THIS
16 SUBSECTION (2) AS THE "FUND" IS CREATED IN THE STATE TREASURY. THE
17 FUND CONSISTS OF GIFTS, GRANTS, AND DONATIONS CREDITED TO THE
18 FUND PURSUANT TO SUBSECTION (1) OF THIS SECTION AND SECTION
19 21-2-109 AND ANY OTHER MONEY THAT THE GENERAL ASSEMBLY MAY
20 APPROPRIATE OR TRANSFER TO THE FUND.

21 (b) THE STATE TREASURER SHALL CREDIT ALL INTEREST AND
22 INCOME DERIVED FROM THE DEPOSIT AND INVESTMENT OF MONEY IN THE
23 FUND TO THE FUND.

24 (c) MONEY IN THE FUND IS CONTINUOUSLY APPROPRIATED TO THE
25 STATE PUBLIC DEFENDER AND THE OFFICE OF ALTERNATE DEFENSE
26 COUNSEL FOR THE PURPOSE OF REPRESENTING INDIGENT CLIENTS IN
27 MATTERS PURSUANT TO PART 7 OF ARTICLE 72 OF TITLE 24.

1 (3) THE STATE PUBLIC DEFENDER SHALL ANNUALLY REPORT ON
2 THE RECEIPT AND EXPENDITURE OF GIFTS, GRANTS, AND DONATIONS
3 PURSUANT TO SUBSECTION (1) OF THIS SECTION AT ITS PRESENTATION TO
4 ITS COMMITTEE OF REFERENCE AT A HEARING HELD PURSUANT TO SECTION
5 2-7-203 (2)(a) OF THE "STATE MEASUREMENT FOR ACCOUNTABLE,
6 RESPONSIVE, AND TRANSPARENT (SMART) GOVERNMENT ACT.

7 SECTION 4. In Colorado Revised Statutes, **add** 21-2-109 as
8 follows:

9 **21-2-109. Office of alternate defense counsel - gifts, grants,**
10 **and donations for record sealing.** (1) THE OFFICE OF ALTERNATE
11 DEFENSE COUNSEL MAY APPLY FOR GRANTS AND ACCEPTS GIFTS OR
12 DONATIONS FROM PRIVATE OR PUBLIC SOURCES FOR THE PURPOSE OF
13 REPRESENTING INDIGENT CLIENTS IN MATTERS PURSUANT TO PART 7 OF
14 ARTICLE 72 OF TITLE 24 WHEN SUCH ACTION IS IN ACCORDANCE WITH THE
15 COLORADO RULES OF PROFESSIONAL CONDUCT AND THE AMERICAN BAR
16 ASSOCIATION STANDARDS RELATING TO CRIMINAL JUSTICE FOR THE
17 DEFENSE FUNCTION. THE OFFICE OF ALTERNATE DEFENSE COUNSEL SHALL
18 NOT ACCEPT A GIFT, GRANT, OR DONATION IF THE GIFT, GRANT, OR
19 DONATION IS CONDITIONED ON ITS USE FOR SEALING RECORDS FOR A
20 SPECIFIC IDENTIFIED INDIVIDUAL OR INDIVIDUALS. THE OFFICE OF
21 ALTERNATE DEFENSE COUNSEL SHALL TRANSMIT ALL MONEY RECEIVED
22 THROUGH GIFTS, GRANTS, OR DONATIONS TO THE STATE TREASURER WHO
23 SHALL CREDIT THE MONEY TO THE SEALING DEFENSE FUND CREATED IN
24 SECTION 21-1-107.

25 (2) THE OFFICE OF ALTERNATE DEFENSE COUNSEL SHALL
26 ANNUALLY REPORT ON THE RECEIPT AND EXPENDITURE OF GIFTS, GRANTS,
27 AND DONATIONS PURSUANT TO SUBSECTION (1) OF THIS SECTION AT ITS

1 PRESENTATION TO ITS COMMITTEE OF REFERENCE AT A HEARING HELD
2 PURSUANT TO SECTION 2-7-203 (2)(a) OF THE "STATE MEASUREMENT FOR
3 ACCOUNTABLE, RESPONSIVE, AND TRANSPARENT (SMART)
4 GOVERNMENT ACT.

5 SECTION 5. In Colorado Revised Statutes, 24-72-703, amend
6 (1) as follows:

7 24-72-703. Sealing of arrest and criminal records - general
8 provisions - order applicability - discovery and advisements.

9 (1) **Applicability.** The provisions of this section shall apply to the
10 sealing of arrest and criminal records pursuant to sections 24-72-704 to
11 ~~24-72-709~~ 24-72-710.

12 SECTION 6. In Colorado Revised Statutes, 24-72-704, add (2),
13 (3), (4), and (5) as follows:

14 24-72-704. Sealing of arrest records when no charges filed -
15 automatic sealing. (2) (a) FOR ARRESTS ON OR AFTER JANUARY 1, 2022,
16 THE COLORADO BUREAU OF INVESTIGATION IN THE DEPARTMENT OF
17 PUBLIC SAFETY SHALL AUTOMATICALLY SEAL AN ARREST RECORD THAT IS
18 IN ITS CUSTODY AND CONTROL OF A PERSON WHEN NO CRIMINAL CHARGES
19 HAVE BEEN FILED WITHIN ONE YEAR OF THE DATE OF THE PERSON'S
20 ARREST. IF THE COLORADO BUREAU OF INVESTIGATION DOES NOT RECEIVE
21 DOCUMENTATION OF THE FILING OF CRIMINAL CHARGES MATCHING ARREST
22 RECORDS IN ITS CUSTODY AND CONTROL FROM A COURT OR ANOTHER
23 STATE OR LOCAL AGENCY OR OFFICE WITHIN ONE YEAR OF THE DATE OF
24 ARREST, THE BUREAU SHALL SEAL THE ARREST RECORDS. THE COLORADO
25 BUREAU OF INVESTIGATION IS NOT REQUIRED TO CONDUCT ANY
26 INDEPENDENT INVESTIGATION OF WHETHER CRIMINAL CHARGES HAVE
27 BEEN FILED AND IS NOT REQUIRED TO SEAL ANY ARREST RECORDS NOT IN

1 ITS CUSTODY AND CONTROL. AN ARREST RECORD ELIGIBLE FOR SEALING
2 PURSUANT TO THIS SUBSECTION (2)(a) MUST BE SEALED WITHIN SIXTY
3 DAYS AFTER THE YEAR HAS PASSED SINCE THE PERSON'S ARREST DATE. IF
4 THE COLORADO BUREAU OF INVESTIGATION RECEIVES NOTICE OF FILED
5 CHARGES AFTER IT SEALED THE RECORD, THE BUREAU SHALL
6 IMMEDIATELY UNSEAL THE RECORD.

7 (b) (I) FOR ARRESTS WITHOUT A CONVICTION AFTER JANUARY 1,
8 2019, BUT BEFORE JANUARY 1, 2022, THE COLORADO BUREAU OF
9 INVESTIGATION SHALL AUTOMATICALLY SEAL AN ARREST RECORD THAT
10 IS IN ITS CUSTODY AND CONTROL OF A PERSON WHEN NO CRIMINAL
11 CHARGES HAVE BEEN FILED:

12 (A) WITHIN THREE YEARS AFTER THE DATE OF ARREST FOR A
13 FELONY OFFENSE FOR WHICH THE STATUTE OF LIMITATIONS IS THREE
14 YEARS; OR

15 (B) WITHIN EIGHTEEN MONTHS AFTER THE DATE OF ARREST FOR
16 A MISDEMEANOR OFFENSE, A MISDEMEANOR TRAFFIC OFFENSE, A PETTY
17 OFFENSE, A MUNICIPAL ORDINANCE VIOLATION FOR WHICH THE STATUTE
18 OF LIMITATIONS IS EIGHTEEN MONTHS OR LESS, OR IF THERE IS NO
19 INDICATION OF THE CLASSIFICATION OF THE CRIME IN THE ARREST DATA.

20 (II) IF THE COLORADO BUREAU OF INVESTIGATION DOES NOT
21 RECEIVE DOCUMENTATION FROM A COURT OR ANOTHER STATE OR LOCAL
22 AGENCY OR OFFICE THAT CRIMINAL CHARGES HAVE BEEN FILED WITHIN
23 THE TIME PERIODS PROVIDED IN SUBSECTION (2)(b)(I) OF THIS SECTION,
24 THE BUREAU SHALL SEAL THE ARREST RECORDS IN ITS CUSTODY AND
25 CONTROL. THE COLORADO BUREAU OF INVESTIGATION IS NOT REQUIRED
26 TO CONDUCT ANY INDEPENDENT INVESTIGATION OF WHETHER CRIMINAL
27 CHARGES HAVE BEEN FILED AND IS NOT REQUIRED TO SEAL ANY ARREST

1 RECORDS NOT IN ITS CUSTODY AND CONTROL. IF THE COLORADO BUREAU
2 OF INVESTIGATION RECEIVES NOTICE OF FILED CHARGES AFTER IT SEALED
3 THE RECORD, THE BUREAU SHALL IMMEDIATELY UNSEAL THE RECORD.

4 (III) THIS SUBSECTION (2)(b) ONLY APPLIES TO CRIMINAL ARREST
5 RECORDS THAT THE COLORADO BUREAU OF INVESTIGATION HAS CUSTODY
6 AND CONTROL OVER IN AN ELECTRONIC FORMAT.

7 (IV) (A) FOR ARREST RECORDS WITH NO CONVICTION THAT ARE
8 FROM 2013 TO 2018, THE COLORADO BUREAU OF INVESTIGATION SHALL
9 SEAL THE RECORDS BY JANUARY 1, 2023.

10 (B) FOR ARREST RECORDS WITH NO CONVICTION THAT ARE FROM
11 2008 TO 2012, THE COLORADO BUREAU OF INVESTIGATION SHALL SEAL
12 THE RECORDS BY JANUARY 1, 2024.

13 (C) FOR ARREST RECORDS WITH NO CONVICTION THAT ARE FROM
14 2003 TO 2007, THE COLORADO BUREAU OF INVESTIGATION SHALL SEAL
15 THE RECORDS BY JANUARY 1, 2025.

16 (D) FOR ARREST RECORDS WITH NO CONVICTION THAT ARE FROM
17 1997 TO 2002, THE COLORADO BUREAU OF INVESTIGATION SHALL SEAL
18 THE RECORDS BY JANUARY 1, 2026.

19 (E) FOR ANY OTHER ARREST RECORDS WITH NO CONVICTION, THE
20 COLORADO BUREAU OF INVESTIGATION SHALL SEAL THE RECORDS BY
21 JANUARY 1, 2027.

22 (V) ARREST RECORDS FOR A FELONY OFFENSE WITH A STATUTE OF
23 LIMITATIONS OF MORE THAN THREE YEARS OR WITH NO STATUTE OF
24 LIMITATIONS PURSUANT TO SECTION 16-5-401 ARE NOT ELIGIBLE FOR
25 SEALING UNDER THIS SUBSECTION (2).

26 (3) NOTWITHSTANDING SUBSECTION (2) OF THIS SECTION, THE
27 COLORADO BUREAU OF INVESTIGATION SHALL DEVELOP A PROCESS TO

1 ALLOW AN APPROVED TREATMENT PROVIDER PROVIDING TREATMENT
2 PURSUANT TO SECTION 16-11.7-103 (4) OR 16-11.8-103 (4) ACCESS TO
3 SEALED ARREST RECORDS. A TREATMENT PROVIDER SHALL NOT USE
4 RECORDS ACCESSED PURSUANT TO THIS SUBSECTION (3) FOR ANY OTHER
5 PURPOSE.

6 (4) THE PROVISIONS OF SECTION 24-72-703 (2) APPLY TO AN
7 ARREST RECORD SEALED PURSUANT TO THIS SECTION.

8
9 (5) SEALING OF ARREST RECORDS UNDER THIS SECTION DOES NOT
10 IMPAIR THE ABILITY OF THE DEPARTMENT OF EDUCATION TO ACCESS AND
11 USE SEALED RECORDS IN CONNECTION WITH BACKGROUND CHECKS,
12 INVESTIGATIONS, AND DISCIPLINARY ACTIONS CONDUCTED UNDER ARTICLE
13 60.5 OF TITLE 22.

14 **SECTION 7.** In Colorado Revised Statutes, **add** 24-72-709 and
15 24-72-710 as follows:

16 **24-72-709. Sealing of criminal conviction records information**
17 **for multiple conviction records.** (1) (a) SUBJECT TO THE PROVISIONS OF
18 SUBSECTION (5) OF THIS SECTION, A DEFENDANT WITH MULTIPLE
19 CONVICTION RECORDS IN THE STATE MAY PETITION THE [REDACTED] COURT OF THE
20 JURISDICTION WHERE THE CONVICTION RECORD OR RECORDS PERTAINING
21 TO THE DEFENDANT ARE LOCATED FOR THE SEALING OF THE CONVICTION
22 RECORDS, EXCEPT BASIC IDENTIFYING INFORMATION, IF THE RECORD OR
23 RECORDS ARE NOT ELIGIBLE FOR SEALING PURSUANT TO ANY OTHER
24 SECTION IN THIS PART 7 BECAUSE OF AN INTERVENING CONVICTION AND IF
25 THE PETITION IS FILED WITHIN THE TIME FRAME DESCRIBED IN SUBSECTION
26 (2) OF THIS SECTION AND PROPER NOTICE IS GIVEN TO THE DISTRICT
27 ATTORNEY. IF THE MULTIPLE CONVICTION RECORDS ARE IN DIFFERENT

1 JURISDICTIONS, THE DEFENDANT SHALL FILE A PETITION IN EACH
2 JURISDICTION WITH A CONVICTION RECORD THAT INCLUDES A COPY OF
3 EACH PETITION FILED IN THE OTHER JURISDICTIONS AND PROVIDE NOTICE
4 OF THE PETITION TO EACH DISTRICT ATTORNEY.

5 (b) A MOTION TO SEAL CONVICTION RECORDS PURSUANT TO THIS
6 SECTION MUST INCLUDE A LISTING OF EACH CUSTODIAN OF THE RECORDS
7 TO WHOM THE SEALING ORDER IS DIRECTED AND ANY INFORMATION THAT
8 ACCURATELY AND COMPLETELY IDENTIFIES THE RECORDS TO BE SEALED.
9 THE DEFENDANT SHALL SUBMIT A VERIFIED COPY OF THEIR CRIMINAL
10 HISTORY, CURRENT THROUGH AT LEAST THE TWENTIETH DAY BEFORE THE
11 DATE OF THE FILING OF THE PETITION TO THE COURT, ALONG WITH THE
12 MOTION AT THE TIME OF FILING, BUT IN NO EVENT LATER THAN THE TENTH
13 DAY AFTER THE MOTION IS FILED. THE DEFENDANT SHALL PAY FOR HIS OR
14 HER CRIMINAL HISTORY RECORD.

15 (2) (a) IF THE OFFENSE OR HIGHEST OFFENSE OF THE MULTIPLE
16 OFFENSES IS AN ELIGIBLE PETTY OFFENSE OR ELIGIBLE PETTY DRUG
17 OFFENSE, THE PETITION MAY BE FILED TWO YEARS AFTER THE LATER OF
18 THE DATE OF THE FINAL DISPOSITION OF ALL CRIMINAL PROCEEDINGS
19 AGAINST THE DEFENDANT OR THE RELEASE OF THE DEFENDANT FROM
20 SUPERVISION CONCERNING THE CONVICTION, OR THE LATEST IN TIME
21 CRIMINAL CONVICTION OF THE MULTIPLE CONVICTIONS.

22 (b) IF THE OFFENSE OR HIGHEST OFFENSE OF THE MULTIPLE
23 OFFENSES IS AN ELIGIBLE MISDEMEANOR OR ELIGIBLE MISDEMEANOR DRUG
24 OFFENSE, OR ELIGIBLE LEVEL 4 DRUG FELONY, THE PETITION MAY BE FILED
25 FIVE YEARS AFTER THE LATER OF THE DATE OF THE FINAL DISPOSITION OF
26 ALL CRIMINAL PROCEEDINGS AGAINST THE DEFENDANT OR THE RELEASE
27 OF THE DEFENDANT FROM SUPERVISION CONCERNING THE CONVICTION, OR

1 THE LATEST IN TIME CRIMINAL CONVICTION OF THE MULTIPLE
2 CONVICTIONS.

3 (c) IF THE OFFENSE OR HIGHEST OFFENSE OF THE MULTIPLE
4 OFFENSES IS AN ELIGIBLE FELONY OR ELIGIBLE DRUG FELONY, THE
5 PETITION MAY BE FILED TEN YEARS AFTER THE LATER OF THE DATE OF THE
6 FINAL DISPOSITION OF ALL CRIMINAL PROCEEDINGS AGAINST THE
7 DEFENDANT OR THE RELEASE OF THE DEFENDANT FROM SUPERVISION
8 CONCERNING THE CONVICTION, OR THE LATEST IN TIME CRIMINAL
9 CONVICTION OF THE MULTIPLE CONVICTIONS.

10

11 (3) (a) IF THE OFFENSE OR HIGHEST OFFENSE OF THE MULTIPLE
12 OFFENSES IS AN ELIGIBLE PETTY OFFENSE OR ELIGIBLE PETTY DRUG
13 OFFENSE, THE PETITION MAY BE FILED ONLY IF THE DEFENDANT HAS NO
14 MORE THAN FIVE CONVICTIONS IN SEPARATE CRIMINAL CASES.

15 (b) IF THE OFFENSE OR HIGHEST OFFENSE OF THE MULTIPLE
16 OFFENSES IS AN ELIGIBLE CLASS 2 OR ELIGIBLE CLASS 3 MISDEMEANOR OR
17 ELIGIBLE LEVEL 1 OR ELIGIBLE LEVEL 2 MISDEMEANOR DRUG OFFENSE, THE
18 PETITION MAY BE FILED ONLY IF THE DEFENDANT HAS NO MORE THAN FOUR
19 PREVIOUS CONVICTIONS IN SEPARATE CRIMINAL CASES.

20 (c) IF THE OFFENSE OR HIGHEST OFFENSE OF THE MULTIPLE
21 OFFENSES IS AN ELIGIBLE CLASS 1 MISDEMEANOR, AN ELIGIBLE CLASS 4,
22 ELIGIBLE CLASS 5, OR ELIGIBLE CLASS 6 FELONY, OR AN ELIGIBLE DRUG
23 FELONY, THE PETITION MAY BE FILED ONLY IF THE DEFENDANT HAS NO
24 MORE THAN THREE PREVIOUS CONVICTIONS IN SEPARATE CRIMINAL CASES.

25

26 (4) (a) THE DEFENDANT SHALL PAY THE PROCESSING FEE TO THE
27 COURT AND PROVIDE NOTICE OF THE PETITION TO THE DISTRICT ATTORNEY.

1 THE DISTRICT ATTORNEY SHALL DETERMINE WHETHER TO OBJECT TO THE
2 PETITION AFTER CONSIDERING THE FACTORS IN SECTION 24-72-706 (1)(g).
3 THE DISTRICT ATTORNEY SHALL ADVISE THE COURT OF A VICTIM'S
4 OBJECTION AND REQUEST FOR HEARING WHEN KNOWN. IF THE DISTRICT
5 ATTORNEY DOES NOT OBJECT AND THE OFFENSE IS NOT A CRIME
6 ENUMERATED IN SECTION 24-4.1-302 (1), THE COURT MAY DECIDE THE
7 PETITION WITH OR WITHOUT THE BENEFIT OF A HEARING. IF THE DISTRICT
8 ATTORNEY OBJECTS TO THE PETITION OR THE OFFENSE IS A CRIME
9 ENUMERATED IN SECTION 24-4.1-302 (1) AND THE DISTRICT ATTORNEY
10 REQUESTS A HEARING ON BEHALF OF A VICTIM, THE COURT SHALL SET THE
11 MATTER FOR HEARING. TO ORDER THE RECORD SEALED, THE CRIMINAL
12 HISTORY FILED WITH THE PETITION MUST DOCUMENT TO THE COURT THAT
13 THE DEFENDANT HAS NOT BEEN CONVICTED OF A CRIMINAL OFFENSE SINCE
14 THE DATE OF THE FINAL DISPOSITION OF ALL CRIMINAL PROCEEDINGS
15 AGAINST HIM OR HER OR SINCE THE DATE OF THE DEFENDANT'S RELEASE
16 FROM SUPERVISION, WHICHEVER IS LATER. THE COURT SHALL DECIDE THE
17 PETITION AFTER CONSIDERING THE FACTORS IN SECTION 24-72-706 (1)(g).

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

24 (5) (a) THE PROVISIONS OF THIS SECTION DO NOT APPLY TO
25 RECORDS PERTAINING TO:

- 26 (I) A CLASS 1 OR CLASS 2 MISDEMEANOR TRAFFIC OFFENSE;
- 27 (II) A CLASS A OR CLASS B TRAFFIC INFRACTION;

1 (III) A CONVICTION FOR A VIOLATION OF SECTION 42-4-1301 (1) OR
2 (2);

3 (IV) A CONVICTION FOR AN OFFENSE FOR WHICH THE UNDERLYING
4 FACTUAL BASIS INVOLVED UNLAWFUL SEXUAL BEHAVIOR AS DEFINED IN
5 SECTION 16-22-102 (9);

6 (V) A CONVICTION FOR A VIOLATION OF SECTION 18-6-401; OR

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

9 (A) SENTENCES FOR A CRIME INVOLVING EXTRAORDINARY
10 AGGRAVATING CIRCUMSTANCES PURSUANT TO SECTION 18-1.3-401 (8);

11 (B) A SENTENCE FOR AN EXTRAORDINARY RISK CRIME PURSUANT
12 TO SECTION 18-1.3-401 (10);

13 (C) SENTENCING FOR A CRIME INVOLVING A PREGNANT VICTIM
14 PURSUANT TO SECTION 18-1.3-401 (13);

15 (D) SENTENCING FOR A CRIME PERTAINING TO A SPECIAL
16 OFFENDER PURSUANT TO SECTION 18-18-407;

17 (E) SENTENCING FOR A CRIMINAL CONVICTION FOR WHICH THE
18 UNDERLYING FACTUAL BASIS INVOLVES DOMESTIC VIOLENCE AS DEFINED
19 IN SECTION 18-6-800.3;

20 (F) SENTENCING FOR A CRIMINAL CONVICTION FOR A SEXUAL
21 OFFENSE, PURSUANT TO PART 4 OF ARTICLE 3 OF TITLE 18;

22 (G) SENTENCING FOR ANY CRIME OF VIOLENCE PURSUANT TO
23 SECTION 18-1.3-406;

24 (H) SENTENCING FOR A FELONY CRIME ENUMERATED IN SECTION
25 24-4.1-302 (1);

26 (I) SENTENCING FOR A FELONY OFFENSE IN VIOLATION OF SECTION
27 18-9-202;

1 (J) SENTENCING FOR AN OFFENSE CLASSIFIED AS A CLASS 1, 2, OR
2 3 FELONY OR A LEVEL 1 DRUG FELONY PURSUANT TO ANY SECTION OF
3 TITLE 18;

4 (K) SENTENCING FOR AN OFFENSE IN VIOLATION OF PART 1 OF
5 ARTICLE 6 OF TITLE 18;

6 (L) SENTENCING FOR AN OFFENSE IN VIOLATION OF SECTION
7 18-5-902 (1);

8 (M) SENTENCING FOR AN OFFENSE IN VIOLATION OF SECTION
9 18-3.5-103; OR

10 (N) SENTENCING FOR AN OFFENSE IN VIOLATION OF SECTION
11 18-7-203.

12 (b) NOTWITHSTANDING THE PROVISIONS OF THIS SECTION, A ■ ■ ■
13 MISDEMEANOR OFFENSE INELIGIBLE PURSUANT TO THE PROVISIONS OF THIS
14 SECTION IS ELIGIBLE FOR SEALING PURSUANT TO THIS SECTION IF THE
15 DISTRICT ATTORNEY CONSENTS TO THE SEALING OR IF THE COURT FINDS,
16 BY CLEAR AND CONVINCING EVIDENCE, THAT THE PETITIONER'S NEED FOR
17 SEALING OF THE RECORD IS SIGNIFICANT AND SUBSTANTIAL, THE PASSAGE
18 OF TIME IS SUCH THAT THE PETITIONER IS NO LONGER A THREAT TO PUBLIC
19 SAFETY, AND THE PUBLIC DISCLOSURE OF THE RECORD IS NO LONGER
20 NECESSARY TO PROTECT OR INFORM THE PUBLIC. HOWEVER, NO MORE
21 THAN ONE MISDEMEANOR THAT IS A CRIME AS DEFINED IN SECTION
22 24-4.1-302 (1) IS ELIGIBLE FOR SEALING PURSUANT TO THE PROVISIONS OF
23 THIS SECTION.

24 (c) THIS SECTION DOES NOT APPLY TO RECORDS THAT ARE SUBJECT
25 TO THE PROCEDURE SET FORTH IN SECTION 18-13-122 (13).

26 **24-72-710. Sealing of criminal conviction records information**
27 **for offenses that receive a full and unconditional pardon.** (1) AT ANY

1 TIME AFTER RECEIVING A FULL AND UNCONDITIONAL PARDON, A
2 DEFENDANT MAY FILE A MOTION IN THE CASE IN WHICH ANY CONVICTION
3 RECORDS EXIST PERTAINING TO THE DEFENDANT'S CONVICTION FOR ANY
4 OFFENSES THAT RECEIVED A FULL AND UNCONDITIONAL PARDON.

5 (2) A DEFENDANT MOVING TO HAVE HIS OR HER CRIMINAL
6 RECORDS SEALED PURSUANT TO THIS SECTION IS NOT REQUIRED TO PAY A
7 PROCESSING FEE BUT SHALL PROVIDE NOTICE OF THE MOTION TO THE
8 DISTRICT ATTORNEY.

9 (3) THE DISTRICT ATTORNEY SHALL DETERMINE WHETHER TO
10 OBJECT TO THE PETITION AFTER CONSIDERING THE FACTORS IN SECTION
11 24-72-706 (1)(g) AND THE ADDITIONAL FACTOR OF THE DEFENDANT
12 HAVING RECEIVED A FULL AND UNCONDITIONAL PARDON. THE DISTRICT
13 ATTORNEY SHALL ADVISE THE COURT OF A VICTIM'S OBJECTION AND
14 REQUEST FOR HEARING IF KNOWN. IF THE DISTRICT ATTORNEY DOES NOT
15 OBJECT AND THE OFFENSE IS NOT A CRIME ENUMERATED IN SECTION
16 24-4.1-302 (1), THE COURT MAY DECIDE THE PETITION WITH OR WITHOUT
17 THE BENEFIT OF A HEARING. IF THE DISTRICT ATTORNEY OBJECTS TO THE
18 PETITION OR THE OFFENSE IS A CRIME ENUMERATED IN SECTION 24-4.1-302
19 (1) AND THE DISTRICT ATTORNEY REQUESTS A HEARING ON BEHALF OF A
20 VICTIM, THE COURT SHALL SET THE MATTER FOR HEARING. THE COURT
21 SHALL ORDER THE RECORDS SEALED UNLESS THE COURT FINDS BY CLEAR
22 AND CONVINCING EVIDENCE THAT THE PUBLIC INTEREST IN RETAINING
23 PUBLIC ACCESS TO THE CONVICTION RECORDS OUTWEIGHS THE HARM TO
24 THE PRIVACY OF THE DEFENDANT, THE DANGERS OF UNWARRANTED,
25 ADVERSE CONSEQUENCES TO THE DEFENDANT, AND THE INTENT OF THE
26 FULL AND UNCONDITIONAL PARDON.

27 **SECTION 8.** In Colorado Revised Statutes, 24-4.1-302, **amend**

1 (2)(v) as follows:

2 **24-4.1-302. Definitions.** As used in this part 3, and for no other
3 purpose, including the expansion of the rights of any defendant:

4 (2) "Critical stages" means the following stages of the criminal
5 justice process:

6 (v) A hearing held pursuant to ~~section 24-72-706 or 24-72-709~~
7 SECTION 24-72-706, 24-72-709, OR 24-72-710;

8 **SECTION 9.** In Colorado Revised Statutes, 24-4.1-302.5, **amend**
9 (1)(d)(VIII), (1)(d)(IX), and (1)(z); and **add** (1)(d)(X) as follows:

10 **24-4.1-302.5. Rights afforded to victims - definitions.** (1) In
11 order to preserve and protect a victim's rights to justice and due process,
12 each victim of a crime has the following rights:

13 (d) The right to be heard at any court proceeding:

14 (VIII) Involving a petition for expungement as described in
15 section 19-1-306; ~~or~~

16 (IX) Involving a hearing as described in section 24-31-902 (2)(c);

17 ~~OR~~

18 (X) INVOLVING A HEARING HELD PURSUANT TO SECTION
19 24-72-706, 24-72-709, OR 24-72-710.

20 (z) The right to be notified of a hearing concerning any motion
21 filed for or petition for sealing of records described in ~~section 24-72-704~~
22 SECTION 24-72-706, 24-72-709, OR 24-72-710 filed by a defendant in the
23 criminal case whose crime falls under section 24-4.1-302 (1);

24 **SECTION 10.** In Colorado Revised Statutes, 24-4.1-303, **amend**
25 (11)(b.7) as follows:

26 **24-4.1-303. Procedures for ensuring rights of victims of**
27 **crimes.** (11) The district attorney shall inform a victim of the following:

1 (b.7) Any motion filed or any hearing concerning a motion or
2 petition for sealing of records as described in ~~section 24-72-706 or~~
3 ~~24-72-709~~ SECTION 24-72-706, 24-72-709, OR 24-72-710 that was filed by
4 a defendant in the criminal case and whose crime falls under section
5 24-4.1-302 (1). The notification should be made using the last known
6 contact information that is available for the victim.

7 **SECTION 11.** In Colorado Revised Statutes, **add** 13-3-117 as
8 follows:

9 **13-3-117. State court administrator - automatic drug**
10 **conviction sealing.** (1) (a) THE STATE COURT ADMINISTRATOR SHALL
11 COMPILE A LIST OF DRUG CONVICTIONS PURSUANT TO ARTICLE 18 OF TITLE
12 18:

13 (I) THAT ARE ELIGIBLE FOR SEALING PURSUANT TO SECTIONS
14 24-72-703 AND 24-72-706; AND

15 (II) (A) IF THE DRUG CONVICTION IS FOR A PETTY OFFENSE OR
16 MISDEMEANOR, THAT SEVEN YEARS HAVE PAST SINCE THE DISPOSITION OF
17 THE CASE; OR

18 (B) IF THE DRUG CONVICTION IS FOR A FELONY, THAT AT LEAST
19 TEN YEARS HAVE PAST SINCE THE DISPOSITION OF THE CASE.

20 (b) THE STATE COURT ADMINISTRATOR SHALL USE THE STATE
21 CONVICTION DATABASE AND THE CONVICTION DATABASES OF ENTITIES
22 THAT DO NOT REPORT CONVICTIONS TO THE STATE DATABASE TO COMPILE
23 THE LIST. THE STATE COURT ADMINISTRATOR SHALL COMPILE THE LIST
24 BASED ON A NAME-BASED REVIEW WITH SUFFICIENT POINTS OF REFERENCE
25 FOR IDENTIFICATION VALIDATION AS DETERMINED BY THE STATE COURT
26 ADMINISTRATOR. THE STATE COURT ADMINISTRATOR MUST ONLY INCLUDE
27 CONVICTIONS ON THE LIST IF SUFFICIENT POINTS OF VALIDATION, AS

1 DETERMINED BY THE STATE COURT ADMINISTRATOR, ARE PRESENT. THE
2 STATE COURT ADMINISTRATOR SHALL SORT THE LIST BY JUDICIAL DISTRICT
3 OF CONVICTION.

4 (c) THE STATE COURT ADMINISTRATOR SHALL COMPILE THE INITIAL
5 LIST PURSUANT TO THIS SUBSECTION (1) BY FEBRUARY 1, 2024, AND THE
6 COURT SHALL SEAL ALL CONVICTION RECORDS ELIGIBLE FOR SEALING
7 PURSUANT TO THE FINAL LIST COMPILED PURSUANT TO SUBSECTION (3)(a)
8 OF THIS SECTION BASED ON THE INITIAL LIST BY JULY 1, 2024.

9 (d) BEGINNING JULY 1, 2024, THE STATE COURT ADMINISTRATOR
10 SHALL COMPILE THE LIST PURSUANT TO THIS SUBSECTION (1) ON THE FIRST
11 MONDAY OF EVERY MONTH AND THE COLORADO BUREAU OF
12 INVESTIGATION AND DISTRICT ATTORNEYS SHALL COMPLETE THEIR
13 REVIEW WITHIN THIRTY-FIVE DAYS OF RECEIVING A NEW LIST. THE
14 COURT SHALL SEAL ALL CONVICTION RECORDS ELIGIBLE FOR SEALING
15 PURSUANT TO THE LIST COMPILED PURSUANT TO SUBSECTION (3)(a) OF
16 THIS SECTION WITHIN FOURTEEN DAYS OF RECEIPT OF THE AMENDED LIST
17 FROM EACH DISTRICT ATTORNEY.

18 (2) THE STATE COURT ADMINISTRATOR SHALL FORWARD THE LIST
19 COMPILED PURSUANT TO SUBSECTION (1) OF THIS SECTION TO THE
20 COLORADO BUREAU OF INVESTIGATION. THE COLORADO BUREAU OF
21 INVESTIGATION SHALL COMPARE THE LIST WITH CRIMINAL HISTORY
22 REPORTS. THE COLORADO BUREAU OF INVESTIGATION SHALL COMPLETE
23 THE COMPARISON BASED ON A FINGERPRINT-BASED REVIEW WITH A
24 SUFFICIENT POINTS OF REFERENCE FOR IDENTIFICATION VALIDATION AS
25 DETERMINED BY THE COLORADO BUREAU OF INVESTIGATION. THE
26 COLORADO BUREAU OF INVESTIGATION SHALL REMOVE ANY CONVICTIONS
27 FROM THE LIST FROM THE STATE COURT ADMINISTRATOR IN WHICH

1 SUFFICIENT IDENTIFICATION VALIDATION CANNOT BE MADE BY THE
2 COLORADO BUREAU OF INVESTIGATION AND ANY CONVICTIONS FOR WHICH
3 THE DEFENDANT HAS AN INTERVENING CONVICTION DURING THE
4 SEVEN-YEAR-WAITING PERIOD IF THE CONVICTION IS FOR A PETTY OFFENSE
5 OR MISDEMEANOR OR DURING THE TEN-YEAR-WAITING PERIOD IF THE
6 CONVICTION IS FOR A FELONY. THE COLORADO BUREAU OF INVESTIGATION
7 SHALL FORWARD EACH AMENDED LIST TO EACH DISTRICT ATTORNEY.

8 (3) (a) UPON RECEIPT OF THE LIST FROM THE COLORADO BUREAU
9 OF INVESTIGATION, EACH DISTRICT ATTORNEY SHALL REMOVE
10 CONVICTIONS FROM THE LIST IN WHICH A CONDITION OF PLEA WAS THAT
11 THE DEFENDANT AGREED TO NOT HAVE THE CONVICTION RECORD SEALED
12 AND CONVICTIONS IN WHICH THE DEFENDANT HAS A PENDING CRIMINAL
13 CHARGE. EACH DISTRICT ATTORNEY SHALL SEND ITS AMENDED LIST TO
14 THE STATE COURT ADMINISTRATOR. THE STATE COURT ADMINISTRATOR
15 SHALL COMPILE EACH OF THE LISTS INTO ONE FINAL LIST AND SORT THE
16 CONVICTIONS BY JUDICIAL DISTRICT.

17 (b) THE DISTRICT ATTORNEY SHALL SEND THE FINAL LIST
18 COMPILED PURSUANT TO SUBSECTION (3)(a) OF THIS SECTION TO THE CHIEF
19 JUDGE FOR THE JUDICIAL DISTRICT AND THE COURTS OF THAT JUDICIAL
20 DISTRICT SHALL ENTER SEALING ORDERS BASED ON THE LIST RECEIVED.
21 THE DISTRICT COURT SHALL SEND A COPY OF THE SEALING ORDER TO THE
22 COLORADO BUREAU OF INVESTIGATION, THE LAW ENFORCEMENT AGENCY
23 THAT INVESTIGATED THE CASE, AND THE DISTRICT ATTORNEY'S OFFICE
24 THAT PROSECUTED THE CASE TO FACILITATE SEALING OF THE RECORDS
25 HELD BY THOSE ENTITIES. THE COURT SHALL ALSO SEND A COPY TO THE
26 DEFENDANT IF THE CONTACT INFORMATION FOR THE DEFENDANT IS
27 AVAILABLE AND TO THE STATE COURT ADMINISTRATOR FOR PURPOSES OF

1 SUBSECTION (3)(c) OF THIS SECTION.

2 (c) THE STATE COURT ADMINISTRATOR SHALL DEVELOP A WEBSITE
3 THAT ALLOWS DEFENDANTS TO CONFIDENTIALLY DETERMINE WHETHER
4 HIS OR HER CONVICTION HAS BEEN SEALED PURSUANT TO THIS SECTION
5 AND INFORMATION ABOUT HOW TO RECEIVE A COPY OF THE SEALING
6 ORDER.

7 SECTION 12. In Colorado Revised Statutes, 39-28.8-501, add
8 (2)(b)(IV)(S) as follows:

9 39-28.8-501. Marijuana tax cash fund - creation - distribution
10 - legislative declaration - repeal. (2) (b) (IV) Subject to the limitation
11 in subsection (5) of this section, the general assembly may annually
12 appropriate any money in the fund for the following purposes:

13 (S) FOR EXPENSES RELATING TO THE REDUCTION OF COLLATERAL
14 CONSEQUENCES EXPERIENCED BY PEOPLE PREVIOUSLY SENTENCED FOR
15 DRUG OFFENSES.

16 SECTION 13. Appropriation. (1) For the 2021-22 state fiscal
17 year, \$300,605 is appropriated to the judicial department. This
18 appropriation is from the general fund. To implement this act, the
19 department may use this appropriation as follows:

20 (a) \$189,186 for trial court programs, which amount is based on
21 an assumption that the department will require an additional 2.0 FTE; and

22 (b) \$111,419 for capital outlay.

23 (2) For the 2021-22 state fiscal year, \$39,815 is appropriated to
24 the department of public safety for use by the biometric identification and
25 records unit. This appropriation is from the general fund. To implement
26 this act, the department may use this appropriation as follows:

27 (a) \$19,595 for personal services, which amount is based on an

1 assumption that the department will require an additional 0.5 FTE; and
2 (b) \$20,220 for operating expenses.

3 **SECTION 14. Act subject to petition - effective date.** This act
4 takes effect at 12:01 a.m. on the day following the expiration of the
5 ninety-day period after final adjournment of the general assembly; except
6 that, if a referendum petition is filed pursuant to section 1 (3) of article V
7 of the state constitution against this act or an item, section, or part of this
8 act within such period, then the act, item, section, or part will not take
9 effect unless approved by the people at the general election to be held in
10 November 2022 and, in such case, will take effect on the date of the
11 official declaration of the vote thereon by the governor.