

CHAPTER 455

CRIMINAL LAW AND PROCEDURE

HOUSE BILL 21-1214

BY REPRESENTATIVE(S) Weissman and Bacon, Amabile, Benavidez, Bernett, Boesenecker, Caraveo, Duran, Esgar, Exum, Gonzales-Gutierrez, Hooton, Jackson, Jodeh, Kennedy, Kipp, Lontine, McCluskie, Ortiz, Sirota, Snyder, Tipper, Woodrow, Garnett;
also SENATOR(S) Coleman and Lee, Bridges, Buckner, Donovan, Fenberg, Gonzales, Hansen, Jaquez Lewis, Kolker, Moreno, Pettersen, Priola, Story, Winter, Garcia.

AN ACT

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

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

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

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

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

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

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

21-1-107. State public defender - gifts, grants, and donations for record sealing - sealing defense fund - created. (1) THE STATE PUBLIC DEFENDER MAY APPLY FOR GRANTS AND ACCEPTS GIFTS OR DONATIONS FROM PRIVATE OR PUBLIC SOURCES FOR THE PURPOSE OF REPRESENTING INDIGENT CLIENTS IN MATTERS PURSUANT TO PART 7 OF ARTICLE 72 OF TITLE 24 WHEN SUCH ACTION IS IN ACCORDANCE WITH THE COLORADO RULES OF PROFESSIONAL CONDUCT AND THE AMERICAN BAR ASSOCIATION STANDARDS RELATING TO CRIMINAL JUSTICE FOR THE

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

DEFENSE FUNCTION. THE STATE PUBLIC DEFENDER SHALL NOT ACCEPT A GIFT, GRANT, OR DONATION IF THE GIFT, GRANT, OR DONATION IS CONDITIONED ON ITS USE FOR SEALING RECORDS FOR A SPECIFIC IDENTIFIED INDIVIDUAL OR INDIVIDUALS. THE STATE PUBLIC DEFENDER SHALL TRANSMIT ALL MONEY RECEIVED THROUGH GIFTS, GRANTS, OR DONATIONS TO THE STATE TREASURER, WHO SHALL CREDIT THE MONEY TO THE SEALING DEFENSE FUND CREATED IN SUBSECTION (2) OF THIS SECTION.

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

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

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

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

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

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

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

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

24-72-703. Sealing of arrest and criminal records - general provisions - order applicability - discovery and advisements. (1) **Applicability.** The provisions of this section shall apply to the sealing of arrest and criminal records pursuant to sections 24-72-704 to ~~24-72-709~~ 24-72-710.

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

24-72-704. Sealing of arrest records when no charges filed - automatic sealing. (2) (a) FOR ARRESTS ON OR AFTER JANUARY 1, 2022, THE COLORADO BUREAU OF INVESTIGATION IN THE DEPARTMENT OF PUBLIC SAFETY SHALL AUTOMATICALLY SEAL AN ARREST RECORD THAT IS IN ITS CUSTODY AND CONTROL OF A PERSON WHEN NO CRIMINAL CHARGES HAVE BEEN FILED WITHIN ONE YEAR OF THE DATE OF THE PERSON'S ARREST. IF THE COLORADO BUREAU OF INVESTIGATION DOES NOT RECEIVE DOCUMENTATION OF THE FILING OF CRIMINAL CHARGES MATCHING ARREST RECORDS IN ITS CUSTODY AND CONTROL FROM A COURT OR ANOTHER STATE OR LOCAL AGENCY OR OFFICE WITHIN ONE YEAR OF THE DATE OF ARREST, THE BUREAU SHALL SEAL THE ARREST RECORDS. THE COLORADO BUREAU OF INVESTIGATION IS NOT REQUIRED TO CONDUCT ANY INDEPENDENT INVESTIGATION OF WHETHER CRIMINAL CHARGES HAVE BEEN FILED AND IS NOT REQUIRED TO SEAL ANY ARREST RECORDS NOT IN ITS CUSTODY AND CONTROL. AN ARREST RECORD ELIGIBLE FOR SEALING PURSUANT TO THIS SUBSECTION (2)(a) MUST BE SEALED WITHIN SIXTY DAYS AFTER THE YEAR HAS PASSED SINCE THE PERSON'S ARREST DATE. IF THE COLORADO BUREAU OF INVESTIGATION RECEIVES NOTICE OF FILED CHARGES AFTER IT SEALED THE RECORD, THE BUREAU SHALL IMMEDIATELY UNSEAL THE RECORD.

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

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

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

(II) IF THE COLORADO BUREAU OF INVESTIGATION DOES NOT RECEIVE DOCUMENTATION FROM A COURT OR ANOTHER STATE OR LOCAL AGENCY OR OFFICE THAT CRIMINAL CHARGES HAVE BEEN FILED WITHIN THE TIME PERIODS PROVIDED IN SUBSECTION (2)(b)(I) OF THIS SECTION, THE BUREAU SHALL SEAL THE ARREST RECORDS IN ITS CUSTODY AND CONTROL. THE COLORADO BUREAU OF INVESTIGATION IS NOT REQUIRED TO CONDUCT ANY INDEPENDENT INVESTIGATION OF WHETHER CRIMINAL CHARGES HAVE BEEN FILED AND IS NOT REQUIRED TO SEAL ANY ARREST RECORDS NOT IN ITS CUSTODY AND CONTROL. IF THE COLORADO BUREAU OF INVESTIGATION RECEIVES NOTICE OF FILED CHARGES AFTER IT SEALED THE RECORD, THE BUREAU SHALL IMMEDIATELY UNSEAL THE RECORD.

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

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

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

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

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

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

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

(3) NOTWITHSTANDING SUBSECTION (2) OF THIS SECTION, THE COLORADO BUREAU OF INVESTIGATION SHALL DEVELOP A PROCESS TO ALLOW AN APPROVED TREATMENT PROVIDER PROVIDING TREATMENT PURSUANT TO SECTION 16-11.7-103 (4) OR 16-11.8-103 (4) ACCESS TO SEALED ARREST RECORDS. A TREATMENT PROVIDER SHALL NOT USE RECORDS ACCESSED PURSUANT TO THIS SUBSECTION (3) FOR ANY OTHER PURPOSE.

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

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

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

24-72-709. Sealing of criminal conviction records information for multiple conviction records. (1)(a) SUBJECT TO THE PROVISIONS OF SUBSECTION (5) OF THIS SECTION, A DEFENDANT WITH MULTIPLE CONVICTION RECORDS IN THE STATE MAY PETITION THE COURT OF THE JURISDICTION WHERE THE CONVICTION RECORD OR RECORDS PERTAINING TO THE DEFENDANT ARE LOCATED FOR THE SEALING OF THE CONVICTION RECORDS, EXCEPT BASIC IDENTIFYING INFORMATION, IF THE RECORD OR

RECORDS ARE NOT ELIGIBLE FOR SEALING PURSUANT TO ANY OTHER SECTION IN THIS PART 7 BECAUSE OF AN INTERVENING CONVICTION AND IF THE PETITION IS FILED WITHIN THE TIME FRAME DESCRIBED IN SUBSECTION (2) OF THIS SECTION AND PROPER NOTICE IS GIVEN TO THE DISTRICT ATTORNEY. IF THE MULTIPLE CONVICTION RECORDS ARE IN DIFFERENT JURISDICTIONS, THE DEFENDANT SHALL FILE A PETITION IN EACH JURISDICTION WITH A CONVICTION RECORD THAT INCLUDES A COPY OF EACH PETITION FILED IN THE OTHER JURISDICTIONS AND PROVIDE NOTICE OF THE PETITION TO EACH DISTRICT ATTORNEY.

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

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

(b) IF THE OFFENSE OR HIGHEST OFFENSE OF THE MULTIPLE OFFENSES IS AN ELIGIBLE MISDEMEANOR OR ELIGIBLE MISDEMEANOR DRUG OFFENSE, OR ELIGIBLE LEVEL 4 DRUG FELONY, THE PETITION MAY BE FILED FIVE YEARS AFTER THE LATER OF THE DATE OF THE FINAL DISPOSITION OF ALL CRIMINAL PROCEEDINGS AGAINST THE DEFENDANT OR THE RELEASE OF THE DEFENDANT FROM SUPERVISION CONCERNING THE CONVICTION, OR THE LATEST IN TIME CRIMINAL CONVICTION OF THE MULTIPLE CONVICTIONS.

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

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

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

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

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

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

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

(I) A CLASS 1 OR CLASS 2 MISDEMEANOR TRAFFIC OFFENSE;

(II) A CLASS A OR CLASS B TRAFFIC INFRACTION;

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

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

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

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

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

(B) A SENTENCE FOR AN EXTRAORDINARY RISK CRIME PURSUANT TO SECTION

18-1.3-401 (10);

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

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

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

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

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

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

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

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

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

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

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

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

(b) NOTWITHSTANDING THE PROVISIONS OF THIS SECTION, A MISDEMEANOR OFFENSE INELIGIBLE PURSUANT TO THE PROVISIONS OF THIS SECTION IS ELIGIBLE FOR SEALING PURSUANT TO THIS SECTION 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. HOWEVER, NO MORE THAN ONE MISDEMEANOR THAT IS A CRIME AS DEFINED IN SECTION 24-4.1-302 (1) IS ELIGIBLE FOR SEALING PURSUANT TO THE PROVISIONS OF THIS SECTION.

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

24-72-710. Sealing of criminal conviction records information for offenses that receive a full and unconditional pardon. (1) AT ANY TIME AFTER RECEIVING A FULL AND UNCONDITIONAL PARDON, A DEFENDANT MAY FILE A MOTION IN THE CASE IN WHICH ANY CONVICTION RECORDS EXIST PERTAINING TO THE DEFENDANT'S CONVICTION FOR ANY OFFENSES THAT RECEIVED A FULL AND UNCONDITIONAL

PARDON.

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

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

SECTION 8. In Colorado Revised Statutes, 24-4.1-302, **amend** (2)(v) as follows:

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

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

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

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

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

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

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

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

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

(z) The right to be notified of a hearing concerning any motion filed for or

petition for sealing of records described in ~~section 24-72-704~~ SECTION 24-72-706, 24-72-709, OR 24-72-710 filed by a defendant in the criminal case whose crime falls under section 24-4.1-302 (1);

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

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

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

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

13-3-117. State court administrator - automatic drug conviction sealing.

(1) (a) THE STATE COURT ADMINISTRATOR SHALL COMPILE A LIST OF DRUG CONVICTIONS PURSUANT TO ARTICLE 18 OF TITLE 18:

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

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

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

(b) THE STATE COURT ADMINISTRATOR SHALL USE THE STATE CONVICTION DATABASE AND THE CONVICTION DATABASES OF ENTITIES THAT DO NOT REPORT CONVICTIONS TO THE STATE DATABASE TO COMPILE THE LIST. THE STATE COURT ADMINISTRATOR SHALL COMPILE THE LIST BASED ON A NAME-BASED REVIEW WITH SUFFICIENT POINTS OF REFERENCE FOR IDENTIFICATION VALIDATION AS DETERMINED BY THE STATE COURT ADMINISTRATOR. THE STATE COURT ADMINISTRATOR MUST ONLY INCLUDE CONVICTIONS ON THE LIST IF SUFFICIENT POINTS OF VALIDATION, AS DETERMINED BY THE STATE COURT ADMINISTRATOR, ARE PRESENT. THE STATE COURT ADMINISTRATOR SHALL SORT THE LIST BY JUDICIAL DISTRICT OF CONVICTION.

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

(d) BEGINNING JULY 1, 2024, THE STATE COURT ADMINISTRATOR SHALL COMPILE THE LIST PURSUANT TO THIS SUBSECTION (1) ON THE FIRST MONDAY OF EVERY MONTH AND THE COLORADO BUREAU OF INVESTIGATION AND DISTRICT ATTORNEYS SHALL COMPLETE THEIR REVIEW WITHIN THIRTY-FIVE DAYS OF RECEIVING A NEW

LIST. THE COURT SHALL SEAL ALL CONVICTION RECORDS ELIGIBLE FOR SEALING PURSUANT TO THE LIST COMPILED PURSUANT TO SUBSECTION (3)(a) OF THIS SECTION WITHIN FOURTEEN DAYS OF RECEIPT OF THE AMENDED LIST FROM EACH DISTRICT ATTORNEY.

(2) THE STATE COURT ADMINISTRATOR SHALL FORWARD THE LIST COMPILED PURSUANT TO SUBSECTION (1) OF THIS SECTION TO THE COLORADO BUREAU OF INVESTIGATION. THE COLORADO BUREAU OF INVESTIGATION SHALL COMPARE THE LIST WITH CRIMINAL HISTORY REPORTS. THE COLORADO BUREAU OF INVESTIGATION SHALL COMPLETE THE COMPARISON BASED ON A FINGERPRINT-BASED REVIEW WITH A SUFFICIENT POINTS OF REFERENCE FOR IDENTIFICATION VALIDATION AS DETERMINED BY THE COLORADO BUREAU OF INVESTIGATION. THE COLORADO BUREAU OF INVESTIGATION SHALL REMOVE ANY CONVICTIONS FROM THE LIST FROM THE STATE COURT ADMINISTRATOR IN WHICH SUFFICIENT IDENTIFICATION VALIDATION CANNOT BE MADE BY THE COLORADO BUREAU OF INVESTIGATION AND ANY CONVICTIONS FOR WHICH THE DEFENDANT HAS AN INTERVENING CONVICTION DURING THE SEVEN-YEAR-WAITING PERIOD IF THE CONVICTION IS FOR A PETTY OFFENSE OR MISDEMEANOR OR DURING THE TEN-YEAR-WAITING PERIOD IF THE CONVICTION IS FOR A FELONY. THE COLORADO BUREAU OF INVESTIGATION SHALL FORWARD EACH AMENDED LIST TO EACH DISTRICT ATTORNEY.

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

(b) THE DISTRICT ATTORNEY SHALL SEND THE FINAL LIST COMPILED PURSUANT TO SUBSECTION (3)(a) OF THIS SECTION 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 DISTRICT COURT SHALL SEND A COPY OF THE SEALING ORDER TO THE COLORADO BUREAU OF INVESTIGATION, THE LAW ENFORCEMENT AGENCY THAT INVESTIGATED THE CASE, AND THE DISTRICT ATTORNEY'S OFFICE THAT PROSECUTED THE CASE TO FACILITATE SEALING OF THE RECORDS HELD BY THOSE ENTITIES. THE COURT SHALL ALSO SEND A COPY TO THE DEFENDANT IF THE CONTACT INFORMATION FOR THE DEFENDANT IS AVAILABLE AND TO THE STATE COURT ADMINISTRATOR FOR PURPOSES OF SUBSECTION (3)(c) OF THIS SECTION.

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

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

39-28.8-501. Marijuana tax cash fund - creation - distribution - legislative

declaration - repeal. (2) (b) (IV) Subject to the limitation in subsection (5) of this section, the general assembly may annually appropriate any money in the fund for the following purposes:

(T) FOR EXPENSES RELATING TO THE REDUCTION OF COLLATERAL CONSEQUENCES EXPERIENCED BY PEOPLE PREVIOUSLY SENTENCED FOR DRUG OFFENSES.

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

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

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

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

(a) \$19,595 for personal services, which amount is based on an assumption that the department will require an additional 0.5 FTE; and

(b) \$20,220 for operating expenses.

SECTION 14. 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; 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 2022 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

Approved: July 6, 2021