

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

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 17-0520.01 Michael Dohr x4347

HOUSE BILL 17-1204

HOUSE SPONSORSHIP

Lee,

SENATE SPONSORSHIP

Cooke,

House Committees

Judiciary
Appropriations

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING JUVENILE DELINQUENCY RECORD EXPUNGEMENT, AND,**
102 **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, there is limited access to juvenile delinquency records. The bill restricts that access by making certain records public only after a court orders that a child be charged as an adult, consistent with recent changes to the direct file statute, and by eliminating the requirement that the prosecuting attorney notify the school principal of minor offenses. The bill also ensures that the juvenile and his or her

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

attorney can access the juvenile's records, and that juvenile record information is available to agencies that require the information for research purposes, with protections against the disclosure of identifying information.

Under current law, a juvenile or someone on the juvenile's behalf must petition, after an applicable waiting period of one to 5 years, for expungement. The bill requires the court to automatically expunge records in certain situations. In some situations, the juvenile must still petition for expungement. Records will be expunged immediately upon:

- ! A finding of not guilty at an adjudicatory trial;
- ! Dismissal of the entire case;
- ! The completion of a sentence for a municipal offense; and
- ! The completion of a juvenile sentence for a petty offense or a class 2 or class 3 misdemeanor that is not a sex offense or does not involve domestic violence.

Records will be eligible for expungement upon the completion of a juvenile sentence when the juvenile has a class 1 misdemeanor or a misdemeanor involving domestic violence; or the dismissal after completion of juvenile diversion, a deferred adjudication, or an informal adjustment; or the adjudication of a first-time felony and the adjudicated felony is not a crime of violence, is not an offense involving unlawful sexual behavior, and is not a class 1 or class 2 felony. The court sends a notice to the prosecuting attorney that the records are eligible for expungement. The prosecuting attorney shall notify the victim, and the victim and the prosecuting attorney have the right to object to the expungement. If there is no objection, the court enters an expungement order. If there is an objection, the court holds a hearing to determine if the juvenile is sufficiently rehabilitated and whether expungement is in the best interest of the juvenile and the community.

All other juveniles must file a petition to request expungement after an applicable waiting period. Records will be eligible for expungement one year after a law enforcement contact that did not result in a referral to another agency. Records will be eligible for expungement one year from the date of the completion of a juvenile sentence if the juvenile was not adjudicated a repeat, mandatory, aggravated, or violent juvenile offender. After the petition is filed, the court shall hold a hearing, and the court shall grant expungement if it finds that the juvenile has been rehabilitated and that expungement is in the best interest of the juvenile and the community. A person who is adjudicated as a repeat or mandatory offender, violent juvenile offender, or aggravated juvenile offender; adjudicated for homicide or vehicular homicide as a juvenile offender; or adjudicated for a felony offense involving unlawful sexual behavior is not eligible for expungement.

The bill requires written notice of the right to expungement and of the expungement process to the juvenile.

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

2 **SECTION 1.** In Colorado Revised Statutes, 19-1-304, **amend**
3 (1)(a) introductory portion, (1)(a)(II), (1)(a)(XIII)(A), (1)(b.5)
4 introductory portion, (1)(b.7), (1)(b.8), (1)(c) introductory portion,
5 (1)(c)(VIII), (1)(d), (2)(a) introductory portion, (2)(a)(I), (2)(a)(XIV)(A),
6 (2.5), (3), (5), (5.5), (6), (7) introductory portion, and ~~(7)(d), and (7)(e);~~
7 and **add** (1)(c)(VII.5), and (7)(f) as follows:

8 **19-1-304. Juvenile delinquency records - division of youth**
9 **corrections critical incident information - definitions.** (1) (a) **Court**
10 **records - open.** Except as provided in ~~paragraph (b.5) of this subsection~~
11 ~~(H)~~ SUBSECTION (1)(b.5) OF THIS SECTION, court records in juvenile
12 delinquency proceedings or proceedings concerning a juvenile charged
13 with the violation of any municipal ordinance except a traffic ordinance
14 are open to inspection to the following persons without court order:

15 (II) The juvenile's parent, guardian, ~~or~~ legal custodian, OR
16 ATTORNEY;

17 (XIII) Any person or agency for research purposes, if all of the
18 following conditions are met:

19 (A) The person or agency conducting the research is employed by
20 the state of Colorado or is under contract with the state of Colorado and
21 is authorized by the department of human services to conduct the
22 research; except that the department of public safety is not required to
23 obtain prior authorization from the department of human services for
24 purposes of this ~~subparagraph (XIII)~~ SUBSECTION (1)(a)(XIII);

25 (b.5) **Arrest and criminal records - certain juveniles - public**
26 **access - information limited.** The public has access to ~~arrest and~~

1 ~~criminal records information, as defined in section 24-72-302(1), C.R.S.,~~
2 ~~and including a person's physical description, that~~ INFORMATION
3 REPORTING THE ARREST OR OTHER FORMAL FILING OF CHARGES AGAINST
4 A JUVENILE; THE IDENTITY OF THE CRIMINAL JUSTICE AGENCY TAKING
5 SUCH OFFICIAL ACTION RELATIVE TO AN ACCUSED JUVENILE; THE DATE
6 AND PLACE THAT SUCH OFFICIAL ACTION WAS TAKEN RELATIVE TO AN
7 ACCUSED JUVENILE; THE NATURE OF THE CHARGES BROUGHT OR THE
8 OFFENSES ALLEGED; AND ONE OR MORE DISPOSITIONS RELATING TO THE
9 CHARGES BROUGHT AGAINST AN ACCUSED JUVENILE, WHEN THIS
10 INFORMATION:

11 (b.7) The information ~~which shall be~~ THAT IS open to the public
12 pursuant to ~~paragraph (b.5)~~ SUBSECTION (1)(b.5) OF THIS SECTION
13 regarding a juvenile who is charged with the commission of a delinquent
14 act shall not include records of investigation as such records are described
15 in section 24-72-305 (5). ~~C.R.S.~~ In addition, any psychological profile of
16 any such juvenile, any intelligence test results for any such juvenile, or
17 any information regarding whether such juvenile has been sexually
18 abused ~~shall not be~~ IS NOT open to the public unless released by an order
19 of the court. THE INFORMATION THAT IS OPEN TO THE PUBLIC PURSUANT
20 TO SUBSECTION (1)(b.5) OF THIS SECTION REGARDING A JUVENILE WHO IS
21 CHARGED WITH A DELINQUENT ACT SHALL NOT INCLUDE THE JUVENILE'S
22 NAME, BIRTH DATE, OR PHOTOGRAPH.

23 (b.8) The court shall report the final disposition concerning a
24 juvenile who has been adjudicated a juvenile delinquent to the Colorado
25 bureau of investigation in a form that is electronically consistent with
26 applicable law. The report ~~shall~~ MUST be made within seventy-two hours
27 after the final disposition; except that the time period shall not include

1 Saturdays, Sundays, or legal holidays. The report ~~shall~~ MUST include ~~the~~
2 ~~information provided to the court in accordance with paragraph (b.7) of~~
3 ~~this subsection (1)~~; the disposition of each charge and the court case
4 number, and the Colorado bureau of investigation shall reflect any change
5 of status but shall not delete or eliminate information concerning the
6 original charge. COLORADO BUREAU OF INVESTIGATION RECORDS
7 REGARDING JUVENILE OFFENSES ARE NOT OPEN TO THE PUBLIC.

8 (c) **Probation records - limited access.** Except as otherwise
9 authorized by section 19-1-303, a juvenile probation officer's records,
10 whether or not part of the court file, ~~shall not be~~ ARE NOT open to
11 inspection, except as provided in ~~subparagraphs (I) to (XI) of this~~
12 ~~paragraph (c)~~ SUBSECTIONS (1)(c)(I) TO (1)(c)(XI) OF THIS SECTION:

13 (VII.5) TO THE JUVENILE NAMED IN THE RECORD;

14 (VIII) To the juvenile's parent, guardian, ~~or~~ legal custodian, OR
15 ATTORNEY;

16 (d) **Social and clinical studies - closed - court authorization.**
17 Except as otherwise authorized by section 19-1-303, any social and
18 clinical studies, INCLUDING ALL FORMAL EVALUATIONS OF THE JUVENILE
19 COMPLETED BY A PROFESSIONAL, whether or not part of the court file OR
20 ANY OTHER RECORD, ~~shall not be~~ ARE NOT open to inspection, except: ~~by~~
21 ~~consent of the court.~~

22 (I) TO THE JUVENILE NAMED IN THE RECORD;

23 (II) TO THE JUVENILE'S PARENT, GUARDIAN, LEGAL CUSTODIAN, OR
24 ATTORNEY; OR

25 (III) BY ORDER OF THE COURT, UPON A FINDING OF A LEGITIMATE
26 INTEREST IN AND NEED TO REVIEW THE SOCIAL AND CLINICAL STUDIES.

27 (2) (a) **Law enforcement records in general - closed.** Except as

1 otherwise provided by ~~paragraph (b.5) of subsection (1)~~ SUBSECTION
2 (1)(b.5) of this section and otherwise authorized by section 19-1-303, the
3 records of law enforcement officers concerning juveniles, including
4 identifying information, ~~shall~~ MUST be identified as juvenile records and
5 ~~shall~~ MUST not be inspected by or disclosed to the public, except:

6 (I) To the juvenile and the juvenile's parent, guardian, ~~or~~ legal
7 custodian, OR ATTORNEY;

8 (XIV) To any person or agency for research purposes, if all of the
9 following conditions are met:

10 (A) The person or agency conducting such research is employed
11 by the state of Colorado or is under contract with the state of Colorado
12 and is authorized by the department of human services to conduct such
13 research; EXCEPT THAT THE DEPARTMENT OF PUBLIC SAFETY DOES NOT
14 NEED TO OBTAIN PRIOR AUTHORIZATION FROM THE DEPARTMENT OF
15 HUMAN SERVICES FOR THE PURPOSES OF THIS SUBSECTION (2)(a)(XIV)(A);
16 and

17 (2.5) **Parole records.** Parole records ~~shall be~~ ARE open to
18 inspection by the principal of a school, or such principal's designee, in
19 which the juvenile is or will be enrolled as a student and, if the student is
20 or will be enrolled in a public school, by the superintendent of the school
21 district in which the student is or will be enrolled, or such
22 superintendent's designee. Parole records ~~shall also be~~ ARE ALSO open to
23 inspection by assessment centers for children AND BY THE JUVENILE
24 NAMED IN THE RECORD AND THE JUVENILE'S PARENT, GUARDIAN, LEGAL
25 CUSTODIAN, OR ATTORNEY.

26 (3) Prior to adjudication, the defense counsel, the district attorney,
27 the prosecuting attorney, or any other party TO A PENDING DELINQUENCY

1 PETITION with consent of the court ~~shall~~ MUST have access to records of
2 any proceedings pursuant to this ~~title~~ TITLE 19, except as provided in
3 section 19-1-309, which involve a juvenile against whom criminal or
4 delinquency charges have been filed. No new criminal or delinquency
5 charges against such juvenile ~~shall~~ MAY be brought based upon
6 information gained initially or solely from such examination of records.

7 (5) **Direct filings - arrest and criminal records open.** Whenever
8 ~~a petition filed in juvenile court alleges that a juvenile between the ages~~
9 ~~of twelve to eighteen years has committed an offense that would~~
10 ~~constitute unlawful sexual behavior, as defined in section 16-22-102 (9),~~
11 ~~C.R.S., or a crime of violence, as defined in section 18-1.3-406, C.R.S.,~~
12 ~~if committed by an adult or whenever charges filed in district court allege~~
13 ~~that a juvenile has committed such an offense, then~~ A JUDGE ORDERS THAT
14 A JUVENILE BE CHARGED AS AN ADULT PURSUANT TO SECTION 19-2-517 OR
15 19-2-518, the arrest and criminal records information, as defined in
16 section 24-72-302 (1), ~~C.R.S.~~, and including a juvenile's physical
17 description, concerning such juvenile ~~shall~~ MUST be made available to the
18 public. The information is available only from the investigative law
19 enforcement agency, the agency responsible for filing a petition, and the
20 court, and shall not include records of investigation as such records are
21 described in section 24-72-305 (5). ~~C.R.S.~~ Basic identification
22 information, as defined in section 24-72-302 (2), ~~C.R.S.~~, along with the
23 details of the alleged delinquent act or offense, ~~shall~~ MUST be provided
24 immediately to the school district in which the juvenile is enrolled. Such
25 information ~~shall~~ MUST be used by the board of education for purposes of
26 section 22-33-105 (5), ~~C.R.S.~~, but information made available to the
27 school district and not otherwise available to the public ~~shall remain~~

1 REMAINS confidential.

2 (5.5) Whenever a petition is filed in juvenile court ~~involving a~~
3 ~~felony or a class 1 misdemeanor or the following offenses of any degree:~~
4 ALLEGING A CLASS 1, CLASS 2, CLASS 3, OR CLASS 4 FELONY; A LEVEL 1,
5 LEVEL 2, OR LEVEL 3 DRUG FELONY; AN OFFENSE INVOLVING UNLAWFUL
6 SEXUAL BEHAVIOR AS DEFINED IN SECTION 16-22-102 (9); A CRIME OF
7 VIOLENCE AS DESCRIBED IN SECTION 18-1.3-406; A BURGLARY OFFENSE AS
8 DESCRIBED IN PART 2 OF ARTICLE 4 OF TITLE 18; FELONY menacing, in
9 violation of section 18-3-206; ~~C.R.S.;~~ ~~harassment, in violation of section~~
10 ~~18-9-111, C.R.S.;~~ ~~fourth degree arson, in violation of section 18-4-105;~~
11 ~~C.R.S.;~~ ~~theft, in violation of section 18-4-401, C.R.S.;~~ aggravated motor
12 vehicle theft, in violation of section 18-4-409; ~~C.R.S.;~~ ~~criminal mischief,~~
13 ~~in violation of section 18-4-501, C.R.S.;~~ ~~defacing property, in violation~~
14 ~~of section 18-4-509, C.R.S.;~~ ~~disorderly conduct, in violation of section~~
15 ~~18-9-106, C.R.S.;~~ ~~hazing, in violation of section 18-9-124, C.R.S.;~~ or
16 possession of a handgun by a juvenile, in violation of section
17 18-12-108.5, ~~C.R.S.;~~ OR WHEN A PETITION IS FILED IN JUVENILE COURT IN
18 WHICH THE ALLEGED VICTIM OF THE CRIME IS A STUDENT OR STAFF PERSON
19 IN THE SAME SCHOOL AS THE JUVENILE OR IN WHICH IT IS ALLEGED THAT
20 THE JUVENILE POSSESSED A DEADLY WEAPON DURING THE COMMISSION OF
21 THE ALLEGED CRIME, the prosecuting attorney, within three working days
22 after the petition is filed, shall make good faith reasonable efforts to
23 notify the principal of the school in which the juvenile is enrolled and
24 shall provide such principal with the arrest and criminal records
25 information, as defined in section 24-72-302 (1). ~~C.R.S.~~ In the event the
26 prosecuting attorney, in good faith, is not able to either identify the school
27 ~~which~~ THAT the juvenile attends or contact the principal of the juvenile's

1 school, then the prosecuting attorney shall contact the superintendent of
2 the juvenile's school district.

3 (6) The department of human services shall release to the
4 committing court, the ~~district~~ PROSECUTING attorney, the Colorado bureau
5 of investigation, and local law enforcement agencies basic identification
6 information as defined in section 24-72-302 (2) ~~C.R.S.~~, concerning any
7 juvenile released or released to parole supervision or any juvenile who
8 escapes. THIS INFORMATION IS NOT OPEN TO THE PUBLIC.

9 (7) In addition to the persons who have access to court records
10 pursuant to ~~paragraph (a) of subsection (1)~~ SUBSECTION (1)(a) of this
11 section, statewide electronic read-only access to the name index and
12 register of actions of the judicial department must be allowed to the
13 following agencies or ~~attorneys appointed by the court~~ PERSONS:

14 (d) Attorneys under contract with the office of the alternate
15 defense counsel, created in section 21-2-101, ~~C.R.S.~~, as it relates to a case
16 in which they are appointed by the court; ~~and~~

17 (e) A respondent parent's counsel under contract with the office
18 of the respondent parents' counsel, created in section 13-92-103, ~~C.R.S.~~,
19 or authorized by the office of the respondent parents' counsel to act as a
20 respondent parent's counsel, as it relates to a case in which they are
21 appointed by the court; AND

22 (f) A LICENSED ATTORNEY WORKING WITH A NONPROFIT
23 ASSOCIATION PROVIDING FREE LEGAL ASSISTANCE AS IT RELATES TO
24 SCREENING AN APPLICANT FOR ELIGIBILITY FOR FREE SERVICES OR TO A
25 CASE IN WHICH THE ORGANIZATION HAS ENTERED AN APPEARANCE TO
26 PROVIDE FREE REPRESENTATION, IF THE OFFICE OF THE ALTERNATE
27 DEFENSE COUNSEL AGREES TO MONITOR THE ATTORNEY'S USE OF THE

2 SECTION 2. In Colorado Revised Statutes, **repeal and reenact,**
3 **with amendments,** 19-1-306 as follows:

4 **19-1-306. Expungement of juvenile delinquent records -**

5 **definition.** (1) (a) FOR THE PURPOSES OF THIS SECTION, "EXPUNGEMENT"
6 IS DEFINED IN SECTION 19-1-103 (48). UPON THE ENTRY OF AN
7 EXPUNGEMENT ORDER, THE PERSON WHO IS THE SUBJECT OF THE RECORD
8 THAT HAS BEEN EXPUNGED MAY ASSERT THAT HE OR SHE HAS NO JUVENILE
9 DELINQUENCY RECORD. FURTHER, THE PERSON WHO IS THE SUBJECT OF
10 THE RECORD THAT HAS BEEN EXPUNGED MAY LAWFULLY DENY THAT HE
11 OR SHE HAS EVER BEEN ARRESTED, CHARGED, ADJUDICATED, CONVICTED,
12 OR SENTENCED IN REGARD TO THE EXPUNGED CASE, MATTER, OR CHARGE.

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

18 (2) (a) AT THE TIME OF THE ADJUDICATION, THE COURT SHALL
19 ADVISE THE ADJUDICATED JUVENILE AND ANY RESPONDENT PARENT OR
20 GUARDIAN, IN WRITING, OF THE RIGHT TO EXPUNGE AND THE TIME PERIOD
21 AND PROCESS FOR EXPUNGING THE ORDER. THE COURT, ON ITS OWN
22 MOTION OR THE MOTION OF THE JUVENILE PROBATION DEPARTMENT, THE
23 JUVENILE PAROLE DEPARTMENT, THE JUVENILE, A RESPONDENT PARENT OR
24 GUARDIAN, OR A COURT-APPOINTED GUARDIAN AD LITEM, MAY INITIATE
25 EXPUNGEMENT PROCEEDINGS CONCERNING THE RECORD OF ANY JUVENILE
26 WHO HAS BEEN UNDER THE JURISDICTION OF THE COURT.

27 (b) IF A JUVENILE IS SUPERVISED BY PROBATION, THE PROBATION

1 DEPARTMENT, UPON THE TERMINATION OF THE JUVENILE'S SUPERVISION
2 PERIOD, SHALL PROVIDE THE JUVENILE WITH A WRITTEN ADVISEMENT OF
3 THE RIGHT TO EXPUNGEMENT AND THE TIME PERIOD AND PROCESS FOR
4 EXPUNGING THE RECORD.

5 (c) IF A JUVENILE IS SUPERVISED BY PAROLE, THE DEPARTMENT OR
6 DIVISION SUPERVISING THE JUVENILE'S PAROLE, UPON THE TERMINATION
7 OF THE JUVENILE'S PAROLE SUPERVISION PERIOD, SHALL PROVIDE THE
8 JUVENILE WITH A WRITTEN ADVISEMENT OF THE RIGHT TO EXPUNGEMENT
9 AND THE TIME PERIOD AND PROCESS FOR EXPUNGING THE RECORD.

10 (d) IF THE JUVENILE IS SUPERVISED BY A DIVERSION OFFICER OR
11 AGENCY OTHER THAN PROBATION, THE AGENCY SUPERVISING THE
12 DIVERSION PROGRAM, UPON THE TERMINATION OF THE JUVENILE'S
13 DIVERSION PERIOD, SHALL PROVIDE THE JUVENILE WITH A WRITTEN
14 ADVISEMENT OF THE RIGHT TO EXPUNGEMENT AND THE TIME PERIOD AND
15 PROCESS FOR EXPUNGING THE RECORD.

16 (e) IF A JUVENILE IS SENTENCED IN MUNICIPAL COURT, THE
17 MUNICIPAL COURT, AT SENTENCING, SHALL PROVIDE THE JUVENILE AND
18 ANY RESPONDENT PARENT OR GUARDIAN WITH A WRITTEN ADVISEMENT OF
19 THE RIGHT TO EXPUNGEMENT AND THE TIME PERIOD AND PROCESS FOR
20 EXPUNGING THE RECORD. THE MUNICIPAL COURT MAY PROVIDE THE
21 NOTICE THROUGH A MUNICIPAL DIVERSION PROGRAM, THE CITY
22 ATTORNEY, OR A MUNICIPAL PROBATION PROGRAM.

23 (f) IF A JUVENILE IS COMMITTED TO THE DIVISION OF YOUTH
24 CORRECTIONS AND IS RELEASED WITHOUT A REQUIREMENT TO COMPLETE
25 FURTHER PAROLE, THE DIVISION SHALL PROVIDE THE JUVENILE WITH A
26 WRITTEN ADVISEMENT OF THE RIGHT TO EXPUNGEMENT AND THE TIME
27 PERIOD AND PROCESS FOR EXPUNGING THE RECORD.

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

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

9 (i) PRIOR TO THE COURT ORDERING ANY RECORDS EXPUNGED, THE
10 COURT SHALL DETERMINE WHETHER THE JUVENILE HAS ANY FELONY,
11 DRUG FELONY, MISDEMEANOR, DRUG MISDEMEANOR, PETTY OFFENSE, OR
12 DELINQUENCY ACTIONS PENDING, AND, IF THE COURT DETERMINES THAT
13 THERE IS A FELONY, DRUG FELONY, MISDEMEANOR, DRUG MISDEMEANOR,
14 PETTY OFFENSE, OR DELINQUENCY ACTION PENDING AGAINST THE
15 JUVENILE, THE COURT SHALL STAY THE PETITION FOR EXPUNGEMENT
16 PROCEEDINGS UNTIL THE RESOLUTION OF THE PENDING CASE.

17 (3) (a) AFTER EXPUNGEMENT, BASIC IDENTIFICATION
18 INFORMATION ON THE JUVENILE AND A LIST OF ANY STATE AND LOCAL
19 AGENCIES AND OFFICIALS HAVING CONTACT WITH THE JUVENILE, AS THEY
20 APPEAR IN THE RECORDS, ARE NOT OPEN TO THE PUBLIC BUT ARE
21 AVAILABLE TO A PROSECUTING ATTORNEY, LOCAL LAW ENFORCEMENT
22 AGENCY, THE DEPARTMENT OF HUMAN SERVICES, THE STATE JUDICIAL
23 DEPARTMENT, AND THE VICTIM AS DEFINED IN SECTION 24-4.1-302 (5);
24 EXCEPT THAT SUCH INFORMATION IS NOT AVAILABLE TO AN AGENCY OF
25 THE MILITARY FORCES OF THE UNITED 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 OR DELINQUENCY CHARGE MAY NOT BE BROUGHT AGAINST
5 THE JUVENILE BASED UPON INFORMATION GAINED INITIALLY OR SOLELY
6 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 SHALL 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 JUDICIAL DEPARTMENT IN ANY SUBSEQUENT
13 CRIMINAL INVESTIGATION OR PROSECUTION AS A SUBSTANTIVE PREDICATE
14 OFFENSE CONVICTION OR ADJUDICATION OF RECORD.

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

1 THE VICTIM. IF THE COURT ORDERS THE RELEASE OF A COPY OF THE
2 EXPUNGED RECORDS TO THE VICTIM, THE COURT MUST ISSUE A
3 PROTECTIVE ORDER REGARDING THE USAGE OF THE EXPUNGED RECORDS.

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

14 (4) (a) THE COURT SHALL ORDER ALL RECORDS IN A JUVENILE
15 DELINQUENCY CASE IN THE CUSTODY OF THE COURT, AND ANY RECORDS
16 RELATED TO THE CASE AND CHARGES IN THE CUSTODY OF ANY OTHER
17 AGENCY, PERSON, COMPANY, OR ORGANIZATION, EXPUNGED WITHIN
18 FORTY-TWO DAYS AFTER:

- 19 (I) A FINDING OF NOT GUILTY AT AN ADJUDICATORY TRIAL;
- 20 (II) DISMISSAL OF THE PETITION IN ITS ENTIRETY; OR
- 21 (III) THE COMPLETION OF A SENTENCE FOR A PETTY OFFENSE,
22 DRUG PETTY OFFENSE, CLASS 2 OR CLASS 3 MISDEMEANOR OFFENSE, OR
23 LEVEL 1 OR LEVEL 2 DRUG MISDEMEANOR IF THE OFFENSE DOES NOT
24 INVOLVE UNLAWFUL SEXUAL BEHAVIOR AS DEFINED IN SECTION 16-22-102
25 (9), IS NOT AN ACT OF DOMESTIC VIOLENCE AS DEFINED IN SECTION
26 18-6-800.3, OR IS NOT A CRIME LISTED UNDER SECTION 24-4.1-302 (1),
27 AND THE DEFENDANT WAS UNDER EIGHTEEN YEARS OF AGE AT THE TIME

1 THE OFFENSE WAS COMMITTED.

2 (b) WHEN AN EXPUNGEMENT ORDER IS ISSUED PURSUANT TO THIS
3 SECTION, THE COURT SHALL SEND A COPY OF THE ORDER TO THE JUVENILE,
4 THE JUVENILE'S LAST ATTORNEY OF RECORD, AND EACH AGENCY, PERSON,
5 COMPANY, OR ORGANIZATION NAMED THEREIN, DIRECTING THE ENTITY TO
6 EXPUNGE THE RECORDS IN ITS CUSTODY AS DIRECTED IN THE ORDER. THE
7 PERSON WHO IS THE SUBJECT OF RECORDS EXPUNGED PURSUANT TO THIS
8 SECTION MAY PETITION THE COURT TO PERMIT INSPECTION OF THE
9 RECORDS HELD BY PERSONS NAMED IN THE ORDER, AND THE COURT MAY
10 SO ORDER.

11 (c) THE COURT SHALL, ON OR BEFORE NOVEMBER 1 OF EACH YEAR,
12 REVIEW ALL JUVENILE DELINQUENCY COURT FILES DURING THE TWO
13 PREVIOUS YEARS THAT RESULTED IN A FINDING OF NOT GUILTY; A
14 DISMISSAL OF THE PETITION; A SENTENCE FOR A PETTY OFFENSE; A
15 SENTENCE FOR A DRUG PETTY OFFENSE; A SENTENCE FOR A DRUG
16 MISDEMEANOR OFFENSE; OR A SENTENCE FOR A CLASS 2 OR CLASS 3
17 MISDEMEANOR OFFENSE IF THE OFFENSE DOES NOT INVOLVE UNLAWFUL
18 SEXUAL BEHAVIOR AS DEFINED IN SECTION 16-22-102 (9), IS NOT AN ACT
19 OF DOMESTIC VIOLENCE AS DEFINED IN SECTION 18-6-800.3, OR IS NOT A
20 CRIME LISTED UNDER SECTION 24-4.1-302 (1), AND THE DEFENDANT WAS
21 UNDER EIGHTEEN YEARS OF AGE AT THE TIME THE OFFENSE WAS
22 COMMITTED. THE COURT SHALL ENTER AN EXPUNGEMENT ORDER FOR ALL
23 JUVENILES ELIGIBLE FOR EXPUNGEMENT PURSUANT TO THIS SUBSECTION
24 (4), IF THE EXPUNGEMENT ORDER WAS NOT PREVIOUSLY MADE.

25 (5) (a) THE COURT SHALL SEND NOTICE TO THE PROSECUTING
26 ATTORNEY AND SUPERVISING AGENCY OF THE JUVENILE AT LEAST
27 NINETY-ONE DAYS PRIOR TO THE END OF THE JUVENILE'S DIVERSION

1 PROGRAM, DEFERRED ADJUDICATION, INFORMAL ADJUSTMENT, OR
2 SENTENCE THAT ALL RECORDS IN A JUVENILE DELINQUENCY CASE IN THE
3 CUSTODY OF THE COURT, AND ANY RECORDS RELATED TO THE CASE AND
4 CHARGES IN THE CUSTODY OF ANY OTHER AGENCY, PERSON, COMPANY, OR
5 ORGANIZATION, WILL BE EXPUNGED AFTER COMPLETION OF:

6 (I) A JUVENILE DIVERSION PROGRAM, A DEFERRED ADJUDICATION,
7 OR AN INFORMAL ADJUSTMENT;

8 (II) A JUVENILE SENTENCE FOR AN ADJUDICATION FOR A CLASS 1
9 MISDEMEANOR, OR A MISDEMEANOR OFFENSE INVOLVING DOMESTIC
10 VIOLENCE AS DEFINED IN SECTION 18-6-800.3 IF THE OFFENSE DID NOT
11 INVOLVE UNLAWFUL SEXUAL BEHAVIOR AS DEFINED IN SECTION 16-22-102
12 (9);

13 (III) A JUVENILE SENTENCE FOR AN ADJUDICATION FOR A
14 MISDEMEANOR OFFENSE INVOLVING UNLAWFUL SEXUAL CONTACT AS
15 DESCRIBED IN SECTION 18-3-404; OR

16 (IV) A JUVENILE SENTENCE FOR AN ADJUDICATION FOR A FELONY
17 OFFENSE OR FELONY DRUG OFFENSE IF:

18 (A) THE FELONY OFFENSE DID NOT CONSTITUTE UNLAWFUL
19 SEXUAL BEHAVIOR AS DEFINED IN SECTION 16-22-102 (9);

20 (B) THE FELONY OFFENSE WAS NOT A CRIME OF VIOLENCE AS
21 DESCRIBED IN SECTION 18-1.3-406;

22 (C) THE FELONY OFFENSE WAS NOT A CLASS 1 OR CLASS 2 FELONY;
23 AND

24 (D) THE JUVENILE HAD NO PRIOR FELONY ADJUDICATIONS.

25 (b) UPON RECEIPT OF THE NOTICE FROM THE COURT IN SUBSECTION
26 (5)(a) OF THIS SECTION, THE PROSECUTING ATTORNEY SHALL CONTACT
27 THE VICTIM REGARDING EXPUNGEMENT.

1 (c) UPON ISSUANCE OF THE NOTICE FROM THE COURT IN
2 SUBSECTION (5)(a) OF THIS SECTION, THE SUPERVISING AGENCY MUST
3 PREPARE A REPORT AND SUMMARY OF SUPERVISION OUTLINING THE
4 PERFORMANCE OF THE JUVENILE WHILE UNDER SUPERVISION. IF THE
5 JUVENILE IS NO LONGER UNDER SUPERVISION, THE SUPERVISING AGENCY
6 MUST CONTACT THE JUVENILE AND SUMMARIZE THE JUVENILE'S ACTIVITIES
7 SINCE TERMINATION OF SUPERVISION TO ASSIST THE COURT IN MAKING ITS
8 DETERMINATION OF THE APPROPRIATENESS FOR EXPUNGEMENT. THE
9 SUPERVISING AGENCY SHALL PROVIDE THE REPORT TO THE COURT, THE
10 PROSECUTING ATTORNEY, THE JUVENILE, AND THE JUVENILE'S ATTORNEY
11 OF RECORD WITHIN TWENTY-EIGHT DAYS OF THE NOTICE FROM THE COURT.

12 (d) IF NEITHER THE PROSECUTING ATTORNEY NOR A VICTIM FILES
13 AN OBJECTION WITHIN EIGHTY-FOUR DAYS AFTER RECEIPT OF THE NOTICE
14 BY THE PROSECUTING ATTORNEY PURSUANT TO SUBSECTION (5)(a) OF THIS
15 SECTION, THE COURT SHALL ORDER ALL RECORDS IN THE JUVENILE
16 DELINQUENCY CASE IN THE CUSTODY OF THE COURT, AND ANY RECORDS
17 RELATED TO THE CASE AND CHARGES IN THE CUSTODY OF ANY OTHER
18 AGENCY, PERSON, COMPANY, OR ORGANIZATION, EXPUNGED. ■ ■ ■

19 (e) IF THE PROSECUTING ATTORNEY OR A VICTIM FILES AN
20 OBJECTION WITHIN EIGHTY-FOUR DAYS AFTER RECEIPT OF THE NOTICE BY
21 THE PROSECUTING ATTORNEY PURSUANT TO SUBSECTION (5)(a) OF THIS
22 SECTION, THE COURT SHALL SCHEDULE A HEARING ON THE ISSUE OF
23 EXPUNGEMENT. THE COURT SHALL NOTIFY ALL OBJECTING PARTIES OF THE
24 HEARING DATE. THE HEARING MUST BE SET AT LEAST THIRTY-FIVE DAYS
25 AFTER THE DATE THE COURT SENDS NOTICE OF THE HEARING.

26 (f) IF A HEARING IS SCHEDULED PURSUANT TO SUBSECTION (5)(e)
27 OF THIS SECTION, THE COURT SHALL SEND NOTICE TO THE LAST KNOWN

1 ADDRESS OF THE JUVENILE NOTIFYING THE JUVENILE OF THE DATE OF THE
2 HEARING AND OF THE JUVENILE'S RIGHT TO APPEAR AT THE HEARING AND
3 TO PRESENT EVIDENCE TO THE COURT IN WRITING PRIOR TO THE HEARING
4 AND IN PERSON AT THE HEARING. THE NOTICE MUST INDICATE THAT, AT
5 THE HEARING, THE COURT WILL CONSIDER WHETHER THE JUVENILE HAS
6 BEEN REHABILITATED AND WHETHER EXPUNGEMENT IS IN THE BEST
7 INTEREST OF THE JUVENILE AND THE COMMUNITY. THE JUVENILE IS NOT
8 REQUIRED TO APPEAR AT THE HEARING.

9 (g) AT A HEARING HELD PURSUANT TO THIS SUBSECTION (5), THE
10 COURT SHALL ORDER ALL RECORDS OF THE CASE IN THE CUSTODY OF THE
11 COURT, AND ANY RECORDS RELATED TO THE CASE OR CHARGES IN THE
12 CUSTODY OF ANY OTHER AGENCY, PERSON, COMPANY, OR ORGANIZATION,
13 EXPUNGED IF THE COURT MAKES WRITTEN FINDINGS THAT:

14 (I) THE REHABILITATION OF THE JUVENILE HAS BEEN ATTAINED TO
15 THE SATISFACTION OF THE COURT; AND

16 (II) THE EXPUNGEMENT IS IN THE BEST INTEREST OF THE JUVENILE
17 AND THE COMMUNITY.

18 (h) THE COURT SHALL, ON OR BEFORE NOVEMBER 1 OF EACH YEAR,
19 REVIEW ALL JUVENILE DELINQUENCY COURT FILES DURING THE TWO
20 PREVIOUS YEARS THAT RESULTED IN PARTICIPATION IN DIVERSION, A
21 DEFERRED ADJUDICATION, OR AN INFORMAL ADJUSTMENT; A SENTENCE
22 FOR A CLASS 1 MISDEMEANOR OFFENSE, ANY DRUG FELONY OFFENSE, OR
23 A MISDEMEANOR OFFENSE INVOLVING DOMESTIC VIOLENCE AS DEFINED IN
24 SECTION 18-6-800.3; OR A FELONY OFFENSE THAT DID NOT CONSTITUTE
25 UNLAWFUL SEXUAL BEHAVIOR AS DEFINED IN SECTION 16-22-102(9), WAS
26 NOT A CRIME OF VIOLENCE AS DESCRIBED IN SECTION 18-1.3-406, AND WAS
27 NOT A CLASS 1 OR CLASS 2 FELONY. THE COURT SHALL SEND THE

1 NOTICE REQUIRED FOR ALL RECORDS ELIGIBLE FOR A NOTICE PURSUANT TO
2 THIS SUBSECTION (5) IF THE NOTICE WAS NOT PREVIOUSLY SENT AND AN
3 EXPUNGEMENT ORDER WAS NOT PREVIOUSLY MADE. AFTER THE NOTICE IS
4 SENT, THE PROVISIONS OF SUBSECTIONS (5)(b) TO (5)(g) OF THIS SECTION
5 APPLY.

6 [REDACTED]

7 (i) WITH THE VICTIM'S CONSENT, THE PROSECUTING ATTORNEY
8 MAY AGREE AT THE TIME OF A PLEA THAT THERE WILL BE NO OBJECTION
9 TO EXPUNGEMENT UPON THE COMPLETION OF THE JUVENILE'S SENTENCE.
10 IN SUCH A CASE, THE COURT SHALL ORDER ALL RECORDS OF THE CASE IN
11 THE CUSTODY OF THE COURT, AND ANY RECORDS RELATED TO THE CASE
12 OR CHARGES IN THE CUSTODY OF ANY OTHER AGENCY, PERSON, COMPANY,
13 OR ORGANIZATION, EXPUNGED UPON COMPLETION OF THE JUVENILE'S
14 SENTENCE. A HEARING IS NOT REQUIRED.

15 (j) A PERSON MAY FILE A PETITION WITH THE COURT FOR
16 EXPUNGEMENT OF HIS OR HER RECORD PURSUANT TO THIS SUBSECTION (5)
17 ONLY ONCE DURING A TWELVE-MONTH PERIOD.

18 (6) NOTWITHSTANDING THE PROVISIONS OF SUBSECTIONS (4) AND
19 (5) OF THIS SECTION, A COURT SHALL NOT EXPUNGE THE RECORD OF A
20 PERSON WHO IS:

21 (a) ADJUDICATED AS AN AGGRAVATED JUVENILE OFFENDER
22 PURSUANT TO SECTION 19-2-516 (4);

23 (b) ADJUDICATED OF HOMICIDE AND RELATED OFFENSES
24 PURSUANT TO PART 1 OF ARTICLE 3 OF TITLE 18;

25 (c) ADJUDICATED FOR A FELONY OFFENSE INVOLVING UNLAWFUL
26 SEXUAL BEHAVIOR AS DESCRIBED IN SECTION 16-22-102 (9); OR

27 (d) ADJUDICATED AS A MANDATORY SENTENCE OFFENDER

1 PURSUANT TO SECTION 19-2-516 (1), A REPEAT JUVENILE OFFENDER
2 PURSUANT TO SECTION 19-2-516 (2), OR A VIOLENT JUVENILE OFFENDER
3 PURSUANT TO SECTION 19-2-516 (3).

4 (7) **Municipal court records.** (a) THE COURT SHALL SEND NOTICE
5 TO THE PROSECUTING ATTORNEY THAT ALL RECORDS IN A CASE CHARGING
6 A JUVENILE WITH A VIOLATION OF A MUNICIPAL CODE OR ORDINANCE, ALL
7 RECORDS OF THE CASE IN THE CUSTODY OF THE COURT, AND ANY RECORDS
8 RELATED TO THE CASE OR CHARGES IN THE CUSTODY OF ANY OTHER
9 AGENCY, PERSON, COMPANY, OR ORGANIZATION WILL BE EXPUNGED
10 FORTY-TWO DAYS AFTER COMPLETION OF THE MUNICIPAL SENTENCE.

11 (b) (I) UPON ISSUANCE OF THE NOTICE FROM THE COURT, THE
12 SUPERVISING AGENCY SHALL PREPARE A SUMMARY REPORT OF THE
13 SUPERVISION OUTLINING THE PERFORMANCE OF THE JUVENILE WHILE
14 UNDER SUPERVISION. THE SUPERVISING AGENCY SHALL PROVIDE THE
15 REPORT TO THE COURT, THE PROSECUTING ATTORNEY, THE JUVENILE, AND
16 THE JUVENILE'S ATTORNEY OF RECORD WITHIN TWENTY-EIGHT DAYS OF
17 THE NOTICE FROM THE COURT.

18 (II) IF THERE IS NOT A SUPERVISING AGENCY AND THE
19 PROSECUTING ATTORNEY DOES NOT FILE AN OBJECTION WITHIN
20 FORTY-TWO DAYS AFTER RECEIPT OF THE NOTICE FROM THE COURT
21 PURSUANT TO SUBSECTION (7)(a) OF THIS SECTION, THE MUNICIPAL COURT
22 SHALL ORDER ALL RECORDS RELATED TO THE CASE AND CHARGES IN THE
23 CUSTODY OF ANY OTHER AGENCY, PERSON, COMPANY, OR ORGANIZATION
24 EXPUNGED.

25 (c) IF THE PROSECUTING ATTORNEY DOES NOT FILE AN OBJECTION
26 WITHIN FORTY-TWO DAYS AFTER RECEIPT OF THE NOTICE FROM THE COURT
27 PURSUANT TO SUBSECTION (7)(a) OF THIS SECTION, THE MUNICIPAL COURT

1 SHALL ORDER ALL RECORDS RELATED TO THE CASE AND CHARGES IN THE
2 CUSTODY OF ANY OTHER AGENCY, PERSON, COMPANY, OR ORGANIZATION
3 EXPUNGED.

4 (d) IF THE PROSECUTING ATTORNEY FILES AN OBJECTION WITHIN
5 FORTY-TWO DAYS AFTER RECEIPT OF THE NOTICE BY THE COURT
6 PURSUANT TO SUBSECTION (7)(a) OF THIS SECTION, THE COURT SHALL
7 SCHEDULE A HEARING ON THE ISSUE OF EXPUNGEMENT. THE COURT SHALL
8 NOTIFY THE PROSECUTING ATTORNEY OF THE HEARING DATE.

9 (e) IF A HEARING IS SCHEDULED PURSUANT TO SUBSECTION (7)(d)
10 OF THIS SECTION, THE COURT SHALL SEND NOTICE TO THE LAST KNOWN
11 ADDRESS OF THE JUVENILE NOTIFYING THE JUVENILE OF THE DATE OF THE
12 HEARING AND OF THE JUVENILE'S RIGHT TO APPEAR AT THE HEARING AND
13 TO PRESENT EVIDENCE TO THE COURT IN WRITING PRIOR TO THE HEARING
14 AND IN PERSON AT THE HEARING. THE NOTICE MUST INDICATE THAT, AT
15 THE HEARING, THE COURT WILL CONSIDER WHETHER THE JUVENILE HAS
16 BEEN REHABILITATED AND WHETHER THE EXPUNGEMENT IS IN THE BEST
17 INTEREST OF THE JUVENILE AND THE COMMUNITY. THE JUVENILE IS NOT
18 REQUIRED TO APPEAR AT THE HEARING.

19 (f) AT A HEARING HELD PURSUANT TO THIS SUBSECTION (7), THE
20 COURT SHALL ORDER ALL RECORDS OF THE CASE IN THE CUSTODY OF THE
21 COURT, AND ANY RECORDS RELATED TO THE CASE OR CHARGES IN THE
22 CUSTODY OF ANY OTHER AGENCY, PERSON, COMPANY, OR ORGANIZATION,
23 EXPUNGED IF THE COURT MAKES WRITTEN FINDINGS THAT THE JUVENILE
24 SUCCESSFULLY COMPLETED THE SENTENCE OR THE MUNICIPAL COURT
25 CASE IS CLOSED.

26 
27 (g) ON NOVEMBER 1 OF EACH YEAR, THE MUNICIPAL COURT SHALL

1 REVIEW ALL JUVENILE COURT FILES DURING THE TWO PREVIOUS YEARS
2 THAT RESULTED IN A FINDING OF NOT GUILTY OR GUILTY OR RESULTED IN
3 DIVERSION, DEFERRED JUDGMENT, DISMISSAL, OR OTHER DISPOSITION OR
4 RESOLUTION, AND ENTER AN EXPUNGEMENT ORDER FOR ALL JUVENILES
5 ELIGIBLE FOR EXPUNGEMENT PURSUANT TO THIS SUBSECTION (7) IF THE
6 EXPUNGEMENT ORDER WAS NOT PREVIOUSLY MADE.

7 (h) IN THE EVENT THAT MUNICIPAL RECORDS HAVE NOT BEEN
8 EXPUNGED PURSUANT TO THIS SECTION, AN INDIVIDUAL MAY PETITION THE
9 JUVENILE COURT IN THE JUDICIAL DISTRICT WHERE THE MUNICIPALITY IS
10 LOCATED TO EXPUNGE RECORDS OF A MUNICIPAL CASE BROUGHT AGAINST
11 A JUVENILE. EXPUNGEMENT PROCEEDINGS PURSUANT TO THIS SUBSECTION
12 (7) MUST BE INITIATED BY THE FILING OF A PETITION REQUESTING AN
13 ORDER OF EXPUNGEMENT. A FILING FEE, NOTARIZATION, OR OTHER
14 FORMALITIES SHALL NOT BE REQUIRED. IF THE PETITION IS NOT GRANTED
15 WITHOUT A HEARING, THE COURT SHALL SET A DATE FOR A HEARING ON
16 THE PETITION FOR EXPUNGEMENT AND SHALL NOTIFY THE APPROPRIATE
17 PROSECUTING ATTORNEY.

18 (i) THE COURT SHALL ORDER ALL RECORDS RELATED TO THE
19 MUNICIPAL CASE IN THE CUSTODY OF THE COURT, AND ANY RECORDS
20 RELATED TO THE CASE AND CHARGES IN THE CUSTODY OF ANY OTHER
21 AGENCY, PERSON, COMPANY, OR ORGANIZATION, EXPUNGED PURSUANT TO
22 THIS SUBSECTION (7) IF THE COURT FINDS THAT THE SENTENCE HAS BEEN
23 COMPLETED OR THE MUNICIPAL COURT CASE IS CLOSED.

24 (8) UPON THE ENTRY OF AN ORDER EXPUNGING A RECORD
25 PURSUANT TO THIS SECTION, THE COURT SHALL ORDER, IN WRITING, THE
26 EXPUNGEMENT OF ALL CASE RECORDS IN THE CUSTODY OF THE COURT AND
27 ANY RECORDS RELATED TO THE CASE AND CHARGES IN THE CUSTODY OF

1 ANY OTHER AGENCY, PERSON, COMPANY, OR ORGANIZATION. THE COURT
2 MAY ORDER EXPUNGED ANY RECORDS, BUT, AT A MINIMUM, THE
3 FOLLOWING RECORDS MUST BE EXPUNGED PURSUANT TO EVERY
4 EXPUNGEMENT ORDER:

- 5 (a) ALL COURT RECORDS;
- 6 (b) ALL RECORDS RETAINED WITHIN THE OFFICE OF THE
7 PROSECUTING ATTORNEY;
- 8 (c) ALL PROBATION AND PAROLE RECORDS;
- 9 (d) ALL LAW ENFORCEMENT RECORDS;
- 10 (e) ALL DEPARTMENT OF HUMAN SERVICES RECORDS, INCLUDING
11 DISASSOCIATING THE OFFENSE AND THE DISPOSITION INFORMATION FROM
12 THE NAME OF THE YOUTH IN THE MANAGEMENT INFORMATION SYSTEM;
- 13 (f) ALL DIVISION OF YOUTH CORRECTIONS RECORDS;
- 14 (g) ALL DEPARTMENT OF CORRECTIONS RECORDS; AND
- 15 (h) REFERENCES TO THE CRIMINAL CASE OR CHARGE CONTAINED
16 IN THE SCHOOL RECORDS.

17 (9) WHEN AN EXPUNGEMENT ORDER IS ISSUED PURSUANT TO THIS
18 SECTION, THE COURT SHALL SEND A COPY OF THE ORDER TO THE JUVENILE,
19 THE JUVENILE'S LAST ATTORNEY OF RECORD, AND EACH AGENCY, PERSON,
20 COMPANY, OR ORGANIZATION NAMED THEREIN, DIRECTING THE ENTITY TO
21 EXPUNGE ITS RECORDS WITHIN THIRTY-FIVE DAYS AFTER THE RECEIPT OF
22 THE ORDER. EACH SUCH AGENCY, PERSON, COMPANY, OR ORGANIZATION
23 SHALL EXPUNGE THE RECORDS IN ITS CUSTODY AS DIRECTED BY THE
24 ORDER. THE PERSON WHO IS THE SUBJECT OF RECORDS EXPUNGED
25 PURSUANT TO THIS SECTION MAY PETITION THE COURT TO PERMIT
26 INSPECTION OF THE RECORDS HELD BY PERSONS NAMED IN THE ORDER,
27 AND THE COURT MAY SO ORDER.

1 (10) ANY AGENCY, PERSON, COMPANY, OR ORGANIZATION THAT
2 VIOLATES THIS SECTION AND KNEW OR SHOULD HAVE KNOWN THAT THE
3 RECORDS IN QUESTION WERE SUBJECT TO AN EXPUNGEMENT ORDER MAY
4 BE SUBJECT TO CRIMINAL AND CIVIL CONTEMPT OF COURT AND MAY BE
5 PUNISHED BY A FINE.

6 (11) EMPLOYERS; EDUCATIONAL INSTITUTIONS; LANDLORDS; AND
7 STATE AND LOCAL GOVERNMENT AGENCIES, OFFICIALS, AND EMPLOYEES
8 SHALL NOT, IN ANY APPLICATION OR INTERVIEW OR IN ANY OTHER WAY,
9 REQUIRE AN APPLICANT TO DISCLOSE ANY INFORMATION CONTAINED IN
10 EXPUNGED RECORDS. IN ANSWER TO ANY QUESTION CONCERNING ARREST
11 OR JUVENILE AND CRIMINAL RECORDS INFORMATION THAT HAS BEEN
12 EXPUNGED, AN APPLICANT NEED NOT INCLUDE A REFERENCE TO OR
13 INFORMATION CONCERNING THE EXPUNGED INFORMATION AND MAY STATE
14 THAT NO RECORD EXISTS. AN APPLICATION MAY NOT BE DENIED SOLELY
15 BECAUSE OF THE APPLICANT'S REFUSAL TO DISCLOSE RECORDS OR
16 INFORMATION THAT HAS BEEN EXPUNGED.

17 (12) NOTHING IN THIS SECTION AUTHORIZES THE PHYSICAL
18 DESTRUCTION OF ANY CRIMINAL JUSTICE RECORD.

19 **SECTION 3.** In Colorado Revised Statutes, **add** 16-18.5-112 as
20 follows:

21 **16-18.5-112. Effect of expungement.** NOTWITHSTANDING THE
22 ENTRY OF AN ORDER OF EXPUNGEMENT PURSUANT TO SECTION 19-1-306,
23 THE PROVISIONS OF THIS ARTICLE 18.5 APPLY.

24 **SECTION 4.** In Colorado Revised Statutes, 18-7-201.3, **repeal**
25 (2)(b) as follows:

26 **18-7-201.3. Affirmative defense - human trafficking -**
27 **expungement of record protective order - definitions.** (2) (b) A

1 ~~juvenile charged with or adjudicated of prostitution, as described in~~
2 ~~section 18-7-201 or any corresponding municipal code or ordinance, for~~
3 ~~an offense committed before July 1, 2015, which offense was committed~~
4 ~~as a direct result of being a victim of human trafficking, as defined in~~
5 ~~subsection (4) of this section, may apply to the court for expungement of~~
6 ~~his or her record pursuant to section 19-1-306, C.R.S.~~

7 **SECTION 5.** In Colorado Revised Statutes, 24-4.1-302, **amend**
8 (2)(r.3) as follows:

9 **24-4.1-302. Definitions.** As used in this part 3, and for no other
10 purpose, including the expansion of the rights of any defendant:

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

13 (r.3) (I) EXCEPT AS PROVIDED IN SUBSECTION (2)(r.3)(II) OF THIS
14 SECTION, any hearing concerning a petition for expungement as described
15 in ~~section 19-1-306 (5) (a), C.R.S.;~~ SECTION 19-1-306.

16 (II) THE ENTRY OF AN ORDER OF EXPUNGEMENT IS NOT A CRITICAL
17 STAGE IF:

18 (A) THE CASE RESULTED IN A NOT GUILTY VERDICT AT TRIAL;

19 (B) THE CASE WAS DISMISSED IN ITS ENTIRETY;

20 (C) THE JUVENILE COMPLETED A SENTENCE FOR A PETTY OFFENSE,
21 ANY DRUG PETTY OFFENSE, ANY LEVEL 1 OR LEVEL 2 DRUG MISDEMEANOR,
22 OR A CLASS 2 OR CLASS 3 MISDEMEANOR OFFENSE NOT INVOLVING
23 UNLAWFUL SEXUAL BEHAVIOR AS DEFINED IN SECTION 16-22-109 (9),
24 DOMESTIC VIOLENCE AS DESCRIBED IN SECTION 18-6-800.3, OR A CRIME
25 THAT IS NOT A CRIME LISTED UNDER SECTION 24-4.1-302 (1); OR

26 (D) THE JUVENILE COMPLETED A SENTENCE FOR A MUNICIPAL
27 OFFENSE NOT INVOLVING DOMESTIC VIOLENCE AS DESCRIBED IN SECTION

1 18-6-800.3.

2 **SECTION 6.** In Colorado Revised Statutes, 24-4.1-302.5, **amend**
3 (1)(d)(VIII) as follows:

4 **24-4.1-302.5. Rights afforded to victims.** (1) In order to
5 preserve and protect a victim's rights to justice and due process, each
6 victim of a crime has the following rights:

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

8 (VIII) Involving a petition for expungement as described in
9 ~~section 19-1-306 (5) (a), C.R.S.~~ SECTION 19-1-306.

10 **SECTION 7.** In Colorado Revised Statutes, 24-33.5-412, **amend**
11 (3)(a); and **repeal** (3)(b) as follows:

12 **24-33.5-412. Functions of bureau - legislative review -**
13 **interagency cooperation with reporting functions - processing time**
14 **for criminal history record checks - computer crime - synthetic**
15 **cannabinoids enforcement.** (3) (a) Any other provision of law to the
16 contrary notwithstanding and excluding title 19, ~~C.R.S.~~, ~~except as~~
17 ~~provided in paragraph (b) of this subsection (3)~~, on and after July 1, 1971,
18 in accordance with a program to be established by the bureau, every law
19 enforcement, correctional, and judicial entity, agency, or facility in this
20 state shall furnish to the bureau all arrest, identification, and final charge
21 dispositional information on persons arrested in Colorado for federal,
22 state, or out-of-state criminal offenses and on persons received for service
23 of any sentence of incarceration. The department of corrections shall
24 furnish its information to the bureau within twenty-four hours of the time
25 a person is received into the custody of the department for service of
26 sentence and prior to twenty-four hours of the time of the person's final
27 discharge from supervision. The department shall also report to the

1 bureau a person's release to parole or to a community correctional facility
2 or program prior to twenty-four hours of such release. The provision of
3 information required by this subsection (3) shall be made in a manner
4 prescribed by the bureau; except that the provision of information by
5 judicial entities, agencies, and facilities shall be under procedures to be
6 established jointly by the state court administrator and the director.

7 (b) ~~On or after July 1, 1983, the bureau may establish a program~~
8 ~~under which every entity, agency, or facility specified in paragraph (a) of~~
9 ~~this subsection (3) shall furnish to the bureau the information specified in~~
10 ~~section 19-1-306 (3), C.R.S.~~

11 **SECTION 8.** In Colorado Revised Statutes, 13-1-119.5, **amend**
12 **(1)(e) and (1)(f); and add (1)(g) as follows:**

13 **13-1-119.5. Electronic access to name index and register of**
14 **actions.** (1) Statewide electronic read-only access to the name index and
15 register of actions of public case types must be made available to the
16 following agencies or attorneys appointed by the court:

17 (e) A respondent parent's counsel under contract with the office
18 of the respondent parents' counsel, created in section 13-92-103, or
19 authorized by the office of the respondent parents' counsel to act as a
20 respondent parent's counsel, as it relates to a case in which they are
21 appointed by the court; ~~and~~

22 (f) Criminal justice agencies as described in section 24-72-302
23 (3); ~~C.R.S.~~; AND

24 (g) A LICENSED ATTORNEY WORKING WITH A NONPROFIT
25 ASSOCIATION PURSUANT TO THE PROVISIONS OF SECTION 19-1-304 (7)(f).

26 **SECTION 9. Appropriation.** (1) For the 2017-18 state fiscal
27 year, \$108,710 is appropriated to the department of human services. This

1 appropriation is from the general fund. To implement this act, the
2 department may use this appropriation for the purchase of information
3 technology services.

4 (2) For the 2017-18 state fiscal year, \$108,710 is appropriated to
5 the office of the governor for use by the office of information technology.
6 This appropriation is from reappropriated funds received from the
7 department of human services under subsection (1) of this section. To
8 implement this act, the office may use this appropriation to provide
9 information technology services for the department of human services.

10 (3) For the 2017-18 state fiscal year, \$45,237 is appropriated to
11 the judicial department. This appropriation is from the general fund. To
12 implement this act, the department may use this appropriation as follows:
13 (a) \$40,534 for trial court programs, which amount is based on an
14 assumption that the department will require an additional 0.8 FTE; and
15 (b) \$4,703 for capital outlay related to courts administration.

16 (4) For the 2017-18 state fiscal year, \$12,294 is appropriated to
17 the department of public safety for use by the biometric identification and
18 records unit. This appropriation is from the general fund and is based on
19 an assumption that the unit will require an additional 0.4 FTE. To
20 implement this act, the unit may use this appropriation to seal records for
21 juvenile expungements.

22 **SECTION 10. Effective date.** This act takes effect September 1,
23 2017.

24 **SECTION 11. Safety clause.** The general assembly hereby finds,
25 determines, and declares that this act is necessary for the immediate
26 preservation of the public peace, health, and safety.