

SENATE COMMITTEE OF REFERENCE REPORT

Chairman of Committee

May 3, 2017
Date

Committee on Judiciary.

After consideration on the merits, the Committee recommends the following:

HB17-1204 be amended as follows, and as so amended, be referred to the Committee on Appropriations with favorable recommendation:

- 1 Amend reengrossed bill, page 3, line 6, strike "(5),".
- 2 Page 7, strike lines 7 through 27.
- 3 Page 8, strike line 1.
- 4 Page 13, line 8, after "ANY" insert "JUVENILE OR".
- 5 Page 13, line 20, after "DISCUSSING" insert "WITH THE VICTIM".
- 6 Page 14, after line 13 insert:
 - 7 "(f) NOTWITHSTANDING ANY ORDER FOR EXPUNGEMENT ISSUED
 - 8 PURSUANT TO THIS SECTION, NOTHING IN THIS SECTION PRECLUDES A
 - 9 COUNTY DEPARTMENT OF HUMAN OR SOCIAL SERVICES EMPLOYEE FROM
 - 10 REVIEWING INTERNAL DEPARTMENT RECORDS THAT ARE ORDERED
 - 11 EXPUNGED AND ARE IN THE COUNTY DEPARTMENT'S POSSESSION FOR
 - 12 PURPOSES OF DEPARTMENT INVESTIGATIONS AND CASE MANAGEMENT IN
 - 13 THE PROVISION OF CHILD WELFARE SERVICES."
- 14 Page 15, lines 4 and 5, strike "AND EACH AGENCY, PERSON, COMPANY, OR
- 15 ORGANIZATION NAMED THEREIN," and substitute "THE PROSECUTING
- 16 ATTORNEY, THE LAW ENFORCEMENT AGENCY OR AGENCIES THAT
- 17 INVESTIGATED THE CASE, THE STATE COURT ADMINISTRATOR'S OFFICE,
- 18 AND THE COLORADO BUREAU OF INVESTIGATION,".

1 Page 16, strike lines 9 through 12 and substitute "MISDEMEANOR OR A
2 PETTY OR A MISDEMEANOR OFFENSE THAT IS NOT ELIGIBLE FOR
3 EXPUNGEMENT UNDER SUBSECTION (4) OF THIS SECTION, IF THE OFFENSE
4 DID NOT INVOLVE UNLAWFUL SEXUAL BEHAVIOR AS DEFINED IN SECTION
5 16-22-102 (9)".

6 Page 17, line 13, strike "RECEIPT" and substitute "THE ISSUANCE".

7 Page 17, line 14, strike "BY THE PROSECUTING ATTORNEY".

8 Page 18, line 18, strike "ON OR BEFORE NOVEMBER 1 OF EACH YEAR," and
9 substitute "STARTING ON NOVEMBER 1, 2019, AND EACH NOVEMBER 1
10 THEREAFTER,".

11 Page 19, line 7, after "CONSENT," insert "OR IF THERE IS NO NAMED
12 VICTIM,".

13 Page 19, strike lines 15 through 17 and substitute:

14 "(j) A JUVENILE WHO WAS ADJUDICATED AS A MANDATORY
15 SENTENCE OFFENDER PURSUANT TO SECTION 19-2-516 (1) OR AS A REPEAT
16 JUVENILE OFFENDER PURSUANT TO SECTION 19-2-516 (2) IS NOT ELIGIBLE
17 FOR EXPUNGEMENT UNDER THIS SUBSECTION (5), BUT MAY PETITION FOR
18 EXPUNGEMENT PURSUANT TO SUBSECTION (6) OF THIS SECTION.

19 (6) (a) A PERSON MAY PETITION THE JUVENILE COURT TO EXPUNGE
20 RECORDS IN A CLOSED CASE PURSUANT TO SUBSECTION (4) OF THIS
21 SECTION IF THE RECORDS ARE OTHERWISE ELIGIBLE FOR EXPUNGEMENT,
22 HAVE NOT BEEN EXPUNGED BY THE COURT, AND A PROCEEDING
23 CONCERNING A FELONY, MISDEMEANOR, OR DELINQUENCY ACTION IS NOT
24 PENDING AGAINST THE PETITIONER. A FILING FEE, NOTARIZATION, OR
25 OTHER FORMALITIES ARE NOT REQUIRED. IF THE COURT DETERMINES THE
26 RECORDS ARE ELIGIBLE FOR EXPUNGEMENT PURSUANT TO THE
27 REQUIREMENTS OF SUBSECTION (4) OF THIS SECTION, THE COURT SHALL
28 GRANT THE PETITION TO EXPUNGE WITHOUT A HEARING AND SHALL ISSUE
29 AN ORDER PURSUANT TO SUBSECTION (4) OF THIS SECTION.

30 (b) A PERSON MAY PETITION THE JUVENILE COURT TO EXPUNGE
31 RECORDS IN A CLOSED CASE PURSUANT TO SUBSECTION (5) OF THIS
32 SECTION IF THE RECORDS ARE OTHERWISE ELIGIBLE FOR EXPUNGEMENT,
33 HAVE NOT BEEN EXPUNGED BY THE COURT, AND A PROCEEDING
34 CONCERNING A FELONY, MISDEMEANOR, OR DELINQUENCY ACTION IS NOT
35 PENDING AGAINST THE PETITIONER. A FILING FEE, NOTARIZATION, OR
36 OTHER FORMALITIES ARE NOT REQUIRED. IF THE RECORDS ARE ELIGIBLE

1 FOR EXPUNGEMENT PURSUANT TO SUBSECTION (5) OF THIS SECTION, THE
2 COURT SHALL ISSUE A NOTICE PURSUANT TO SUBSECTION (5)(a) OF THIS
3 SECTION AND THE PROVISIONS OF SUBSECTION (5) OF THIS SECTION APPLY.

4 (c) A PERSON MAY PETITION THE JUVENILE COURT TO EXPUNGE
5 RECORDS RELATED TO A LAW ENFORCEMENT CONTACT THAT DID NOT
6 RESULT IN REFERRAL TO ANOTHER AGENCY AFTER ONE YEAR HAS PASSED
7 SINCE THE LAW ENFORCEMENT CONTACT AND A PROCEEDING CONCERNING
8 A FELONY, MISDEMEANOR, OR DELINQUENCY ACTION IS NOT PENDING
9 AGAINST THE PETITIONER. A FILING FEE, NOTARIZATION, OR OTHER
10 FORMALITIES ARE NOT REQUIRED. IF THE RECORDS ARE ELIGIBLE FOR
11 EXPUNGEMENT PURSUANT TO SUBSECTION (5) OF THIS SECTION, THE
12 COURT SHALL ISSUE A NOTICE PURSUANT TO SUBSECTION (5)(a) OF THIS
13 SECTION AND THE PROVISIONS OF SUBSECTION (5) OF THIS SECTION APPLY.

14 (d) A PERSON MAY PETITION THE JUVENILE COURT TO EXPUNGE
15 RECORDS IN A CLOSED CASED PURSUANT TO SUBSECTION (5) OF THIS
16 SECTION IF THE PERSON WAS PREVIOUSLY DENIED AN EXPUNGEMENT
17 ORDER FOR THOSE SAME RECORDS PURSUANT TO SUBSECTION (5) OF THIS
18 SECTION AND AT LEAST TWELVE MONTHS HAVE PASSED SINCE THE DATE
19 OF THE ORIGINAL DENIAL ORDER, THE PETITIONER PROVIDES NEW
20 INFORMATION NOT PREVIOUSLY CONSIDERED BY THE PRIOR REVIEWING
21 COURT, AND A PROCEEDING CONCERNING A FELONY, MISDEMEANOR, OR
22 DELINQUENCY ACTION IS NOT PENDING AGAINST THE PETITIONER. THE
23 COURT SHALL SCHEDULE A HEARING AND NOTIFY THE PROSECUTING
24 ATTORNEY OF THE HEARING DATE. THE COURT SHALL SET THE HEARING AT
25 LEAST THIRTY-FIVE DAYS AFTER THE COURT SENDS THE NOTICE OF THE
26 HEARING. ALL OTHER PROVISIONS OF SUBSECTION (5) OF THIS SECTION
27 APPLY.

28 (e) A JUVENILE WHO WAS ADJUDICATED AS A MANDATORY
29 SENTENCE OFFENDER PURSUANT TO SECTION 19-2-516 (1) OR AS A REPEAT
30 OFFENDER PURSUANT TO SECTION 19-2-516 (2), AND IS NOT OTHERWISE
31 INELIGIBLE FOR EXPUNGEMENT PURSUANT TO THE PROVISIONS OF
32 SUBSECTION (8) OF THIS SECTION AND DOES NOT HAVE A PROCEEDING
33 CONCERNING A FELONY, MISDEMEANOR, OR DELINQUENCY ACTION
34 PENDING AGAINST HIMSELF OR HERSELF, MAY PETITION THE COURT TO
35 REQUEST EXPUNGEMENT OF HIS OR HER RECORD THIRTY-SIX MONTHS
36 AFTER THE DATE OF THE PETITIONER'S UNCONDITIONAL RELEASE FROM HIS
37 OR HER JUVENILE SENTENCE. A FILING FEE, NOTARIZATION, OR OTHER
38 FORMALITIES ARE NOT REQUIRED. THE COURT SHALL ISSUE A NOTICE
39 PURSUANT TO SUBSECTION (5)(a) OF THIS SECTION AND THE PROVISIONS
40 OF SUBSECTION (5) OF THIS SECTION APPLY.

41 (7) UNLESS OTHERWISE STATED IN THE APPLICABLE SECTION, A
42 PERSON MAY FILE A PETITION WITH THE COURT FOR EXPUNGEMENT OF HIS

- 1 OR HER RECORD PURSUANT TO SUBSECTIONS (4), (5), AND (6) OF THIS
2 SECTION ONLY ONCE DURING A TWELVE-MONTH PERIOD."
- 3 Renumber succeeding subsections accordingly.
- 4 Page 19, lines 18 and 19, strike "SUBSECTIONS (4) AND (5) OF THIS
5 SECTION," and substitute "SUBSECTIONS (4), (5), AND (6) OF THIS
6 SECTION,".
- 7 Page 19, line 22, strike "19-2-516 (4);" and substitute "19-2-516(4) OR AS
8 A VIOLENT JUVENILE OFFENDER PURSUANT TO SECTION 19-2-516 (3);".
- 9 Page 19, strike line 27 and substitute:
10 "(d) CHARGED, ADJUDICATED, OR CONVICTED OF ANY OFFENSE OR
11 INFRACTION PURSUANT TO TITLE 42."
- 12 Page 20, strike lines 1 through 3.
- 13 Page 20, line 6, after "ORDINANCE," insert "EXCLUDING OFFENSES
14 CHARGED PURSUANT TO TITLE 42,".
- 15 Page 20, strike lines 11 through 24.
- 16 Reletter succeeding paragraphs accordingly.
- 17 Page 20, line 27, strike "(7)(a)" and substitute "(9)(a)".
- 18 Page 21, line 6, strike "(7)(a)" and substitute "(9)(a)".
- 19 Page 21, line 9, strike "(7)(d)" and substitute "(9)(c)".
- 20 Page 21, line 19, strike "(7)," and substitute "(9),".
- 21 Page 22, line 5, strike "(7)" and substitute "(9)".
- 22 Page 22, line 12, strike "(7)" and substitute "(9)".
- 23 Page 22, line 22, strike "(7)" and substitute "(9)".
- 24 Page 24, line 2, strike "OR SHOULD HAVE KNOWN".
- 25 Page 24, line 18, after "ANY" insert "JUVENILE OR".

- 1 Page 24, after line 23 insert:
- 2 "SECTION 4. In Colorado Revised Statutes, 18-1.3-701, add
- 3 (4.5) as follows:
- 4 **18-1.3-701. Judgment for costs and fines.**
- 5 (4.5) NOTWITHSTANDING THE ENTRY OF AN ORDER OF EXPUNGEMENT
- 6 PURSUANT TO SECTION 19-1-306, THE PROVISIONS OF THIS PART 7 APPLY.".
- 7 Renumber succeeding sections accordingly.
- 8 Page 25, line 25, strike "NOT".
- 9 Page 26, strike lines 10 through 27.
- 10 Page 27, strike lines 1 through 10.
- 11 Renumber succeeding sections accordingly.
- 12 Page 28, line 22, strike "September" and substitute "November".

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