

Second Regular Session  
Seventy-first General Assembly  
STATE OF COLORADO

INTRODUCED

LLS NO. 18-0704.01 Michael Dohr x4347

SENATE BILL 18-072

---

SENATE SPONSORSHIP

**Moreno,**

HOUSE SPONSORSHIP

**(None),**

---

Senate Committees

Judiciary

House Committees

---

A BILL FOR AN ACT

101 CONCERNING THE ABILITY TO PETITION TO HAVE CONVICTION

102 RECORDS SEALED FOR CERTAIN MISDEMEANOR OFFENSES.

---

**Bill Summary**

*(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)*

The bill allows a person who was convicted of misdemeanor menacing or third degree assault, if the conviction did not involve domestic violence, to petition a court to have that conviction sealed.

---

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

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.

1           **SECTION 1.** In Colorado Revised Statutes, **add** 24-72-711 as  
2 follows:

3           **24-72-711. Sealing of criminal conviction records information**  
4 **for misdemeanor menacing and assault offenses.** (1) (a) A DEFENDANT  
5 MAY PETITION THE DISTRICT COURT OF THE DISTRICT IN WHICH ANY  
6 CONVICTION RECORDS PERTAINING TO THE DEFENDANT FOR A  
7 MISDEMEANOR OFFENSE FOR MENACING AS DESCRIBED IN SECTION  
8 18-3-206 THAT DID NOT INVOLVE DOMESTIC VIOLENCE AS DEFINED IN  
9 SECTION 18-6-800.3 (1) OR THIRD DEGREE ASSAULT AS DESCRIBED IN  
10 SECTION 18-3-204 THAT DID NOT INVOLVE DOMESTIC VIOLENCE AS  
11 DEFINED IN SECTION 18-6-800.3 (1), EXCEPT BASIC IDENTIFYING  
12 INFORMATION, IF:

13           (I) THE PETITION IS FILED TEN OR MORE YEARS AFTER THE DATE OF  
14 THE FINAL DISPOSITION OF ALL CRIMINAL PROCEEDINGS AGAINST THE  
15 DEFENDANT OR THE RELEASE OF THE DEFENDANT FROM SUPERVISION  
16 CONCERNING A CRIMINAL CONVICTION, WHICHEVER IS LATER; AND

17           (II) THE DEFENDANT HAS NOT BEEN CHARGED OR CONVICTED FOR  
18 A FELONY, MISDEMEANOR, OR MISDEMEANOR TRAFFIC OFFENSE IN THE TEN  
19 OR MORE YEARS SINCE THE DATE OF THE FINAL DISPOSITION OF ALL  
20 CRIMINAL PROCEEDINGS AGAINST HIM OR HER OR THE DATE OF THE  
21 DEFENDANT'S RELEASE FROM SUPERVISION, WHICHEVER IS LATER.

22           (b) UPON FILING THE PETITION, THE DEFENDANT SHALL PAY THE  
23 FILING FEE REQUIRED BY LAW.

24           (2) (a) UPON THE FILING OF A PETITION, THE COURT SHALL REVIEW  
25 THE PETITION AND DETERMINE WHETHER THERE ARE GROUNDS UNDER THIS  
26 SECTION TO PROCEED TO A HEARING ON THE PETITION. IF THE COURT  
27 DETERMINES THAT THE PETITION ON ITS FACE IS INSUFFICIENT OR IF THE

1 COURT DETERMINES THAT, AFTER TAKING JUDICIAL NOTICE OF MATTERS  
2 OUTSIDE THE PETITION, THE DEFENDANT IS NOT ENTITLED TO RELIEF  
3 UNDER THIS SECTION, THE COURT SHALL ENTER AN ORDER DENYING THE  
4 PETITION AND MAIL A COPY OF THE ORDER TO THE DEFENDANT. THE  
5 COURT'S ORDER SHALL SPECIFY THE REASONS FOR THE DENIAL OF THE  
6 PETITION.

7 (b) IF THE COURT DETERMINES THAT THE PETITION IS SUFFICIENT  
8 ON ITS FACE AND THAT NO OTHER GROUNDS EXIST AT THAT TIME FOR THE  
9 COURT TO DENY THE PETITION UNDER THIS SECTION, THE COURT SHALL SET  
10 A DATE FOR A HEARING, AND THE DEFENDANT SHALL NOTIFY BY CERTIFIED  
11 MAIL THE PROSECUTING ATTORNEY, THE ARRESTING AGENCY, AND ANY  
12 OTHER PERSON OR AGENCY IDENTIFIED BY THE DEFENDANT.

13 (3) AFTER THE HEARING DESCRIBED IN SUBSECTION (2) OF THIS  
14 SECTION IS CONDUCTED AND IF THE COURT FINDS THAT THE HARM TO THE  
15 PRIVACY OF THE DEFENDANT OR THE DANGERS OF UNWARRANTED,  
16 ADVERSE CONSEQUENCES TO THE DEFENDANT OUTWEIGH THE PUBLIC  
17 INTEREST IN RETAINING THE CONVICTION RECORDS, THE COURT MAY  
18 ORDER THE CONVICTION RECORDS, EXCEPT BASIC IDENTIFICATION  
19 INFORMATION, TO BE SEALED. IN MAKING THIS DETERMINATION, THE  
20 COURT SHALL, AT A MINIMUM, CONSIDER THE FACTORS IN SECTION  
21 24-72-704 (1)(c). AN ORDER ENTERED PURSUANT TO THIS SUBSECTION (3)  
22 MUST BE DIRECTED TO EACH CUSTODIAN WHO MAY HAVE CUSTODY OF ANY  
23 PART OF THE CONVICTION RECORDS THAT ARE THE SUBJECT OF THE ORDER.  
24 WHENEVER A COURT ENTERS AN ORDER SEALING CONVICTION RECORDS  
25 PURSUANT TO THIS SUBSECTION (3), THE DEFENDANT SHALL PROVIDE THE  
26 COLORADO BUREAU OF INVESTIGATION AND EACH CUSTODIAN OF THE  
27 CONVICTION RECORDS WITH A COPY OF THE ORDER. THE PETITIONER SHALL

1 PROVIDE A PRIVATE CUSTODIAN WITH A COPY OF THE ORDER AND SEND  
2 THE PRIVATE CUSTODIAN AN ELECTRONIC NOTIFICATION OF THE ORDER.  
3 EACH PRIVATE CUSTODIAN THAT RECEIVES A COPY OF THE ORDER FROM  
4 THE PETITIONER SHALL REMOVE THE RECORDS THAT ARE SUBJECT TO AN  
5 ORDER FROM ITS DATABASE. THE DEFENDANT SHALL PAY TO THE BUREAU  
6 ANY COSTS RELATED TO THE SEALING OF HIS OR HER CRIMINAL  
7 CONVICTION RECORDS IN THE CUSTODY OF THE BUREAU. THEREAFTER, THE  
8 DEFENDANT MAY REQUEST AND THE COURT MAY GRANT AN ORDER  
9 SEALING THE CIVIL CASE IN WHICH THE CONVICTION RECORDS WERE  
10 SEALED.

11 (4) THE PROVISIONS OF THIS SECTION SHALL NOT APPLY TO  
12 CONVICTION RECORDS THAT ARE IN THE POSSESSION OF A CRIMINAL  
13 JUSTICE AGENCY WHEN AN INQUIRY CONCERNING THE CONVICTION  
14 RECORDS IS MADE BY ANOTHER CRIMINAL JUSTICE AGENCY.

15 **SECTION 2. Act subject to petition - effective date -**  
16 **applicability.** (1) This act takes effect at 12:01 a.m. on the day following  
17 the expiration of the ninety-day period after final adjournment of the  
18 general assembly (August 8, 2018, if adjournment sine die is on May 9,  
19 2018); except that, if a referendum petition is filed pursuant to section 1  
20 (3) of article V of the state constitution against this act or an item, section,  
21 or part of this act within such period, then the act, item, section, or part  
22 will not take effect unless approved by the people at the general election  
23 to be held in November 2018 and, in such case, will take effect on the  
24 date of the official declaration of the vote thereon by the governor.

25 (2) This act applies to petitions filed on or after the applicable  
26 effective date of this act and applies to convictions entered before the  
27 effective date of this act.