

Second Regular Session  
Seventy-first General Assembly  
STATE OF COLORADO

REVISED

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

LLS NO. 18-0041.01 Richard Sweetman x4333

**HOUSE BILL 18-1078**

**HOUSE SPONSORSHIP**

**Landgraf and Exum,**

**SENATE SPONSORSHIP**

**Gardner,**

**House Committees**  
Judiciary

**Senate Committees**  
Judiciary

**A BILL FOR AN ACT**

101 **CONCERNING COURT PROGRAMS FOR DEFENDANTS WHO HAVE SERVED**  
102 **IN THE ARMED FORCES.**

**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>.)*

At the first appearance of a defendant in court or upon arraignment, and before accepting a plea of guilty or nolo contendere, the court shall ascertain whether the defendant is currently serving in the United States armed forces or is a veteran of such forces. The court shall inform any such defendant that he or she may be entitled to receive mental health treatment, substance use disorder treatment, or other

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  
Amended 2nd Reading  
March 22, 2018

HOUSE  
3rd Reading Unamended  
March 5, 2018

HOUSE  
Amended 2nd Reading  
February 28, 2018

services.

Under current law, the chief judge of a judicial district may establish an appropriate program for the treatment of veterans and members of the military. The bill states that, in establishing any such program, the chief judge, in collaboration with the probation department, the district attorney, and the state public defender, shall establish program guidelines and eligibility criteria that are agreed upon by these parties to be most appropriate for the jurisdiction creating the program.

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

2           **SECTION 1.** In Colorado Revised Statutes, **add** 16-7-207.5 as  
3 follows:

4           **16-7-207.5. Court's duty to inform defendants with current or**  
5 **prior military service on first appearance in court and on pleas of**  
6 **guilty.** (1) AT THE FIRST APPEARANCE OF A DEFENDANT IN COURT OR  
7 UPON ARRAIGNMENT, WHICHEVER IS FIRST IN TIME, THE COURT SHALL  
8 ASCERTAIN WHETHER THE DEFENDANT IS SERVING IN THE UNITED STATES  
9 ARMED FORCES OR IS A VETERAN OF SUCH FORCES. THE COURT SHALL  
10 INFORM ANY SUCH DEFENDANT THAT HE OR SHE MAY BE ENTITLED TO  
11 RECEIVE MENTAL HEALTH TREATMENT, SUBSTANCE USE DISORDER  
12 TREATMENT, OR OTHER SERVICES AS A VETERAN.

13           (2) THE COURT SHALL NOT ACCEPT A PLEA OF GUILTY OR NOLO  
14 CONTENDERE WITHOUT FIRST DETERMINING WHETHER THE DEFENDANT IS  
15 SERVING IN THE UNITED STATES ARMED FORCES OR IS A VETERAN OF SUCH  
16 FORCES AND, IF SO, INFORMING THE DEFENDANT AS DESCRIBED IN  
17 SUBSECTION (1) OF THIS SECTION.

18           (3) THIS SECTION APPLIES TO, BUT IS NOT LIMITED TO,  
19 PROSECUTIONS FOR VIOLATIONS OF MUNICIPAL CHARTERS AND  
20 PROSECUTIONS FOR VIOLATIONS OF MUNICIPAL ORDINANCES, EXCEPT FOR  
21 TRAFFIC INFRACTIONS FOR WHICH THE PENALTY IS ONLY A FINE AND

1 ARREST IS PROHIBITED.

2 **SECTION 2.** In Colorado Revised Statutes, **amend** 13-5-144 as  
3 follows:

4 **13-5-144. Chief judge - veterans treatment court authority.**

5 The chief judge of a judicial district may establish an appropriate program  
6 for the treatment of veterans and members of the military. IN  
7 ESTABLISHING ANY SUCH PROGRAM, THE CHIEF JUDGE, IN COLLABORATION  
8 WITH THE PROBATION DEPARTMENT, THE DISTRICT ATTORNEY, AND THE  
9 STATE PUBLIC DEFENDER, SHALL ESTABLISH PROGRAM GUIDELINES AND  
10 ELIGIBILITY CRITERIA.

11 **SECTION 3.** In Colorado Revised Statutes, 24-72-702, **add**  
12 (1)(b)(II)(C) as follows:

13 **24-72-702. Sealing of arrest and criminal records other than**  
14 **convictions.** (1) (b) (II) (C) IF THE PERSON IN INTEREST HAS  
15 SUCCESSFULLY COMPLETED A VETERANS TREATMENT PROGRAM  
16 ESTABLISHED PURSUANT TO SECTION 13-5-144 IN THE CASE THAT IS THE  
17 SUBJECT OF THE PETITION TO SEAL, THE COURT SHALL CONSIDER SUCH  
18 FACTOR FAVORABLY IN DETERMINING WHETHER TO ISSUE AN ORDER TO  
19 SEAL RECORDS PURSUANT TO THIS SECTION.

20 **SECTION 4.** In Colorado Revised Statutes, 24-72-704, **amend**  
21 (1)(c) as follows:

22 **24-72-704. Sealing of criminal conviction records information**  
23 **for offenses involving controlled substances for convictions entered**  
24 **on or after July 1, 2008, and prior to July 1, 2011. (1) Sealing of**  
25 **conviction records.** (c) After the hearing described in ~~subparagraph (H)~~  
26 ~~of paragraph (b) of this subsection (1)~~ SUBSECTION (1)(b)(II) OF THIS  
27 SECTION is conducted and if the court finds that the harm to the privacy

1 of the defendant or the dangers of unwarranted, adverse consequences to  
2 the defendant outweigh the public interest in retaining the conviction  
3 records, the court may order the conviction records, except basic  
4 identification information, to be sealed. In making this determination, the  
5 court shall, at a minimum, consider the severity of the offense that is the  
6 basis of the conviction records sought to be sealed, the criminal history  
7 of the defendant, the number of convictions and dates of the convictions  
8 for which the defendant is seeking to have the records sealed, and the  
9 need for the government agency to retain the records. IF THE PERSON IN  
10 INTEREST HAS SUCCESSFULLY COMPLETED A VETERANS TREATMENT  
11 PROGRAM ESTABLISHED PURSUANT TO SECTION 13-5-144 IN THE CASE  
12 THAT IS THE SUBJECT OF THE PETITION TO SEAL, THE COURT SHALL  
13 CONSIDER SUCH FACTOR FAVORABLY IN DETERMINING WHETHER TO ISSUE  
14 AN ORDER TO SEAL RECORDS PURSUANT TO THIS SECTION. THE COURT  
15 SHALL DIRECT an order entered pursuant to this ~~paragraph (c)~~ shall be  
16 ~~directed~~ SUBSECTION (1)(c) to each custodian who may have custody of  
17 any part of the conviction records that are the subject of the order.  
18 Whenever a court enters an order sealing conviction records pursuant to  
19 this ~~paragraph (c)~~ SUBSECTION (1)(c), the defendant shall provide the  
20 Colorado bureau of investigation and each custodian of the conviction  
21 records with a copy of the order. The petitioner shall provide a private  
22 custodian with a copy of the order and send the private custodian an  
23 electronic notification of the order. Each private custodian that receives  
24 a copy of the order from the petitioner shall remove the records that are  
25 subject to an order from its database. The defendant shall pay to the  
26 bureau any costs related to the sealing of his or her criminal conviction  
27 records in the custody of the bureau. Thereafter, the defendant may

1 request and the court may grant an order sealing the civil case in which  
2 the conviction records were sealed.

3 **SECTION 5.** In Colorado Revised Statutes, 24-72-705, add  
4 (1)(d)(V) and (1)(e)(V) as follows:

5 **24-72-705. Sealing of criminal conviction records information**  
6 **for offenses involving controlled substances for convictions entered**  
7 **on or after July 1, 2011. (1) Sealing of conviction records. (d) (V) IF**  
8 **THE PERSON IN INTEREST HAS SUCCESSFULLY COMPLETED A VETERANS**  
9 **TREATMENT PROGRAM ESTABLISHED PURSUANT TO SECTION 13-5-144 IN**  
10 **THE CASE THAT IS THE SUBJECT OF THE PETITION TO SEAL, THE COURT**  
11 **SHALL CONSIDER SUCH FACTOR FAVORABLY IN DETERMINING WHETHER TO**  
12 **ISSUE AN ORDER TO SEAL RECORDS PURSUANT TO SUBSECTIONS (1)(d)(II)**  
13 **TO (1)(d)(IV) OF THIS SECTION.**

14 **(e) (V) IF THE PERSON IN INTEREST HAS SUCCESSFULLY**  
15 **COMPLETED A VETERANS TREATMENT PROGRAM ESTABLISHED PURSUANT**  
16 **TO SECTION 13-5-144 IN THE CASE THAT IS THE SUBJECT OF THE PETITION**  
17 **TO SEAL, THE COURT SHALL CONSIDER SUCH FACTOR FAVORABLY IN**  
18 **DETERMINING WHETHER TO ISSUE AN ORDER TO SEAL RECORDS PURSUANT**  
19 **TO SUBSECTIONS (1)(e)(II) TO (1)(e)(IV) OF THIS SECTION. \_\_\_\_\_**

20 **SECTION 6.** In Colorado Revised Statutes, 24-72-708, add  
21 **(2)(c)** as follows:

22 **24-72-708. Sealing of criminal conviction records information**  
23 **for petty offenses and municipal offenses for convictions. (2) (c) IF**  
24 **THE PERSON IN INTEREST HAS SUCCESSFULLY COMPLETED A VETERANS**  
25 **TREATMENT PROGRAM ESTABLISHED PURSUANT TO SECTION 13-5-144 IN**  
26 **THE CASE THAT IS THE SUBJECT OF THE PETITION TO SEAL, THE COURT**  
27 **SHALL CONSIDER SUCH FACTOR FAVORABLY IN DETERMINING WHETHER TO**

1 ISSUE AN ORDER TO SEAL RECORDS PURSUANT TO THIS SECTION.

2 **SECTION 7.** In Colorado Revised Statutes, 24-72-709, add (2.5)  
3 as follows:

4 **24-72-709. Sealing of criminal conviction records information**  
5 **for posting an intimate photograph of a person on the internet.**

6 (2.5) IF THE PERSON IN INTEREST HAS SUCCESSFULLY COMPLETED A  
7 VETERANS TREATMENT PROGRAM ESTABLISHED PURSUANT TO SECTION  
8 13-5-144 IN THE CASE THAT IS THE SUBJECT OF THE PETITION TO SEAL, THE  
9 COURT SHALL CONSIDER SUCH FACTOR FAVORABLY IN DETERMINING  
10 WHETHER TO ISSUE AN ORDER TO SEAL RECORDS PURSUANT TO THIS  
11 SECTION.

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