

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

INTRODUCED

LLS NO. 19-1119.01 Michael Dohr x4347

HOUSE BILL 19-1335

HOUSE SPONSORSHIP

Gonzales-Gutierrez and Bockenfeld,

SENATE SPONSORSHIP

Lee and Cooke,

House Committees
Judiciary

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING EXPUNGEMENT OF JUVENILE RECORDS, AND, IN**
102 **CONNECTION THEREWITH, MAKING CLARIFYING CHANGES TO**
103 **THE EXPUNGEMENT PROCESS AND PROCEDURE AND CLARIFYING**
104 **THAT JUVENILE RECORD EXPUNGEMENT APPLIES TO MUNICIPAL**
105 **COURTS.**

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 makes changes and clarifications to the juvenile record expungement provisions. The bill clarifies which dismissals and

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.

alternative dispositions are eligible for automatic expungement. The bill allows expungement of a diversion record without filing a case and allows a victim an opportunity to object. The bill clarifies when a sentence is complete, which triggers the expungement process. Under current law, a class 1 misdemeanor sex offense can be expunged. The bill allows class 2 and class 3 misdemeanor sex offenses to be expunged. The bill requires the juvenile court to determine whether a juvenile who has his or her record expunged for a sex offense should have a continuing duty to register as a sex offender. The bill clarifies to whom the notice of expungement needs to be sent so that only the agencies with the records receive the notice.

The bill makes clear that juvenile record expungement applies in municipal court by creating a new section for municipal court expungement.

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

2 **SECTION 1.** In Colorado Revised Statutes, 19-1-306, **amend**
3 (4)(a)(II), (4)(a)(III), (4)(b), (5)(a) introductory portion, (5)(a)(I),
4 (5)(a)(II), (5)(c), (5)(d), (5)(e), (6)(b), (6)(c), (6)(e), and (11); **repeal**
5 (5)(a)(III) and (5)(b); **repeal and reenact, with amendments**, (9); and
6 **add** (5)(e.5) as follows:

7 **19-1-306. Expungement of juvenile delinquent records -**
8 **definition.** (4) (a) The court shall order all records in a juvenile
9 delinquency case in the custody of the court, and any records related to
10 the case and charges in the custody of any other agency, person, company,
11 or organization, expunged within forty-two days after:

12 (II) Dismissal of the petition in its entirety PRIOR TO ANY
13 DISPOSITION OR ALTERNATIVE TO SENTENCING, INCLUDING DIVERSION, A
14 DEFERRED ADJUDICATION, OR AN INFORMAL ADJUSTMENT; or

15 (III) The completion of a sentence OR ALTERNATIVE TO
16 SENTENCING, INCLUDING DIVERSION, A DEFERRED ADJUDICATION, OR AN
17 INFORMAL ADJUSTMENT, for a petty offense, drug petty offense, class 2 or

1 class 3 misdemeanor offense, or level 1 or level 2 drug misdemeanor if
2 the offense does not involve unlawful sexual behavior as defined in
3 section 16-22-102 (9), is not an act of domestic violence as defined in
4 section 18-6-800.3, or is not a crime listed under section 24-4.1-302 (1),
5 and the defendant was under eighteen years of age at the time the offense
6 was committed.

7 (b) (I) ~~When an expungement order is issued pursuant to this~~
8 ~~section, the court shall send a copy of the order to the juvenile, the~~
9 ~~juvenile's last attorney of record, the prosecuting attorney, the law~~
10 ~~enforcement agency or agencies that investigated the case, the state court~~
11 ~~administrator's office, the division of youth services, and the Colorado~~
12 ~~bureau of investigation, directing the entity to expunge the records in its~~
13 ~~custody as directed in the order. The person who is the subject of records~~
14 ~~expunged pursuant to this section may petition the court to permit~~
15 ~~inspection of the records held by persons named in the order, and the~~
16 ~~court may so order~~ UPON SUCCESSFUL COMPLETION OF DIVERSION AT THE
17 PREFILING LEVEL AS AN ALTERNATIVE TO THE FILING OF A PETITION, THE
18 CUSTODIAN OF ANY RECORD SHALL EXPUNGE THE RECORD IN THE
19 CUSTODY OF LAW ENFORCEMENT, THE JUVENILE'S SCHOOL, THE DIVERSION
20 PROVIDER, AND THE DISTRICT ATTORNEY WITHOUT THE NEED FOR A COURT
21 ORDER.

22 (II) THE DISTRICT ATTORNEY OR OTHER DIVERSION PROVIDER
23 SHALL NOTIFY THE COLORADO BUREAU OF INVESTIGATION, THE LAW
24 ENFORCEMENT AGENCY THAT HAD CONTACT WITH THE JUVENILE, AND THE
25 JUVENILE'S SCHOOL, IF THE INCIDENT OCCURRED AT SCHOOL OR THE
26 DISTRICT ATTORNEY NOTIFIED THE SCHOOL OF THE CASE, THAT DIVERSION
27 IS COMPLETE AND THE RECORDS ARE EXPUNGED. ANY LAW ENFORCEMENT

1 AGENCY OR SCHOOL THAT RECEIVES A NOTICE SHALL ACKNOWLEDGE
2 RECEIPT OF THE NOTICE. THE COLORADO BUREAU OF INVESTIGATION, LAW
3 ENFORCEMENT AGENCY, SCHOOL, DIVERSION PROVIDER, AND DISTRICT
4 ATTORNEY SHALL TREAT THE RECORDS AS EXPUNGED WITHIN THIRTY-FIVE
5 DAYS AFTER THE COMPLETION OF DIVERSION, AND ALL PROVISIONS OF THIS
6 SECTION ADDRESSING EXPUNGED RECORDS APPLY TO THOSE RECORDS.

7 (III) IF VICTIM NOTIFICATION IS REQUIRED PURSUANT TO SECTION
8 24-4.1-302.5 OR 24-4.1-303, THE DISTRICT ATTORNEY SHALL NOTIFY THE
9 VICTIM PRIOR TO SENDING THE NOTICE PURSUANT TO SUBSECTION
10 (4)(b)(II) OF THIS SECTION, AND OFFER THE VICTIM AN OPPORTUNITY TO
11 OBJECT. IF THE VICTIM OBJECTS, THE DISTRICT ATTORNEY SHALL NOTIFY
12 THE COURT AND THE DIVERSION PROVIDER. UPON RECEIPT OF THE NOTICE
13 OF OBJECTION FROM THE DISTRICT ATTORNEY, THE DIVERSION PROVIDER
14 SHALL COMPLETE AND FILE A REPORT PURSUANT TO SUBSECTION (5)(c) OF
15 THIS SECTION, AND THE PROVISIONS OF SUBSECTIONS (5)(e), (5)(e.5),
16 (5)(f), AND (5)(g) OF THIS SECTION APPLY.

17 ~~(5) (a) The court shall send notice to the prosecuting attorney and~~
18 ~~supervising agency of the juvenile at least ninety-one days prior to the end~~
19 ~~of the juvenile's diversion program, deferred adjudication, informal~~
20 ~~adjustment, or sentence that all records in a juvenile delinquency case in~~
21 ~~the custody of the court, and any records related to the case and charges~~
22 ~~in the custody of any other agency, person, company, or organization, will~~
23 ~~be expunged after completion of~~ AT THE TIME THAT THE COURT ORDERS
24 THE FOLLOWING SENTENCES OR ALTERNATIVES TO SENTENCING, THE
25 COURT SHALL MAKE A FINDING THAT THE JUVENILE IS ELIGIBLE FOR
26 EXPUNGEMENT PURSUANT TO THIS SUBSECTION (5) AND INCLUDE THAT
27 FINDING ON THE WRITTEN MITTIMUS OR OTHER SENTENCING DOCUMENT:

1 (I) A juvenile diversion program, a deferred adjudication, or an
2 informal adjustment, EXCEPT FOR THOSE DESCRIBED IN SUBSECTION
3 (4)(a)(III) OF THIS SECTION;

4 (II) A juvenile sentence for an adjudication for a class 1
5 misdemeanor or a petty or a misdemeanor offense that is not eligible for
6 expungement ~~under~~ PURSUANT TO subsection (4) of this section; ~~if the~~
7 ~~offense did not involve unlawful sexual behavior as defined in section~~
8 ~~16-22-102 (9);~~ OR

9 (III) ~~A juvenile sentence for an adjudication for a misdemeanor~~
10 ~~offense involving unlawful sexual contact as described in section~~
11 ~~18-3-404; or~~

12 (b) Upon receipt of the notice from the court in subsection (5)(a)
13 of this section, the prosecuting attorney shall contact the victim regarding
14 expungement.

15 (c) (I) ~~Upon issuance of the notice from the court in subsection~~
16 ~~(5)(a) of this section, the supervising agency must~~ IF THE COURT MAKES
17 A FINDING THAT A JUVENILE IS ELIGIBLE FOR EXPUNGEMENT PURSUANT TO
18 SUBSECTION (5)(a) OF THIS SECTION, THE AGENCY SUPERVISING THE
19 JUVENILE SHALL, AT THE CONCLUSION OF THE AGENCY'S SUPERVISION,
20 prepare a report and summary of supervision outlining the performance
21 of the juvenile while under supervision. ~~If the juvenile is no longer under~~
22 ~~supervision, the supervising agency must contact the juvenile and~~
23 ~~summarize the juvenile's activities since termination of supervision to~~
24 ~~assist the court in making its determination of the appropriateness for~~
25 ~~expungement.~~ The supervising agency shall ~~provide~~ FILE the report to
26 WITH the court AND PROVIDE A COPY OF THE REPORT TO the prosecuting
27 attorney, the juvenile, and the juvenile's attorney of record ~~within~~

1 ~~twenty-eight days of the notice from the court~~ NO EARLIER THAN
2 THIRTY-FIVE DAYS PRIOR TO THE END OF SUPERVISION AND NO LATER
3 THAN FOURTEEN DAYS AFTER THE CONCLUSION OF SUPERVISION. IF THERE
4 IS NO SUPERVISING AGENCY, THE COURT SHALL SEND A NOTICE THAT THE
5 UNSUPERVISED SENTENCE IS COMPLETE TO THE DISTRICT ATTORNEY WHEN
6 THE SENTENCE IS COMPLETE.

7 (II) UPON RECEIPT OF THE REPORT OR NOTICE PURSUANT TO THIS
8 SUBSECTION (5)(c), THE PROSECUTING ATTORNEY SHALL CONTACT THE
9 VICTIM REGARDING EXPUNGEMENT IF NOTIFICATION IS REQUIRED
10 PURSUANT TO SECTION 24-4.1-302.5 OR 24-4.1-303.

11 (d) If neither the prosecuting attorney nor a victim files an
12 objection within ~~eighty-four~~ THIRTY-FIVE days after the ~~issuance~~ FILING
13 of the REPORT OR notice pursuant to ~~subsection (5)(a)~~ SUBSECTION (5)(c)
14 of this section, the court shall order all records in the juvenile delinquency
15 case in the custody of the court, and any records related to the case and
16 charges in the custody of any other agency, person, company, or
17 organization, expunged.

18 (e) If the prosecuting attorney or a victim files an objection within
19 ~~eighty-four~~ THIRTY-FIVE days after ~~receipt~~ THE FILING of the REPORT OR
20 notice ~~by the prosecuting attorney~~ pursuant to ~~subsection (5)(a)~~
21 SUBSECTION (5)(c) of this section, the court shall schedule a hearing on
22 the issue of expungement. The court shall notify all objecting parties of
23 the hearing date. The hearing must be set at least thirty-five days after the
24 date the court sends notice of the hearing.

25 (e.5) IF THE OFFENSE FOR WHICH THE RECORDS ARE ELIGIBLE FOR
26 EXPUNGEMENT REQUIRES THE JUVENILE TO REGISTER PURSUANT TO
27 SECTION 16-22-103 AND THE COURT HAS NOT ALREADY ISSUED A NOTICE

1 PURSUANT TO SECTION 16-22-113 (1.3)(b), UPON RECEIPT OF THE REPORT
2 FROM THE SUPERVISING AGENCY PURSUANT TO SUBSECTION (5)(c) OF THIS
3 SECTION, THE COURT SHALL ISSUE A NOTICE PURSUANT TO SECTION
4 16-22-113 (1.3)(b) AND THIS SUBSECTION (5)(e.5), AND THE VICTIM AND
5 PROSECUTION HAVE SIXTY-THREE DAYS FROM THE ISSUANCE OF THAT
6 NOTICE TO FILE AN OBJECTION TO EXPUNGEMENT OR THE
7 DISCONTINUATION OF REGISTRATION. ALL OTHER REQUIREMENTS OF
8 SUBSECTIONS (5)(d), (5)(e), (5)(f), AND (5)(g) OF THIS SECTION APPLY. IF
9 THE COURT HAS NOT ALREADY ORDERED THAT THE JUVENILE MAY
10 DISCONTINUE REGISTRATION PURSUANT TO SECTION 16-22-113, THE
11 COURT SHALL ENTER AN ORDER GRANTING EXPUNGEMENT AND
12 DISCONTINUING THE REGISTRATION REQUIREMENT, DENYING
13 EXPUNGEMENT AND DISCONTINUING THE REGISTRATION REQUIREMENT, OR
14 DENYING EXPUNGEMENT AND CONTINUING THE REGISTRATION
15 REQUIREMENT.

16 (6) (b) A person may petition the juvenile court to expunge
17 records in a closed case pursuant to subsection (5) of this section if the
18 records are otherwise eligible for expungement, have not been expunged
19 by the court, and a proceeding concerning a felony, misdemeanor, or
20 delinquency action is not pending against the petitioner. A filing fee,
21 notarization, or other formalities are not required. If the records are
22 eligible for expungement pursuant to subsection (5) of this section, the
23 court shall REQUEST A REPORT FROM THE AGENCY SUPERVISING THE
24 JUVENILE OR issue a notice pursuant to ~~subsection (5)(a)~~ SUBSECTION
25 (5)(c) of this section, and the provisions of subsection (5) of this section
26 apply.

27 (c) A person may petition the juvenile court to expunge records

1 related to a law enforcement contact that did not result in referral to
2 another agency after one year has passed since the law enforcement
3 contact and a proceeding concerning a felony, misdemeanor, or
4 delinquency action is not pending against the petitioner. A filing fee,
5 notarization, or other formalities are not required. If the records are
6 eligible for expungement pursuant to subsection (5) of this section, the
7 court shall issue a notice ~~pursuant to subsection (5)(a) of this section~~ TO
8 THE DISTRICT ATTORNEY THAT THE RECORDS WILL BE EXPUNGED IF NO
9 OBJECTION IS RECEIVED, and the provisions of subsection (5) of this
10 section apply.

11 (e) A juvenile who ~~was adjudicated as~~ DOES NOT QUALIFY FOR
12 EXPUNGEMENT PURSUANT TO SUBSECTION (4) OR (5) OF THIS SECTION,
13 INCLUDING a mandatory sentence offender pursuant to section 19-2-516
14 (1) or ~~as~~ a repeat offender pursuant to section 19-2-516 (2), and is not
15 otherwise ineligible for expungement pursuant to the provisions of
16 subsection (8) of this section and does not have a proceeding concerning
17 a felony, misdemeanor, or delinquency action pending against himself or
18 herself, may petition the court to request expungement of his or her record
19 thirty-six months after the date of the petitioner's unconditional release
20 from his or her juvenile sentence. A filing fee, notarization, or other
21 formalities are not required. The court shall ~~issue a notice pursuant to~~
22 ~~subsection (5)(a) of this section~~ SCHEDULE A HEARING, and the provisions
23 of ~~subsection (5)~~ SUBSECTIONS (5)(e), (5)(e.5), (5)(f), AND (5)(g) of this
24 section apply.

25 (9) **Municipal court records.** (a) MUNICIPAL COURT RECORDS
26 ARE EXPUNGED PURSUANT TO SECTION 13-10-115.5.

27 (b) IF MUNICIPAL COURT RECORDS HAVE NOT BEEN EXPUNGED

1 WITHIN SEVENTY DAYS FROM THE END OF THE CASE PURSUANT TO SECTION
2 13-10-115.5, AN INDIVIDUAL MAY PETITION THE JUVENILE COURT IN THE
3 JUDICIAL DISTRICT WHERE THE MUNICIPALITY IS LOCATED TO EXPUNGE
4 RECORDS OF A MUNICIPAL CASE BROUGHT AGAINST A JUVENILE.
5 EXPUNGEMENT PROCEEDINGS PURSUANT TO THIS SUBSECTION (9) MUST BE
6 INITIATED BY THE FILING OF A PETITION REQUESTING AN ORDER OF
7 EXPUNGEMENT. A FILING FEE, NOTARIZATION, OR OTHER FORMALITIES ARE
8 NOT REQUIRED. IF THE PETITION IS NOT GRANTED WITHOUT A HEARING,
9 THE COURT SHALL SET A DATE FOR A HEARING ON THE PETITION FOR
10 EXPUNGEMENT AND SHALL NOTIFY THE APPROPRIATE PROSECUTING
11 ATTORNEY.

12 (11) (a) When an expungement order is issued pursuant to this
13 section, the court shall send a copy of the order to the juvenile, the
14 juvenile's last attorney of record, ~~and each agency, person, company, or~~
15 ~~organization named therein~~ THE PROSECUTING ATTORNEY, ANY LAW
16 ENFORCEMENT AGENCY THAT INVESTIGATED THE CASE, THE STATE COURT
17 ADMINISTRATOR'S OFFICE, AND THE COLORADO BUREAU OF
18 INVESTIGATION directing the entity to expunge its records within
19 thirty-five days after the receipt of the order. ~~Each such agency, person,~~
20 ~~company, or organization shall expunge the records in its custody as~~
21 ~~directed by the order. The person who is the subject of records expunged~~
22 ~~pursuant to this section may petition the court to permit inspection of the~~
23 ~~records held by persons named in the order, and the court may so order.~~

24 (b) THE COURT SHALL SEND A COPY OF AN EXPUNGEMENT ORDER
25 TO EACH OF THE FOLLOWING, DIRECTING THE ENTITY TO EXPUNGE THE
26 RECORDS IN ITS CUSTODY AS SOON AS PRACTICABLE BUT NO LATER THAN
27 NINETY DAYS AFTER THE RECEIPT OF THE ORDER:

1 (I) THE PROBATION OFFICE IF THE JUVENILE WAS PLACED ON
2 PROBATION AT ANY POINT DURING THE CASE;

3 (II) THE DIVISION OF YOUTH SERVICES IF THE JUVENILE WAS
4 DETAINED IN A FACILITY OPERATED BY THE DIVISION, COMMITTED TO THE
5 CUSTODY OF THE DIVISION, OR SCREENED THROUGH THE COLORADO
6 YOUTH DETENTION CONTINUUM AT ANY POINT DURING THE CASE;

7 (III) THE DEPARTMENT OF HUMAN SERVICES AND ANY COUNTY
8 DEPARTMENT OF HUMAN SERVICES IF THE JUVENILE RECEIVED SERVICES
9 FROM A STATE OR COUNTY DEPARTMENT AT ANY POINT DURING THE
10 JUVENILE'S CASE; AND

11 (IV) ANY OTHER AGENCY, PERSON, COMPANY, OR ORGANIZATION
12 NAMED IN THE ORDER IF THE COURT IS AWARE THAT THE ENTITY HAS
13 RECORDS RELATED TO THE CASE IN ITS POSSESSION.

14 (c) EACH ENTITY DESCRIBED IN THIS SUBSECTION (11) SHALL
15 EXPUNGE THE RECORDS IN ITS CUSTODY AS DIRECTED BY THE ORDER.

16 (d) THE PERSON WHO IS THE SUBJECT OF RECORDS EXPUNGED
17 PURSUANT TO THIS SECTION MAY PETITION THE COURT TO PERMIT
18 INSPECTION OF THE RECORDS HELD BY PERSONS NAMED IN THE ORDER,
19 AND THE COURT MAY SO ORDER.

20 **SECTION 2.** In Colorado Revised Statutes, **add** 13-10-115.5 as
21 follows:

22 **13-10-115.5. Expungement of juvenile delinquent records -**
23 **definition.** (1) (a) FOR THE PURPOSES OF THIS SECTION, "EXPUNGEMENT"
24 IS DEFINED IN SECTION 19-1-103 (48). UPON THE ENTRY OF AN
25 EXPUNGEMENT ORDER BY A MUNICIPAL COURT, THE PERSON WHO IS THE
26 SUBJECT OF THE RECORD THAT HAS BEEN EXPUNGED MAY ASSERT THAT HE
27 OR SHE HAS NO JUVENILE MUNICIPAL COURT RECORD. THE PERSON WHO IS

1 THE SUBJECT OF THE RECORD THAT HAS BEEN EXPUNGED MAY LAWFULLY
2 DENY THAT HE OR SHE HAS EVER BEEN ARRESTED, CHARGED,
3 ADJUDICATED, CONVICTED, OR SENTENCED IN REGARD TO THE EXPUNGED
4 CASE, MATTER, OR CHARGE.

5 (b) THE COURT, LAW ENFORCEMENT AGENCY, AND ALL OTHER
6 AGENCIES SHALL REPLY TO ANY INQUIRY REGARDING AN EXPUNGED
7 RECORD THAT NO RECORD EXISTS WITH RESPECT TO THE PERSON NAMED
8 IN THE RECORD, UNLESS INFORMATION MAY BE SHARED WITH THE
9 INQUIRING PARTY PURSUANT TO SUBSECTION (3) OF THIS SECTION.

10 (2) (a) IF A JUVENILE IS SENTENCED BY A MUNICIPAL COURT, THE
11 MUNICIPAL COURT, AT SENTENCING, SHALL PROVIDE THE JUVENILE AND
12 ANY RESPONDENT PARENT OR GUARDIAN WITH A WRITTEN ADVISEMENT OF
13 THE RIGHT TO EXPUNGEMENT AND THE TIME PERIOD AND PROCESS FOR
14 EXPUNGING THE RECORD. THE MUNICIPAL COURT MAY PROVIDE THE
15 NOTICE THROUGH A MUNICIPAL DIVERSION PROGRAM, THE CITY
16 ATTORNEY, OR A MUNICIPAL PROBATION PROGRAM.

17 (b) EXPUNGEMENT MUST BE EFFECTUATED BY PHYSICALLY
18 SEALING OR CONSPICUOUSLY INDICATING ON THE FACE OF THE RECORD OR
19 AT THE BEGINNING OF THE COMPUTERIZED FILE OF THE RECORD THAT THE
20 RECORD HAS BEEN DESIGNATED AS EXPUNGED.

21 (c) A PROSECUTING ATTORNEY SHALL NOT REQUIRE AS A
22 CONDITION OF A PLEA AGREEMENT THAT A JUVENILE WAIVE HIS OR HER
23 RIGHT TO EXPUNGEMENT PURSUANT TO THIS SECTION UPON THE
24 COMPLETION OF THE JUVENILE'S SENTENCE.

25 (d) PRIOR TO THE COURT ORDERING ANY RECORDS EXPUNGED, THE
26 COURT SHALL DETERMINE WHETHER THE JUVENILE HAS ANY ACTIONS
27 PENDING BEFORE THE MUNICIPAL COURT, AND, IF THE COURT DETERMINES

1 THAT THERE IS AN ACTION PENDING AGAINST THE JUVENILE, THE COURT
2 SHALL STAY THE PETITION FOR EXPUNGEMENT PROCEEDINGS UNTIL THE
3 RESOLUTION OF THE PENDING CASE.

4 (3) (a) AFTER EXPUNGEMENT, BASIC IDENTIFICATION
5 INFORMATION ON THE JUVENILE AND A LIST OF ANY STATE AND LOCAL
6 AGENCIES AND OFFICIALS HAVING CONTACT WITH THE JUVENILE, AS THEY
7 APPEAR IN THE RECORDS, ARE NOT OPEN TO THE PUBLIC BUT ARE
8 AVAILABLE TO A PROSECUTING ATTORNEY, LOCAL LAW ENFORCEMENT
9 AGENCY, THE DEPARTMENT OF HUMAN SERVICES, THE STATE AND
10 MUNICIPAL JUDICIAL DEPARTMENTS, AND THE VICTIM, AS DEFINED IN
11 SECTION 24-4.1-302 (5); EXCEPT THAT SUCH INFORMATION IS NOT
12 AVAILABLE TO AN AGENCY OF THE MILITARY FORCES OF THE UNITED
13 STATES.

14 (b) NOTWITHSTANDING ANY ORDER FOR EXPUNGEMENT PURSUANT
15 TO THIS SECTION, ANY RECORD THAT IS ORDERED EXPUNGED IS AVAILABLE
16 TO ANY JUDGE AND THE PROBATION DEPARTMENT FOR USE IN ANY FUTURE
17 PROCEEDING IN WHICH THE PERSON WHOSE RECORD WAS EXPUNGED IS
18 CHARGED WITH AN OFFENSE AS EITHER A JUVENILE OR AS AN ADULT. A
19 NEW CRIMINAL, DELINQUENCY, OR MUNICIPAL CHARGE MAY NOT BE
20 BROUGHT AGAINST THE JUVENILE BASED UPON INFORMATION GAINED
21 INITIALLY OR SOLELY FROM EXAMINATION OF THE EXPUNGED RECORDS.

22 (c) NOTWITHSTANDING AN ORDER FOR EXPUNGEMENT PURSUANT
23 TO THIS SECTION, ANY CRIMINAL JUSTICE RECORD OF A JUVENILE WHO HAS
24 BEEN CHARGED, ADJUDICATED, OR CONVICTED OF ANY OFFENSE MUST BE
25 AVAILABLE FOR USE BY THE JUVENILE, THE JUVENILE'S ATTORNEY, A
26 PROSECUTING ATTORNEY, ANY LAW ENFORCEMENT AGENCY, OR ANY
27 AGENCY OF THE STATE OR MUNICIPAL JUDICIAL DEPARTMENTS IN ANY

1 SUBSEQUENT CRIMINAL INVESTIGATION OR PROSECUTION AS A
2 SUBSTANTIVE PREDICATE OFFENSE CONVICTION OR ADJUDICATION OF
3 RECORD.

4 (d) NOTWITHSTANDING ANY ORDER FOR EXPUNGEMENT ISSUED
5 PURSUANT TO THIS SECTION, NOTHING PREVENTS THE PROSECUTING
6 ATTORNEY, INCLUDING THE STAFF OF A PROSECUTING ATTORNEY'S OFFICE,
7 A VICTIM OR WITNESS ASSISTANCE PROGRAM, A LAW ENFORCEMENT
8 AGENCY, OR LAW ENFORCEMENT VICTIM ASSISTANCE PROGRAM FROM
9 DISCUSSING WITH THE VICTIM THE CASE, THE RESULTS OF ANY
10 EXPUNGEMENT PROCEEDINGS, INFORMATION REGARDING RESTITUTION,
11 AND INFORMATION RELATED TO ANY VICTIM SERVICES AVAILABLE TO THE
12 VICTIM AS DEFINED IN SECTION 24-4.1-302 (5), BUT COPIES OF EXPUNGED
13 RECORDS MUST NOT BE PROVIDED TO THE VICTIM. THE VICTIM MAY
14 PETITION THE COURT AND REQUEST THAT A COPY OF THE EXPUNGED
15 RECORDS BE PROVIDED TO THE VICTIM. IF THE COURT FINDS THAT THERE
16 ARE COMPELLING REASONS FOR THE RELEASE, A COPY OF THE EXPUNGED
17 RECORDS MAY BE RELEASED TO THE VICTIM. IF THE COURT ORDERS THE
18 RELEASE OF A COPY OF THE EXPUNGED RECORDS TO THE VICTIM, THE
19 COURT MUST ISSUE A PROTECTIVE ORDER REGARDING THE USE OF THE
20 EXPUNGED RECORDS.

21 (e) NOTWITHSTANDING ANY ORDER FOR EXPUNGEMENT ISSUED
22 PURSUANT TO THIS SECTION, ANY INFORMATION, INCLUDING POLICE
23 AFFIDAVITS AND REPORTS AND RECORDS RELATED TO ANY PRIOR
24 CONVICTION OR ADJUDICATION, ARE AVAILABLE WITHOUT COURT ORDER
25 TO THE PERSONS, GOVERNMENT AGENCIES, OR ENTITIES ALLOWED ACCESS
26 TO OR ALLOWED TO EXCHANGE SUCH INFORMATION PURSUANT TO SECTION
27 19-1-303 FOR THE PURPOSES DESCRIBED THEREIN. ANY PERSON WHO

1 KNOWINGLY VIOLATES THE CONFIDENTIALITY PROVISIONS OF SECTION
2 19-1-303 IS SUBJECT TO THE PENALTY IN SECTION 19-1-303 (4.7).

3 (4) (a) IN A JUVENILE MUNICIPAL CASE WHERE NO NATURAL
4 PERSON IS LISTED AS A VICTIM, THE MUNICIPAL COURT SHALL ORDER ALL
5 RECORDS IN THE JUVENILE MUNICIPAL CASE IN THE CUSTODY OF THE
6 COURT, AND ANY RECORDS RELATED TO THE CASE AND CHARGES IN THE
7 CUSTODY OF ANY OTHER AGENCY, PERSON, COMPANY, OR ORGANIZATION,
8 EXPUNGED WITHIN FORTY-TWO DAYS AFTER THE CONCLUSION OF THE
9 CASE.

10 (b) IN A JUVENILE MUNICIPAL CASE WHERE A NATURAL PERSON IS
11 LISTED AS A VICTIM, THE MUNICIPAL COURT SHALL SEND NOTICE ON THE
12 DATE THE SENTENCE IS COMPLETED TO THE PROSECUTING ATTORNEY THAT
13 ALL RECORDS IN A CASE CHARGING A JUVENILE WITH A VIOLATION OF A
14 MUNICIPAL CODE OR ORDINANCE, EXCLUDING OFFENSES CHARGED
15 PURSUANT TO TITLE 42, ALL RECORDS OF THE CASE IN THE CUSTODY OF
16 THE COURT, AND ANY RECORDS RELATED TO THE CASE OR CHARGES IN THE
17 CUSTODY OF ANY OTHER AGENCY, PERSON, COMPANY, OR ORGANIZATION
18 WILL BE EXPUNGED FORTY-TWO DAYS AFTER COMPLETION OF THE
19 MUNICIPAL SENTENCE.

20 (c) IF THE PROSECUTING ATTORNEY DOES NOT FILE AN OBJECTION
21 WITHIN FORTY-TWO DAYS AFTER RECEIPT OF THE NOTICE FROM THE COURT
22 PURSUANT TO SUBSECTION (4)(b) OF THIS SECTION, THE MUNICIPAL COURT
23 SHALL ORDER ALL RECORDS RELATED TO THE CASE AND CHARGES IN THE
24 CUSTODY OF ANY OTHER AGENCY, PERSON, COMPANY, OR ORGANIZATION
25 EXPUNGED.

26 (d) IF THE PROSECUTING ATTORNEY FILES AN OBJECTION WITHIN
27 FORTY-TWO DAYS AFTER RECEIPT OF THE NOTICE BY THE COURT

1 PURSUANT TO SUBSECTION (4)(b) OF THIS SECTION, THE COURT SHALL
2 SCHEDULE A HEARING ON THE ISSUE OF EXPUNGEMENT. THE COURT SHALL
3 NOTIFY THE PROSECUTING ATTORNEY OF THE HEARING DATE.

4 (e) IF A HEARING IS SCHEDULED PURSUANT TO SUBSECTION (4)(d)
5 OF THIS SECTION, THE COURT SHALL SEND NOTICE TO THE LAST-KNOWN
6 ADDRESS OF THE JUVENILE NOTIFYING THE JUVENILE OF THE DATE OF THE
7 HEARING AND OF THE JUVENILE'S RIGHT TO APPEAR AT THE HEARING AND
8 TO PRESENT EVIDENCE TO THE COURT IN WRITING PRIOR TO THE HEARING
9 AND IN PERSON AT THE HEARING. THE NOTICE MUST INDICATE THAT, AT
10 THE HEARING, THE COURT WILL CONSIDER WHETHER THE JUVENILE HAS
11 BEEN REHABILITATED AND WHETHER THE EXPUNGEMENT IS IN THE BEST
12 INTERESTS OF THE JUVENILE AND THE COMMUNITY. THE JUVENILE IS NOT
13 REQUIRED TO APPEAR AT THE HEARING.

14 (f) AT A HEARING HELD PURSUANT TO THIS SUBSECTION (4), THE
15 COURT SHALL ORDER ALL RECORDS OF THE CASE IN THE CUSTODY OF THE
16 COURT, AND ANY RECORDS RELATED TO THE CASE OR CHARGES IN THE
17 CUSTODY OF ANY OTHER AGENCY, PERSON, COMPANY, OR ORGANIZATION,
18 EXPUNGED IF THE JUVENILE HAS SUCCESSFULLY COMPLETED THE
19 SENTENCE, OR THE MUNICIPAL COURT CASE IS CLOSED, UNLESS THE COURT
20 FINDS, BY CLEAR AND CONVINCING EVIDENCE, THAT THE JUVENILE HAS
21 NOT BEEN REHABILITATED AND THAT EXPUNGEMENT IS NOT IN THE BEST
22 INTERESTS OF THE JUVENILE OR THE COMMUNITY. IF THE COURT ENTERS
23 AN ORDER DENYING EXPUNGEMENT OF THE RECORDS, THE JUVENILE SHALL
24 HAVE THE RIGHT TO APPEAL TO THE DISTRICT COURT, AND ALL FEES
25 RELATED TO THE APPEAL MUST BE WAIVED.

26 (g) THE MUNICIPAL COURT SHALL, ON THE FIRST DAY OF EVERY
27 MONTH, REVIEW ALL JUVENILE MUNICIPAL COURT FILES FOR THAT SAME

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

7 (h) UNLESS A HEARING HAS TAKEN PLACE AND FINDINGS MADE
8 PURSUANT TO SUBSECTION (4)(f) OF THIS SECTION, THE COURT SHALL
9 ORDER ALL RECORDS RELATED TO THE MUNICIPAL CASE IN THE CUSTODY
10 OF THE COURT, AND ANY RECORDS RELATED TO THE CASE AND CHARGES
11 IN THE CUSTODY OF ANY OTHER AGENCY, PERSON, COMPANY, OR
12 ORGANIZATION, EXPUNGED PURSUANT TO THIS SUBSECTION (4) IF THE
13 COURT FINDS THAT THE SENTENCE HAS BEEN COMPLETED OR THE
14 MUNICIPAL COURT CASE IS CLOSED.

15 (i) WITH THE VICTIM'S CONSENT, OR IF THERE IS NO NAMED VICTIM,
16 THE PROSECUTING ATTORNEY MAY AGREE AT THE TIME OF A PLEA THAT
17 THERE WILL BE NO OBJECTION TO EXPUNGEMENT UPON THE COMPLETION
18 OF THE JUVENILE'S SENTENCE. IN SUCH A CASE, THE COURT SHALL ORDER
19 ALL RECORDS OF THE CASE IN THE CUSTODY OF THE COURT, AND ANY
20 RECORDS RELATED TO THE CASE OR CHARGES IN THE CUSTODY OF ANY
21 OTHER AGENCY, PERSON, COMPANY, OR ORGANIZATION, EXPUNGED UPON
22 COMPLETION OF THE JUVENILE'S SENTENCE. A HEARING IS NOT REQUIRED.

23 (5) NOTWITHSTANDING THE PROVISIONS OF SUBSECTION (4) OF
24 THIS SECTION, A MUNICIPAL COURT SHALL NOT EXPUNGE THE RECORD OF
25 A PERSON WHO IS CHARGED, ADJUDICATED, OR CONVICTED OF ANY
26 TRAFFIC OFFENSE OR TRAFFIC INFRACTION PURSUANT TO TITLE 42 OR A
27 CORRESPONDING MUNICIPAL TRAFFIC CODE.

1 (6) UPON THE ENTRY OF AN ORDER EXPUNGING A RECORD
2 PURSUANT TO THIS SECTION, THE COURT SHALL ORDER, IN WRITING, THE
3 EXPUNGEMENT OF ALL CASE RECORDS IN THE CUSTODY OF THE COURT AND
4 ANY RECORDS RELATED TO THE CASE AND CHARGES IN THE CUSTODY OF
5 ANY OTHER AGENCY, PERSON, COMPANY, OR ORGANIZATION. THE COURT
6 MAY ORDER EXPUNGED ANY RECORDS, BUT, AT A MINIMUM, THE
7 FOLLOWING RECORDS MUST BE EXPUNGED PURSUANT TO EVERY
8 EXPUNGEMENT ORDER:

9 (a) ALL COURT RECORDS;

10 (b) ALL RECORDS RETAINED WITHIN THE OFFICE OF THE
11 PROSECUTING ATTORNEY;

12 (c) ALL PROBATION AND PAROLE RECORDS;

13 (d) ALL LAW ENFORCEMENT RECORDS;

14 (e) ALL DIVISION OF YOUTH SERVICES RECORDS AND JAIL RECORDS
15 IF THE JUVENILE WAS DETAINED IN A DIVISION OF YOUTH SERVICES
16 FACILITY OR IN A JAIL;

17 (f) ALL DEPARTMENT OF HUMAN SERVICES RECORDS, INCLUDING
18 DISASSOCIATING THE OFFENSE AND THE DISPOSITION INFORMATION FROM
19 THE NAME OF THE JUVENILE IN THE MANAGEMENT INFORMATION SYSTEM;

20 AND

21 (g) REFERENCES TO THE MUNICIPAL CASE OR CHARGE CONTAINED
22 IN THE SCHOOL RECORDS.

23 (7) (a) WHEN AN EXPUNGEMENT ORDER IS ISSUED PURSUANT TO
24 THIS SECTION, THE COURT SHALL SEND A COPY OF THE ORDER TO THE
25 JUVENILE, THE JUVENILE'S LAST ATTORNEY OF RECORD, THE PROSECUTING
26 ATTORNEY, THE LAW ENFORCEMENT AGENCY OR AGENCIES THAT
27 INVESTIGATED THE CASE, AND THE COLORADO BUREAU OF INVESTIGATION

1 DIRECTING THE ENTITY TO EXPUNGE ITS RECORDS WITHIN THIRTY-FIVE
2 DAYS AFTER THE RECEIPT OF THE ORDER.

3 (b) THE COURT SHALL ALSO SEND A COPY OF THE ORDER TO THE
4 MUNICIPAL PROBATION DEPARTMENT IF THE JUVENILE WAS PLACED ON
5 MUNICIPAL PROBATION AT ANY POINT DURING THE CASE, THE DIVISION OF
6 YOUTH SERVICES IF THE JUVENILE WAS SENTENCED OR ORDERED TO ANY
7 PERIOD OF DETENTION IN A DIVISION OF YOUTH SERVICES FACILITY BY THE
8 MUNICIPAL COURT, AND THE JAIL IF THE JUVENILE WAS HELD IN OR
9 SENTENCED TO TIME IN A JAIL BY THE MUNICIPAL COURT, DIRECTING THE
10 ENTITY TO EXPUNGE THE RECORDS IN ITS CUSTODY AS SOON AS
11 PRACTICABLE BUT NO LATER THAN NINETY DAYS AFTER THE RECEIPT OF
12 THE ORDER.

13 (c) THE JUVENILE, THE JUVENILE'S ATTORNEY, OR THE JUVENILE'S
14 PARENT OR LEGAL GUARDIAN MAY PROVIDE TO THE COURT, WITHIN SEVEN
15 DAYS AFTER THE COMPLETION OF THE SENTENCE OR THE CASE BEING
16 CLOSED, A LIST OF ALL AGENCY CUSTODIANS THAT MAY HAVE CUSTODY
17 OF ANY RECORDS SUBJECT TO THE EXPUNGEMENT ORDER. AT NO COST TO
18 THE JUVENILE, THE COURT SHALL SEND A COPY OF THE EXPUNGEMENT
19 ORDER TO THE AGENCY, PERSON, COMPANY, OR ORGANIZATION, AS
20 REQUESTED, DIRECTING THE ENTITY TO EXPUNGE ITS RECORDS WITHIN
21 THIRTY-FIVE DAYS. ADDITIONALLY, THE JUVENILE OR HIS OR HER PARENT
22 OR GUARDIAN MAY ALSO PROVIDE A COPY OF THE ORDER TO ANY OTHER
23 CUSTODIAN OF RECORDS SUBJECT TO THE ORDER.

24 (d) EACH ENTITY DESCRIBED IN THIS SUBSECTION (7) THAT IS IN
25 POSSESSION OF SUCH RECORDS SHALL EXPUNGE THE RECORDS IN ITS
26 CUSTODY AS DIRECTED BY THE ORDER.

27 (e) THE PERSON WHO IS THE SUBJECT OF RECORDS EXPUNGED

1 PURSUANT TO THIS SECTION MAY PETITION THE COURT TO PERMIT
2 INSPECTION OF THE RECORDS HELD BY PERSONS NAMED IN THE ORDER,
3 AND THE COURT MAY SO ORDER.

4 (8) ANY AGENCY, PERSON, COMPANY, OR ORGANIZATION THAT
5 VIOLATES THIS SECTION AND KNEW THAT THE RECORDS IN QUESTION WERE
6 SUBJECT TO AN EXPUNGEMENT ORDER MAY BE SUBJECT TO CRIMINAL AND
7 CIVIL CONTEMPT OF COURT AND MAY BE PUNISHED BY A FINE.

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

19 (10) NOTHING IN THIS SECTION AUTHORIZES THE PHYSICAL
20 DESTRUCTION OF ANY JUVENILE OR CRIMINAL JUSTICE RECORD.

21 **SECTION 3. Safety clause.** The general assembly hereby finds,
22 determines, and declares that this act is necessary for the immediate
23 preservation of the public peace, health, and safety.