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An Act

HOUSE BILL 19-1335

BY REPRESENTATIVE(S) Gonzales-Gutierrez and Bockenfeld, Benavidez, Bird, Caraveo, Coleman, Cutter, Duran, Esgar, Exum, Galindo, Gray, Hansen, Herod, Hooton, Jackson, Kennedy, Kipp, Lontine, Melton, Michaelson Jenet, Snyder, Titone, Valdez A., Valdez D., Weissman, Becker;
also SENATOR(S) Lee and Cooke, Bridges, Court, Crowder, Fenberg, Foote, Ginal, Gonzales, Moreno, Pettersen, Priola, Story, Todd, Williams A., Garcia.

CONCERNING EXPUNGEMENT OF JUVENILE RECORDS, AND, IN CONNECTION THEREWITH, MAKING CLARIFYING CHANGES TO THE EXPUNGEMENT PROCESS AND PROCEDURE AND CLARIFYING THAT JUVENILE RECORD EXPUNGEMENT APPLIES TO MUNICIPAL COURTS.

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

SECTION 1. In Colorado Revised Statutes, 19-1-306, **amend** (4)(a)(II), (4)(a)(III), (4)(b), (5)(a) introductory portion, (5)(a)(I), (5)(a)(II), (5)(c), (5)(d), (5)(e), (6)(b), (6)(c), (6)(e), (10)(e), and (11); **repeal** (5)(a)(III) and (5)(b); **repeal and reenact, with amendments**, (9); and **add** (1)(c) and (5)(e.5) as follows:

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

19-1-306. Expungement of juvenile delinquent records - definition. (1) (c) THE EXPUNGEMENT ORDER ONLY APPLIES TO THE NAMED JUVENILE AND NOT TO ANY CO-PARTICIPANT.

(4) (a) The court shall order all records in a juvenile delinquency case in the custody of the court, and any records related to the case and charges in the custody of any other agency, person, company, or organization, expunged within forty-two days after:

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

(III) The completion of a sentence OR ALTERNATIVE TO SENTENCING, INCLUDING DIVERSION, A DEFERRED ADJUDICATION, OR AN INFORMAL ADJUSTMENT, for a petty offense, drug petty offense, class 2 or class 3 misdemeanor offense, or level 1 or level 2 drug misdemeanor if the offense does not involve unlawful sexual behavior as defined in section 16-22-102 (9), is not an act of domestic violence as defined in section 18-6-800.3, or is not a crime listed under section 24-4.1-302 (1), and the defendant was under eighteen years of age at the time the offense was committed.

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

(II) THE DISTRICT ATTORNEY OR OTHER DIVERSION PROVIDER SHALL NOTIFY THE COLORADO BUREAU OF INVESTIGATION, THE LAW ENFORCEMENT AGENCY THAT HAD CONTACT WITH THE JUVENILE, AND THE JUVENILE'S

SCHOOL, IF THE INCIDENT OCCURRED AT SCHOOL OR THE DISTRICT ATTORNEY NOTIFIED THE SCHOOL OF THE CASE, THAT DIVERSION IS COMPLETE AND THE RECORDS ARE EXPUNGED. ANY LAW ENFORCEMENT AGENCY OR SCHOOL THAT RECEIVES A NOTICE SHALL ACKNOWLEDGE RECEIPT OF THE NOTICE. THE COLORADO BUREAU OF INVESTIGATION, LAW ENFORCEMENT AGENCY, SCHOOL, DIVERSION PROVIDER, AND DISTRICT ATTORNEY SHALL TREAT THE RECORDS AS EXPUNGED WITHIN THIRTY-FIVE DAYS AFTER THE COMPLETION OF DIVERSION, AND ALL PROVISIONS OF THIS SECTION ADDRESSING EXPUNGED RECORDS APPLY TO THOSE RECORDS.

(III) IF VICTIM NOTIFICATION IS REQUIRED PURSUANT TO PART 4.1 OF TITLE 24, THE DISTRICT ATTORNEY SHALL NOTIFY THE VICTIM PRIOR TO SENDING THE NOTICE PURSUANT TO SUBSECTION (4)(b)(II) OF THIS SECTION, AND OFFER THE VICTIM AN OPPORTUNITY TO OBJECT. IF THE VICTIM OBJECTS, THE DISTRICT ATTORNEY SHALL NOTIFY THE COURT AND THE DIVERSION PROVIDER. UPON RECEIPT OF THE NOTICE OF OBJECTION FROM THE DISTRICT ATTORNEY, THE DIVERSION PROVIDER SHALL COMPLETE AND FILE A REPORT PURSUANT TO SUBSECTION (5)(c) OF THIS SECTION, AND THE PROVISIONS OF SUBSECTIONS (5)(e), (5)(e.5), (5)(f), AND (5)(g) OF THIS SECTION APPLY.

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

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

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

~~16-22-102(9); OR~~

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

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

~~(c) (I) Upon issuance of the notice from the court in subsection (5)(a) of this section, the supervising agency must~~ IF THE COURT MAKES A FINDING THAT A JUVENILE IS ELIGIBLE FOR EXPUNGEMENT PURSUANT TO SUBSECTION (5)(a) OF THIS SECTION, THE AGENCY SUPERVISING THE JUVENILE SHALL, AT THE CONCLUSION OF THE AGENCY'S SUPERVISION, prepare a report and summary of supervision outlining the performance of the juvenile while under supervision. ~~If the juvenile is no longer under supervision, the supervising agency must contact the juvenile and summarize the juvenile's activities since termination of supervision to assist the court in making its determination of the appropriateness for expungement.~~ The supervising agency shall provide the report to the court AND PROVIDE A COPY OF THE REPORT TO the prosecuting attorney, the juvenile, and the juvenile's attorney of record ~~within twenty-eight days of the notice from the court~~ NO EARLIER THAN THIRTY-FIVE DAYS PRIOR TO THE END OF SUPERVISION AND NO LATER THAN FOURTEEN DAYS AFTER THE CONCLUSION OF SUPERVISION. IF THERE IS NO SUPERVISING AGENCY, THE COURT SHALL SEND A NOTICE THAT THE UNSUPERVISED SENTENCE IS COMPLETE TO THE DISTRICT ATTORNEY WHEN THE SENTENCE IS COMPLETE.

~~(II) UPON RECEIPT OF THE REPORT OR NOTICE PURSUANT TO THIS SUBSECTION (5)(c), THE PROSECUTING ATTORNEY SHALL CONTACT THE VICTIM REGARDING EXPUNGEMENT IF NOTIFICATION IS REQUIRED PURSUANT TO PART 4.1 OF TITLE 24.~~

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

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

(e.5) IF THE OFFENSE FOR WHICH THE RECORDS ARE ELIGIBLE FOR EXPUNGEMENT REQUIRES THE JUVENILE TO REGISTER PURSUANT TO SECTION 16-22-103 AND THE COURT HAS NOT ALREADY ISSUED A NOTICE PURSUANT TO SECTION 16-22-113 (1.3)(b), UPON RECEIPT OF THE REPORT FROM THE SUPERVISING AGENCY PURSUANT TO SUBSECTION (5)(c) OF THIS SECTION, THE COURT SHALL ISSUE A NOTICE PURSUANT TO SECTION 16-22-113 (1.3)(b) AND THIS SUBSECTION (5)(e.5), AND THE VICTIM AND PROSECUTION HAVE SIXTY-THREE DAYS FROM THE ISSUANCE OF THAT NOTICE TO FILE AN OBJECTION TO EXPUNGEMENT OR THE DISCONTINUATION OF REGISTRATION. ALL OTHER REQUIREMENTS OF SUBSECTIONS (5)(d), (5)(e), (5)(f), AND (5)(g) OF THIS SECTION APPLY TO THE EXPUNGEMENT. THE PROVISIONS OF SECTION 16-22-113 (1.3) APPLY TO THE ISSUE OF DISCONTINUING REGISTRATION. THE COURT SHALL CONSIDER BOTH ISSUES AT THE SAME HEARING. IF THE COURT HAS NOT ALREADY ORDERED THAT THE JUVENILE MAY DISCONTINUE REGISTRATION PURSUANT TO SECTION 16-22-113, THE COURT SHALL ENTER AN ORDER GRANTING EXPUNGEMENT AND DISCONTINUING THE REGISTRATION REQUIREMENT, DENYING EXPUNGEMENT AND DISCONTINUING THE REGISTRATION REQUIREMENT, OR DENYING EXPUNGEMENT AND CONTINUING THE REGISTRATION REQUIREMENT.

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

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

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

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

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

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

(10) Upon the entry of an order expunging a record pursuant to this section, the court shall order, in writing, the expungement of all case records in the custody of the court and any records related to the case and charges in the custody of any other agency, person, company, or organization. The court may order expunged any records, but, at a minimum, the following records must be expunged pursuant to every expungement order:

(e) All department of human services records; ~~including disassociating the offense and the disposition information from the name of the youth in the management information system;~~

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

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

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

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

(III) ANY COUNTY DEPARTMENT OF HUMAN SERVICES THROUGH WHICH THE JUVENILE RECEIVED SERVICES AT ANY POINT DURING THE

JUVENILE'S CASE; AND

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

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

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

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

13-10-115.5. Expungement of juvenile delinquent records - definition. (1) (a) FOR THE PURPOSES OF THIS SECTION, "EXPUNGEMENT" IS DEFINED IN SECTION 19-1-103 (48). UPON THE ENTRY OF AN EXPUNGEMENT ORDER BY A MUNICIPAL COURT, THE PERSON WHO IS THE SUBJECT OF THE RECORD THAT HAS BEEN EXPUNGED MAY ASSERT THAT HE OR SHE HAS NO JUVENILE MUNICIPAL COURT RECORD. THE PERSON WHO IS THE SUBJECT OF THE RECORD THAT HAS BEEN EXPUNGED MAY LAWFULLY DENY THAT HE OR SHE HAS EVER BEEN ARRESTED, CHARGED, ADJUDICATED, CONVICTED, OR SENTENCED IN REGARD TO THE EXPUNGED CASE, MATTER, OR CHARGE.

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

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

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

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

(d) PRIOR TO THE COURT ORDERING ANY RECORDS EXPUNGED, THE COURT SHALL DETERMINE WHETHER THE JUVENILE HAS ANY ACTIONS PENDING BEFORE THE MUNICIPAL COURT, AND, IF THE COURT DETERMINES THAT THERE IS AN ACTION PENDING AGAINST THE JUVENILE, THE COURT SHALL STAY THE PETITION FOR EXPUNGEMENT PROCEEDINGS UNTIL THE RESOLUTION OF THE PENDING CASE.

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

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

(c) NOTWITHSTANDING AN ORDER FOR EXPUNGEMENT PURSUANT TO THIS SECTION, ANY CRIMINAL JUSTICE RECORD OF A JUVENILE WHO HAS BEEN CHARGED, ADJUDICATED, OR CONVICTED OF ANY OFFENSE MUST BE AVAILABLE FOR USE BY THE JUVENILE, THE JUVENILE'S ATTORNEY, A

PROSECUTING ATTORNEY, ANY LAW ENFORCEMENT AGENCY, OR ANY AGENCY OF THE STATE OR MUNICIPAL JUDICIAL DEPARTMENTS IN ANY SUBSEQUENT CRIMINAL INVESTIGATION OR PROSECUTION AS A SUBSTANTIVE PREDICATE OFFENSE CONVICTION OR ADJUDICATION OF RECORD.

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

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

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

(b) IN A JUVENILE MUNICIPAL CASE WHERE A NATURAL PERSON IS

LISTED AS A VICTIM, THE MUNICIPAL COURT SHALL SEND NOTICE ON THE DATE THE SENTENCE IS COMPLETED TO THE PROSECUTING ATTORNEY THAT ALL RECORDS IN A CASE CHARGING A JUVENILE WITH A VIOLATION OF A MUNICIPAL CODE OR ORDINANCE, EXCLUDING OFFENSES CHARGED PURSUANT TO TITLE 42, ALL RECORDS OF THE CASE IN THE CUSTODY OF THE COURT, AND ANY RECORDS RELATED TO THE CASE OR CHARGES IN THE CUSTODY OF ANY OTHER AGENCY, PERSON, COMPANY, OR ORGANIZATION WILL BE EXPUNGED FORTY-TWO DAYS AFTER COMPLETION OF THE MUNICIPAL SENTENCE.

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

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

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

(f) AT A HEARING HELD PURSUANT TO THIS SUBSECTION (4), THE COURT SHALL ORDER ALL RECORDS OF THE CASE IN THE CUSTODY OF THE COURT, AND ANY RECORDS RELATED TO THE CASE OR CHARGES IN THE CUSTODY OF ANY OTHER AGENCY, PERSON, COMPANY, OR ORGANIZATION, EXPUNGED IF THE JUVENILE HAS SUCCESSFULLY COMPLETED THE SENTENCE, OR THE MUNICIPAL COURT CASE IS CLOSED, UNLESS THE COURT FINDS, BY CLEAR AND CONVINCING EVIDENCE, THAT THE JUVENILE HAS NOT BEEN

REHABILITATED AND THAT EXPUNGEMENT IS NOT IN THE BEST INTERESTS OF THE JUVENILE OR THE COMMUNITY. IF THE COURT ENTERS AN ORDER DENYING EXPUNGEMENT OF THE RECORDS, THE JUVENILE SHALL HAVE THE RIGHT TO APPEAL TO THE DISTRICT COURT, AND ALL FEES RELATED TO THE APPEAL MUST BE WAIVED.

(g) THE MUNICIPAL COURT SHALL, ON THE FIRST DAY OF EVERY MONTH, REVIEW ALL JUVENILE MUNICIPAL COURT FILES FOR THAT SAME MONTH FOR THE PREVIOUS TWO YEARS THAT RESULTED IN A FINDING OF NOT GUILTY OR GUILTY OR RESULTED IN DIVERSION, DEFERRED ADJUDICATION, DISMISSAL, OR OTHER DISPOSITION OR RESOLUTION, AND ENTER AN EXPUNGEMENT ORDER FOR ALL JUVENILES ELIGIBLE FOR EXPUNGEMENT PURSUANT TO THIS SUBSECTION (4) IF THE EXPUNGEMENT ORDER WAS NOT PREVIOUSLY MADE.

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

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

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

(6) UPON THE ENTRY OF AN ORDER EXPUNGING A RECORD PURSUANT TO THIS SECTION, THE COURT SHALL ORDER, IN WRITING, THE EXPUNGEMENT

OF ALL CASE RECORDS IN THE CUSTODY OF THE COURT AND ANY RECORDS RELATED TO THE CASE AND CHARGES IN THE CUSTODY OF ANY OTHER AGENCY, PERSON, COMPANY, OR ORGANIZATION. THE COURT MAY ORDER EXPUNGED ANY RECORDS, BUT, AT A MINIMUM, THE FOLLOWING RECORDS MUST BE EXPUNGED PURSUANT TO EVERY EXPUNGEMENT ORDER:

(a) ALL COURT RECORDS;

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

(c) ALL PROBATION AND PAROLE RECORDS;

(d) ALL LAW ENFORCEMENT RECORDS;

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

(f) ALL DEPARTMENT OF HUMAN SERVICES RECORDS; AND

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

(7)(a) WHEN AN EXPUNGEMENT ORDER IS ISSUED PURSUANT TO THIS SECTION, THE COURT SHALL SEND A COPY OF THE ORDER TO THE JUVENILE, THE JUVENILE'S LAST ATTORNEY OF RECORD, THE PROSECUTING ATTORNEY, THE LAW ENFORCEMENT AGENCY OR AGENCIES THAT INVESTIGATED THE CASE, AND THE COLORADO BUREAU OF INVESTIGATION DIRECTING THE ENTITY TO EXPUNGE ITS RECORDS WITHIN THIRTY-FIVE DAYS AFTER THE RECEIPT OF THE ORDER.

(b) THE COURT SHALL ALSO SEND A COPY OF THE ORDER TO THE MUNICIPAL PROBATION DEPARTMENT IF THE JUVENILE WAS PLACED ON MUNICIPAL PROBATION AT ANY POINT DURING THE CASE, THE DIVISION OF YOUTH SERVICES IF THE JUVENILE WAS SENTENCED OR ORDERED TO ANY PERIOD OF DETENTION IN A DIVISION OF YOUTH SERVICES FACILITY BY THE MUNICIPAL COURT, AND THE JAIL IF THE JUVENILE WAS HELD IN OR SENTENCED TO TIME IN A JAIL BY THE MUNICIPAL COURT, DIRECTING THE ENTITY TO EXPUNGE THE RECORDS IN ITS CUSTODY AS SOON AS PRACTICABLE

BUT NO LATER THAN NINETY DAYS AFTER THE RECEIPT OF THE ORDER.

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

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

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

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

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

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

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

KC Becker
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Leroy M. Garcia
PRESIDENT OF
THE SENATE

Marilyn Eddins
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

Cindi L. Markwell
SECRETARY OF
THE SENATE

APPROVED _____
(Date and Time)

Jared S. Polis
GOVERNOR OF THE STATE OF COLORADO