

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

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

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), (10)(e), and (11);
5 **repeal** (5)(a)(III) and (5)(b); **repeal and reenact, with amendments,** (9);
6 and **add** (1)(c) and (5)(e.5) as follows:

7 **19-1-306. Expungement of juvenile delinquent records -**
8 **definition.** (1) (c) THE EXPUNGEMENT ORDER ONLY APPLIES TO AN
9 ELIGIBLE JUVENILE AND NOT TO ANY CO-PARTICIPANT UNLESS THE
10 CO-PARTICIPANT IS ALSO AN ELIGIBLE JUVENILE.

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

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

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

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

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

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

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

20 (5) (a) ~~The court shall send notice to the prosecuting attorney and~~
21 ~~supervising agency of the juvenile at least ninety-one days prior to the end~~
22 ~~of the juvenile's diversion program, deferred adjudication, informal~~
23 ~~adjustment, or sentence that all records in a juvenile delinquency case in~~
24 ~~the custody of the court, and any records related to the case and charges~~
25 ~~in the custody of any other agency, person, company, or organization, will~~
26 ~~be expunged after completion of~~ AT THE TIME THAT THE COURT ORDERS
27 THE FOLLOWING SENTENCES OR ALTERNATIVES TO SENTENCING, THE

1 COURT SHALL MAKE A FINDING THAT THE JUVENILE IS ELIGIBLE FOR
2 EXPUNGEMENT PURSUANT TO THIS SUBSECTION (5) AND INCLUDE THAT
3 FINDING ON THE WRITTEN MITTIMUS OR OTHER SENTENCING DOCUMENT:

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

7 (II) A juvenile sentence for an adjudication for a class 1
8 misdemeanor or a petty or a misdemeanor offense that is not eligible for
9 expungement ~~under~~ PURSUANT TO subsection (4) of this section; ~~if the~~
10 ~~offense did not involve unlawful sexual behavior as defined in section~~
11 ~~16-22-102 (9);~~ OR

12 (III) ~~A juvenile sentence for an adjudication for a misdemeanor~~
13 ~~offense involving unlawful sexual contact as described in section~~
14 ~~18-3-404; or~~

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

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

1 ~~expungement.~~ The supervising agency shall provide the report to the court
2 AND PROVIDE A COPY OF THE REPORT TO the prosecuting attorney, the
3 juvenile, and the juvenile's attorney of record ~~within twenty-eight days of~~
4 ~~the notice from the court~~ NO EARLIER THAN THIRTY-FIVE DAYS PRIOR TO
5 THE END OF SUPERVISION AND NO LATER THAN FOURTEEN DAYS AFTER THE
6 CONCLUSION OF SUPERVISION. IF THERE IS NO SUPERVISING AGENCY, THE
7 COURT SHALL SEND A NOTICE THAT THE UNSUPERVISED SENTENCE IS
8 COMPLETE TO THE DISTRICT ATTORNEY WHEN THE SENTENCE IS COMPLETE.

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

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

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

27 (e.5) IF THE OFFENSE FOR WHICH THE RECORDS ARE ELIGIBLE FOR

1 EXPUNGEMENT REQUIRES THE JUVENILE TO REGISTER PURSUANT TO
2 SECTION 16-22-103 AND THE COURT HAS NOT ALREADY ISSUED A NOTICE
3 PURSUANT TO SECTION 16-22-113 (1.3)(b), UPON RECEIPT OF THE REPORT
4 FROM THE SUPERVISING AGENCY PURSUANT TO SUBSECTION (5)(c) OF THIS
5 SECTION, THE COURT SHALL ISSUE A NOTICE PURSUANT TO SECTION
6 16-22-113 (1.3)(b) AND THIS SUBSECTION (5)(e.5), AND THE VICTIM AND
7 PROSECUTION HAVE SIXTY-THREE DAYS FROM THE ISSUANCE OF THAT
8 NOTICE TO FILE AN OBJECTION TO EXPUNGEMENT OR THE
9 DISCONTINUATION OF REGISTRATION. ALL OTHER REQUIREMENTS OF
10 SUBSECTIONS (5)(d), (5)(e), (5)(f), AND (5)(g) OF THIS SECTION APPLY TO
11 THE EXPUNGEMENT. THE PROVISIONS OF SECTION 16-22-113 (1.3) APPLY
12 TO THE ISSUE OF DISCONTINUING REGISTRATION. THE COURT SHALL
13 CONSIDER BOTH ISSUES AT THE SAME HEARING. IF THE COURT HAS NOT
14 ALREADY ORDERED THAT THE JUVENILE MAY DISCONTINUE REGISTRATION
15 PURSUANT TO SECTION 16-22-113, THE COURT SHALL ENTER AN ORDER
16 GRANTING EXPUNGEMENT AND DISCONTINUING THE REGISTRATION
17 REQUIREMENT, DENYING EXPUNGEMENT AND DISCONTINUING THE
18 REGISTRATION REQUIREMENT, OR DENYING EXPUNGEMENT AND
19 CONTINUING THE REGISTRATION REQUIREMENT.

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

1 JUVENILE OR issue a notice pursuant to ~~subsection (5)(a)~~ SUBSECTION
2 (5)(c) of this section, and the provisions of subsection (5) of this section
3 apply.

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

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

1 section apply.

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

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

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

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

26 (11) (a) When an expungement order is issued pursuant to this
27 section, the court shall send a copy of the order to the juvenile, the

1 juvenile's last attorney of record, ~~and each agency, person, company, or~~
2 ~~organization named therein~~ THE PROSECUTING ATTORNEY, ANY LAW
3 ENFORCEMENT AGENCY THAT INVESTIGATED THE CASE, THE STATE COURT
4 ADMINISTRATOR'S OFFICE, AND THE COLORADO BUREAU OF
5 INVESTIGATION directing the entity to expunge its records within
6 thirty-five days after the receipt of the order. ~~Each such agency, person,~~
7 ~~company, or organization shall expunge the records in its custody as~~
8 ~~directed by the order. The person who is the subject of records expunged~~
9 ~~pursuant to this section may petition the court to permit inspection of the~~
10 ~~records held by persons named in the order, and the court may so order.~~

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

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

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

21 (III) ANY COUNTY DEPARTMENT OF HUMAN SERVICES THROUGH
22 WHICH THE JUVENILE RECEIVED SERVICES AT ANY POINT DURING THE
23 JUVENILE'S CASE; AND

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

27 (c) EACH ENTITY DESCRIBED IN THIS SUBSECTION (11) SHALL

1 EXPUNGE THE RECORDS IN ITS CUSTODY AS DIRECTED BY THE ORDER.

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

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

8 **13-10-115.5. Expungement of juvenile delinquent records -**

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

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

23 (2) (a) IF A JUVENILE IS SENTENCED BY A MUNICIPAL COURT, THE
24 MUNICIPAL COURT, AT SENTENCING, SHALL PROVIDE THE JUVENILE AND
25 ANY RESPONDENT PARENT OR GUARDIAN WITH A WRITTEN ADVISEMENT OF
26 THE RIGHT TO EXPUNGEMENT AND THE TIME PERIOD AND PROCESS FOR
27 EXPUNGING THE RECORD. THE MUNICIPAL COURT MAY PROVIDE THE

1 NOTICE THROUGH A MUNICIPAL DIVERSION PROGRAM, THE CITY
2 ATTORNEY, OR A MUNICIPAL PROBATION PROGRAM.

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

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

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

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

27 (b) NOTWITHSTANDING ANY ORDER FOR EXPUNGEMENT PURSUANT

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

8 (c) NOTWITHSTANDING AN ORDER FOR EXPUNGEMENT PURSUANT
9 TO THIS SECTION, ANY CRIMINAL JUSTICE RECORD OF A JUVENILE WHO HAS
10 BEEN CHARGED, ADJUDICATED, OR CONVICTED OF ANY OFFENSE MUST BE
11 AVAILABLE FOR USE BY THE JUVENILE, THE JUVENILE'S ATTORNEY, A
12 PROSECUTING ATTORNEY, ANY LAW ENFORCEMENT AGENCY, OR ANY
13 AGENCY OF THE STATE OR MUNICIPAL JUDICIAL DEPARTMENTS IN ANY
14 SUBSEQUENT CRIMINAL INVESTIGATION OR PROSECUTION AS A
15 SUBSTANTIVE PREDICATE OFFENSE CONVICTION OR ADJUDICATION OF
16 RECORD.

17 (d) NOTWITHSTANDING ANY ORDER FOR EXPUNGEMENT ISSUED
18 PURSUANT TO THIS SECTION, NOTHING PREVENTS THE PROSECUTING
19 ATTORNEY, INCLUDING THE STAFF OF A PROSECUTING ATTORNEY'S OFFICE,
20 A VICTIM OR WITNESS ASSISTANCE PROGRAM, A LAW ENFORCEMENT
21 AGENCY, OR LAW ENFORCEMENT VICTIM ASSISTANCE PROGRAM FROM
22 DISCUSSING WITH THE VICTIM THE CASE, THE RESULTS OF ANY
23 EXPUNGEMENT PROCEEDINGS, INFORMATION REGARDING RESTITUTION,
24 AND INFORMATION RELATED TO ANY VICTIM SERVICES AVAILABLE TO THE
25 VICTIM AS DEFINED IN SECTION 24-4.1-302 (5), BUT COPIES OF EXPUNGED
26 RECORDS MUST NOT BE PROVIDED TO THE VICTIM. THE VICTIM MAY
27 PETITION THE COURT AND REQUEST THAT A COPY OF THE EXPUNGED

1 RECORDS BE PROVIDED TO THE VICTIM. IF THE COURT FINDS THAT THERE
2 ARE COMPELLING REASONS FOR THE RELEASE, A COPY OF THE EXPUNGED
3 RECORDS MAY BE RELEASED TO THE VICTIM. IF THE COURT ORDERS THE
4 RELEASE OF A COPY OF THE EXPUNGED RECORDS TO THE VICTIM, THE
5 COURT MUST ISSUE A PROTECTIVE ORDER REGARDING THE USE OF THE
6 EXPUNGED RECORDS.

7 (e) NOTWITHSTANDING ANY ORDER FOR EXPUNGEMENT ISSUED
8 PURSUANT TO THIS SECTION, ANY INFORMATION, INCLUDING POLICE
9 AFFIDAVITS AND REPORTS AND RECORDS RELATED TO ANY PRIOR
10 CONVICTION OR ADJUDICATION, ARE AVAILABLE WITHOUT COURT ORDER
11 TO THE PERSONS, GOVERNMENT AGENCIES, OR ENTITIES ALLOWED ACCESS
12 TO OR ALLOWED TO EXCHANGE SUCH INFORMATION PURSUANT TO SECTION
13 19-1-303 FOR THE PURPOSES DESCRIBED THEREIN. ANY PERSON WHO
14 KNOWINGLY VIOLATES THE CONFIDENTIALITY PROVISIONS OF SECTION
15 19-1-303 IS SUBJECT TO THE PENALTY IN SECTION 19-1-303 (4.7).

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

23 (b) IN A JUVENILE MUNICIPAL CASE WHERE A NATURAL PERSON IS
24 LISTED AS A VICTIM, THE MUNICIPAL COURT SHALL SEND NOTICE ON THE
25 DATE THE SENTENCE IS COMPLETED TO THE PROSECUTING ATTORNEY THAT
26 ALL RECORDS IN A CASE CHARGING A JUVENILE WITH A VIOLATION OF A
27 MUNICIPAL CODE OR ORDINANCE, EXCLUDING OFFENSES CHARGED

1 PURSUANT TO TITLE 42, ALL RECORDS OF THE CASE IN THE CUSTODY OF
2 THE COURT, AND ANY RECORDS RELATED TO THE CASE OR CHARGES IN THE
3 CUSTODY OF ANY OTHER AGENCY, PERSON, COMPANY, OR ORGANIZATION
4 WILL BE EXPUNGED FORTY-TWO DAYS AFTER COMPLETION OF THE
5 MUNICIPAL SENTENCE.

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

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

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

27 (f) AT A HEARING HELD PURSUANT TO THIS SUBSECTION (4), THE

1 COURT SHALL ORDER ALL RECORDS OF THE CASE IN THE CUSTODY OF THE
2 COURT, AND ANY RECORDS RELATED TO THE CASE OR CHARGES IN THE
3 CUSTODY OF ANY OTHER AGENCY, PERSON, COMPANY, OR ORGANIZATION,
4 EXPUNGED IF THE JUVENILE HAS SUCCESSFULLY COMPLETED THE
5 SENTENCE, OR THE MUNICIPAL COURT CASE IS CLOSED, UNLESS THE COURT
6 FINDS, BY CLEAR AND CONVINCING EVIDENCE, THAT THE JUVENILE HAS
7 NOT BEEN REHABILITATED AND THAT EXPUNGEMENT IS NOT IN THE BEST
8 INTERESTS OF THE JUVENILE OR THE COMMUNITY. IF THE COURT ENTERS
9 AN ORDER DENYING EXPUNGEMENT OF THE RECORDS, THE JUVENILE SHALL
10 HAVE THE RIGHT TO APPEAL TO THE DISTRICT COURT, AND ALL FEES
11 RELATED TO THE APPEAL MUST BE WAIVED.

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

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

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

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

14 (6) UPON THE ENTRY OF AN ORDER EXPUNGING A RECORD
15 PURSUANT TO THIS SECTION, THE COURT SHALL ORDER, IN WRITING, THE
16 EXPUNGEMENT OF ALL CASE RECORDS IN THE CUSTODY OF THE COURT AND
17 ANY RECORDS RELATED TO THE CASE AND CHARGES IN THE CUSTODY OF
18 ANY OTHER AGENCY, PERSON, COMPANY, OR ORGANIZATION. THE COURT
19 MAY ORDER EXPUNGED ANY RECORDS, BUT, AT A MINIMUM, THE
20 FOLLOWING RECORDS MUST BE EXPUNGED PURSUANT TO EVERY
21 EXPUNGEMENT ORDER:

- 22 (a) ALL COURT RECORDS;
- 23 (b) ALL RECORDS RETAINED WITHIN THE OFFICE OF THE
24 PROSECUTING ATTORNEY;
- 25 (c) ALL PROBATION AND PAROLE RECORDS;
- 26 (d) ALL LAW ENFORCEMENT RECORDS;
- 27 (e) ALL DIVISION OF YOUTH SERVICES RECORDS AND JAIL RECORDS

1 IF THE JUVENILE WAS DETAINED IN A DIVISION OF YOUTH SERVICES
2 FACILITY OR IN A JAIL;

3 (f) ALL DEPARTMENT OF HUMAN SERVICES RECORDS; AND

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

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

13 (b) THE COURT SHALL ALSO SEND A COPY OF THE ORDER TO THE
14 MUNICIPAL PROBATION DEPARTMENT IF THE JUVENILE WAS PLACED ON
15 MUNICIPAL PROBATION AT ANY POINT DURING THE CASE, THE DIVISION OF
16 YOUTH SERVICES IF THE JUVENILE WAS SENTENCED OR ORDERED TO ANY
17 PERIOD OF DETENTION IN A DIVISION OF YOUTH SERVICES FACILITY BY THE
18 MUNICIPAL COURT, AND THE JAIL IF THE JUVENILE WAS HELD IN OR
19 SENTENCED TO TIME IN A JAIL BY THE MUNICIPAL COURT, DIRECTING THE
20 ENTITY TO EXPUNGE THE RECORDS IN ITS CUSTODY AS SOON AS
21 PRACTICABLE BUT NO LATER THAN NINETY DAYS AFTER THE RECEIPT OF
22 THE ORDER.

23 (c) THE JUVENILE, THE JUVENILE'S ATTORNEY, OR THE JUVENILE'S
24 PARENT OR LEGAL GUARDIAN MAY PROVIDE TO THE COURT, WITHIN SEVEN
25 DAYS AFTER THE COMPLETION OF THE SENTENCE OR THE CASE BEING
26 CLOSED, A LIST OF ALL AGENCY CUSTODIANS THAT MAY HAVE CUSTODY
27 OF ANY RECORDS SUBJECT TO THE EXPUNGEMENT ORDER. AT NO COST TO

1 THE JUVENILE, THE COURT SHALL SEND A COPY OF THE EXPUNGEMENT
2 ORDER TO THE AGENCY, PERSON, COMPANY, OR ORGANIZATION, AS
3 REQUESTED, DIRECTING THE ENTITY TO EXPUNGE ITS RECORDS WITHIN
4 THIRTY-FIVE DAYS. ADDITIONALLY, THE JUVENILE OR HIS OR HER PARENT
5 OR GUARDIAN MAY ALSO PROVIDE A COPY OF THE ORDER TO ANY OTHER
6 CUSTODIAN OF RECORDS SUBJECT TO THE ORDER.

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

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

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

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

1 INFORMATION THAT HAS BEEN EXPUNGED.

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

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