

**Second Regular Session
Seventy-third General Assembly
STATE OF COLORADO**

REREVISED

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

LLS NO. 22-0502.01 Michael Dohr x4347

SENATE BILL 22-099

SENATE SPONSORSHIP

Hisey and Rodriguez, Bridges, Buckner, Coleman, Donovan, Fenberg, Fields, Gardner, Gonzales, Hansen, Jaquez Lewis, Kolker, Lee, Lundeen, Moreno, Priola, Story

HOUSE SPONSORSHIP

Tipper and Larson, Amabile, Bernett, Boesenecker, Daugherty, Duran, Exum, Garnett, Herod, Hooton, Jodeh, Kipp, Lindsay, Lontine, McCluskie, Roberts, Soper, Weissman

Senate Committees

Judiciary
Appropriations

House Committees

Judiciary
Appropriations

HOUSE
3rd Reading Unamended
May 2, 2022

A BILL FOR AN ACT

101 **CONCERNING THE PROCEDURE FOR SEALING OF CRIMINAL RECORDS**
102 **FOR NONVIOLENT OFFENSES, AND, IN CONNECTION THEREWITH,**
103 **ADDRESSING WORKFORCE SHORTAGES, MINIMIZING BARRIERS**
104 **TO EMPLOYMENT FOR JOB SEEKERS, AND MAKING AN**
105 **APPROPRIATION.**

HOUSE
2nd Reading Unamended
April 29, 2022

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>.)

SENATE
3rd Reading Unamended
April 20, 2022

The bill requires a consumer reporting agency, upon written request from a consumer, to disclose to each consumer whose report

SENATE
Amended 2nd Reading
April 19, 2022

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.

contains information from criminal justice records:

- Each source from which the agency compiled the information; and
- The date on which the information was requested.

Currently, there is a process that allows for automatic sealing of criminal justice records for certain drug offenses. The bill extends that automatic sealing to all of the offenses, including civil infractions, that allow the defendant to petition the court for sealing criminal justice records that are not subject to the victims rights act. The bill streamlines the automatic record sealing process. The bill requires the state court administrator to produce an annual report regarding automatic record sealing.

The bill makes it an unfair employment practice to discharge or refuse to promote a person based solely on the contents of a sealed criminal record and makes it an unfair housing practice to refuse to show, sell, transfer, rent, or lease housing based on the contents of a sealed criminal record.

The bill requires the Colorado bureau of investigation to produce an annual report regarding record sealing.

The bill makes clarifying and organizational changes to the record sealing statutes.

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

2 SECTION 1. In Colorado Revised Statutes, amend 5-18-105

3 as follows:

4 5-18-105. Consumer reports - accuracy of information.

5 Whenever a consumer reporting agency prepares a consumer report,

6 INCLUDING REPORTS THAT INCLUDE CRIMINAL JUSTICE RECORDS, the

7 agency shall follow reasonable procedures to assure maximum possible

8 accuracy of the information concerning the consumer about whom the

9 report relates, including the use of the consumer's social security number

10 if, in accordance with section 5-18-104 (1)(c)(I), the consumer's social

11 security number is provided to the consumer reporting agency by a person

12 intending to use the information contained in a consumer report in

13 connection with a credit transaction involving the consumer and the social

1 security number was initially provided to the user by the consumer in
2 connection with that transaction. A CONSUMER REPORTING AGENCY SHALL
3 EXCLUDE SEALED AND EXPUNGED RECORDS FROM A CONSUMER REPORT,
4 UNLESS THE USER OF THE REPORT DEMONSTRATES THAT THE USER IS
5 OTHERWISE REQUIRED TO CONSIDER THE INFORMATION PURSUANT TO
6 STATE OR FEDERAL STATUTE, RULE, OR REGULATION.

7 **SECTION 2.** In Colorado Revised Statutes, 5-18-109, **amend** (2);
8 and **add** (1)(e.5) as follows:

9 **5-18-109. Reporting of information prohibited - exceptions.**

10 (1) Except as authorized under subsection (2) of this section, no
11 consumer reporting agency shall make any consumer report containing
12 any of the following items of information:

13 (e.5) SEALED RECORDS, EXPUNGED RECORDS, AND RECORDS THAT
14 DID NOT RESULT IN A CONVICTION;

15 (2) The provisions of subsection (1) of this section do not apply
16 to the case of any consumer report to be used in connection with:

17 (a) A credit transaction involving, or that may reasonably be
18 expected to involve, a principal amount of one hundred fifty thousand
19 dollars or more; OR

20 (b) The underwriting of life insurance involving, or that may
21 reasonably be expected to involve, a face amount of one hundred fifty
22 thousand dollars or more. ~~or~~

23 ~~(c) The employment of an individual at an annual salary that~~
24 ~~equals or is reasonably expected to equal seventy-five thousand dollars~~
25 ~~or more.~~

26 **SECTION 3.** In Colorado Revised Statutes, 13-3-117, **amend**
27 (1)(b), (1)(d), (2), and (3); and add (1)(a.5) and (4) as follows:

1 **13-3-117. State court administrator - automatic conviction**

2 **sealing.** (1) (a.5) THE STATE COURT ADMINISTRATOR SHALL COMPILE A
3 LIST OF ELIGIBLE CONVICTIONS, EXCLUDING CRIMES PURSUANT TO SECTION
4 24-4.1-302 (1):

5 (I) THAT ARE ELIGIBLE FOR SEALING PURSUANT TO SECTIONS
6 24-72-703 AND 24-72-706; AND

7 (II) (A) IF THE JUDGMENT IS FOR A CIVIL INFRACTION, THAT FOUR
8 YEARS HAVE PASSED SINCE THE FINAL DISPOSITION OF THE CASE;

9 (B) IF THE CONVICTION IS FOR A PETTY OFFENSE OR MISDEMEANOR,
10 THAT AT LEAST SEVEN YEARS HAVE PASSED SINCE THE FINAL DISPOSITION
11 OF THE CASE;

12 (C) IF THE CONVICTION IS FOR AN ELIGIBLE FELONY, THAT AT
13 LEAST TEN YEARS HAVE PASSED SINCE THE DATE OF THE FINAL
14 DISPOSITION OF ALL CRIMINAL PROCEEDINGS AGAINST THE DEFENDANT OR
15 THE RELEASE OF THE DEFENDANT FROM SUPERVISION CONCERNING A
16 CRIMINAL CONVICTION, WHICHEVER IS LATER.

17 (b) The state court administrator shall use the state conviction
18 database and the conviction databases of entities that do not report
19 convictions to the state database to compile the list. The state court
20 administrator shall compile the list based on a name-based review with
21 sufficient points of reference for identification validation as determined
22 by the state court administrator. The state court administrator must only
23 include convictions on the list if sufficient points of validation, as
24 determined by the state court administrator, are present. THE STATE
25 COURT ADMINISTRATOR SHALL NOT INCLUDE ANY CASE IN WHICH THERE
26 IS NO FINAL DISPOSITION ON ALL CHARGES IN THE CASE. THE STATE COURT
27 ADMINISTRATOR SHALL NOT INCLUDE ANY JUDGMENTS FOR WHICH THE

1 DEFENDANT HAS AN INTERVENING JUDGMENT DURING THE FOUR-YEAR
2 WAITING PERIOD IF THE JUDGEMENT IS FOR A CIVIL INFRACTION AND SHALL
3 NOT INCLUDE ANY CONVICTIONS FOR WHICH THE DEFENDANT HAS AN
4 INTERVENING CONVICTION DURING THE SEVEN-YEAR WAITING PERIOD IF
5 THE CONVICTION IS FOR A PETTY OFFENSE OR MISDEMEANOR OR DURING
6 THE TEN-YEAR WAITING PERIOD IF THE CONVICTION IS FOR A FELONY. The
7 state court administrator shall sort the list by judicial district of
8 conviction.

9 (d) Beginning July 1, 2024, the state court administrator shall
10 compile ~~the~~ A list OF DRUG CONVICTIONS, MISDEMEANORS, AND PETTY
11 OFFENSES THAT ARE ELIGIBLE pursuant to this subsection (1) on ~~the first~~
12 ~~Monday of every month and the Colorado bureau of investigation and~~
13 ~~district attorneys shall complete their review within thirty-five days of~~
14 ~~receiving a new list. The court shall seal all conviction records eligible for~~
15 ~~sealing pursuant to the list compiled pursuant to subsection (3)(a) of this~~
16 ~~section within fourteen days of receipt of the amended list from each~~
17 ~~district attorney~~ A QUARTERLY BASIS. THE STATE COURT ADMINISTRATOR
18 SHALL INCLUDE THE ELIGIBLE FELONY CONVICTIONS NOT FOUND IN
19 ARTICLE 18 OF TITLE 18 PURSUANT TO SUBSECTION (1)(a.5) OF THIS
20 SECTION BEGINNING ON JULY 1, 2025.

21 (2) The state court administrator shall forward the list compiled
22 pursuant to subsection (1) of this section to ~~the Colorado bureau of~~
23 ~~investigation. EACH DISTRICT ATTORNEY, EXCEPT FOR CIVIL INFRACTIONS.~~
24 THE STATE COURT ADMINISTRATOR SHALL SEND THE LIST OF CIVIL
25 INFRACTIONS TO BE SEALED WITH THE FINAL LIST PURSUANT TO
26 SUBSECTION (3)(b) OF THIS SECTION TO THE CHIEF JUDGE FOR EACH
27 JUDICIAL DISTRICT. The Colorado bureau of investigation shall compare

1 the list with criminal history reports. The Colorado bureau of
2 investigation shall complete the comparison based on a fingerprint-based
3 review with sufficient points of reference for identification validation as
4 determined by the Colorado bureau of investigation. The Colorado bureau
5 of investigation shall remove any convictions from the list from the state
6 court administrator in which sufficient identification validation cannot be
7 made by the Colorado bureau of investigation and any convictions for
8 which the defendant has an intervening conviction during the seven-year
9 waiting period if the conviction is for a petty offense or misdemeanor, or
10 during the ten-year waiting period if the conviction is for a felony. The
11 Colorado bureau of investigation shall forward each amended list to each
12 district attorney. ==

13 (3) (a) (I) Upon receipt of the list from the Colorado bureau of
14 investigation STATE COURT ADMINISTRATOR, each ELECTED district
15 attorney, OR HIS OR HER DESIGNEE, shall remove convictions from the list
16 MAY, WITHIN FORTY-FIVE DAYS, OBJECT TO THE INCLUSION OF A
17 CONVICTION ON THE LIST FOR CIRCUMSTANCES in which a condition of
18 THE plea was that the defendant agreed to not have the conviction record
19 sealed, and convictions in which the defendant has a pending criminal
20 charge, AN INTERVENING CONVICTION, OR CONVICTIONS THAT ARE
21 INELIGIBLE FOR SEALING. Each district attorney shall send its amended list
22 to the state court administrator. The state court administrator shall
23 compile each of the lists into one final list and sort the convictions by
24 judicial district.

25 (II) FOR A FELONY CONVICTION FOR AN OFFENSE NOT IN ARTICLE
26 18 OF TITLE 18, IN ADDITION TO THE OBJECTIONS IN SUBSECTION (3)(a)(I)
27 OF THIS SECTION, EACH DISTRICT ATTORNEY MAY, WITHIN FORTY-FIVE

1 DAYS, OBJECT WHEN THE DISTRICT ATTORNEY HAS A REASONABLE BELIEF,
2 GROUNDING IN SUPPORTING FACTS, THAT THE PUBLIC INTEREST AND PUBLIC
3 SAFETY IN RETAINING PUBLIC ACCESS TO THE CURRENT RECORD OR CASE
4 OUTWEIGHS THE PRIVACY INTEREST OF, OR ADVERSE CONSEQUENCES TO,
5 THE DEFENDANT.

6 (III) EACH DISTRICT ATTORNEY SHALL FILE A NOTICE WITH THE
7 COURT IN THE CRIMINAL CASE THAT IS THE SUBJECT OF THE RECORD
8 WITHOUT THE NEED FOR ADDITIONAL SERVICE ON ANY PARTY, NOTING THE
9 BASIS OF THE OBJECTION.

10 (IV) FOR OBJECTIONS PURSUANT TO SUBSECTION (3)(a)(II) OF THIS
11 SECTION, THE NOTICE MUST EXPLAIN THE BASIS FOR THE OBJECTION AND
12 INCLUDE ANY AVAILABLE SUPPORTING DOCUMENTS. IN SUCH CASES, THE
13 COURT SHALL SERVE NOTICE ON THE DEFENDANT AT THE DEFENDANT'S
14 LAST KNOWN ADDRESS AND EXPLAIN IN PLAIN LANGUAGE THAT THE
15 DEFENDANT MAY REQUEST A HEARING ON THE MATTER. IF THE
16 DEFENDANT REQUESTS A HEARING, THE COURT SHALL PROCEED PURSUANT
17 TO SECTION 24-72-706.

18 (V) THE STATE COURT ADMINISTRATOR SHALL REMOVE THE
19 CONVICTIONS OBJECTED TO BY THE DISTRICT ATTORNEYS FROM THE LIST,
20 IF ANY, AND THEN COMPILER EACH OF THE LISTS INTO ONE FINAL LIST AND
21 SORT THE CONVICTIONS BY JUDICIAL DISTRICT. ALL CONVICTIONS FROM
22 THE INITIAL LISTS SHALL BE INCLUDED UNLESS OBJECTED TO WITHIN THE
23 FORTY-FIVE-DAY PERIOD AS INELIGIBLE UNDER SUBSECTION (3)(a)(I),
24 (3)(a)(II), or (3)(a)(III) OF THIS SECTION.

25 (b) (I) ~~The district attorney~~ STATE COURT ADMINISTRATOR
26 shall send the final list compiled pursuant to ~~subsection (3)(a)~~
27 SUBSECTION (3)(a)(V) of this section to the chief judge for the judicial

1 district. and The courts of that judicial district shall enter sealing orders
2 based on the list received WITHIN FOURTEEN DAYS AFTER RECEIPT OF THE
3 AMENDED LIST FROM THE STATE COURT ADMINISTRATOR.

4 (II) The district court shall send a copy of the sealing order to the
5 Colorado bureau of investigation, the law enforcement agency that
6 investigated the case, and the district attorney's office that prosecuted the
7 case to facilitate sealing of the records held by those entities THE DISTRICT
8 ATTORNEY'S OFFICES. The court shall also send a copy to the defendant if
9 the contact information for the defendant is available and to the state
10 court administrator for purposes of subsection (3)(c) SUBSECTIONS
11 (3)(b)(III) AND (3)(c) of this section.

12 (III) THE STATE COURT ADMINISTRATOR SHALL ELECTRONICALLY
13 SEND ALL ORDERS SEALING RECORDS PURSUANT TO THIS SUBSECTION
14 (3)(b) TO THE COLORADO BUREAU OF INVESTIGATION USING AN
15 INFORMATION-SHARING DATA TRANSFER TO FACILITATE SEALING OF THE
16 RECORDS HELD BY THE COLORADO BUREAU OF INVESTIGATION.

17 (IV) THE DEFENDANT MAY OBTAIN A COPY OF THE SEALING ORDER
18 PURSUANT TO SECTION 24-72-703 (2)(c) AND SERVE THE SEALING ORDER
19 ON ANY CUSTODIAN OF THE RECORDS PURSUANT TO SECTION 24-72-703
20 (8), INCLUDING THE LAW ENFORCEMENT AGENCY THAT INVESTIGATED THE
21 CASE.

22 (c) ON OR BEFORE JULY 1, 2024, the state court administrator shall
23 develop a website that allows a defendant to confidentially determine
24 whether ~~his or her~~ THE DEFENDANT'S conviction has been sealed pursuant
25 to this section and information about how to receive a copy of the sealing
26 order.

27 (4) (a) ON OR BEFORE FEBRUARY 1, 2024, AND ON OR BEFORE

1 JANUARY 1 EACH YEAR THEREAFTER, THE STATE COURT ADMINISTRATOR
2 SHALL REPORT TO THE JUDICIARY COMMITTEES OF THE SENATE AND THE
3 HOUSE OF REPRESENTATIVES, OR THEIR SUCCESSOR COMMITTEES, BY
4 JUDICIAL DISTRICT AND, TO THE EXTENT POSSIBLE, WITH DATA
5 DISAGGREGATED BY RACE AND SEX AND BY OFFENSE LEVEL, THE NUMBER
6 OF CONVICTION RECORDS IN THE PRIOR CALENDAR YEAR THAT:

- 7 (I) WERE CONSIDERED FOR AUTOMATIC RECORD SEALING;
- 8 (II) THE STATE COURT ADMINISTRATOR SENT TO THE CHIEF JUDGES
9 FOR EACH JUDICIAL DISTRICT; AND
- 10 (III) THE DISTRICT ATTORNEYS OBJECTED TO DUE TO:
 - 11 (A) INTERVENING CONVICTIONS;
 - 12 (B) THE INELIGIBILITY OF THE OFFENSE;
 - 13 (C) PENDING CHARGES;
 - 14 (D) PLEA AGREEMENTS WAIVING THE RIGHT TO RECORD SEALING;
- 15 AND
- 16 (E) OBJECTIONS PURSUANT TO SUBSECTION (3)(a)(II) OF THIS
17 SECTION.

18 (b) NOTWITHSTANDING SECTION 24-1-136 (11)(a)(I), THE REPORT
19 REQUIRED IN THIS SUBSECTION (4) CONTINUES INDEFINITELY.

20 (c) DURING THE 2023 AND 2024 LEGISLATIVE SESSIONS, THE
21 JUDICIAL DEPARTMENT SHALL REPORT ON THE PROGRESS OF ITS
22 IMPLEMENTATION OF SECTION 13-3-117, INCLUDING THE CREATION OF THE
23 WEBSITE PURSUANT TO SUBSECTION (3)(c) OF THIS SECTION, AS PART OF
24 THE DEPARTMENT'S "STATE MEASUREMENT FOR ACCOUNTABLE,
25 RESPONSIVE, AND TRANSPARENT (SMART) GOVERNMENT ACT" HEARING
26 REQUIRED BY SECTION 2-7-203.

27 **SECTION 4.** In Colorado Revised Statutes, 18-1.3-101, **amend**

1 (10)(c); and **add (10)(f)** as follows:

2 **18-1.3-101. Pretrial diversion.** (10) **Diversion outcomes.** (c) At
3 any point after a diversion agreement is completed, ~~a defendant may~~
4 ~~petition~~ the court ~~to~~ SHALL seal all arrest and other criminal records
5 pertaining to the offense using the procedure described in sections
6 24-72-704 and 24-72-705. ~~Unless otherwise prohibited under section~~
7 ~~24-72-703 (11), the court shall issue a sealing order if requested by the~~
8 ~~defendant following successful completion of a diversion agreement.~~

9 (f) (I) UPON COMPLETION OF DIVERSION IN A CASE MANAGED BY
10 A DISTRICT ATTORNEY DIVERSION PROGRAM PRIOR TO CHARGES BEING
11 FILED, THE DISTRICT ATTORNEY SHALL SEAL THE DISTRICT ATTORNEY'S
12 DIVERSION RECORD WITHOUT A COURT ORDER. THIS SUBSECTION (10)(f)
13 DOES NOT APPLY TO CASES WITH OFFENSES LISTED IN SECTION 24-4.1-302
14 (1).

15 (II) THE DISTRICT ATTORNEY SHALL NOTIFY THE COLORADO
16 BUREAU OF INVESTIGATION AND THE LAW ENFORCEMENT AGENCY THAT
17 HAD CONTACT WITH THE INDIVIDUAL THAT DIVERSION IS COMPLETE AND
18 THE CRIMINAL JUSTICE RECORDS ARE SEALED. ANY LAW ENFORCEMENT
19 AGENCY THAT RECEIVES A NOTICE SHALL ACKNOWLEDGE RECEIPT OF THE
20 NOTICE. THE COLORADO BUREAU OF INVESTIGATION, LAW ENFORCEMENT
21 AGENCY, DIVERSION PROVIDER, AND DISTRICT ATTORNEY SHALL TREAT
22 THE RECORDS AS SEALED WITHIN THIRTY-FIVE DAYS AFTER THE
23 COMPLETION OF DIVERSION, AND ALL PROVISIONS OF SECTION 24-72-703
24 SHALL APPLY TO THOSE RECORDS.

25 **SECTION 5.** In Colorado Revised Statutes, 18-7-201.3, **repeal**
26 (2)(a) and (2)(c) as follows:

27 **18-7-201.3. Affirmative defense - human trafficking -**

1 **expungement of record protective order - definitions.** (2) (a) ~~On or~~
2 ~~after January 1, 2016, a person charged with or convicted of prostitution,~~
3 ~~as described in section 18-7-201, or any corresponding municipal code or~~
4 ~~ordinance, for an offense committed before July 1, 2015, which offense~~
5 ~~was committed as a direct result of being a victim of human trafficking,~~
6 ~~as defined in subsection (4) of this section, may apply to the court for a~~
7 ~~sealing of his or her records pursuant to section 24-72-704 or 24-72-707,~~
8 ~~as applicable.~~

9 (c) ~~An official determination or documentation is not required to~~
10 ~~grant a motion pursuant to this subsection (2), but official documentation~~
11 ~~from a federal, state, local, or tribal government agency indicating that the~~
12 ~~defendant was a victim at the time of the offense creates a presumption~~
13 ~~that his or her participation in the offense was a direct result of being a~~
14 ~~victim.~~

15 **SECTION 6.** In Colorado Revised Statutes, 18-13-107.3, **repeal**
16 (3) as follows:

17 **18-13-107.3. Intentional misrepresentation of entitlement to**
18 **an assistance animal - penalty - definitions.** (3) (a) ~~A defendant may~~
19 ~~petition the district court of the district in which any conviction records~~
20 ~~pertaining to the defendant's first conviction for intentional~~
21 ~~misrepresentation of entitlement to an assistance animal, as described in~~
22 ~~subsection (1) of this section, are located for the sealing of the conviction~~
23 ~~records, except for basic identifying information.~~

24 (b) ~~If a petition is filed pursuant to paragraph (a) of this subsection~~
25 ~~(3) for the sealing of a record of conviction for intentional~~
26 ~~misrepresentation of entitlement to an assistance animal, the court shall~~
27 ~~order the record sealed if the following criteria are met:~~

- 1 ~~(I) The petition is filed;~~
- 2 ~~(II) The filing fee is paid or the defendant has filed a motion to~~
3 ~~file without payment with a supporting financial affidavit and the court~~
4 ~~has granted the motion;~~
- 5 ~~(III) The defendant's first conviction for intentional~~
6 ~~misrepresentation of entitlement to an assistance animal was at least three~~
7 ~~years prior to the date of the filing of the petition; and~~
- 8 ~~(IV) The defendant has not had a subsequent conviction for~~
9 ~~intentional misrepresentation of entitlement to an assistance animal.~~
- 10 ~~(c) An order entered pursuant to this subsection (3) must be~~
11 ~~directed to each custodian who may have custody of any part of the~~
12 ~~conviction records that are the subject of the order. Whenever a court~~
13 ~~enters an order sealing conviction records pursuant to this subsection (3);~~
14 ~~the defendant shall provide the Colorado bureau of investigation and each~~
15 ~~custodian of the conviction records with a copy of the order and shall pay~~
16 ~~to the bureau any costs related to the sealing of his or her criminal~~
17 ~~conviction records that are in the custody of the bureau unless the court~~
18 ~~has granted the motion specified in subparagraph (II) of paragraph (b) of~~
19 ~~this subsection (3). Thereafter, the defendant may request and the court~~
20 ~~may grant an order sealing the civil case in which the conviction records~~
21 ~~were sealed.~~

22 **SECTION 7.** In Colorado Revised Statutes, 18-13-107.7, **repeal**
23 **(3)** as follows:

24 **18-13-107.7. Intentional misrepresentation of a service animal**
25 **for a person with a disability - penalty - definitions.** (3) ~~(a) A~~
26 ~~defendant may petition the district court of the district in which any~~
27 ~~conviction records pertaining to the defendant's first conviction for~~

1 ~~intentional misrepresentation of a service animal, as described in~~
2 ~~subsection (1) of this section, are located for the sealing of the conviction~~
3 ~~records, except for basic identifying information.~~

4 ~~(b) If a petition is filed pursuant to paragraph (a) of this subsection~~
5 ~~(3) for the sealing of a record of conviction for intentional~~
6 ~~misrepresentation of a service animal, the court shall order the record~~
7 ~~sealed if the following criteria are met:~~

8 ~~(I) The petition is filed;~~

9 ~~(II) The filing fee is paid or the defendant has filed a motion to~~
10 ~~file without payment with a supporting financial affidavit and the court~~
11 ~~has granted the motion;~~

12 ~~(III) The defendant's first conviction for intentional~~
13 ~~misrepresentation of a service animal was at least three years prior to the~~
14 ~~date of the filing of the petition; and~~

15 ~~(IV) The defendant has not had a subsequent conviction for~~
16 ~~intentional misrepresentation of a service animal.~~

17 ~~(c) An order entered pursuant to this subsection (3) must be~~
18 ~~directed to each custodian who may have custody of any part of the~~
19 ~~conviction records that are the subject of the order. Whenever a court~~
20 ~~enters an order sealing conviction records pursuant to this subsection (3),~~
21 ~~the defendant shall provide the Colorado bureau of investigation and each~~
22 ~~custodian of the conviction records with a copy of the order and shall pay~~
23 ~~to the bureau any costs related to the sealing of his or her criminal~~
24 ~~conviction records that are in the custody of the bureau unless the court~~
25 ~~has granted the motion specified in subparagraph (II) of paragraph (b) of~~
26 ~~this subsection (3). Thereafter, the defendant may request and the court~~
27 ~~may grant an order sealing the civil case in which the conviction records~~

1 ~~were sealed.~~

2 **SECTION 8.** In Colorado Revised Statutes, 18-13-122, **amend**
3 (13) as follows:

4 **18-13-122. Illegal possession or consumption of ethyl alcohol**
5 **or marijuana by an underage person - illegal possession of marijuana**
6 **paraphernalia by an underage person - definitions - adolescent**
7 **substance abuse prevention and treatment fund - legislative**
8 **declaration. (13) Sealing of record. (a)** ~~Upon dismissal of a case~~
9 ~~pursuant to this section after completion of a deferred judgment or~~
10 ~~diversion or any other action resulting in dismissal of the case or Upon~~
11 ~~completion of the court-ordered substance abuse education and payment~~
12 ~~of any fine for a first conviction of subsection (3) of this section, the court~~
13 ~~shall immediately order the case sealed PURSUANT TO SECTION 24-72-704~~
14 ~~and provide to the underage person and the prosecutor a copy of the order~~
15 ~~sealing the case for distribution by the appropriate party to all law~~
16 ~~enforcement agencies in the case.~~

17 ~~(b) Upon the expiration of one year from the date of a second or~~
18 ~~subsequent conviction for a violation of subsection (3) of this section, the~~
19 ~~underage person convicted of such violation may petition the court in~~
20 ~~which the conviction was assigned for an order sealing the record of the~~
21 ~~conviction. The petitioner shall submit a verified copy of his or her~~
22 ~~criminal history, current through at least the twentieth day prior to the~~
23 ~~date of the filing of the petition, along with the petition at the time of~~
24 ~~filing, but in no event later than the tenth day after the petition is filed.~~
25 ~~The petitioner shall be responsible for obtaining and paying for his or her~~
26 ~~criminal history record. The court shall grant the petition if the petitioner~~
27 ~~has not been arrested for, charged with, or convicted of any felony,~~

1 ~~misdemeanor, or petty offense during the period of one year following the~~
2 ~~date of the petitioner's conviction for a violation of subsection (3) of this~~
3 ~~section.~~

4 **SECTION 9.** In Colorado Revised Statutes, 24-72-701, **add** (2.5),
5 (4.5), and (5.5) as follows:

6 **24-72-701. Definitions.** As used in this part 7, unless the context
7 otherwise requires:

8 (2.5) "CONVICTION" MEANS A CRIMINAL JUDGMENT OF
9 CONVICTION AND DOES NOT INCLUDE INFRACTIONS THAT CONSTITUTE
10 CIVIL MATTERS.

11 (4.5) "CRIMINAL JUSTICE RECORDS" MEANS ALL BOOKS, PAPERS,
12 CARDS, PHOTOGRAPHS, TAPES, RECORDINGS, OR OTHER DOCUMENTARY
13 MATERIALS, REGARDLESS OF FORM OR CHARACTERISTICS, THAT ARE MADE,
14 MAINTAINED, OR KEPT BY ANY CRIMINAL JUSTICE AGENCY OR OTHER
15 ENTITY, PUBLIC OR PRIVATE, IN THE STATE FOR USE IN THE EXERCISE OF
16 FUNCTIONS REQUIRED OR AUTHORIZED BY LAW OR ADMINISTRATIVE RULE,
17 INCLUDING THE RESULTS OF CHEMICAL BIOLOGICAL SUBSTANCE TESTING
18 TO DETERMINE GENETIC MARKERS CONDUCTED PURSUANT TO SECTIONS
19 16-11-102.4 AND 16-23-104.

20 (5.5) "DISPOSITION" HAS THE SAME MEANING AS SET FORTH IN
21 SECTION 24-72-302.

22 **SECTION 10.** In Colorado Revised Statutes, 24-72-703, **amend**
23 (1), (2)(a)(I), (2)(a)(III), (2)(b), (2)(c), (2)(d)(I), (8), and (12)(b); and
24 **add** (2)(a)(VI), (2)(a)(VII), (2)(a)(VIII), and (2)(d)(IV) as follows:

25 **24-72-703. Sealing of records - general provisions - order**
26 **applicability - discovery and advisements. (1) Applicability. The**
27 ~~provisions of This section shall apply~~ APPLIES to the sealing of arrest and

1 criminal JUSTICE records pursuant to sections 24-72-704 to 24-72-710.
2 SUBSECTIONS (2), (4), (5), (6), (7), AND (12) OF THIS SECTION APPLY TO
3 THE AUTOMATIC SEALING OF CRIMINAL JUSTICE RECORDS PURSUANT TO
4 SECTION 13-3-117.

5 (2) **Effect of a sealing order.** (a) (I) An order sealing arrest or
6 other criminal records does not deny access to the criminal records of a
7 petitioner or defendant by any court, law enforcement agency, criminal
8 justice agency, prosecuting attorney, or party, or GOVERNMENTAL agency
9 required by ~~law~~ STATUTE OR RULES OR REGULATIONS to conduct a
10 criminal history record check on an individual, INCLUDING FOR THE
11 PURPOSE OF A PROSECUTOR COMPLYING WITH PROSECUTORIAL DUTIES
12 UNDER RULE 16 OF THE COLORADO RULES OF CRIMINAL PROCEDURE TO
13 DISCLOSE CRIMINAL JUSTICE RECORDS IN CRIMINAL PROCEEDINGS.

14 (III) A ~~conviction~~ RECORD sealed pursuant to this article 72 AND
15 SECTION 13-3-117 may be used by a criminal justice agency, law
16 enforcement agency, court, or prosecuting attorney for any lawful purpose
17 relating to the investigation or prosecution of any case, including ~~but not~~
18 ~~limited to~~ any subsequent case that is filed against the petitioner or
19 defendant; FOR COLLECTING FINES, COURT COSTS, LATE FEES, OR OTHER
20 FEES; or for any other lawful purpose within the scope of ~~his, her, or its~~
21 THE AGENCY'S, COURT'S, OR ATTORNEY'S duties. A party or agency
22 required by law to conduct a criminal history record check is authorized
23 to use any sealed conviction for the lawful purpose for which the criminal
24 history record check is required by law.

25 (VI) THE SEALING OF A RECORD PURSUANT TO THIS ARTICLE 72
26 AND SECTION 13-3-117 DOES NOT PRECLUDE A COURT'S JURISDICTION
27 OVER ANY SUBSEQUENTLY FILED MOTION, INCLUDING A MOTION TO

1 AMEND THE RECORD, A POSTCONVICTION RELIEF MOTION OR PETITION, OR
2 ANY OTHER MOTION CONCERNING A SEALED CONVICTION RECORD.

3 (VII) A DEFENDANT WHOSE RECORD HAS BEEN SEALED OR
4 EXPUNGED MAY ACCESS INFORMATION CONTAINED IN THE SEALED RECORD
5 FROM THE COLORADO BUREAU OF INVESTIGATION WITHOUT A COURT
6 ORDER. IN RESPONSE TO AN INQUIRY FROM THE DEFENDANT, THE
7 COLORADO BUREAU OF INVESTIGATION SHALL REPLY BOTH PURSUANT TO
8 SUBSECTION (2)(b) OF THIS SECTION AND WITH THE INFORMATION AND
9 RECORDS UNDERLYING THE SEALED RECORD.

10 (VIII) A PROSECUTING ATTORNEY'S ACCESS TO RECORDS
11 PURSUANT TO THIS SUBSECTION (2) DOES NOT REQUIRE A COURT ORDER.

12 (IV) SEALED COURT RECORDS ARE OPEN TO INSPECTION WITHOUT
13 COURT ORDER TO ANY PERSON OR AGENCY FOR RESEARCH PURPOSES IF
14 ALL OF THE FOLLOWING CONDITIONS ARE MET:

15 (A) THE PERSON OR AGENCY CONDUCTING THE RESEARCH IS
16 EMPLOYED BY THE STATE OF COLORADO OR IS UNDER CONTRACT WITH THE
17 STATE OF COLORADO OR OTHER GOVERNMENTAL SUBDIVISION AND IS
18 AUTHORIZED BY THE STATE OR SUBDIVISION TO CONDUCT THE RESEARCH;

19 (B) THE PERSON OR AGENCY CONDUCTING THE RESEARCH ENSURES
20 THAT ALL DOCUMENTS CONTAINING IDENTIFYING INFORMATION ARE
21 MAINTAINED IN SECURE LOCATIONS AND ACCESS TO SUCH DOCUMENTS BY
22 UNAUTHORIZED PERSONS IS PROHIBITED, THAT NO IDENTIFYING
23 INFORMATION IS INCLUDED IN DOCUMENTS GENERATED FROM THE
24 RESEARCH CONDUCTED, AND THAT ALL IDENTIFYING INFORMATION IS
25 DELETED FROM DOCUMENTS USED IN THE RESEARCH WHEN THE RESEARCH
26 IS COMPLETED;

27 (C) THE PERSON OR AGENCY ONLY RELEASES ANY DATA IN

1 AGGREGATE FORM;

2 (D) IF APPLICABLE, WHEN PUBLICLY REPORTING DE-IDENTIFIED
3 AGGREGATE INFORMATION ABOUT CRIMINAL JUSTICE ISSUES, THE
4 INFORMATION WOULD BE INACCURATE WITHOUT THE INCLUSION OF
5 SEALED RECORD INFORMATION;

6 (E) IF APPLICABLE, WHEN THE PURPOSE OF THE RESEARCH CANNOT
7 BE ACCOMPLISHED WITHOUT THE INCLUSION OF DE-IDENTIFIED SEALED
8 RECORD INFORMATION; AND

9 (F) IF APPLICABLE, WHEN THE PERSON OR AGENCY CONDUCTING
10 THE RESEARCH IS ALSO CONDUCTING DATA MAINTENANCE OR DATA
11 LINKAGE ON BEHALF OF A CUSTODIAN OF CRIMINAL JUSTICE RECORDS AND
12 REQUIRES ACCESS TO IDENTIFIED SEALED RECORD INFORMATION.

13 (b) Except as otherwise provided in subsection (2)(a)(I) of this
14 section, upon the entry of an order to seal the criminal records, the
15 defendant ~~and all criminal justice agencies~~ may properly reply, upon an
16 inquiry into the matter, that public criminal records do not exist with
17 respect to the petitioner or defendant. UPON AN INQUIRY INTO A SEALED
18 RECORD, A CRIMINAL JUSTICE AGENCY SHALL REPLY THAT A PUBLIC
19 CRIMINAL RECORD DOES NOT EXIST WITH RESPECT TO THE DEFENDANT
20 WHO IS THE SUBJECT OF THE SEALED RECORD.

21 ~~(c) Except as otherwise provided in subsection (2)(a)(I) of this~~
22 ~~section, inspection of the records included in an order sealing criminal~~
23 ~~records may thereafter be permitted by the court only upon petition by the~~
24 ~~petitioner or defendant. THE PERSON WHO IS THE SUBJECT OF THE~~
25 RECORDS AND THE PROSECUTING ATTORNEY MAY INSPECT THE RECORDS
26 INCLUDED IN AN ORDER SEALING CRIMINAL RECORDS WITHOUT A COURT
27 ORDER AND ONLY FOR THE PURPOSES PERMITTED BY LAW.

1 (d) (I) Except as otherwise provided in subsection (2)(a)(I) of this
2 section, employers, state and local government agencies, officials,
3 landlords, ~~and~~ employees, AND ANY OTHER ENTITY shall not require an
4 applicant to disclose any information contained in sealed ~~conviction~~
5 CRIMINAL JUSTICE records in any application or interview or in any other
6 way. An applicant does not need to include a reference to or information
7 concerning the sealed ~~conviction~~ records in answer to any question
8 concerning ~~conviction~~ records that have been sealed and may state that
9 the applicant has not been criminally convicted. An application may not
10 be denied solely because of the applicant's refusal to disclose ~~conviction~~
11 records that have been sealed.

12

==

13 (8) **Service of sealing order.** The court shall direct a sealing order
14 entered pursuant to this part 7 to each custodian who may have custody
15 of any part of the ~~conviction~~ CRIMINAL JUSTICE records OR ARREST AND
16 CRIMINAL RECORDS INFORMATION that are the subject of the order. THE
17 COURT SHALL DIRECT THAT THE SEALING ORDER APPLIES TO PUBLIC AND
18 PRIVATE CUSTODIANS OF THE RECORDS. Whenever a court enters an order
19 sealing ~~conviction~~ CRIMINAL JUSTICE records, the ~~defendant~~ COURT shall
20 provide the Colorado bureau of investigation and each custodian of the
21 ~~conviction~~ records with a copy of the order. The ~~petitioner shall provide~~
22 DEFENDANT MAY SERVE a private OR PUBLIC custodian with a copy of the
23 order. ~~and send the private custodian an electronic notification of the~~
24 ~~order.~~ Each private custodian that receives a copy of the order from the
25 ~~petitioner~~ DEFENDANT shall remove the records that are subject to an
26 order from its database AND SHALL SECURE AND KEEP CONFIDENTIAL ANY
27 RECORDS IN THE CUSTODIAN'S POSSESSION. The defendant shall pay to the

1 bureau any costs related to the sealing of ~~his or her~~ THE DEFENDANT'S
2 criminal ~~conviction~~ JUSTICE records in the custody of the bureau, UNLESS
3 THE DEFENDANT DEMONSTRATES THAT THE RECORDS SHOULD HAVE BEEN
4 AUTOMATICALLY SEALED PURSUANT TO SECTION 13-3-117, 24-72-704, OR
5 24-72-705. Thereafter, the defendant may request and the court may grant
6 an order sealing the ~~civil~~ case in which the ~~conviction~~ records were
7 sealed.

8 (12) **Exclusions.** (b) ~~Conviction records must not be sealed if the~~
9 ~~defendant still owes~~ restitution. NEITHER THE COURT NOR THE STATE
10 COURT ADMINISTRATOR'S OFFICE SHALL FACTOR IN OR TAKE INTO
11 CONSIDERATION ANY UNPAID ___ fines, court costs, late fees, or other fees
12 ordered by the court in the case that is the subject of the motion to seal
13 ~~unless the court that entered the order has vacated the order~~ WHEN THE
14 COURT IS DETERMINING WHETHER THE RECORD SHOULD BE SEALED.

15 ___
16 **SECTION 11.** In Colorado Revised Statutes, 24-72-704, **amend**
17 (2)(b)(I)(B) and (1)(d); and **add** (6) as follows:

18 **24-72-704. Sealing of arrest records when no charges filed -**
19 **automatic sealing.** (1) (d) ~~Inspection of the records included in an order~~
20 ~~sealing criminal records may be permitted by the court only upon petition~~
21 ~~by the person who is the subject of the records or by the prosecuting~~
22 ~~attorney and only for those purposes named in the petition.~~ THE PERSON
23 WHO IS THE SUBJECT OF THE RECORDS AND THE PROSECUTING ATTORNEY
24 MAY INSPECT THE RECORDS INCLUDED IN AN ORDER SEALING CRIMINAL
25 RECORDS WITHOUT A COURT ORDER AND ONLY FOR THE PURPOSES
26 PERMITTED BY LAW.

27 (2) (b) (I) For arrests without a conviction after January 1, 2019,

1 but before January 1, 2022, the Colorado bureau of investigation shall
2 automatically seal an arrest record that is in its custody and control of a
3 person when no criminal charges have been filed:

4 (B) Within eighteen months after the date of arrest for a
5 misdemeanor offense, a misdemeanor traffic offense, A CIVIL INFRACTION,
6 a petty offense, a municipal ordinance violation for which the statute of
7 limitations is eighteen months or less, or if there is no indication of the
8 classification of the crime in the arrest data.

9 (6) (a) BEGINNING NOVEMBER 1, 2023, AND ANNUALLY
10 THEREAFTER, THE COLORADO BUREAU OF INVESTIGATION SHALL REPORT
11 THE NUMBER OF ARREST RECORDS SEALED TO THE JUDICIARY COMMITTEES
12 OF THE SENATE AND THE HOUSE OF REPRESENTATIVES, OR THEIR
13 SUCCESSOR COMMITTEES, BY JUDICIAL DISTRICT AND, TO THE EXTENT
14 POSSIBLE, WITH DATA DISAGGREGATED BY RACE AND SEX AND BY OFFENSE
15 LEVEL.

16 ==

17 ==

18 (b) NOTWITHSTANDING SECTION 24-1-136 (11)(a)(I), THE REPORT
19 REQUIRED IN THIS SUBSECTION (6) CONTINUES INDEFINITELY.

20 **SECTION 12.** In Colorado Revised Statutes, 24-72-705, **amend**
21 (1)(a) introductory portion, (1)(b), (1)(c), and (2); and **add (1)(a.5)** as
22 follows:

23 **24-72-705. Sealing criminal justice records other than**
24 **convictions - simplified process - applicability.** (1) (a) ON ITS OWN
25 MOTION, the court shall order the defendant's criminal justice records
26 sealed when:

27 (a.5) THE COURT SHALL NOT REQUIRE A WRITTEN MOTION OR ANY

1 OTHER WRITTEN PLEADINGS FOR SEALING PURSUANT TO THIS SECTION. THE
2 COURT SHALL ENTER AN ORDER SEALING RECORDS PURSUANT TO THIS
3 SUBSECTION (1) AT THE TIME OF DISPOSITION AND SHALL SERVE THE
4 SEALING ORDER PURSUANT TO SECTION 24-72-703(8) NO LATER THAN
5 TWENTY-EIGHT DAYS AFTER THE DATE OF DISPOSITION.

6 (b) If the court did not order the record sealing at the time of the
7 dismissal or acquittal, the defendant may make such motion at any time
8 subsequent to the dismissal or acquittal through the filing of a written
9 motion in the criminal case with written notice to the prosecuting attorney
10 COLORADO BUREAU OF INVESTIGATION SHALL AUTOMATICALLY SEAL THE
11 RECORD UPON RECEIPT OF DISPOSITION IN THE CASE, UNLESS THE
12 DEFERRED JUDGMENT IS INELIGIBLE FOR SEALING PURSUANT TO SECTION
13 24-72-703 (12)(d).

14 (c) ~~If the defendant moves pursuant to subsection (1)(a) of this~~
15 ~~section to seal his or her criminal justice records pursuant to the expedited~~
16 ~~procedures of this section, the court shall promptly process the~~
17 ~~defendant's request to seal the criminal justice records within the criminal~~
18 ~~case without the filing of an independent civil action and without any~~
19 ~~further evidence except for evidence of the dismissal or acquittal.~~
20 Motions filed pursuant to this section are procedural in nature, and
21 sealing pursuant to this section applies retroactively for all eligible cases
22 when the case has been completely dismissed or the defendant has been
23 acquitted of all counts in a state or municipal criminal case.

24 (2) (a) ~~A defendant moving to have his or her criminal justice~~
25 ~~records sealed or a defendant who has his or her criminal justice records~~
26 ~~sealed by the court pursuant to this section shall pay a processing fee of~~
27 ~~sixty-five dollars to cover the actual costs related to the sealing of the~~

1 ~~criminal justice records, which the court may waive upon a determination~~
2 ~~of indigency~~ IF THE AUTOMATIC SEALING OF A CRIMINAL RECORD DOES
3 NOT OCCUR, THE DEFENDANT MAY MAKE A MOTION TO SEAL IN THE
4 CRIMINAL CASE THE RECORD AT ANY TIME SUBSEQUENT TO THE DISMISSAL
5 OR ACQUITTAL THROUGH THE FILING OF A WRITTEN MOTION. THE
6 DEFENDANT MAY MAKE THE MOTION WITHOUT BEING CHARGED FEES OR
7 COSTS.

8 ~~(b) When the motion to seal the criminal case is filed in state~~
9 ~~court, the processing fees collected pursuant to subsection (2)(a) of this~~
10 ~~section must be transmitted to the state treasurer and credited to the~~
11 ~~judicial stabilization cash fund created in section 13-32-101 (6).~~

12 ~~(c) When the motion to seal the criminal case is filed in municipal~~
13 ~~court, the processing fees collected pursuant to subsection (2)(a) of this~~
14 ~~section must be reported and paid as municipal costs and must be~~
15 ~~transmitted to the treasurer of the municipality and deposited in the~~
16 ~~general fund of the municipality pursuant to section 13-10-115.~~

17 **SECTION 13.** In Colorado Revised Statutes, 24-72-706, **amend**
18 (1)(b)(I), (1)(e), (1)(f)(I), and (1)(h); **repeal** _____ (2)(c); and **add**
19 (1)(b)(I.5), (1)(b)(III.3), (1)(b)(III.5), and (1)(i) as follows:

20 **24-72-706. Sealing of criminal justice records - processing fee.**

21 (1) **Sealing of conviction records.** (b) (I) If the offense is a CIVIL
22 INFRACTION, A petty offense, or a drug petty offense, the motion may be
23 filed one year after the later of the date of the final disposition of all
24 ~~criminal~~ proceedings against the defendant or the release of the defendant
25 from supervision concerning a ~~criminal~~ conviction.

26 (I.5) IF THE OFFENSE IS A SECOND OR SUBSEQUENT CONVICTION
27 FOR A VIOLATION OF SECTION 18-13-122 (3), THE MOTION MAY BE FILED

1 ONE YEAR AFTER THE DATE OF THE SECOND OR SUBSEQUENT CONVICTION,
2 AND THE COURT SHALL ORDER THAT THE MOTION BE GRANTED IF THE
3 DEFENDANT HAS NOT BEEN CONVICTED OF OR IS NOT CURRENTLY
4 CHARGED WITH ANY FELONY, MISDEMEANOR, OR PETTY OFFENSE DURING
5 THE PERIOD OF ONE YEAR AFTER THE DATE OF THE DEFENDANT'S
6 CONVICTION FOR A VIOLATION OF SECTION 18-13-122 (3).

7 (III.3) NOTWITHSTANDING SUBSECTION (1)(b)(I) OF THIS SECTION,
8 IF THE OFFENSE IS A FIRST CONVICTION FOR INTENTIONAL
9 MISREPRESENTATION OF ENTITLEMENT TO AN ASSISTANCE ANIMAL AS
10 DESCRIBED IN SECTION 18-13-107.3 (1), THE DEFENDANT MAY FILE A
11 MOTION THREE YEARS AFTER THE CONVICTION AND THE COURT SHALL
12 ORDER THE RECORD SEALED IF THE DEFENDANT DOES NOT HAVE A
13 SUBSEQUENT CONVICTION FOR INTENTIONAL MISREPRESENTATION OF
14 ENTITLEMENT TO AN ASSISTANCE ANIMAL.

15 (III.5) IF THE OFFENSE IS A FIRST CONVICTION FOR INTENTIONAL
16 MISREPRESENTATION OF A SERVICE ANIMAL, AS DESCRIBED IN SECTION
17 18-13-107.7 (1), THE DEFENDANT MAY FILE A MOTION THREE YEARS AFTER
18 THE CONVICTION, AND THE COURT SHALL ORDER THE RECORD SEALED IF
19 THE DEFENDANT DOES NOT HAVE A SUBSEQUENT CONVICTION FOR
20 INTENTIONAL MISREPRESENTATION OF A SERVICE ANIMAL.

21 (e) Conviction records may not be sealed if the defendant still
22 owes restitution, fines, court costs, late fees, or other fees ordered by the
23 court in the case that is the subject of the motion to seal conviction
24 records, unless the court that entered the order for restitution fines, court
25 costs, late fees, or other fees vacated the order.

26 (f) (I) If a motion is filed for the sealing of a CIVIL INFRACTION, A
27 petty offense, A petty drug offense, or, notwithstanding any provision of

1 this part 7 to the contrary, an offense for the possession of marijuana, the
2 court shall order that the records be sealed after the motion is filed and
3 the criminal history filed with the court documents to the court that the
4 defendant has not been convicted of ~~a criminal~~ AN offense since the date
5 of the final disposition of all ~~criminal~~ proceedings against the defendant
6 or since the date of the defendant's release from supervision, whichever
7 is later.

8 (h) A defendant who files a motion to seal criminal justice
9 ~~conviction~~ records pursuant to this section shall pay a processing fee of
10 sixty-five dollars to cover the actual costs related to the sealing of the
11 criminal justice records. ~~which the court may waive upon a determination~~
12 ~~of indigency.~~ The defendant shall pay to the Colorado bureau of
13 investigation any costs related to the sealing of ~~his or her~~ THE
14 DEFENDANT'S criminal ~~conviction~~ JUSTICE records in the custody of the
15 bureau. THE COURT SHALL WAIVE THE PROCESSING FEE UPON A
16 DETERMINATION THAT:

17 (I) THE DEFENDANT IS INDIGENT; OR

18 (II) THE DEFENDANT'S RECORDS SHOULD HAVE BEEN
19 AUTOMATICALLY SEALED PURSUANT TO SECTION 13-3-117, 24-72-704, OR
20 24-72-705.

21 (i) THE COURT SHALL DETERMINE ELIGIBILITY OF A DRUG OFFENSE
22 COMMITTED BEFORE OCTOBER 1, 2013, BY THE CLASSIFICATION OF THE
23 OFFENSE AT THE TIME OF CONSIDERING THE RECORD SEALING.

24 (2) (c) ~~This section does not apply to records that are subject to~~
25 ~~the procedure set forth in section 18-13-122 (13).~~

26 **SECTION 14.** In Colorado Revised Statutes, 24-72-707, **amend**
27 (3)(b); and **add** (1.5) as follows:

1 **24-72-707. Sealing of criminal conviction records information**
2 **for offenses committed by victims of human trafficking.** (1.5) A
3 PERSON CHARGED WITH OR CONVICTED OF PROSTITUTION, AS DESCRIBED
4 IN SECTION 18-7-201, OR ANY CORRESPONDING MUNICIPAL CODE OR
5 ORDINANCE, WHICH OFFENSE WAS COMMITTED AS A DIRECT RESULT OF
6 BEING A VICTIM OF HUMAN TRAFFICKING, AS DEFINED IN SECTION
7 18-7-201.3 (4) , MAY FILE A MOTION WITH THE COURT FOR A SEALING OF
8 THE PERSON'S RECORDS.

9 (3) The court shall order the records sealed after:

10 (b) The defendant establishes by a preponderance of the evidence
11 that, at the time ~~he or she~~ THE DEFENDANT committed the offense, ~~he or~~
12 ~~she~~ THE DEFENDANT had been trafficked by another person, as described
13 in section 18-3-503 or 18-3-504, for the purpose of performing the
14 offense. OFFICIAL DOCUMENTATION FROM A FEDERAL, STATE, LOCAL, OR
15 TRIBAL GOVERNMENT AGENCY INDICATING THAT THE DEFENDANT WAS A
16 VICTIM OF HUMAN TRAFFICKING AT THE TIME OF THE OFFENSE CREATES A
17 PRESUMPTION THAT THE DEFENDANT'S PARTICIPATION IN THE OFFENSE
18 WAS THE DIRECT RESULT OF BEING A VICTIM OF HUMAN TRAFFICKING.

19 **SECTION 15. In Colorado Revised Statutes, repeal**
20 **and reenact, with amendments, 24-72-708 as follows:**

21 **24-72-708. Sealing of criminal conviction records information**
22 **for municipal offenses for convictions. (1) Sealing of conviction**
23 **records. A DEFENDANT MAY FILE A MOTION IN THE CRIMINAL CASE IN**
24 **WHICH ANY CONVICTION RECORDS PERTAINING TO THE DEFENDANT FOR A**
25 **MUNICIPAL VIOLATION ARE LOCATED FOR THE SEALING OF THE**
26 **CONVICTION RECORDS WITHIN THE TIME FRAMES DESCRIBED IN**
27 **SUBSECTION (3)(a) OF THIS SECTION, EXCEPT BASIC IDENTIFICATION**

1 INFORMATION, IF:

2 (a) THE DEFENDANT HAS NOT BEEN CHARGED WITH OR CONVICTED
3 OF A FELONY, MISDEMEANOR, OR MISDEMEANOR TRAFFIC OFFENSE SINCE
4 THE DATE OF THE FINAL DISPOSITION OF ALL CRIMINAL PROCEEDINGS
5 AGAINST THE DEFENDANT OR THE DATE OF THE DEFENDANT'S RELEASE
6 FROM SUPERVISION, WHICHEVER IS LATER; AND

7 (b) THE CONVICTION RECORDS SOUGHT TO BE SEALED ARE NOT FOR
8 A MISDEMEANOR TRAFFIC OFFENSE COMMITTED EITHER BY A HOLDER OF
9 A COMMERCIAL LEARNER'S PERMIT OR A COMMERCIAL DRIVER'S LICENSE,
10 AS DEFINED IN SECTION 42-2-402, OR BY THE OPERATOR OF A COMMERCIAL
11 MOTOR VEHICLE, AS DEFINED IN SECTION 42-2-402.

12 (2) **Sealing of conviction records with a single subsequent**
13 **offense.** NOTWITHSTANDING THE PROVISIONS OF SUBSECTION (1)(a) OF
14 THIS SECTION, A DEFENDANT MAY FILE A MOTION IN THE CRIMINAL CASE
15 IN WHICH ANY CONVICTION RECORDS PERTAINING TO THE DEFENDANT FOR
16 A MUNICIPAL VIOLATION OR PETTY OFFENSE ARE LOCATED FOR THE
17 SEALING OF THE CONVICTION RECORDS WITHIN THE TIME FRAMES
18 DESCRIBED IN SUBSECTION (3)(b) OF THIS SECTION, EXCEPT BASIC
19 IDENTIFICATION INFORMATION, IF:

20 (a) THE DEFENDANT WAS CONVICTED OF A SINGLE OFFENSE THAT
21 WAS NOT A FELONY AND DID NOT INVOLVE DOMESTIC VIOLENCE AS
22 DEFINED IN SECTION 18-6-800.3 (1), UNLAWFUL SEXUAL BEHAVIOR AS
23 DEFINED IN SECTION 16-22-102 (9), OR CHILD ABUSE AS DEFINED IN
24 SECTION 18-6-401;

25 (b) THE DEFENDANT HAS NOT BEEN CONVICTED OF A FELONY,
26 MISDEMEANOR, OR MISDEMEANOR TRAFFIC OFFENSE SINCE THE DATE OF
27 THE FINAL DISPOSITION OF ALL CRIMINAL PROCEEDINGS AGAINST THE

1 DEFENDANT FOR THE SUBSEQUENT CRIMINAL CASE OR SINCE THE DATE OF
2 THE DEFENDANT'S RELEASE FROM SUPERVISION FOR THE SUBSEQUENT
3 CASE, WHICHEVER IS LATER; AND

4 (c) THE CONVICTION SOUGHT TO BE SEALED IS NOT A MUNICIPAL
5 ASSAULT OR BATTERY OFFENSE IN WHICH THE UNDERLYING FACTUAL
6 BASIS INVOLVES DOMESTIC VIOLENCE, AS DEFINED IN SECTION 18-6-800.3
7 (1), OR ANY OTHER MUNICIPAL VIOLATION IN WHICH THE UNDERLYING
8 FACTUAL BASIS INVOLVES DOMESTIC VIOLENCE, AS DEFINED IN SECTION
9 18-6-800.3 (1).

10 **(3) Timing for filing motions.** (a) A MOTION FILED PURSUANT TO
11 SUBSECTION (1) OF THIS SECTION MAY BE FILED THREE YEARS AFTER THE
12 LATER OF THE DATE OF THE FINAL DISPOSITION OF ALL CRIMINAL
13 PROCEEDINGS AGAINST THE DEFENDANT OR THE RELEASE OF THE
14 DEFENDANT FROM SUPERVISION CONCERNING A CRIMINAL CONVICTION.

15 (b) A MOTION FILED PURSUANT TO SUBSECTION (2) OF THIS
16 SECTION MAY BE FILED TEN YEARS AFTER THE DATE OF THE FINAL
17 DISPOSITION OF ALL CRIMINAL PROCEEDINGS AGAINST THE DEFENDANT
18 FOR THE SUBSEQUENT CRIMINAL CASE OR TEN YEARS AFTER THE DATE OF
19 THE DEFENDANT'S RELEASE FROM SUPERVISION FOR THE SUBSEQUENT
20 CRIMINAL CASE, WHICHEVER IS LATER.

21 (4) UPON FILING THE MOTION, THE DEFENDANT SHALL PAY THE
22 FILING FEE REQUIRED BY LAW.

23 (5) (a) UPON THE FILING OF A MOTION, THE COURT SHALL REVIEW
24 THE MOTION AND DETERMINE WHETHER THERE ARE GROUNDS PURSUANT
25 TO THIS SECTION TO PROCEED TO A HEARING ON THE PETITION. IF THE
26 COURT DETERMINES THAT THE MOTION ON ITS FACE IS INSUFFICIENT OR IF
27 THE COURT DETERMINES THAT, AFTER TAKING JUDICIAL NOTICE OF

1 MATTERS OUTSIDE THE MOTION, THE DEFENDANT IS NOT ENTITLED TO
2 RELIEF PURSUANT TO THIS SECTION, THE COURT SHALL ENTER AN ORDER
3 DENYING THE MOTION AND MAIL A COPY OF THE ORDER TO THE
4 DEFENDANT. THE COURT'S ORDER SHALL SPECIFY THE REASONS FOR THE
5 DENIAL OF THE MOTION.

6 (b) IF THE COURT DETERMINES THAT THE PETITION IS SUFFICIENT
7 ON ITS FACE AND THAT NO OTHER GROUNDS EXIST AT THAT TIME FOR THE
8 COURT TO DENY THE PETITION PURSUANT TO THIS SECTION, THE COURT
9 SHALL GRANT THE MOTION UNLESS THE PROSECUTION FILES AN OBJECTION.
10 IF THE PROSECUTION FILES A WRITTEN OBJECTION, THE COURT SHALL SET
11 A DATE WITHIN FORTY-TWO DAYS AFTER THE FILING OF THE MOTION FOR
12 A HEARING AND THE COURT SHALL NOTIFY THE PROSECUTION, THE
13 MUNICIPAL POLICE DEPARTMENT OR LOCAL LAW ENFORCEMENT AGENCY,
14 AND ANY OTHER PERSON OR AGENCY IDENTIFIED BY THE DEFENDANT.

15 (c) AFTER THE HEARING DESCRIBED IN SUBSECTION (5)(b) OF THIS
16 SECTION IS CONDUCTED AND IF THE COURT FINDS THAT THE HARM TO THE
17 PRIVACY OF THE DEFENDANT OR THE DANGERS OF UNWARRANTED,
18 ADVERSE CONSEQUENCES TO THE DEFENDANT OUTWEIGH THE PUBLIC
19 INTEREST IN RETAINING PUBLIC ACCESS TO THE CONVICTION RECORDS, THE
20 COURT MAY ORDER THE CONVICTION RECORDS, EXCEPT BASIC
21 IDENTIFICATION INFORMATION, TO BE SEALED. IN MAKING THIS
22 DETERMINATION, THE COURT SHALL CONSIDER THE FACTORS IN SECTION
23 24-72-706 (1)(g).

24 (d) PURSUANT TO SECTION 24-72-703 (12)(b), THE COURT SHALL
25 NOT FACTOR IN OR TAKE INTO CONSIDERATION ANY UNPAID FINES, COURT
26 COSTS, LATE FEES, OR OTHER FEES ORDERED BY THE COURT IN THE CASE
27 THAT IS THE SUBJECT OF THE MOTION TO SEAL WHEN THE COURT IS

1 DETERMINING WHETHER THE RECORD SHOULD BE SEALED. CONVICTION
2 RECORDS MAY NOT BE SEALED IF THE DEFENDANT STILL OWES
3 RESTITUTION UNLESS THE COURT THAT ENTERED THE ORDER FOR
4 RESTITUTION VACATED THE ORDER.

5 **SECTION 16.** In Colorado Revised Statutes, 24-72-709, **amend**
6 (2)(a) and (4)(b) as follows:

7 **24-72-709. Sealing of criminal conviction records information**
8 **for multiple conviction records.** (2) (a) If the offense or highest offense
9 of the multiple offenses is an ELIGIBLE CIVIL INFRACTION AND NOT AN
10 OFFENSE OR CIVIL INFRACTION LISTED IN SUBSECTION (5)(a) OF THIS
11 SECTION, eligible petty offense, or eligible petty drug offense, the petition
12 may be filed two years after the later of the date of the final disposition
13 of all ~~criminal~~ proceedings against the defendant or the release of the
14 defendant from supervision concerning the conviction, or the latest in
15 time ~~criminal~~ conviction of the multiple convictions.

16 (4) (b) Conviction records may not be sealed if the defendant still
17 owes restitution, fines, court costs, late fees, or other fees ordered by the
18 court in the case that is the subject of the petition to seal conviction
19 records, unless the court that entered the order for restitution fines, court
20 costs, late fees, or other fees has vacated the order.

21 **SECTION 17. Appropriation.** (1) For the 2022-23 state fiscal
22 year, \$725,145 is appropriated to the judicial department. This
23 appropriation is from the general fund. To implement this act, the
24 department may use this appropriation as follows:

25 (a) \$58,632 for general courts administration, which amount is
26 based on an assumption that the department will require an additional 0.8
27 FTE;

1 (b) \$6,520 for capital outlay; and

2 (c) \$659,993 for information technology infrastructure.

3 **SECTION 18. Act subject to petition - effective date.** This act
4 takes effect at 12:01 a.m. on the day following the expiration of the
5 ninety-day period after final adjournment of the general assembly; except
6 that, if a referendum petition is filed pursuant to section 1 (3) of article V
7 of the state constitution against this act or an item, section, or part of this
8 act within such period, then the act, item, section, or part will not take
9 effect unless approved by the people at the general election to be held in
10 November 2022 and, in such case, will take effect on the date of the
11 official declaration of the vote thereon by the governor.