

CHAPTER 289

CRIMINAL LAW AND PROCEDURE

SENATE BILL 13-123

BY SENATOR(S) Steadman, Aguilar, Carroll, Giron, Guzman, Heath, Hodge, Hudak, Jahn, Johnston, Kefalas, Kerr, King, Newell, Nicholson, Tochtrop, Todd, Ulibarri, Morse;
also REPRESENTATIVE(S) Levy, Hullinghorst, Kagan, Labuda, Lee, Young.

AN ACT

CONCERNING PROVISIONS THAT IMPROVE THE REINTEGRATION OPPORTUNITIES FOR PERSONS INVOLVED IN THE CRIMINAL JUSTICE SYSTEM, AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION.

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

SECTION 1. In Colorado Revised Statutes, 16-11-209, **add** (4) as follows:

16-11-209. Duties of probation officers. (4) (a) PRIOR TO AN OFFENDER BEING RELEASED FROM PROBATION, THE PROBATION OFFICER RELEASING THE INDIVIDUAL SHALL PROVIDE THE NOTICE DESCRIBED IN PARAGRAPH (b) OF THIS SUBSECTION (4) AT THE LAST MEETING THE OFFICER HAS WITH THE PERSON.

(b) THE NOTICE SHALL CONTAIN THE FOLLOWING INFORMATION:

(I) THAT A PERSON CONVICTED OF CERTAIN CRIMES HAS THE RIGHT TO SEEK TO HAVE HIS OR HER CRIMINAL RECORD SEALED;

(II) THAT THERE ARE COLLATERAL CONSEQUENCES ASSOCIATED WITH A CRIMINAL CONVICTION THAT A SEALING ORDER CAN ALLEVIATE;

(III) THE LIST OF CRIMES THAT ARE ELIGIBLE FOR SEALING AND THE ASSOCIATED TIME PERIOD THAT A PERSON MUST WAIT PRIOR TO SEEKING SEALING;

(IV) THAT THE STATE PUBLIC DEFENDER HAS COMPILED A LIST OF LAWS THAT IMPOSE COLLATERAL CONSEQUENCES RELATED TO A CRIMINAL CONVICTION AND THAT THE LIST IS AVAILABLE ON THE STATE PUBLIC DEFENDER'S WEB SITE; AND

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

(V) THAT THE PERSON SHOULD SEEK LEGAL COUNSEL IF HE OR SHE HAS ANY QUESTIONS REGARDING RECORD SEALING.

SECTION 2. In Colorado Revised Statutes, 17-2-102, **add** (12) as follows:

17-2-102. Division of adult parole - general powers, duties, and functions - definitions. (12) (a) PRIOR TO AN OFFENDER BEING RELEASED FROM PAROLE, THE COMMUNITY PAROLE OFFICER RELEASING THE INDIVIDUAL SHALL PROVIDE THE NOTICE DESCRIBED IN PARAGRAPH (b) OF THIS SUBSECTION (12) AT THE LAST MEETING THE OFFICER HAS WITH THE PERSON.

(b) THE NOTICE SHALL CONTAIN THE FOLLOWING INFORMATION:

(I) THAT A PERSON CONVICTED OF CERTAIN CRIMES HAS THE RIGHT TO SEEK TO HAVE HIS OR HER CRIMINAL RECORD SEALED;

(II) THAT THERE ARE COLLATERAL CONSEQUENCES ASSOCIATED WITH A CRIMINAL CONVICTION THAT A SEALING ORDER CAN ALLEVIATE;

(III) THE LIST OF CRIMES THAT ARE ELIGIBLE FOR SEALING AND THE ASSOCIATED TIME PERIOD THAT A PERSON MUST WAIT PRIOR TO SEEKING SEALING;

(IV) THAT THE STATE PUBLIC DEFENDER HAS COMPILED A LIST OF LAWS THAT IMPOSE COLLATERAL CONSEQUENCES RELATED TO A CRIMINAL CONVICTION AND THAT THE LIST IS AVAILABLE ON THE STATE PUBLIC DEFENDER'S WEB SITE; AND

(V) THAT THE PERSON SHOULD SEEK LEGAL COUNSEL IF HE OR SHE HAS ANY QUESTIONS REGARDING RECORD SEALING.

SECTION 3. In Colorado Revised Statutes, **add** 16-17-103 as follows:

16-17-103. Effect of pardon and commutation of sentence - definitions. (1) A PARDON ISSUED BY THE GOVERNOR SHALL WAIVE ALL COLLATERAL CONSEQUENCES ASSOCIATED WITH EACH CONVICTION FOR WHICH THE PERSON RECEIVED A PARDON UNLESS THE PARDON LIMITS THE SCOPE OF THE PARDON REGARDING COLLATERAL CONSEQUENCES.

(2) IF THE GOVERNOR GRANTS A PARDON OR A REQUEST FOR COMMUTATION OF SENTENCE, THE GOVERNOR SHALL PROVIDE A COPY OF THE PARDON OR COMMUTATION OF SENTENCE TO THE COLORADO BUREAU OF INVESTIGATION, AND THE COLORADO BUREAU OF INVESTIGATION SHALL NOTE IN THE INDIVIDUAL'S RECORD IN THE COLORADO CRIME INFORMATION CENTER THAT A PARDON WAS ISSUED OR COMMUTATION OF SENTENCE WAS GRANTED.

(3) FOR PURPOSES OF THIS SECTION, "COLLATERAL CONSEQUENCES" MEANS A PENALTY, PROHIBITION, BAR, DISADVANTAGE, OR DISQUALIFICATION, HOWEVER DENOMINATED, IMPOSED ON AN INDIVIDUAL AS A RESULT OF THE INDIVIDUAL'S CONVICTION OF AN OFFENSE, WHICH PENALTY, PROHIBITION, BAR, OR DISADVANTAGE APPLIES BY OPERATION OF LAW REGARDLESS OF WHETHER THE PENALTY, PROHIBITION, BAR, OR DISADVANTAGE IS INCLUDED IN THE JUDGMENT OR SENTENCE. "COLLATERAL CONSEQUENCES" DOES NOT INCLUDE IMPRISONMENT,

PROBATION, PAROLE, SUPERVISED RELEASE, FORFEITURE, RESTITUTION, FINE, ASSESSMENT, OR COSTS OF PROSECUTION.

SECTION 4. In Colorado Revised Statutes, 24-34-102, **amend** (8.7) as follows:

24-34-102. Division of professions and occupations - creation - duties of division and department heads - license renewal, reinstatement, and endorsement - definitions - rules - review of functions - repeal. (8.7) Unless there is a specific statutory disqualification that prohibits an applicant from obtaining licensure based on a criminal conviction, if ~~the~~ a licensing entity IN TITLE 10 OR 12, C.R.S., determines that an applicant for licensure has a criminal record, the licensing entity is governed by section 24-5-101 for purposes of granting or denying licensure or placing any conditions on licensure.

SECTION 5. In Colorado Revised Statutes, 24-34-104, **add** (9) (b) (VIII.5) as follows:

24-34-104. General assembly review of regulatory agencies and functions for termination, continuation, or reestablishment. (9) (b) In such hearings, the determination as to whether an agency has demonstrated a public need for continued existence of the agency or function and for the degree of regulation it practices shall be based on the following factors, among others:

(VIII.5) WHETHER THE AGENCY THROUGH ITS LICENSING OR CERTIFICATION PROCESS IMPOSES ANY DISQUALIFICATIONS ON APPLICANTS BASED ON PAST CRIMINAL HISTORY AND, IF SO, WHETHER THE DISQUALIFICATIONS SERVE PUBLIC SAFETY OR COMMERCIAL OR CONSUMER PROTECTION INTERESTS. TO ASSIST IN CONSIDERING THIS FACTOR, THE ANALYSIS PREPARED PURSUANT TO SUBPARAGRAPH (I) OF PARAGRAPH (a) OF SUBSECTION (8) OF THIS SECTION SHALL INCLUDE DATA ON THE NUMBER OF LICENSES OR CERTIFICATIONS THAT WERE DENIED, REVOKED, OR SUSPENDED BASED ON A DISQUALIFICATION AND THE BASIS FOR THE DISQUALIFICATION.

SECTION 6. In Colorado Revised Statutes, 24-34-104.1, **amend** (2) (d), (2) (e), (4) (b) (II), and (4) (b) (III); and **add** (2) (f) and (4) (b) (IV) as follows:

24-34-104.1. General assembly sunrise review of new regulation of occupations and professions. (2) Any professional or occupational group or organization, any individual, or any other interested party that proposes the regulation of any unregulated professional or occupational group shall submit the following information to the department of regulatory agencies. A proposal to regulate a professional or occupational group shall be reviewed only when the party requesting such review files with the department a statement of support for the proposed regulation that has been signed by at least ten members of the professional or occupational group for which regulation is being sought or at least ten individuals who are not members of such professional or occupational group, along with the following information:

- (d) The benefit to the public that would result from the proposed regulation; ~~and~~
- (e) The cost of the proposed regulation; AND

(f) A DESCRIPTION OF ANY ANTICIPATED DISQUALIFICATIONS ON AN APPLICANT FOR LICENSURE, CERTIFICATION, RELICENSURE, OR RECERTIFICATION BASED ON CRIMINAL HISTORY AND HOW THE DISQUALIFICATIONS SERVE PUBLIC SAFETY OR COMMERCIAL OR CONSUMER PROTECTION INTERESTS.

(4) (b) In such hearings, the determination as to whether such regulation of an occupation or a profession is needed shall be based upon the following considerations:

(II) Whether the public needs, and can reasonably be expected to benefit from, an assurance of initial and continuing professional or occupational competence; ~~and~~

(III) Whether the public can be adequately protected by other means in a more cost-effective manner; AND

(IV) WHETHER THE IMPOSITION OF ANY DISQUALIFICATIONS ON APPLICANTS FOR LICENSURE, CERTIFICATION, RELICENSURE, OR RECERTIFICATION BASED ON CRIMINAL HISTORY SERVES PUBLIC SAFETY OR COMMERCIAL OR CONSUMER PROTECTION INTERESTS.

SECTION 7. In Colorado Revised Statutes, 24-72-308, **amend** (1) (a) (I), (1) (a) (III) introductory portion, (1) (b) (II) and (2) (b); and **add** (4) as follows:

24-72-308. Sealing of arrest and criminal records other than convictions. (1) (a) (I) Except as otherwise provided in subparagraphs (II) and (III) of this paragraph (a), any person in interest may petition the district court of the district in which any arrest and criminal records information pertaining to said person in interest is located for the sealing of all of said records, except basic identification information, if the records are a record of official actions involving a criminal offense for which said person in interest was not charged AND THE STATUTE OF LIMITATIONS FOR THE OFFENSE FOR WHICH THE PERSON WAS ARRESTED THAT HAS THE LONGEST STATUTE OF LIMITATIONS HAS RUN, in any case which was completely dismissed, or in any case in which said person in interest was acquitted.

(III) A person in interest may petition the district court of the district in which any arrest and criminal records information pertaining to said person in interest is located for the sealing of all of said records, except basic identification information, if the records are a record of official actions involving ~~a criminal offense that was not charged~~ or a case that was dismissed due to a plea agreement in a separate case, and if:

(b) (II) (A) Upon the filing of a petition, the court shall review the petition and determine whether there are grounds under this section to proceed to a hearing on the petition. If the court determines that the petition on its face is insufficient or if the court determines that, after taking judicial notice of matters outside the petition, the petitioner is not entitled to relief under this section, the court shall enter an order denying the petition and mail a copy of the order to the petitioner. The court's order shall specify the reasons for the denial of the petition. IF THE PETITION PERTAINS TO A DISMISSAL THAT IS NOT THE RESULT OF A COMPLETION OF A DEFERRED DISPOSITION OR A MULTI-CASE DISPOSITION, THE COURT SHALL ORDER A RECORD SEALED IF THE PETITION IS SUFFICIENT ON ITS FACE.

(B) If the court determines that the petition is sufficient on its face and that no other grounds exist at that time for the court to deny the petition under this section, the court shall set a date for a hearing and the petitioner shall notify the prosecuting attorney by certified mail, the arresting agency, and any other person or agency identified by the petitioner. IF THE PETITION PERTAINS TO A DISMISSAL THAT IS NOT THE RESULT OF A COMPLETION OF A DEFERRED DISPOSITION OR A MULTI-CASE DISPOSITION, THE COURT SHALL ORDER A RECORD SEALED IF THE PETITION IS SUFFICIENT ON ITS FACE.

(2) **Advisements.** (b) In addition to, and not in lieu of, the requirement described in paragraph (a) of this subsection (2):

(I) If a defendant's case is dismissed after a period of supervision by probation, the probation department, upon the termination of the defendant's probation, shall provide the defendant with a written advisement of his or her rights pursuant to this section concerning the sealing of his or her criminal justice records if he or she complies with the applicable provisions of this section.

(II) IF A DEFENDANT IS RELEASED ON PAROLE, THE DEFENDANT'S PAROLE OFFICER, UPON THE TERMINATION OF THE DEFENDANT'S PAROLE, SHALL PROVIDE THE DEFENDANT WITH A WRITTEN ADVISEMENT OF HIS OR HER RIGHTS CONCERNING THE SEALING OF HIS OR HER CRIMINAL JUSTICE RECORDS PURSUANT TO THIS SECTION IF HE OR SHE COMPLIES WITH THE APPLICABLE PROVISIONS OF THIS SECTION.

(4) A PERSON MAY FILE A PETITION WITH THE COURT FOR SEALING OF EACH CASE ONCE EVERY TWELVE-MONTH PERIOD.

SECTION 8. In Colorado Revised Statutes, 24-72-308.5, **amend** (2) (f) (I); and **add** (6) as follows:

24-72-308.5. Sealing of criminal conviction records information for offenses involving controlled substances for convictions entered on or after July 1, 2008, and prior to July 1, 2011. (2) **Sealing of conviction records.** (f) (I) Except as otherwise provided in subparagraph (II) of paragraph (a) of this subsection (2) or in subparagraphs (II) and (III) of this paragraph (f), employers, state and local government agencies, officials, landlords, and employees shall not, in any application or interview or in any other way, require an applicant to disclose any information contained in sealed conviction records. An applicant need not, in answer to any question concerning conviction records that have been sealed, include a reference to or information concerning the sealed conviction records and may state that the applicant has not been criminally convicted. AN APPLICATION MAY NOT BE DENIED SOLELY BECAUSE OF THE APPLICANT'S REFUSAL TO DISCLOSE CONVICTION RECORDS THAT HAVE BEEN SEALED.

(6) A PERSON MAY FILE A PETITION WITH THE COURT FOR SEALING OF EACH CASE ONCE EVERY TWELVE-MONTH PERIOD.

SECTION 9. In Colorado Revised Statutes, 24-72-308.6, **add** (6) as follows:

24-72-308.6. Sealing of criminal conviction records information for offenses involving controlled substances for convictions entered on or after July 1, 2011.

(6) A PERSON MAY FILE A PETITION WITH THE COURT FOR SEALING OF EACH CASE ONCE EVERY TWELVE-MONTH PERIOD.

SECTION 10. In Colorado Revised Statutes, **add 24-72-308.9** as follows:

24-72-308.9. Sealing of criminal conviction records information for petty offenses and municipal offenses for convictions. (1) **Definitions.** FOR PURPOSES OF THIS SECTION, "CONVICTION RECORDS" MEANS ARREST AND CRIMINAL RECORDS INFORMATION AND ANY RECORDS PERTAINING TO A JUDGMENT OF CONVICTION.

(2) **Sealing of conviction records.** (a) (I) A DEFENDANT MAY PETITION THE DISTRICT COURT OF THE DISTRICT IN WHICH ANY CONVICTION RECORDS PERTAINING TO THE DEFENDANT FOR A PETTY OFFENSE OR MUNICIPAL VIOLATION ARE LOCATED FOR THE SEALING OF THE CONVICTION RECORDS, EXCEPT BASIC IDENTIFYING INFORMATION, IF:

(A) THE PETITION IS FILED THREE OR MORE YEARS AFTER THE DATE OF THE FINAL DISPOSITION OF ALL CRIMINAL PROCEEDINGS AGAINST THE DEFENDANT OR THE RELEASE OF THE DEFENDANT FROM SUPERVISION CONCERNING A CRIMINAL CONVICTION, WHICHEVER IS LATER; AND

(B) THE DEFENDANT HAS NOT BEEN CHARGED OR CONVICTED FOR A FELONY, MISDEMEANOR, OR MISDEMEANOR TRAFFIC OFFENSE IN THE THREE OR MORE YEARS SINCE THE DATE OF THE FINAL DISPOSITION OF ALL CRIMINAL PROCEEDINGS AGAINST HIM OR HER OR THE DATE OF THE DEFENDANT'S RELEASE FROM SUPERVISION, WHICHEVER IS LATER; AND

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

(II) UPON FILING THE PETITION, THE DEFENDANT SHALL PAY THE FILING FEE REQUIRED BY LAW AND AN ADDITIONAL FILING FEE OF TWO HUNDRED DOLLARS TO COVER THE ACTUAL COSTS RELATED TO THE FILING OF THE PETITION TO SEAL RECORDS. THE ADDITIONAL FILING FEES COLLECTED UNDER THIS SUBPARAGRAPH (II) SHALL BE TRANSMITTED TO THE STATE TREASURER FOR DEPOSIT IN THE JUDICIAL STABILIZATION CASH FUND CREATED IN SECTION 13-32-101 (6), C.R.S.

(III) A PETITION TO SEAL RECORDS PURSUANT TO THIS SECTION MAY ONLY BE FILED ONCE DURING A TWELVE-MONTH PERIOD. THE COURT SHALL IMMEDIATELY DISMISS A SECOND OR SUBSEQUENT PETITION FILED WITHIN TWELVE MONTHS OF ANOTHER PETITION.

(IV) AN ORDER SEALING CONVICTION RECORDS SHALL NOT DENY ACCESS TO THE CRIMINAL RECORDS OF A DEFENDANT BY ANY COURT, LAW ENFORCEMENT AGENCY, CRIMINAL JUSTICE AGENCY, PROSECUTING ATTORNEY, OR PARTY OR AGENCY REQUIRED BY LAW TO CONDUCT A CRIMINAL HISTORY RECORD CHECK ON AN INDIVIDUAL. AN ORDER SEALING CONVICTION RECORDS SHALL NOT BE CONSTRUED TO VACATE A CONVICTION. A CONVICTION SEALED PURSUANT TO THIS SECTION MAY

BE USED BY A CRIMINAL JUSTICE AGENCY, LAW ENFORCEMENT AGENCY, COURT, OR PROSECUTING ATTORNEY FOR ANY LAWFUL PURPOSE RELATING TO THE INVESTIGATION OR PROSECUTION OF ANY CASE, INCLUDING BUT NOT LIMITED TO ANY SUBSEQUENT CASE THAT IS FILED AGAINST THE DEFENDANT, OR FOR ANY OTHER LAWFUL PURPOSE WITHIN THE SCOPE OF HIS, HER, OR ITS DUTIES. IF A DEFENDANT IS CONVICTED OF A NEW FELONY, MISDEMEANOR, OR MISDEMEANOR TRAFFIC OFFENSE AFTER AN ORDER SEALING CONVICTION RECORDS IS ENTERED, THE COURT SHALL ORDER THE CONVICTION RECORDS TO BE UNSEALED. A PARTY OR AGENCY REQUIRED BY LAW TO CONDUCT A CRIMINAL HISTORY RECORD CHECK SHALL BE AUTHORIZED TO USE ANY SEALED CONVICTION FOR THE LAWFUL PURPOSE FOR WHICH THE CRIMINAL HISTORY RECORD CHECK IS REQUIRED BY LAW.

(V) CONVICTION RECORDS MAY NOT BE SEALED IF THE DEFENDANT STILL OWES RESTITUTION, FINES, COURT COSTS, LATE FEES, OR OTHER FEES ORDERED BY THE COURT IN THE CASE THAT IS THE SUBJECT OF THE PETITION TO SEAL CONVICTION RECORDS, UNLESS THE COURT THAT ENTERED THE ORDER FOR RESTITUTION, FINES, COURT COSTS, LATE FEES, OR OTHER FEES HAS VACATED THE ORDER.

(b) (I) A PETITION TO SEAL CONVICTION RECORDS PURSUANT TO THIS SECTION SHALL INCLUDE A LISTING OF EACH CUSTODIAN OF THE RECORDS TO WHOM THE SEALING ORDER IS DIRECTED AND ANY INFORMATION THAT ACCURATELY AND COMPLETELY IDENTIFIES THE RECORDS TO BE SEALED. A VERIFIED COPY OF THE DEFENDANT'S CRIMINAL HISTORY, CURRENT THROUGH AT LEAST THE TWENTIETH DAY PRIOR TO THE DATE OF THE FILING OF THE PETITION, SHALL BE SUBMITTED TO THE COURT BY THE DEFENDANT ALONG WITH THE PETITION AT THE TIME OF FILING, BUT IN NO EVENT LATER THAN THE TENTH DAY AFTER THE PETITION IS FILED. THE DEFENDANT SHALL BE RESPONSIBLE FOR OBTAINING AND PAYING FOR HIS OR HER CRIMINAL HISTORY RECORD.

(II) (A) UPON THE FILING OF A PETITION, THE COURT SHALL REVIEW THE PETITION AND DETERMINE WHETHER THERE ARE GROUNDS UNDER THIS SECTION TO PROCEED TO A HEARING ON THE PETITION. IF THE COURT DETERMINES THAT THE PETITION ON ITS FACE IS INSUFFICIENT OR IF THE COURT DETERMINES THAT, AFTER TAKING JUDICIAL NOTICE OF MATTERS OUTSIDE THE PETITION, THE DEFENDANT IS NOT ENTITLED TO RELIEF UNDER THIS SECTION, THE COURT SHALL ENTER AN ORDER DENYING THE PETITION AND MAIL A COPY OF THE ORDER TO THE DEFENDANT. THE COURT'S ORDER SHALL SPECIFY THE REASONS FOR THE DENIAL OF THE PETITION.

(B) IF THE COURT DETERMINES THAT THE PETITION IS SUFFICIENT ON ITS FACE AND THAT NO OTHER GROUNDS EXIST AT THAT TIME FOR THE COURT TO DENY THE PETITION UNDER THIS SECTION, THE COURT SHALL SET A DATE FOR A HEARING, AND THE DEFENDANT SHALL NOTIFY BY CERTIFIED MAIL THE PROSECUTING ATTORNEY, THE ARRESTING AGENCY, AND ANY OTHER PERSON OR AGENCY IDENTIFIED BY THE DEFENDANT.

(c) AFTER THE HEARING DESCRIBED IN SUBPARAGRAPH (II) OF PARAGRAPH (b) OF THIS SUBSECTION (2) IS CONDUCTED AND IF THE COURT FINDS THAT THE HARM TO THE PRIVACY OF THE DEFENDANT OR THE DANGERS OF UNWARRANTED, ADVERSE CONSEQUENCES TO THE DEFENDANT OUTWEIGH THE PUBLIC INTEREST IN RETAINING THE CONVICTION RECORDS, THE COURT MAY ORDER THE CONVICTION RECORDS, EXCEPT BASIC IDENTIFICATION INFORMATION, TO BE SEALED. IN MAKING THIS

DETERMINATION, THE COURT SHALL, AT A MINIMUM, CONSIDER THE SEVERITY OF THE OFFENSE THAT IS THE BASIS OF THE CONVICTION RECORDS SOUGHT TO BE SEALED, THE CRIMINAL HISTORY OF THE DEFENDANT, THE NUMBER OF CONVICTIONS AND DATES OF THE CONVICTIONS FOR WHICH THE DEFENDANT IS SEEKING TO HAVE THE RECORDS SEALED, AND THE NEED FOR THE GOVERNMENT AGENCY TO RETAIN THE RECORDS. AN ORDER ENTERED PURSUANT TO THIS PARAGRAPH (c) MUST BE DIRECTED TO EACH CUSTODIAN WHO MAY HAVE CUSTODY OF ANY PART OF THE CONVICTION RECORDS THAT ARE THE SUBJECT OF THE ORDER. WHENEVER A COURT ENTERS AN ORDER SEALING CONVICTION RECORDS PURSUANT TO THIS PARAGRAPH (c), THE DEFENDANT SHALL PROVIDE THE COLORADO BUREAU OF INVESTIGATION AND EACH CUSTODIAN OF THE CONVICTION RECORDS WITH A COPY OF THE ORDER. THE PETITIONER SHALL PROVIDE A PRIVATE CUSTODIAN WITH A COPY OF THE ORDER AND SEND THE PRIVATE CUSTODIAN AN ELECTRONIC NOTIFICATION OF THE ORDER. EACH PRIVATE CUSTODIAN THAT RECEIVES A COPY OF THE ORDER FROM THE PETITIONER SHALL REMOVE THE RECORDS THAT ARE SUBJECT TO AN ORDER FROM ITS DATABASE. THE DEFENDANT SHALL PAY TO THE BUREAU ANY COSTS RELATED TO THE SEALING OF HIS OR HER CRIMINAL CONVICTION RECORDS IN THE CUSTODY OF THE BUREAU. THEREAFTER, THE DEFENDANT MAY REQUEST AND THE COURT MAY GRANT AN ORDER SEALING THE CIVIL CASE IN WHICH THE CONVICTION RECORDS WERE SEALED.

(d) EXCEPT AS OTHERWISE PROVIDED IN SUBPARAGRAPH (III) OF PARAGRAPH (a) OF THIS SUBSECTION (2), UPON THE ENTRY OF AN ORDER TO SEAL THE CONVICTION RECORDS, THE DEFENDANT AND ALL CRIMINAL JUSTICE AGENCIES MAY PROPERLY REPLY, UPON AN INQUIRY IN THE MATTER, THAT PUBLIC CONVICTION RECORDS DO NOT EXIST WITH RESPECT TO THE DEFENDANT.

(e) EXCEPT AS OTHERWISE PROVIDED IN SUBPARAGRAPH (III) OF PARAGRAPH (a) OF THIS SUBSECTION (2), INSPECTION OF THE RECORDS INCLUDED IN AN ORDER SEALING CONVICTION RECORDS MAY THEREAFTER BE PERMITTED BY THE COURT ONLY UPON PETITION BY THE DEFENDANT.

(f) (I) EXCEPT AS OTHERWISE PROVIDED IN SUBPARAGRAPH (III) OF PARAGRAPH (a) OF THIS SUBSECTION (2) OR IN SUBPARAGRAPHS (II) AND (III) OF THIS PARAGRAPH (f), EMPLOYERS, STATE AND LOCAL GOVERNMENT AGENCIES, OFFICIALS, LANDLORDS, AND EMPLOYEES SHALL NOT, IN ANY APPLICATION OR INTERVIEW OR IN ANY OTHER WAY, REQUIRE AN APPLICANT TO DISCLOSE ANY INFORMATION CONTAINED IN SEALED CONVICTION RECORDS. AN APPLICANT NEED NOT, IN RESPONSE TO ANY QUESTION CONCERNING CONVICTION RECORDS THAT HAVE BEEN SEALED, INCLUDE A REFERENCE TO OR INFORMATION CONCERNING THE SEALED CONVICTION RECORDS AND MAY STATE THAT THE APPLICANT HAS NOT BEEN CRIMINALLY CONVICTED.

(II) SUBPARAGRAPH (I) OF THIS PARAGRAPH (f) SHALL NOT PRECLUDE THE BAR COMMITTEE OF THE COLORADO STATE BOARD OF LAW EXAMINERS FROM MAKING FURTHER INQUIRIES INTO THE FACT OF A CONVICTION THAT COMES TO THE ATTENTION OF THE BAR COMMITTEE THROUGH OTHER MEANS. THE BAR COMMITTEE OF THE COLORADO STATE BOARD OF LAW EXAMINERS SHALL HAVE A RIGHT TO INQUIRE INTO THE MORAL AND ETHICAL QUALIFICATIONS OF AN APPLICANT, AND THE APPLICANT SHALL NOT HAVE A RIGHT TO PRIVACY OR PRIVILEGE THAT JUSTIFIES HIS OR HER REFUSAL TO ANSWER A QUESTION CONCERNING SEALED CONVICTION

RECORDS THAT HAVE COME TO THE ATTENTION OF THE BAR COMMITTEE THROUGH OTHER MEANS.

(III) THE PROVISIONS OF SUBPARAGRAPH (I) OF THIS PARAGRAPH (f) SHALL NOT APPLY TO A CRIMINAL JUSTICE AGENCY OR TO AN APPLICANT TO A CRIMINAL JUSTICE AGENCY.

(IV) ANY MEMBER OF THE PUBLIC MAY PETITION THE COURT TO UNSEAL ANY FILE THAT HAS BEEN PREVIOUSLY SEALED UPON A SHOWING THAT CIRCUMSTANCES HAVE COME INTO EXISTENCE SINCE THE ORIGINAL SEALING AND, AS A RESULT, THE PUBLIC INTEREST IN DISCLOSURE NOW OUTWEIGHS THE DEFENDANT'S INTEREST IN PRIVACY.

(g) THE OFFICE OF THE STATE COURT ADMINISTRATOR SHALL POST ON ITS WEB SITE A LIST OF ALL PETITIONS TO SEAL CONVICTION RECORDS THAT ARE FILED WITH A DISTRICT COURT. A DISTRICT COURT MAY NOT GRANT A PETITION TO SEAL CONVICTION RECORDS UNTIL AT LEAST THIRTY DAYS AFTER THE POSTING. AFTER THE EXPIRATION OF THIRTY DAYS FOLLOWING THE POSTING, THE PETITION TO SEAL CONVICTION RECORDS AND INFORMATION PERTINENT THERETO SHALL BE REMOVED FROM THE WEB SITE OF THE OFFICE OF THE STATE COURT ADMINISTRATOR.

(h) NOTHING IN THIS SECTION SHALL BE CONSTRUED TO AUTHORIZE THE PHYSICAL DESTRUCTION OF ANY CONVICTION RECORDS.

(i) NOTWITHSTANDING ANY PROVISION IN THIS SECTION TO THE CONTRARY, IN REGARD TO ANY CONVICTION OF A DEFENDANT RESULTING FROM A SINGLE CASE IN WHICH THE DEFENDANT IS CONVICTED OF MORE THAN ONE OFFENSE, RECORDS OF THE CONVICTION MAY BE SEALED PURSUANT TO THE PROVISIONS OF THIS SECTION ONLY IF THE RECORDS OF EVERY CONVICTION OF THE DEFENDANT RESULTING FROM THAT CASE MAY BE SEALED PURSUANT TO THE PROVISIONS OF THIS SECTION.

(3) Advisements. (a) WHENEVER A DEFENDANT IS SENTENCED FOLLOWING A CONVICTION OF A PETTY OR MUNICIPAL OFFENSE, THE COURT SHALL PROVIDE HIM OR HER WITH A WRITTEN ADVISEMENT OF HIS OR HER RIGHTS CONCERNING THE SEALING OF HIS OR HER CONVICTION RECORDS PURSUANT TO THIS SECTION IF HE OR SHE COMPLIES WITH THE APPLICABLE PROVISIONS OF THIS SECTION.

(b) IN ADDITION TO, AND NOT IN LIEU OF, THE REQUIREMENT DESCRIBED IN PARAGRAPH (a) OF THIS SUBSECTION (3), IF A DEFENDANT IS SENTENCED TO PROBATION FOLLOWING A CONVICTION OF A PETTY OR MUNICIPAL OFFENSE, THE PROBATION DEPARTMENT, UPON THE TERMINATION OF THE DEFENDANT'S PROBATION, SHALL PROVIDE THE DEFENDANT WITH A WRITTEN ADVISEMENT OF HIS OR HER RIGHTS CONCERNING THE SEALING OF HIS OR HER CONVICTION RECORDS PURSUANT TO THIS SECTION IF HE OR SHE COMPLIES WITH THE APPLICABLE PROVISIONS OF THIS SECTION.

(4) THE PROVISIONS OF THIS SECTION SHALL NOT APPLY TO CONVICTION RECORDS THAT ARE IN THE POSSESSION OF A CRIMINAL JUSTICE AGENCY WHEN AN INQUIRY CONCERNING THE CONVICTION RECORDS IS MADE BY ANOTHER CRIMINAL JUSTICE AGENCY.

(5) Rules of discovery - rules of evidence - witness testimony. COURT ORDERS

SEALING RECORDS OF OFFICIAL ACTIONS PURSUANT TO THIS SECTION SHALL NOT LIMIT THE OPERATIONS OF:

(a) THE RULES OF DISCOVERY OR THE RULES OF EVIDENCE PROMULGATED BY THE SUPREME COURT OF COLORADO OR ANY OTHER STATE OR FEDERAL COURT; OR

(b) THE PROVISIONS OF SECTION 13-90-101, C.R.S., CONCERNING WITNESS TESTIMONY.

SECTION 11. In Colorado Revised Statutes, **add** 18-1.3-107 as follows:

18-1.3-107. Sentencing order - collateral relief. (1) AT THE TIME A DEFENDANT ENTERS INTO AN ALTERNATIVE TO SENTENCING IN THIS PART 1, UPON THE REQUEST OF THE DEFENDANT OR UPON THE COURT'S OWN MOTION, A COURT MAY ENTER AN ORDER OF COLLATERAL RELIEF FOR THE PURPOSE OF PRESERVING OR ENHANCING THE DEFENDANT'S EMPLOYMENT OR EMPLOYMENT PROSPECTS AND TO IMPROVE THE DEFENDANT'S LIKELIHOOD OF SUCCESS IN THE ALTERNATIVE TO SENTENCING PROGRAM.

(2) **Application contents.** (a) AN APPLICATION FOR AN ORDER OF COLLATERAL RELIEF MUST CITE THE GROUNDS FOR GRANTING THE RELIEF, THE TYPE OF RELIEF SOUGHT, AND THE SPECIFIC COLLATERAL CONSEQUENCE FROM WHICH THE APPLICANT IS SEEKING RELIEF AND MUST INCLUDE A COPY OF A RECENT COLORADO BUREAU OF INVESTIGATION FINGERPRINT-BASED CRIMINAL HISTORY RECORDS CHECK. THE STATE COURT ADMINISTRATOR MAY PRODUCE AN APPLICATION FORM THAT AN APPLICANT MAY SUBMIT IN APPLICATION.

(b) THE APPLICANT SHALL PROVIDE A COPY OF THE APPLICATION TO THE DISTRICT ATTORNEY AND TO THE REGULATORY OR LICENSING BODY THAT HAS JURISDICTION OVER THE COLLATERAL CONSEQUENCE FROM WHICH THE APPLICANT IS SEEKING RELIEF, IF ANY, BY CERTIFIED MAIL OR PERSONAL SERVICE WITHIN TEN DAYS AFTER FILING THE APPLICATION WITH THE COURT.

(3) AN ORDER OF COLLATERAL RELIEF MAY RELIEVE A DEFENDANT OF ANY COLLATERAL CONSEQUENCES OF THE CONVICTION, WHETHER IN HOUSING OR EMPLOYMENT BARRIERS OR ANY OTHER SANCTION OR DISQUALIFICATION THAT THE COURT SHALL SPECIFY, INCLUDING BUT NOT LIMITED TO STATUTORY, REGULATORY, OR OTHER COLLATERAL CONSEQUENCES THAT THE COURT MAY SEE FIT TO RELIEVE THAT WILL ASSIST THE DEFENDANT IN SUCCESSFULLY COMPLETING PROBATION OR A COMMUNITY CORRECTIONS SENTENCE.

(4) (a) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, AN ORDER OF COLLATERAL RELIEF CANNOT RELIEVE ANY COLLATERAL CONSEQUENCES IMPOSED BY LAW FOR LICENSURE BY THE DEPARTMENT OF EDUCATION OR ANY COLLATERAL CONSEQUENCES IMPOSED BY LAW FOR EMPLOYMENT WITH THE JUDICIAL BRANCH, THE DEPARTMENT OF CORRECTIONS, DIVISION OF YOUTH CORRECTIONS IN THE DEPARTMENT OF HUMAN SERVICES, OR ANY OTHER LAW ENFORCEMENT AGENCY IN THE STATE OF COLORADO.

(b) A COURT SHALL NOT ISSUE AN ORDER OF COLLATERAL RELIEF IF THE DEFENDANT:

(I) HAS BEEN CONVICTED OF A FELONY THAT INCLUDED AN ELEMENT THAT REQUIRES A VICTIM TO SUFFER PERMANENT DISABILITY;

(II) HAS BEEN CONVICTED OF A CRIME OF VIOLENCE AS DESCRIBED IN SECTION 18-1.3-406; OR

(III) IS REQUIRED TO REGISTER AS A SEX OFFENDER PURSUANT TO SECTION 16-22-103, C.R.S.

(5) **Hearing.** (a) THE COURT MAY CONDUCT A HEARING OR INCLUDE A HEARING ON THE MATTER AT THE DEFENDANT'S SENTENCING HEARING ON THE APPLICATION OR ON ANY MATTER RELEVANT TO THE GRANTING OR DENYING OF THE APPLICATION AND MAY TAKE TESTIMONY UNDER OATH.

(b) THE COURT MAY HEAR TESTIMONY FROM VICTIMS OR ANY PROPONENT OR OPPONENT OF THE APPLICATION AND MAY HEAR ARGUMENT FROM THE PETITIONER AND THE DISTRICT ATTORNEY.

(6) **Standard for granting relief.** (a) A COURT MAY ISSUE AN ORDER OF COLLATERAL RELIEF IF THE COURT FINDS THAT:

(I) THE ORDER OF COLLATERAL RELIEF IS CONSISTENT WITH THE APPLICANT'S REHABILITATION; AND

(II) GRANTING THE APPLICATION WOULD IMPROVE THE APPLICANT'S LIKELIHOOD OF SUCCESS IN REINTEGRATING INTO SOCIETY AND IS IN THE PUBLIC'S INTEREST.

(b) THE COURT THAT PREVIOUSLY ISSUED AN ORDER OF COLLATERAL RELIEF, ON ITS OWN MOTION OR EITHER BY CAUSE SHOWN BY THE DISTRICT ATTORNEY OR ON GROUNDS OFFERED BY THE APPLICANT, MAY AT ANY TIME ISSUE A SUBSEQUENT JUDGMENT TO ENLARGE, LIMIT, OR CIRCUMSCRIBE THE RELIEF PREVIOUSLY GRANTED.

(c) UPON THE MOTION OF THE DISTRICT ATTORNEY OR PROBATION OFFICER OR UPON THE COURT'S OWN MOTION, A COURT MAY REVOKE AN ORDER OF COLLATERAL RELIEF UPON EVIDENCE OF A SUBSEQUENT CRIMINAL CONVICTION OR PROOF THAT THE DEFENDANT IS NO LONGER ENTITLED TO RELIEF. ANY BARS, PROHIBITIONS, SANCTIONS, AND DISQUALIFICATIONS THEREBY RELIEVED SHALL BE REINSTATED AS OF THE DATE OF THE WRITTEN ORDER OF REVOCATION. THE COURT SHALL PROVIDE A COPY OF THE ORDER OF REVOCATION TO THE HOLDER AND TO ANY REGULATORY OR LICENSING ENTITY THAT THE DEFENDANT NOTICED IN HIS OR HER MOTION FOR RELIEF.

(7) IF THE COURT ISSUES AN ORDER OF COLLATERAL RELIEF, IT SHALL SEND A COPY OF THE ORDER OF COLLATERAL RELIEF THROUGH THE COLORADO INTEGRATED CRIMINAL JUSTICE INFORMATION SYSTEM TO THE COLORADO BUREAU OF INVESTIGATION, AND THE COLORADO BUREAU OF INVESTIGATION SHALL NOTE IN THE APPLICANT'S RECORD IN THE COLORADO CRIME INFORMATION CENTER THAT THE ORDER OF COLLATERAL RELIEF WAS ISSUED.

(8) **Definitions.** AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE

REQUIRES:

(a) "COLLATERAL CONSEQUENCE" MEANS A COLLATERAL SANCTION OR A DISQUALIFICATION.

(b) "COLLATERAL SANCTION" MEANS A PENALTY, PROHIBITION, BAR, OR DISADVANTAGE, HOWEVER DENOMINATED, IMPOSED ON AN INDIVIDUAL AS A RESULT OF THE INDIVIDUAL'S CONVICTION OF AN OFFENSE, WHICH PENALTY, PROHIBITION, BAR, OR DISADVANTAGE APPLIES BY OPERATION OF LAW REGARDLESS OF WHETHER THE PENALTY, PROHIBITION, BAR, OR DISADVANTAGE IS INCLUDED IN THE JUDGMENT OR SENTENCE. "COLLATERAL SANCTION" DOES NOT INCLUDE IMPRISONMENT, PROBATION, PAROLE, SUPERVISED RELEASE, FORFEITURE, RESTITUTION, FINE, ASSESSMENT, COSTS OF PROSECUTION, OR A RESTRAINT OR SANCTION ON AN INDIVIDUAL'S DRIVING PRIVILEGE.

(c) "CONVICTION" OR "CONVICTED" MEANS A VERDICT OF GUILTY BY A JUDGE OR JURY OR A PLEA OF GUILTY OR NOLO CONTENDERE THAT IS ACCEPTED BY THE COURT OR A CONVICTION OF A CRIME UNDER THE LAWS OF ANY OTHER STATE, THE UNITED STATES, OR ANY TERRITORY SUBJECT TO THE JURISDICTION OF THE UNITED STATES, WHICH, IF COMMITTED WITHIN THIS STATE, WOULD BE A FELONY OR MISDEMEANOR. "CONVICTION" OR "CONVICTED" ALSO INCLUDES HAVING RECEIVED A DEFERRED JUDGMENT AND SENTENCE; EXCEPT THAT A PERSON SHALL NOT BE DEEMED TO HAVE BEEN CONVICTED IF THE PERSON HAS SUCCESSFULLY COMPLETED A DEFERRED SENTENCE.

(d) "DISQUALIFICATION" MEANS A PENALTY, PROHIBITION, BAR, OR DISADVANTAGE, HOWEVER DENOMINATED, THAT AN ADMINISTRATIVE AGENCY, GOVERNMENTAL OFFICIAL, OR COURT IN A CIVIL PROCEEDING IS AUTHORIZED, BUT NOT REQUIRED, TO IMPOSE ON AN INDIVIDUAL ON GROUNDS RELATING TO THE INDIVIDUAL'S CONVICTION OF AN OFFENSE.

SECTION 12. In Colorado Revised Statutes, **add** 18-1.3-213 as follows:

18-1.3-213. Sentencing order - collateral relief. (1) AT THE TIME OF SENTENCING, UPON THE REQUEST OF THE DEFENDANT OR UPON THE COURT'S OWN MOTION, A COURT THAT SENTENCES THE DEFENDANT TO PROBATION MAY ENTER AN ORDER OF COLLATERAL RELIEF FOR THE PURPOSE OF PRESERVING OR ENHANCING THE DEFENDANT'S EMPLOYMENT OR EMPLOYMENT PROSPECTS AND TO IMPROVE THE DEFENDANT'S LIKELIHOOD OF SUCCESS ON PROBATION OR IN THE COMMUNITY CORRECTIONS PROGRAM.

(2) **Application contents.** (a) AN APPLICATION FOR AN ORDER OF COLLATERAL RELIEF MUST CITE THE GROUNDS FOR GRANTING THE RELIEF, THE TYPE OF RELIEF SOUGHT, AND THE SPECIFIC COLLATERAL CONSEQUENCE FROM WHICH THE APPLICANT IS SEEKING RELIEF AND MUST INCLUDE A COPY OF A RECENT COLORADO BUREAU OF INVESTIGATION FINGERPRINT-BASED CRIMINAL HISTORY RECORDS CHECK. THE STATE COURT ADMINISTRATOR MAY PRODUCE AN APPLICATION FORM THAT AN APPLICANT MAY SUBMIT IN APPLICATION.

(b) THE APPLICANT SHALL PROVIDE A COPY OF THE APPLICATION TO THE DISTRICT ATTORNEY AND TO THE REGULATORY OR LICENSING BODY THAT HAS JURISDICTION

OVER THE COLLATERAL CONSEQUENCE FROM WHICH THE APPLICANT IS SEEKING RELIEF, IF ANY, BY CERTIFIED MAIL OR PERSONAL SERVICE WITHIN TEN DAYS AFTER FILING THE APPLICATION WITH THE COURT.

(3) AN ORDER OF COLLATERAL RELIEF MAY RELIEVE A DEFENDANT OF ANY COLLATERAL CONSEQUENCES OF THE CONVICTION, WHETHER IN HOUSING OR EMPLOYMENT BARRIERS OR ANY OTHER SANCTION OR DISQUALIFICATION THAT THE COURT SHALL SPECIFY, INCLUDING BUT NOT LIMITED TO STATUTORY, REGULATORY, OR OTHER COLLATERAL CONSEQUENCES THAT THE COURT MAY SEE FIT TO RELIEVE THAT WILL ASSIST THE DEFENDANT IN SUCCESSFULLY COMPLETING PROBATION OR A COMMUNITY CORRECTIONS SENTENCE.

(4) (a) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, AN ORDER OF COLLATERAL RELIEF CANNOT RELIEVE ANY COLLATERAL CONSEQUENCES IMPOSED BY LAW FOR LICENSURE BY THE DEPARTMENT OF EDUCATION OR ANY COLLATERAL CONSEQUENCES IMPOSED BY LAW FOR EMPLOYMENT WITH THE JUDICIAL BRANCH, THE DEPARTMENT OF CORRECTIONS, DIVISION OF YOUTH CORRECTIONS IN THE DEPARTMENT OF HUMAN SERVICES, OR ANY OTHER LAW ENFORCEMENT AGENCY IN THE STATE OF COLORADO.

(b) A COURT SHALL NOT ISSUE AN ORDER OF COLLATERAL RELIEF IF THE DEFENDANT:

(I) HAS BEEN CONVICTED OF A FELONY THAT INCLUDED AN ELEMENT THAT REQUIRES A VICTIM TO SUFFER PERMANENT DISABILITY;

(II) HAS BEEN CONVICTED OF A CRIME OF VIOLENCE AS DESCRIBED IN SECTION 18-1.3-406; OR

(III) IS REQUIRED TO REGISTER AS A SEX OFFENDER PURSUANT TO SECTION 16-22-103, C.R.S.

(5) **Hearing.** (a) THE COURT MAY CONDUCT A HEARING OR INCLUDE A HEARING ON THE MATTER AT THE DEFENDANT'S SENTENCING HEARING ON THE APPLICATION OR ON ANY MATTER RELEVANT TO THE GRANTING OR DENYING OF THE APPLICATION AND MAY TAKE TESTIMONY UNDER OATH.

(b) THE COURT MAY HEAR TESTIMONY FROM VICTIMS OR ANY PROPONENT OR OPPONENT OF THE APPLICATION AND MAY HEAR ARGUMENT FROM THE PETITIONER AND THE DISTRICT ATTORNEY.

(6) **Standard for granting relief.** (a) A COURT MAY ISSUE AN ORDER OF COLLATERAL RELIEF IF THE COURT FINDS THAT:

(I) THE ORDER OF COLLATERAL RELIEF IS CONSISTENT WITH THE APPLICANT'S REHABILITATION; AND

(II) GRANTING THE APPLICATION WOULD IMPROVE THE APPLICANT'S LIKELIHOOD OF SUCCESS IN REINTEGRATING INTO SOCIETY AND IS IN THE PUBLIC'S INTEREST.

(b) THE COURT THAT PREVIOUSLY ISSUED AN ORDER OF COLLATERAL RELIEF, ON

ITS OWN MOTION OR EITHER BY CAUSE SHOWN BY THE DISTRICT ATTORNEY OR ON GROUNDS OFFERED BY THE APPLICANT, MAY AT ANY TIME ISSUE A SUBSEQUENT JUDGMENT TO ENLARGE, LIMIT, OR CIRCUMSCRIBE THE RELIEF PREVIOUSLY GRANTED.

(c) UPON THE MOTION OF THE DISTRICT ATTORNEY OR PROBATION OFFICER OR UPON THE COURT'S OWN MOTION, A COURT MAY REVOKE AN ORDER OF COLLATERAL RELIEF UPON EVIDENCE OF A SUBSEQUENT CRIMINAL CONVICTION OR PROOF THAT THE DEFENDANT IS NO LONGER ENTITLED TO RELIEF. ANY BARS, PROHIBITIONS, SANCTIONS, AND DISQUALIFICATIONS THEREBY RELIEVED SHALL BE REINSTATED AS OF THE DATE OF THE WRITTEN ORDER OF REVOCATION. THE COURT SHALL PROVIDE A COPY OF THE ORDER OF REVOCATION TO THE HOLDER AND TO ANY REGULATORY OR LICENSING ENTITY THAT THE DEFENDANT NOTICED IN HIS OR HER MOTION FOR RELIEF.

(7) IF THE COURT ISSUES AN ORDER OF COLLATERAL RELIEF, IT SHALL SEND A COPY OF THE ORDER OF COLLATERAL RELIEF THROUGH THE COLORADO INTEGRATED CRIMINAL JUSTICE INFORMATION SYSTEM TO THE COLORADO BUREAU OF INVESTIGATION, AND THE COLORADO BUREAU OF INVESTIGATION SHALL NOTE IN THE APPLICANT'S RECORD IN THE COLORADO CRIME INFORMATION CENTER THAT THE ORDER OF COLLATERAL RELIEF WAS ISSUED.

(8) **Definitions.** AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(a) "COLLATERAL CONSEQUENCE" MEANS A COLLATERAL SANCTION OR A DISQUALIFICATION.

(b) "COLLATERAL SANCTION" MEANS A PENALTY, PROHIBITION, BAR, OR DISADVANTAGE, HOWEVER DENOMINATED, IMPOSED ON AN INDIVIDUAL AS A RESULT OF THE INDIVIDUAL'S CONVICTION OF AN OFFENSE, WHICH PENALTY, PROHIBITION, BAR, OR DISADVANTAGE APPLIES BY OPERATION OF LAW REGARDLESS OF WHETHER THE PENALTY, PROHIBITION, BAR, OR DISADVANTAGE IS INCLUDED IN THE JUDGMENT OR SENTENCE. "COLLATERAL SANCTION" DOES NOT INCLUDE IMPRISONMENT, PROBATION, PAROLE, SUPERVISED RELEASE, FORFEITURE, RESTITUTION, FINE, ASSESSMENT, COSTS OF PROSECUTION, OR A RESTRAINT OR SANCTION ON AN INDIVIDUAL'S DRIVING PRIVILEGE.

(c) "CONVICTION" OR "CONVICTED" MEANS A VERDICT OF GUILTY BY A JUDGE OR JURY OR A PLEA OF GUILTY OR NOLO CONTENDERE THAT IS ACCEPTED BY THE COURT OR A CONVICTION OF A CRIME UNDER THE LAWS OF ANY OTHER STATE, THE UNITED STATES, OR ANY TERRITORY SUBJECT TO THE JURISDICTION OF THE UNITED STATES, WHICH, IF COMMITTED WITHIN THIS STATE, WOULD BE A FELONY OR MISDEMEANOR. "CONVICTION" OR "CONVICTED" ALSO INCLUDES HAVING RECEIVED A DEFERRED JUDGMENT AND SENTENCE; EXCEPT THAT A PERSON SHALL NOT BE DEEMED TO HAVE BEEN CONVICTED IF THE PERSON HAS SUCCESSFULLY COMPLETED A DEFERRED SENTENCE.

(d) "DISQUALIFICATION" MEANS A PENALTY, PROHIBITION, BAR, OR DISADVANTAGE, HOWEVER DENOMINATED, THAT AN ADMINISTRATIVE AGENCY, GOVERNMENTAL OFFICIAL, OR COURT IN A CIVIL PROCEEDING IS AUTHORIZED, BUT

NOT REQUIRED, TO IMPOSE ON AN INDIVIDUAL ON GROUNDS RELATING TO THE INDIVIDUAL'S CONVICTION OF AN OFFENSE.

SECTION 13. In Colorado Revised Statutes, **add 18-1.3-303** as follows:

18-1.3-303. Sentencing order - collateral relief. (1) AT THE TIME OF SENTENCING, UPON THE REQUEST OF THE DEFENDANT OR UPON THE COURT'S OWN MOTION, A COURT MAY ENTER AN ORDER OF COLLATERAL RELIEF IF THE COURT SENTENCES THE DEFENDANT TO A COMMUNITY CORRECTIONS PROGRAM FOR THE PURPOSE OF PRESERVING OR ENHANCING THE DEFENDANT'S EMPLOYMENT OR EMPLOYMENT PROSPECTS AND TO IMPROVE THE DEFENDANT'S LIKELIHOOD OF SUCCESS ON PROBATION OR IN THE COMMUNITY CORRECTIONS PROGRAM.

(2) **Application contents.** (a) AN APPLICATION FOR AN ORDER OF COLLATERAL RELIEF MUST CITE THE GROUNDS FOR GRANTING THE RELIEF, THE TYPE OF RELIEF SOUGHT, AND THE SPECIFIC COLLATERAL CONSEQUENCE FROM WHICH THE APPLICANT IS SEEKING RELIEF AND MUST INCLUDE A COPY OF A RECENT COLORADO BUREAU OF INVESTIGATION FINGERPRINT-BASED CRIMINAL HISTORY RECORDS CHECK. THE STATE COURT ADMINISTRATOR MAY PRODUCE AN APPLICATION FORM THAT AN APPLICANT MAY SUBMIT IN APPLICATION.

(b) THE APPLICANT SHALL PROVIDE A COPY OF THE APPLICATION TO THE DISTRICT ATTORNEY AND TO THE REGULATORY OR LICENSING BODY THAT HAS JURISDICTION OVER THE COLLATERAL CONSEQUENCE FROM WHICH THE APPLICANT IS SEEKING RELIEF, IF ANY, BY CERTIFIED MAIL OR PERSONAL SERVICE WITHIN TEN DAYS AFTER FILING THE APPLICATION WITH THE COURT.

(3) AN ORDER OF COLLATERAL RELIEF MAY RELIEVE A DEFENDANT OF ANY COLLATERAL CONSEQUENCES OF THE CONVICTION, WHETHER IN HOUSING OR EMPLOYMENT BARRIERS OR ANY OTHER SANCTION OR DISQUALIFICATION THAT THE COURT SHALL SPECIFY, INCLUDING BUT NOT LIMITED TO STATUTORY, REGULATORY, OR OTHER COLLATERAL CONSEQUENCES THAT THE COURT MAY SEE FIT TO RELIEVE THAT WILL ASSIST THE DEFENDANT IN SUCCESSFULLY COMPLETING PROBATION OR A COMMUNITY CORRECTIONS SENTENCE.

(4) (a) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, AN ORDER OF COLLATERAL RELIEF CANNOT RELIEVE ANY COLLATERAL CONSEQUENCES IMPOSED BY LAW FOR LICENSURE BY THE DEPARTMENT OF EDUCATION OR ANY COLLATERAL CONSEQUENCES IMPOSED BY LAW FOR EMPLOYMENT WITH THE JUDICIAL BRANCH, THE DEPARTMENT OF CORRECTIONS, DIVISION OF YOUTH CORRECTIONS IN THE DEPARTMENT OF HUMAN SERVICES, OR ANY OTHER LAW ENFORCEMENT AGENCY IN THE STATE OF COLORADO.

(b) A COURT SHALL NOT ISSUE AN ORDER OF COLLATERAL RELIEF IF THE DEFENDANT:

(I) HAS BEEN CONVICTED OF A FELONY THAT INCLUDED AN ELEMENT THAT REQUIRES A VICTIM TO SUFFER PERMANENT DISABILITY;

(II) HAS BEEN CONVICTED OF A CRIME OF VIOLENCE AS DESCRIBED IN SECTION 18-1.3-406; OR

(III) IS REQUIRED TO REGISTER AS A SEX OFFENDER PURSUANT TO SECTION 16-22-103, C.R.S.

(5) **Hearing.** (a) THE COURT MAY CONDUCT A HEARING OR INCLUDE A HEARING ON THE MATTER AT THE DEFENDANT'S SENTENCING HEARING ON THE APPLICATION OR ON ANY MATTER RELEVANT TO THE GRANTING OR DENYING OF THE APPLICATION AND MAY TAKE TESTIMONY UNDER OATH.

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(6) **Standard for granting relief.** (a) A COURT MAY ISSUE AN ORDER OF COLLATERAL RELIEF IF THE COURT FINDS THAT:

(I) THE ORDER OF COLLATERAL RELIEF IS CONSISTENT WITH THE APPLICANT'S REHABILITATION; AND

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(c) UPON THE MOTION OF THE DISTRICT ATTORNEY OR PROBATION OFFICER OR UPON THE COURT'S OWN MOTION, A COURT MAY REVOKE AN ORDER OF COLLATERAL RELIEF UPON EVIDENCE OF A SUBSEQUENT CRIMINAL CONVICTION OR PROOF THAT THE DEFENDANT IS NO LONGER ENTITLED TO RELIEF. ANY BARS, PROHIBITIONS, SANCTIONS, AND DISQUALIFICATIONS THEREBY RELIEVED SHALL BE REINSTATED AS OF THE DATE OF THE WRITTEN ORDER OF REVOCATION. THE COURT SHALL PROVIDE A COPY OF THE ORDER OF REVOCATION TO THE HOLDER AND TO ANY REGULATORY OR LICENSING ENTITY THAT THE DEFENDANT NOTICED IN HIS OR HER MOTION FOR RELIEF.

(7) IF THE COURT ISSUES AN ORDER OF COLLATERAL RELIEF, IT SHALL SEND A COPY OF THE ORDER OF COLLATERAL RELIEF THROUGH THE COLORADO INTEGRATED CRIMINAL JUSTICE INFORMATION SYSTEM TO THE COLORADO BUREAU OF INVESTIGATION, AND THE COLORADO BUREAU OF INVESTIGATION SHALL NOTE IN THE APPLICANT'S RECORD IN THE COLORADO CRIME INFORMATION CENTER THAT THE ORDER OF COLLATERAL RELIEF WAS ISSUED.

(8) **Definitions.** AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(a) "COLLATERAL CONSEQUENCE" MEANS A COLLATERAL SANCTION OR A DISQUALIFICATION.

(b) "COLLATERAL SANCTION" MEANS A PENALTY, PROHIBITION, BAR, OR

DISADVANTAGE, HOWEVER DENOMINATED, IMPOSED ON AN INDIVIDUAL AS A RESULT OF THE INDIVIDUAL'S CONVICTION OF AN OFFENSE, WHICH PENALTY, PROHIBITION, BAR, OR DISADVANTAGE APPLIES BY OPERATION OF LAW REGARDLESS OF WHETHER THE PENALTY, PROHIBITION, BAR, OR DISADVANTAGE IS INCLUDED IN THE JUDGMENT OR SENTENCE. "COLLATERAL SANCTION" DOES NOT INCLUDE IMPRISONMENT, PROBATION, PAROLE, SUPERVISED RELEASE, FORFEITURE, RESTITUTION, FINE, ASSESSMENT, COSTS OF PROSECUTION, OR A RESTRAINT OR SANCTION ON AN INDIVIDUAL'S DRIVING PRIVILEGE.

(c) "CONVICTION" OR "CONVICTED" MEANS A VERDICT OF GUILTY BY A JUDGE OR JURY OR A PLEA OF GUILTY OR NOLO CONTENDERE THAT IS ACCEPTED BY THE COURT OR A CONVICTION OF A CRIME UNDER THE LAWS OF ANY OTHER STATE, THE UNITED STATES, OR ANY TERRITORY SUBJECT TO THE JURISDICTION OF THE UNITED STATES, WHICH, IF COMMITTED WITHIN THIS STATE, WOULD BE A FELONY OR MISDEMEANOR. "CONVICTION" OR "CONVICTED" ALSO INCLUDES HAVING RECEIVED A DEFERRED JUDGMENT AND SENTENCE; EXCEPT THAT A PERSON SHALL NOT BE DEEMED TO HAVE BEEN CONVICTED IF THE PERSON HAS SUCCESSFULLY COMPLETED A DEFERRED SENTENCE.

(d) "DISQUALIFICATION" MEANS A PENALTY, PROHIBITION, BAR, OR DISADVANTAGE, HOWEVER DENOMINATED, THAT AN ADMINISTRATIVE AGENCY, GOVERNMENTAL OFFICIAL, OR COURT IN A CIVIL PROCEEDING IS AUTHORIZED, BUT NOT REQUIRED, TO IMPOSE ON AN INDIVIDUAL ON GROUNDS RELATING TO THE INDIVIDUAL'S CONVICTION OF AN OFFENSE.

SECTION 14. In Colorado Revised Statutes, 24-72-308, add (3) (f) as follows:

24-72-308. Sealing of arrest and criminal records other than convictions.

(3) **Exceptions.** (f) IF A PERSON WHO SEEKS TO HAVE HIS OR HER ARREST RECORDS SEALED FOR CHARGES THAT ARE NOT COVERED BY PARAGRAPH (a) OF THIS SUBSECTION (3), THE FACT THAT THE PERSON WAS CHARGED FOR A CRIME COVERED IN PARAGRAPH (a) OF THIS SUBSECTION (3) AS A PART OF THE SAME ARREST DOES NOT PROHIBIT A COURT FROM SEALING THE ARREST RECORDS RELATED TO THE CHARGES THAT ARE NOT COVERED IN PARAGRAPH (a) OF THIS SUBSECTION (3).

SECTION 15. Appropriation. (1) In addition to any other appropriation, there is hereby appropriated, out of any moneys in the general fund not otherwise appropriated, to the judicial department, for the fiscal year beginning July 1, 2013, the sum of \$533,199 and 6.9 FTE, or so much thereof as may be necessary, to be allocated for the implementation of this act as follows:

(a) \$424,913 and 6.9 FTE to trial court programs for personal services;

(b) \$13,680 to trial court programs for operating expenses; and

(c) \$94,606 to centrally administered programs for courthouse capital/infrastructure maintenance.

(2) In addition to any other appropriation, there is hereby appropriated, out of any moneys in the Colorado bureau of investigation identification unit fund created in section 24-33.5-426, Colorado Revised Statutes, not otherwise appropriated, to the

department of public safety, for the fiscal year beginning July 1, 2013, the sum of \$169,902 and 3.0 FTE, or so much thereof as may be necessary, to be allocated for the implementation of this act as follows:

(a) \$152,943 and 3.0 FTE to the Colorado bureau of investigation, Colorado crime information center, identification, for personal services;

(b) \$2,850 to the Colorado bureau of investigation, Colorado crime information center, identification, for operating expenses; and

(c) \$14,109 to the Colorado bureau of investigation, Colorado crime information center, identification, for capital outlay.

(3) In addition to any other appropriation, there is hereby appropriated, out of any moneys in the general fund not otherwise appropriated, to the department of public safety, for the fiscal year beginning July 1, 2013, the sum of \$15,000, or so much thereof as may be necessary, to be allocated to the Colorado bureau of investigation, Colorado crime information center, identification, personal services, for contractual software modifications related to the implementation of this act.

SECTION 16. 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.

Approved: May 24, 2013