

**First Regular Session  
Sixty-sixth General Assembly  
STATE OF COLORADO**

**INTRODUCED**

LLS NO. 07-0358.01 Stephen Miller

**HOUSE BILL 07-1107**

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**HOUSE SPONSORSHIP**

**Cerbo,**

**SENATE SPONSORSHIP**

**(None),**

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**House Committees**  
Judiciary

**Senate Committees**

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**A BILL FOR AN ACT**

101 **CONCERNING THE SEALING OF CRIMINAL JUSTICE RECORDS.**

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**Bill Summary**

*(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)*

Reduces the time from 15 years to 10 years that a person must wait before filing a petition to seal arrest and criminal records information pertaining to a criminal offense that was not charged or a case that was dismissed due to a plea agreement in a separate case. Requires a probation department or a parole officer under certain circumstances to advise a defendant of the right to seal criminal justice records.

Extends the criminal justice record sealing procedure to convictions. Permits a defendant, after 10 years following the completion of a sentence or release from supervision, whichever is later, to petition

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.  
*Capital letters indicate new material to be added to existing statute.*  
*Dashes through the words indicate deletions from existing statute.*

the district court to seal criminal conviction records information ("conviction records"). Prohibits the sealing of conviction records if the defendant still owes court-ordered restitution, fines, or fees. Specifies the procedure for sealing conviction records. Requires the court, in making the decision whether to seal the conviction records, to weigh the privacy interests of the petitioner against the public interest in retaining the conviction records.

Prohibits employers and certain institutions and agencies from requiring an applicant to disclose information in sealed conviction records. Permits the bar committee of the state board of law examiners to make inquiries into the fact of a conviction that comes to the attention of the bar committee through other means. Requires a defendant to be advised of the right to seal conviction records by the court, the probation department, and the defendant's parole officer under the appropriate circumstances.

Prohibits the sealing of conviction records as to traffic offenses and infractions, any offense with an underlying factual basis involving unlawful sexual behavior, and crimes involving specified special circumstances for which enhanced sentencing is required. Specifies that court orders sealing conviction records shall not limit the operation of discovery rules in civil cases.

Specifies that the conviction records sealing procedure shall apply to judgments of conviction entered on and after July 1, 2007. Permits the procedure to apply to judgments of conviction entered on and after July 1, 1988, but before July 1, 2007, with the consent of the prosecuting attorney. Requires the supreme court to promulgate rules of procedure that establish appropriate time periods within which to file a petition to seal conviction records concerning judgments of conviction entered on and after July 1, 1988, but before July 1, 2007.

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

2           **SECTION 1.** 24-72-308 (1) (a) (III), (2), and (3) (a), Colorado  
3 Revised Statutes, are amended to read:

4           **24-72-308. Sealing of arrest and criminal records other than**  
5 **convictions.** (1) (a) (III) A person in interest may petition the district  
6 court of the district in which any arrest and criminal records information  
7 pertaining to said person in interest is located for the sealing of all of said  
8 records, except basic identification information, if the records are a record

1 of official actions involving a criminal offense that was not charged or a  
2 case that was dismissed due to a plea agreement in a separate case, and  
3 if:

4 (A) The petition is filed ~~fifteen~~ TEN years or more after the date  
5 of the final disposition of all criminal proceedings against the person in  
6 interest; and

7 (B) The person in interest has not been charged for ~~any~~ A criminal  
8 offense in the ~~fifteen~~ TEN years since the date of the final disposition of  
9 all criminal proceedings against the person in interest.

10 (2) **Advisements.** (a) Whenever a defendant has charges against  
11 him OR HER dismissed, is acquitted, or is sentenced following a  
12 conviction, the court shall provide him OR HER with a written advisement  
13 of his OR HER rights concerning the sealing of his OR HER criminal justice  
14 records PURSUANT TO THIS SECTION if he OR SHE complies with the  
15 applicable provisions of this section.

16 (b) IN ADDITION TO, AND NOT IN LIEU OF, THE REQUIREMENT  
17 DESCRIBED IN PARAGRAPH (a) OF THIS SUBSECTION (2):

18 (I) IF A DEFENDANT IS SENTENCED TO PROBATION, THE PROBATION  
19 DEPARTMENT, UPON THE TERMINATION OF THE DEFENDANT'S PROBATION,  
20 SHALL PROVIDE THE DEFENDANT WITH A WRITTEN ADVISEMENT OF HIS OR  
21 HER RIGHTS CONCERNING THE SEALING OF HIS OR HER CRIMINAL JUSTICE  
22 RECORDS PURSUANT TO THIS SECTION IF HE OR SHE COMPLIES WITH THE  
23 APPLICABLE PROVISIONS OF THIS SECTION.

24 (II) IF A DEFENDANT IS RELEASED ON PAROLE, THE DEFENDANT'S  
25 PAROLE OFFICER, UPON THE TERMINATION OF THE DEFENDANT'S PAROLE,  
26 SHALL PROVIDE THE DEFENDANT WITH A WRITTEN ADVISEMENT OF HIS OR  
27 HER RIGHTS CONCERNING THE SEALING OF HIS OR HER CRIMINAL JUSTICE

1 RECORDS PURSUANT TO THIS SECTION IF HE OR SHE COMPLIES WITH THE  
2 APPLICABLE PROVISIONS OF THIS SECTION.

3 (3) **Exceptions.** (a) This section shall not apply to records  
4 pertaining to:

5 (I) ~~Any~~ A class 1 or class 2 misdemeanor traffic offense;

6 (II) ~~Any~~ A class A or class B traffic infraction; ~~or~~

7 (III) ~~Any~~ A conviction for a violation of section 42-4-1301 (1) or  
8 (2), C.R.S.; OR

9 (IV) A CONVICTION THAT MAY BE SEALED PURSUANT TO SECTION  
10 24-72-308.5.

11 **SECTION 2.** Part 3 of article 72 of title 24, Colorado Revised  
12 Statutes, is amended BY THE ADDITION OF A NEW SECTION to  
13 read:

14 **24-72-308.5. Sealing of criminal conviction records**  
15 **information.** (1) **Definitions.** FOR PURPOSES OF THIS SECTION,  
16 "CONVICTION RECORDS" MEANS ARREST AND CRIMINAL RECORDS  
17 INFORMATION AND RECORDS PERTAINING TO A JUDGMENT OF CONVICTION.

18 (2) **Sealing of conviction records.** (a) (I) EXCEPT AS OTHERWISE  
19 PROVIDED IN PARAGRAPH (b) OF SUBSECTION (5) OF THIS SECTION, AFTER  
20 TEN YEARS FOLLOWING THE COMPLETION OF A SENTENCE OR RELEASE  
21 FROM SUPERVISION CONCERNING A CRIMINAL CONVICTION, WHICHEVER IS  
22 LATER, A PERSON IN INTEREST MAY PETITION THE DISTRICT COURT OF THE  
23 DISTRICT IN WHICH ANY CONVICTION RECORDS PERTAINING TO THE PERSON  
24 IN INTEREST ARE LOCATED FOR THE SEALING OF ALL OF THE CONVICTION  
25 RECORDS, EXCEPT BASIC IDENTIFICATION INFORMATION, IN ACCORDANCE  
26 WITH THIS SECTION.

27 (II) CONVICTION RECORDS MAY NOT BE SEALED IF THE DEFENDANT

1 STILL OWES RESTITUTION, FINES, COURT COSTS, LATE FEES, OR OTHER FEES  
2 ORDERED BY THE COURT IN THE CASE THAT IS THE SUBJECT OF THE  
3 PETITION TO SEAL CONVICTION RECORDS, UNLESS THE COURT THAT  
4 ENTERED THE ORDER FOR RESTITUTION, FINES, COURT COSTS, LATE FEES,  
5 OR OTHER FEES HAS VACATED THE ORDER.

6 (b) (I) A PETITION TO SEAL CONVICTION RECORDS SHALL INCLUDE  
7 A LISTING OF EACH CUSTODIAN OF THE RECORDS TO WHOM THE SEALING  
8 ORDER IS DIRECTED AND ANY INFORMATION THAT ACCURATELY AND  
9 COMPLETELY IDENTIFIES THE RECORDS TO BE SEALED.

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

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

26 (c) AFTER THE HEARING DESCRIBED IN SUBPARAGRAPH (II) OF  
27 PARAGRAPH (b) OF THIS SUBSECTION (2) IS CONDUCTED AND IF THE COURT

1 FINDS THAT THE HARM TO THE PRIVACY OF THE PETITIONER OR THE  
2 DANGERS OF UNWARRANTED, ADVERSE CONSEQUENCES TO THE  
3 PETITIONER OUTWEIGH THE PUBLIC INTEREST IN RETAINING THE  
4 CONVICTION RECORDS, THE COURT MAY ORDER THE CONVICTION RECORDS,  
5 EXCEPT BASIC IDENTIFICATION INFORMATION, TO BE SEALED. AN ORDER  
6 ENTERED PURSUANT TO THIS PARAGRAPH (c) SHALL BE DIRECTED TO EACH  
7 CUSTODIAN WHO MAY HAVE CUSTODY OF ANY PART OF THE CONVICTION  
8 RECORDS THAT ARE THE SUBJECT OF THE ORDER. WHENEVER A COURT  
9 ENTERS AN ORDER SEALING CONVICTION RECORDS PURSUANT TO THIS  
10 PARAGRAPH (c), THE PETITIONER SHALL PROVIDE THE COLORADO BUREAU  
11 OF INVESTIGATION AND EACH CUSTODIAN OF THE CONVICTION RECORDS  
12 WITH A COPY OF THE ORDER. THEREAFTER, THE PETITIONER MAY REQUEST  
13 AND THE COURT MAY GRANT AN ORDER SEALING THE CIVIL CASE IN WHICH  
14 THE CONVICTION RECORDS WERE SEALED.

15 (d) UPON THE ENTRY OF AN ORDER TO SEAL THE CONVICTION  
16 RECORDS, THE PETITIONER AND ALL CRIMINAL JUSTICE AGENCIES MAY  
17 PROPERLY REPLY, UPON AN INQUIRY IN THE MATTER, THAT CONVICTION  
18 RECORDS DO NOT EXIST WITH RESPECT TO THE PERSON WHO IS THE  
19 SUBJECT OF THE SEALED CONVICTION RECORDS.

20 (e) INSPECTION OF THE RECORDS INCLUDED IN AN ORDER SEALING  
21 CONVICTION RECORDS MAY THEREAFTER BE PERMITTED BY THE COURT  
22 ONLY UPON PETITION BY THE PERSON WHO IS THE SUBJECT OF THE  
23 CONVICTION RECORDS OR BY THE PROSECUTING ATTORNEY AND ONLY FOR  
24 THOSE PURPOSES NAMED IN THE PETITION.

25 (f) (I) EMPLOYERS, EDUCATIONAL INSTITUTIONS, STATE AND  
26 LOCAL GOVERNMENT AGENCIES, OFFICIALS, AND EMPLOYEES SHALL NOT,  
27 IN ANY APPLICATION OR INTERVIEW OR IN ANY OTHER WAY, REQUIRE AN

1 APPLICANT TO DISCLOSE ANY INFORMATION CONTAINED IN SEALED  
2 CONVICTION RECORDS. AN APPLICANT NEED NOT, IN ANSWER TO ANY  
3 QUESTION CONCERNING CONVICTION RECORDS THAT HAVE BEEN SEALED,  
4 INCLUDE A REFERENCE TO OR INFORMATION CONCERNING THE SEALED  
5 CONVICTION RECORDS AND MAY STATE THAT THE APPLICANT HAS NOT  
6 BEEN CRIMINALLY CONVICTED. AN APPLICATION MAY NOT BE DENIED  
7 SOLELY BECAUSE OF THE APPLICANT'S REFUSAL TO DISCLOSE CONVICTION  
8 RECORDS THAT HAVE BEEN SEALED.

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

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

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

27 (b) IN ADDITION TO, AND NOT IN LIEU OF, THE REQUIREMENT

1 DESCRIBED IN PARAGRAPH (a) OF THIS SUBSECTION (3):

2 (I) IF A DEFENDANT IS SENTENCED TO PROBATION, THE PROBATION  
3 DEPARTMENT, UPON THE TERMINATION OF THE DEFENDANT'S PROBATION,  
4 SHALL PROVIDE THE DEFENDANT WITH A WRITTEN ADVISEMENT OF HIS OR  
5 HER RIGHTS CONCERNING THE SEALING OF HIS OR HER CONVICTION  
6 RECORDS PURSUANT TO THIS SECTION IF HE OR SHE COMPLIES WITH THE  
7 APPLICABLE PROVISIONS OF THIS SECTION.

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

14 (4) **Exceptions.** (a) THIS SECTION SHALL NOT APPLY TO RECORDS  
15 PERTAINING TO:

16 (I) A CLASS 1 OR CLASS 2 MISDEMEANOR TRAFFIC OFFENSE;

17 (II) A CLASS A OR CLASS B TRAFFIC INFRACTION;

18 (III) A CONVICTION FOR A VIOLATION OF SECTION 42-4-1301 (1) OR  
19 (2), C.R.S.;

20 (IV) A CONVICTION OF AN OFFENSE FOR WHICH THE FACTUAL  
21 BASIS INVOLVED UNLAWFUL SEXUAL BEHAVIOR, AS DEFINED IN SECTION  
22 16-22-102 (9), C.R.S.; OR

23 (V) A CONVICTION THAT IS SUBJECT TO SENTENCING UNDER ONE  
24 OR MORE OF THE FOLLOWING PROVISIONS:

25 (A) SENTENCING FOR A CRIME INVOLVING EXTRAORDINARY  
26 AGGRAVATING CIRCUMSTANCES, PURSUANT TO SECTION 18-1.3-401 (8),  
27 C.R.S.;

1 (B) SENTENCING FOR A CRIME INVOLVING SENTENCE-ENHANCING  
2 CIRCUMSTANCES, PURSUANT TO SECTION 18-1.3-401 (9), C.R.S.;

3 (C) SENTENCING FOR AN EXTRAORDINARY RISK CRIME, PURSUANT  
4 TO SECTION 18-1.3-401 (10), C.R.S.;

5 (D) SENTENCING FOR A CRIME INVOLVING A PREGNANT VICTIM,  
6 PURSUANT TO SECTION 18-1.3-401 (13), C.R.S.;

7 (E) SENTENCING FOR A CRIME PERTAINING TO A SPECIAL  
8 OFFENDER, PURSUANT TO SECTION 18-18-407, C.R.S.;

9 (F) SENTENCING FOR A CRIMINAL CONVICTION FOR WHICH THE  
10 UNDERLYING FACTUAL BASIS INVOLVES DOMESTIC VIOLENCE, AS DEFINED  
11 IN SECTION 18-6-800.3, C.R.S.;

12 (G) SENTENCING FOR A CRIMINAL CONVICTION FOR A SEXUAL  
13 OFFENSE, PURSUANT TO PART 4 OF ARTICLE 3 OF TITLE 18, C.R.S.

14 (b) COURT ORDERS SEALING RECORDS OF OFFICIAL ACTIONS  
15 ENTERED PURSUANT TO THIS SECTION SHALL NOT LIMIT THE OPERATION OF  
16 RULES OF DISCOVERY PROMULGATED BY THE SUPREME COURT OF  
17 COLORADO.

18 (c) THIS SECTION SHALL NOT APPLY TO CONVICTION RECORDS IN  
19 THE POSSESSION AND CUSTODY OF A CRIMINAL JUSTICE AGENCY WHEN AN  
20 INQUIRY CONCERNING THE CONVICTION RECORDS IS MADE BY ANOTHER  
21 CRIMINAL JUSTICE AGENCY.

22 (5) (a) **Applicability.** EXCEPT AS OTHERWISE PROVIDED IN  
23 PARAGRAPH (b) OF THIS SUBSECTION (5), THE PROVISIONS OF THIS SECTION  
24 SHALL APPLY TO CONVICTION RECORDS PERTAINING TO JUDGMENTS OF  
25 CONVICTION ENTERED ON AND AFTER JULY 1, 2007.

26 (b) (I) A DEFENDANT MAY, WITH THE CONSENT OF THE  
27 PROSECUTING ATTORNEY AND WITHIN THE APPLICABLE TIME PERIOD

1 ESTABLISHED BY THE SUPREME COURT PURSUANT TO SUBPARAGRAPH (II)  
2 OF THIS PARAGRAPH (b), PETITION THE COURT TO SEAL CONVICTION  
3 RECORDS IN ACCORDANCE WITH THIS SECTION PERTAINING TO JUDGMENTS  
4 OF CONVICTION ENTERED ON AND AFTER JULY 1, 1988, BUT BEFORE JULY  
5 1, 2007.

6 (II) THE SUPREME COURT SHALL PROMULGATE RULES OF  
7 PROCEDURE THAT ESTABLISH APPROPRIATE TIME PERIODS WITHIN WHICH  
8 TO FILE A PETITION TO SEAL CONVICTION RECORDS CONCERNING  
9 JUDGMENTS OF CONVICTION ENTERED ON AND AFTER JULY 1, 1988, BUT  
10 BEFORE JULY 1, 2007.

11 **SECTION 3. Effective date.** This act shall take effect July 1,  
12 2007.

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