

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

PREAMENDED

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

LLS NO. 08-0404.01 Richard Sweetman

HOUSE BILL 08-1082

HOUSE SPONSORSHIP

Ferrandino,

SENATE SPONSORSHIP

Bacon,

House Committees

Judiciary
Appropriations

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING THE SEALING OF CRIMINAL JUSTICE RECORDS, AND**
102 **MAKING AN APPROPRIATION IN CONNECTION THEREWITH.**

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 number of 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

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.*

convictions. Permits a defendant, after a specified number of years following the completion of a sentence or release from supervision, whichever is later, to petition 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 conviction records, to weigh the privacy interests of the defendant against the public interest in retaining the conviction records as open 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, crimes involving specified special circumstances for which enhanced sentencing is required, and other specified offenses. 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 a specified date. Permits the procedure to apply to judgments of conviction entered before a specified date with the consent of the prosecuting attorney.

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
9 of official actions involving a criminal offense that was not charged or a
10 case that was dismissed due to a plea agreement in a separate case, and

1 if:

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

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

8 (2) **Advisements.** (a) Whenever a defendant HAS APPEARED
9 BEFORE THE COURT AND has charges against him OR HER dismissed OR
10 NOT FILED, OR WHENEVER THE DEFENDANT is acquitted, ~~or is sentenced~~
11 ~~following a conviction~~, the court shall provide him OR HER with a written
12 advisement of his OR HER rights PURSUANT TO THIS SECTION concerning
13 the sealing of his OR HER criminal justice records if he OR SHE complies
14 with the applicable provisions of this section.

15 (b) IN ADDITION TO, AND NOT IN LIEU OF, THE REQUIREMENT
16 DESCRIBED IN PARAGRAPH (a) OF THIS SUBSECTION (2), IF A DEFENDANT'S
17 CASE IS DISMISSED AFTER A PERIOD OF SUPERVISION BY PROBATION, THE
18 PROBATION DEPARTMENT, UPON THE TERMINATION OF THE DEFENDANT'S
19 PROBATION, SHALL PROVIDE THE DEFENDANT WITH A WRITTEN
20 ADVISEMENT OF HIS OR HER RIGHTS PURSUANT TO THIS SECTION
21 CONCERNING THE SEALING OF HIS OR HER CRIMINAL JUSTICE RECORDS IF
22 HE OR SHE COMPLIES WITH THE APPLICABLE PROVISIONS OF THIS SECTION.

23

24

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

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

- 1 (II) ~~Any~~ A class A or class B traffic infraction; or
2 (III) ~~Any~~ A conviction for a violation of section 42-4-1301 (1) or
3 (2), C.R.S.

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

7 **24-72-308.5. Sealing of criminal conviction records**
8 **information.** (1) **Definitions.** FOR PURPOSES OF THIS SECTION,
9 "CONVICTION RECORDS" MEANS ARREST AND CRIMINAL RECORDS
10 INFORMATION AND ANY RECORDS PERTAINING TO A JUDGMENT OF
11 CONVICTION.

12 (2) **Sealing of conviction records.** (a) (I) EXCEPT AS OTHERWISE
13 PROVIDED IN PARAGRAPH (b) OF SUBSECTION (4) OF THIS SECTION, A
14 DEFENDANT MAY PETITION THE DISTRICT COURT OF THE DISTRICT IN WHICH
15 ANY CONVICTION RECORDS PERTAINING TO THE DEFENDANT ARE LOCATED
16 FOR THE SEALING OF THE CONVICTION RECORDS, EXCEPT BASIC
17 IDENTIFYING INFORMATION, IF:

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

22 (B) THE DEFENDANT HAS NOT BEEN CHARGED OR CONVICTED FOR
23 A CRIMINAL OFFENSE IN THE TEN OR MORE YEARS SINCE THE DATE OF THE
24 FINAL DISPOSITION OF ALL CRIMINAL PROCEEDINGS AGAINST HIM OR HER
25 OR THE DATE OF THE DEFENDANT'S RELEASE FROM SUPERVISION,
26 WHICHEVER IS LATER.

27 (II) AN ORDER SEALING CONVICTION RECORDS SHALL NOT DENY

1 ACCESS TO THE CRIMINAL RECORDS OF A DEFENDANT BY ANY COURT, LAW
2 ENFORCEMENT AGENCY, CRIMINAL JUSTICE AGENCY, PROSECUTING
3 ATTORNEY, OR PARTY OR AGENCY REQUIRED BY LAW TO CONDUCT A
4 CRIMINAL HISTORY RECORD CHECK ON AN INDIVIDUAL. AN ORDER
5 SEALING CONVICTION RECORDS SHALL NOT BE CONSTRUED TO VACATE A
6 CONVICTION. A CONVICTION SEALED PURSUANT TO THIS SECTION MAY BE
7 USED BY A CRIMINAL JUSTICE AGENCY, LAW ENFORCEMENT AGENCY,
8 COURT, OR PROSECUTING ATTORNEY FOR ANY LAWFUL PURPOSE RELATING
9 TO THE INVESTIGATION OR PROSECUTION OF ANY CASE, INCLUDING BUT
10 NOT LIMITED TO ANY SUBSEQUENT CASE THAT IS FILED AGAINST THE
11 DEFENDANT, OR FOR ANY OTHER LAWFUL PURPOSE WITHIN THE SCOPE OF
12 HIS, HER, OR ITS DUTIES. IF A DEFENDANT IS CONVICTED OF A NEW
13 CRIMINAL OFFENSE AFTER AN ORDER SEALING CONVICTION RECORDS IS
14 ENTERED, THE COURT, ON ITS OWN MOTION OR UPON THE MOTION OF ANY
15 PROSECUTING ATTORNEY, SHALL ORDER THE CONVICTION RECORDS TO BE
16 UNSEALED. A PARTY OR AGENCY REQUIRED BY LAW TO CONDUCT A
17 CRIMINAL HISTORY RECORD CHECK SHALL BE AUTHORIZED TO USE ANY
18 SEALED CONVICTION FOR THE LAWFUL PURPOSE FOR WHICH THE CRIMINAL
19 HISTORY RECORD CHECK IS REQUIRED BY LAW.

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

26 (b) (I) A PETITION TO SEAL CONVICTION RECORDS SHALL INCLUDE
27 A LISTING OF EACH CUSTODIAN OF THE RECORDS TO WHOM THE SEALING

1 ORDER IS DIRECTED AND ANY INFORMATION THAT ACCURATELY AND
2 COMPLETELY IDENTIFIES THE RECORDS TO BE SEALED. A VERIFIED COPY
3 OF THE DEFENDANT'S CRIMINAL HISTORY, CURRENT THROUGH AT LEAST
4 THE TWENTIETH DAY PRIOR TO THE DATE OF THE FILING OF THE PETITION,
5 SHALL BE SUBMITTED TO THE COURT BY THE DEFENDANT ALONG WITH THE
6 PETITION AT THE TIME OF FILING, BUT IN NO EVENT LATER THAN THE
7 TENTH DAY AFTER THE PETITION IS FILED. THE DEFENDANT SHALL BE
8 RESPONSIBLE FOR OBTAINING AND PAYING FOR HIS OR HER CRIMINAL
9 HISTORY RECORD.

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 DEFENDANT 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 DEFENDANT. 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 DEFENDANT SHALL NOTIFY BY CERTIFIED
24 MAIL THE PROSECUTING ATTORNEY, THE ARRESTING AGENCY, AND ANY
25 OTHER PERSON OR AGENCY IDENTIFIED BY THE DEFENDANT.

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 DEFENDANT OR THE
2 DANGERS OF UNWARRANTED, ADVERSE CONSEQUENCES TO THE
3 DEFENDANT 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. IN MAKING
6 THIS DETERMINATION, THE COURT SHALL CONSIDER THE SEVERITY OF THE
7 OFFENSE THAT IS THE BASIS OF THE CONVICTION RECORDS SOUGHT TO BE
8 SEALED, THE CRIMINAL HISTORY OF THE DEFENDANT, AND THE NEED FOR
9 THE GOVERNMENT AGENCY TO RETAIN THE RECORDS. AN ORDER ENTERED
10 PURSUANT TO THIS PARAGRAPH (c) SHALL BE DIRECTED TO EACH
11 CUSTODIAN WHO MAY HAVE CUSTODY OF ANY PART OF THE CONVICTION
12 RECORDS THAT ARE THE SUBJECT OF THE ORDER. WHENEVER A COURT
13 ENTERS AN ORDER SEALING CONVICTION RECORDS PURSUANT TO THIS
14 PARAGRAPH (c), THE DEFENDANT SHALL PROVIDE THE COLORADO BUREAU
15 OF INVESTIGATION AND EACH CUSTODIAN OF THE CONVICTION RECORDS
16 WITH A COPY OF THE ORDER. THEREAFTER, THE DEFENDANT MAY
17 REQUEST AND THE COURT MAY GRANT AN ORDER SEALING THE CIVIL CASE
18 IN WHICH THE CONVICTION RECORDS WERE SEALED.

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

25 (e) EXCEPT AS OTHERWISE PROVIDED IN SUBPARAGRAPH (II) OF
26 PARAGRAPH (a) OF THIS SUBSECTION (2), INSPECTION OF THE RECORDS
27 INCLUDED IN AN ORDER SEALING CONVICTION RECORDS MAY THEREAFTER

1 BE PERMITTED BY THE COURT ONLY UPON PETITION BY THE DEFENDANT.

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

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

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

27 (IV) ANY MEMBER OF THE PUBLIC MAY PETITION THE COURT TO

1 UNSEAL ANY FILE THAT HAS BEEN PREVIOUSLY SEALED UPON A SHOWING
2 THAT CIRCUMSTANCES HAVE COME INTO EXISTENCE SINCE THE ORIGINAL
3 SEALING AND, AS A RESULT, THE PUBLIC INTEREST IN DISCLOSURE NOW
4 OUTWEIGHS THE DEFENDANT'S INTEREST IN PRIVACY.

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

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

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

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

15 (4) (a) **Applicability.** EXCEPT AS OTHERWISE PROVIDED IN
16 PARAGRAPH (b) OF THIS SUBSECTION (4), THE PROVISIONS OF THIS SECTION
17 SHALL APPLY TO CONVICTION RECORDS PERTAINING TO JUDGMENTS OF
18 CONVICTION ENTERED ON AND AFTER JULY 1, 2008, FOR MISDEMEANOR
19 OFFENSES, PETTY OFFENSES, OFFENSES AGAINST MUNICIPAL ORDINANCES,
20 CLASS 5 AND CLASS 6 FELONY OFFENSES INVOLVING CONTROLLED
21 SUBSTANCES AS DESCRIBED IN ARTICLE 18 OF TITLE 18, C.R.S., AND ANY
22 OFFENSE THAT WOULD BE CLASSIFIED AS A CLASS 5 OR CLASS 6 FELONY
23 INVOLVING A CONTROLLED SUBSTANCE AS DESCRIBED IN ARTICLE 18 OF
24 TITLE 18, C.R.S., IF THE OFFENSE WERE TO HAVE OCCURRED ON JULY 1,
25 2008.

26 (b) FOR ANY JUDGMENT OF CONVICTION ENTERED PRIOR TO JULY
27 1, 2008, FOR WHICH THE DEFENDANT WOULD OTHERWISE QUALIFY FOR

1 RELIEF UNDER THIS SECTION, THE DEFENDANT MAY OBTAIN AN ORDER
2 FROM THE COURT TO SEAL CONVICTION RECORDS IF:

3 (I) THE PROSECUTING ATTORNEY DOES NOT OBJECT TO THE
4 SEALING; AND

5 (II) THE DEFENDANT PAYS TO THE OFFICE OF THE PROSECUTING
6 ATTORNEY ALL REASONABLE ATTORNEY FEES AND COSTS OF THE
7 PROSECUTING ATTORNEY RELATING TO THE PETITION TO SEAL PRIOR TO
8 THE ENTRY OF AN ORDER SEALING THE CONVICTION RECORDS; AND

9 (III) THE DEFENDANT PAYS:

10 (A) THE FILING FEE REQUIRED BY LAW; AND

11 (B) AN ADDITIONAL FILING FEE OF TWO HUNDRED DOLLARS TO
12 COVER THE ACTUAL COSTS RELATED TO THE FILING OF THE PETITION TO
13 SEAL RECORDS.

14 (c) THE ADDITIONAL FILING FEES COLLECTED UNDER
15 SUB-SUBPARAGRAPH (B) OF SUBPARAGRAPH (III) OF PARAGRAPH (b) OF
16 THIS SUBSECTION (4) SHALL BE TRANSMITTED TO THE STATE TREASURER
17 FOR DEPOSIT IN THE JUDICIAL STABILIZATION CASH FUND CREATED IN
18 SECTION 13-32-101 (1.5), C.R.S.

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

23 (5) **Exceptions.** NOTWITHSTANDING THE PROVISIONS OF
24 SUBSECTION (4) OF THIS SECTION, THE PROVISIONS OF THIS SECTION SHALL
25 NOT APPLY TO RECORDS PERTAINING TO A CONVICTION FOR:

26 (a) ANY MISDEMEANOR OFFENSE DESCRIBED IN SECTION 10-3-104,
27 C.R.S.;

- 1 (b) ANY MISDEMEANOR OFFENSE DESCRIBED IN ARTICLE 14 OF
2 TITLE 12, C.R.S.;
- 3 (c) ANY MISDEMEANOR OFFENSE DESCRIBED IN PART 3 OF ARTICLE
4 3 OF TITLE 18, C.R.S.;
- 5 (d) ANY MISDEMEANOR OFFENSE DESCRIBED IN PART 4 OF ARTICLE
6 3 OF TITLE 18, C.R.S., OR ANY OFFENSE INVOLVING UNLAWFUL SEXUAL
7 BEHAVIOR, AS DEFINED IN SECTION 16-22-102 (9), C.R.S.;
- 8 (e) ANY MISDEMEANOR OFFENSE DESCRIBED IN PART 4 OF ARTICLE
9 6 OF TITLE 18, C.R.S.;
- 10 (f) A VIOLATION OF SECTION 18-6.5-103 (6), C.R.S.;
- 11 (g) ANY MISDEMEANOR OFFENSE DESCRIBED IN PART 1 OF ARTICLE
12 7 OF TITLE 18, C.R.S.;
- 13 (h) ANY MISDEMEANOR OFFENSE DESCRIBED IN SECTION 18-8-208,
14 C.R.S.;
- 15 (i) ANY MISDEMEANOR OFFENSE DESCRIBED IN PART 3, 4, OR 5 OF
16 ARTICLE 8 OF TITLE 18, C.R.S.;
- 17 (j) ANY MISDEMEANOR OFFENSE DESCRIBED IN PART 3 OF ARTICLE
18 5 OF TITLE 18, C.R.S.;
- 19 (k) ANY MISDEMEANOR OFFENSE DESCRIBED IN SECTION
20 18-12-102, 18-12-103, OR 18-12-104, C.R.S.;
- 21 (l) A CLASS 1 OR CLASS 2 MISDEMEANOR TRAFFIC OFFENSE
22 DESCRIBED IN TITLE 42, C.R.S.;
- 23 (m) A CLASS A OR CLASS B TRAFFIC INFRACTION DESCRIBED IN
24 TITLE 42, C.R.S.;
- 25 (n) A VIOLATION OF SECTION 42-4-1301 (1) OR (2), C.R.S.; OR
- 26 (o) ANY OFFENSE AGAINST A MUNICIPAL ORDINANCE, THE
27 ELEMENTS OF WHICH OFFENSE ARE INDISTINGUISHABLE FROM ANY

1 MISDEMEANOR OFFENSE OR OTHER OFFENSE THAT IS DESCRIBED BY A
2 PROVISION OF THIS SUBSECTION (5).

3 (6) **Rules of discovery and rules of evidence.** COURT ORDERS
4 SEALING RECORDS OF OFFICIAL ACTIONS PURSUANT TO THIS SECTION
5 SHALL NOT LIMIT THE OPERATIONS OF THE RULES OF DISCOVERY OR THE
6 RULES OF EVIDENCE PROMULGATED BY THE SUPREME COURT OF
7 COLORADO OR ANY OTHER STATE OR FEDERAL COURT.

8 **SECTION 3. Appropriation.** In addition to any other
9 appropriation, there is hereby appropriated, out of any moneys in the
10 judicial stabilization cash fund created in section 13-32-101 (1.5),
11 Colorado Revised Statutes, not otherwise appropriated, to the judicial
12 department, for the fiscal year beginning July 1, 2008, the sum of four
13 hundred fifty-five thousand six hundred seventy-nine dollars (\$455,679)
14 and 6.5 FTE, or so much thereof as may be necessary, for the
15 implementation of this act.

16 **SECTION 4. Effective date.** This act shall take effect July 1,
17 2008.

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