

First Regular Session
Sixty-eighth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 11-0479.01 Michael Dohr

HOUSE BILL 11-1167

HOUSE SPONSORSHIP

Ferrandino, Lee, Levy

SENATE SPONSORSHIP

Nicholson, Steadman

House Committees
Judiciary

Senate Committees

A BILL FOR AN ACT

101 CONCERNING THE PETITION PROCESS FOR THE SEALING OF CERTAIN
102 DRUG OFFENSE RECORDS.

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://www.leg.state.co.us/billsummaries>.)

The bill amends the petition process for sealing certain drug offense criminal conviction records. The time period the defendant has to wait to petition the court to seal the record depends on the severity of the offense. In order to have the record sealed, the defendant must show the court that he or she has not been convicted of another offense or been

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.

charged with another offense since the discharge of the offense for which the defendant is seeking to have sealed. The district attorney has the right to object to the petition or veto the request for all offenses except petty offenses. Also depending on the severity of the offense, the court can immediately order the record sealed, can consider the petition based on established criteria, or can hold a hearing to decide the petition. The court, in making the decision whether to seal conviction records, considers the privacy interests of the defendant against the public interest in retaining the conviction records as open records. Conviction records cannot be sealed if the defendant still owes court-ordered restitution, fines, or fees. A defendant who successfully petitions a court for the sealing of conviction records must provide the Colorado bureau of investigation (bureau) and each custodian of the conviction records with a copy of the court's order to seal the conviction records and pay to the bureau any costs related to the sealing of the conviction records in the custody of the bureau.

Employers and certain institutions and agencies are prohibited from requiring an applicant to disclose information in sealed conviction records. Law enforcement will report that there are no public records in response to inquiries about sealed criminal conviction records. The office of the state court administrator must post on its web site a list of all petitions to seal conviction records that are filed with a district court. The bill prohibits a district court from granting a petition to seal conviction records until at least 30 days following the posting.

The sentencing court, the probation department, and the defendant's parole officer must advise the defendant of the right to seal conviction records under the appropriate circumstances.

The provisions of the bill apply to convictions entered on and after July 1, 2011. For convictions prior to July 1, 2011, the time frames of the bill are applicable but sealing of the criminal records is available only with the consent of the district attorney and subsequent court review and approval.

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

2 **SECTION 1.** 24-72-308.5 (2) (a) (II), (2) (c), and (2) (d) and the
3 introductory portion to 24-72-308.5 (4) (a), Colorado Revised Statutes,
4 are amended to read:

5 **24-72-308.5. Sealing of criminal conviction records**
6 **information for offenses involving controlled substances for**
7 **convictions entered on or after July 1, 2008, and prior to July 1, 2011.**

1 (2) (a) (II) An order sealing conviction records shall not deny access to
2 the criminal records of a defendant by any court, law enforcement
3 agency, criminal justice agency, prosecuting attorney, or party or agency
4 required by law to conduct a criminal history record check on an
5 individual. An order sealing conviction records shall not be construed
6 to vacate a conviction. A conviction sealed pursuant to this section may
7 be used by a criminal justice agency, law enforcement agency, court, or
8 prosecuting attorney for any lawful purpose relating to the investigation
9 or prosecution of any case, including but not limited to any subsequent
10 case that is filed against the defendant, or for any other lawful purpose
11 within the scope of his, her, or its duties. If a defendant is convicted of
12 a new criminal offense after an order sealing conviction records is
13 entered, the court ~~on its own motion or upon the motion of any~~
14 ~~prosecuting attorney~~ shall order the conviction records to be unsealed.
15 A party or agency required by law to conduct a criminal history record
16 check shall be authorized to use any sealed conviction for the lawful
17 purpose for which the criminal history record check is required by law.

18 (c) After the hearing described in subparagraph (II) of paragraph
19 (b) of this subsection (2) is conducted and if the court finds that the harm
20 to the privacy of the defendant or the dangers of unwarranted, adverse
21 consequences to the defendant outweigh the public interest in retaining
22 the conviction records, the court may order the conviction records, except
23 basic identification information, to be sealed. In making this
24 determination, the court shall, at a minimum, consider the severity of the
25 offense that is the basis of the conviction records sought to be sealed, the
26 criminal history of the defendant, THE NUMBER OF CONVICTIONS AND
27 DATES OF THE CONVICTIONS FOR WHICH THE DEFENDANT IS SEEKING TO

1 HAVE THE RECORDS SEALED, and the need for the government agency to
2 retain the records. An order entered pursuant to this paragraph (c) shall
3 be directed to each custodian who may have custody of any part of the
4 conviction records that are the subject of the order. Whenever a court
5 enters an order sealing conviction records pursuant to this paragraph (c),
6 the defendant shall provide the Colorado bureau of investigation and each
7 custodian of the conviction records with a copy of the order and shall pay
8 to the bureau any costs related to the sealing of his or her criminal
9 conviction records in the custody of the bureau. Thereafter, the defendant
10 may request and the court may grant an order sealing the civil case in
11 which the conviction records were sealed.

12 (d) Except as otherwise provided in subparagraph (II) of
13 paragraph (a) of this subsection (2), upon the entry of an order to seal the
14 conviction records, the defendant and all criminal justice agencies may
15 properly reply, upon an inquiry in the matter, that PUBLIC conviction
16 records do not exist with respect to the defendant.

17 (4) (a) **Applicability.** Except as otherwise provided in paragraph
18 (b) of this subsection (4), the provisions of this section shall apply only
19 to conviction records pertaining to judgments of conviction entered on
20 and after July 1, 2008, AND PRIOR TO JULY 1, 2011, for:

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

24 **24-72-308.6. Sealing of criminal conviction records**
25 **information for offenses involving controlled substances for**
26 **convictions entered on or after July 1, 2011. (1) Definitions.** FOR
27 PURPOSES OF THIS SECTION, "CONVICTION RECORDS" MEANS ARREST AND

1 CRIMINAL RECORDS INFORMATION AND ANY RECORDS PERTAINING TO A
2 JUDGMENT OF CONVICTION.

3 (2) **Sealing of conviction records.** (a) (I) SUBJECT TO THE
4 LIMITATIONS DESCRIBED IN SUBSECTION (4) OF THIS SECTION, A
5 DEFENDANT MAY PETITION THE DISTRICT COURT OF THE DISTRICT IN WHICH
6 ANY CONVICTION RECORDS PERTAINING TO THE DEFENDANT ARE LOCATED
7 FOR THE SEALING OF THE CONVICTION RECORDS, EXCEPT BASIC
8 IDENTIFYING INFORMATION, IF THE PETITION IS FILED WITHIN THE TIME
9 FRAME DESCRIBED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH (a).

10 (II) (A) IF THE OFFENSE IS A PETTY OFFENSE OR A CLASS 2 OR 3
11 MISDEMEANOR IN ARTICLE 18 OF TITLE 18, C.R.S., THE PETITION MAY BE
12 FILED THREE YEARS AFTER THE LATER OF THE DATE OF THE FINAL
13 DISPOSITION OF ALL CRIMINAL PROCEEDINGS AGAINST THE DEFENDANT OR
14 THE RELEASE OF THE DEFENDANT FROM SUPERVISION CONCERNING A
15 CRIMINAL CONVICTION.

16 (B) IF THE OFFENSE IS A CLASS 1 MISDEMEANOR IN ARTICLE 18 OF
17 TITLE 18, C.R.S., THE PETITION MAY BE FILED FIVE YEARS AFTER THE
18 LATER OF THE DATE OF THE FINAL DISPOSITION OF ALL CRIMINAL
19 PROCEEDINGS AGAINST THE DEFENDANT OR THE RELEASE OF THE
20 DEFENDANT FROM SUPERVISION CONCERNING A CRIMINAL CONVICTION.

21 (C) IF THE OFFENSE IS A CLASS 5 FELONY OR CLASS 6 FELONY DRUG
22 POSSESSION OFFENSE DESCRIBED IN SECTION 18-18-403.5 OR 18-18-404,
23 C.R.S., OR SECTION 18-18-405, C.R.S., AS IT EXISTED PRIOR TO AUGUST
24 11, 2010, THE PETITION MAY BE FILED SEVEN YEARS AFTER THE LATER OF
25 THE DATE OF THE FINAL DISPOSITION OF ALL CRIMINAL PROCEEDINGS
26 AGAINST THE DEFENDANT OR THE RELEASE OF THE DEFENDANT FROM
27 SUPERVISION CONCERNING A CRIMINAL CONVICTION.

1 (D) FOR ALL OTHER OFFENSES IN ARTICLE 18 OF TITLE 18, C.R.S.,
2 THE PETITION MAY BE FILED TEN YEARS AFTER THE LATER OF THE DATE OF
3 THE FINAL DISPOSITION OF ALL CRIMINAL PROCEEDINGS AGAINST THE
4 DEFENDANT OR THE RELEASE OF THE DEFENDANT FROM SUPERVISION
5 CONCERNING A CRIMINAL CONVICTION.

6 (III) (A) IF A PETITION IS FILED FOR THE SEALING OF A PETTY
7 OFFENSE IN ARTICLE 18 OF TITLE 18, C.R.S., THE COURT SHALL ORDER THE
8 RECORD SEALED AFTER THE PETITION IS FILED, THE FILING FEE IS PAID, AND
9 THE CRIMINAL HISTORY FILED WITH THE PETITION AS REQUIRED BY
10 PARAGRAPH (b) OF THIS SUBSECTION (2) DOCUMENTS TO THE COURT THAT
11 THE DEFENDANT HAS NOT BEEN CHARGED OR CONVICTED FOR A CRIMINAL
12 OFFENSE SINCE THE DATE OF THE FINAL DISPOSITION OF ALL CRIMINAL
13 PROCEEDINGS AGAINST HIM OR HER OR SINCE THE DATE OF THE
14 DEFENDANT'S RELEASE FROM SUPERVISION, WHICHEVER IS LATER.

15 (B) IF A PETITION IS FILED FOR THE SEALING OF A CLASS 1, CLASS
16 2, OR CLASS 3 MISDEMEANOR IN ARTICLE 18 OF TITLE 18, C.R.S., THE
17 DEFENDANT SHALL PAY THE FILING FEE AND PROVIDE NOTICE OF THE
18 PETITION TO THE DISTRICT ATTORNEY. THE DISTRICT ATTORNEY SHALL
19 DETERMINE WHETHER TO OBJECT TO THE PETITION AFTER CONSIDERING
20 THE FACTORS IN SECTION 24-72-308.5 (2) (c). IF THE DISTRICT ATTORNEY
21 DOES NOT OBJECT, THE COURT SHALL ORDER THAT THE RECORD BE SEALED
22 AFTER THE DEFENDANT DOCUMENTS TO THE COURT THAT HE OR SHE HAS
23 NOT BEEN CHARGED OR CONVICTED FOR A CRIMINAL OFFENSE SINCE THE
24 DATE OF THE FINAL DISPOSITION OF ALL CRIMINAL PROCEEDINGS AGAINST
25 HIM OR HER OR THE DATE OF THE DEFENDANT'S RELEASE FROM
26 SUPERVISION, WHICHEVER IS LATER. IF THE DISTRICT ATTORNEY OBJECTS
27 TO THE PETITION, THE COURT SHALL SET THE MATTER FOR HEARING. TO

1 ORDER THE RECORD SEALED, THE CRIMINAL HISTORY FILED WITH THE
2 PETITION AS REQUIRED BY PARAGRAPH (b) OF THIS SUBSECTION (2) SHALL
3 DOCUMENT TO THE COURT THAT THE DEFENDANT HAS NOT BEEN CHARGED
4 WITH OR CONVICTED OF A CRIMINAL OFFENSE SINCE THE DATE OF THE
5 FINAL DISPOSITION OF ALL CRIMINAL PROCEEDINGS AGAINST HIM OR HER
6 OR SINCE THE DATE OF THE DEFENDANT'S RELEASE FROM SUPERVISION,
7 WHICHEVER IS LATER. THE COURT SHALL DECIDE THE PETITION AFTER
8 CONSIDERING THE FACTORS IN SECTION 24-72-308.5 (2) (c).

9 (C) IF A PETITION IS FILED FOR THE SEALING OF A CLASS 5 OR CLASS
10 6 FELONY POSSESSION OFFENSE DESCRIBED IN SECTION 18-18-403.5 OR
11 18-18-404, C.R.S., OR SECTION 18-18-405, C.R.S., AS IT EXISTED PRIOR TO
12 AUGUST 11, 2010, THE DEFENDANT SHALL PAY THE FILING FEE AND
13 PROVIDE NOTICE OF THE PETITION TO THE DISTRICT ATTORNEY. THE
14 DISTRICT ATTORNEY SHALL DETERMINE WHETHER TO OBJECT TO THE
15 PETITION AFTER CONSIDERING THE FACTORS IN SECTION 24-72-308.5 (2)
16 (c). IF THE DISTRICT ATTORNEY DOES NOT OBJECT, THE COURT MAY
17 DECIDE THE PETITION WITH OR WITHOUT THE BENEFIT OF A HEARING. IF
18 THE DISTRICT ATTORNEY OBJECTS TO THE PETITION, THE COURT SHALL SET
19 THE MATTER FOR HEARING. TO ORDER THE RECORD SEALED, THE
20 CRIMINAL HISTORY FILED WITH THE PETITION AS REQUIRED BY PARAGRAPH
21 (b) OF THIS SUBSECTION (2) SHALL DOCUMENT TO THE COURT THAT THE
22 DEFENDANT HAS NOT BEEN CHARGED OR CONVICTED FOR A CRIMINAL
23 OFFENSE SINCE THE DATE OF THE FINAL DISPOSITION OF ALL CRIMINAL
24 PROCEEDINGS AGAINST HIM OR HER OR SINCE THE DATE OF THE
25 DEFENDANT'S RELEASE FROM SUPERVISION, WHICHEVER IS LATER. THE
26 COURT SHALL DECIDE THE PETITION AFTER CONSIDERING THE FACTORS IN
27 SECTION 24-72-308.5 (2) (c).

1 (D) IF A PETITION IS FILED FOR ANY OFFENSE IN ARTICLE 18 OF
2 TITLE 18, C.R.S., THAT IS NOT COVERED BY SUB-SUBPARAGRAPHS (A) TO
3 (C) OF THIS SUBPARAGRAPH (III), THE DEFENDANT SHALL PAY THE FILING
4 FEE AND PROVIDE NOTICE OF THE PETITION TO THE DISTRICT ATTORNEY.
5 THE DISTRICT ATTORNEY SHALL DETERMINE WHETHER TO OBJECT TO THE
6 PETITION AFTER CONSIDERING THE FACTORS IN SECTION 24-72-308.5 (2)
7 (c). IF THE DISTRICT ATTORNEY OBJECTS TO THE PETITION, THE COURT
8 SHALL DISMISS THE PETITION. IF THE DISTRICT ATTORNEY DOES NOT
9 OBJECT, THE COURT SHALL SET THE PETITION FOR A HEARING. TO ORDER
10 THE RECORD SEALED, THE CRIMINAL HISTORY FILED WITH THE PETITION AS
11 REQUIRED BY PARAGRAPH (b) OF THIS SUBSECTION (2) SHALL DOCUMENT
12 TO THE COURT THAT THE DEFENDANT HAS NOT BEEN CHARGED OR
13 CONVICTED FOR A CRIMINAL OFFENSE SINCE THE DATE OF THE FINAL
14 DISPOSITION OF ALL CRIMINAL PROCEEDINGS AGAINST HIM OR HER OR THE
15 DATE OF THE DEFENDANT'S RELEASE FROM SUPERVISION, WHICHEVER IS
16 LATER. THE COURT SHALL DECIDE THE PETITION AFTER CONSIDERING THE
17 FACTORS IN SECTION 24-72-308.5 (2) (c).

18 (IV) AN ORDER ENTERED PURSUANT TO THIS SECTION SHALL BE
19 DIRECTED TO EACH CUSTODIAN WHO MAY HAVE CUSTODY OF ANY PART OF
20 THE CONVICTION RECORDS THAT ARE THE SUBJECT OF THE ORDER.
21 WHENEVER A COURT ENTERS AN ORDER SEALING CONVICTION RECORDS
22 PURSUANT TO THIS SECTION, THE DEFENDANT SHALL PROVIDE THE
23 COLORADO BUREAU OF INVESTIGATION AND EACH CUSTODIAN OF THE
24 CONVICTION RECORDS WITH A COPY OF THE ORDER AND SHALL PAY TO THE
25 BUREAU ANY COSTS RELATED TO THE SEALING OF HIS OR HER CRIMINAL
26 CONVICTION RECORDS THAT ARE IN THE CUSTODY OF THE BUREAU.
27 THEREAFTER, THE DEFENDANT MAY REQUEST AND THE COURT MAY GRANT

1 AN ORDER SEALING THE CIVIL CASE IN WHICH THE CONVICTION RECORDS
2 WERE SEALED.

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

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

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

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

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

22 (e) (I) EXCEPT AS OTHERWISE PROVIDED IN SUBPARAGRAPH (V) OF
23 PARAGRAPH (a) OF THIS SUBSECTION (2) OR IN SUBPARAGRAPHS (II) AND
24 (III) OF THIS PARAGRAPH (e), EMPLOYERS, STATE AND LOCAL
25 GOVERNMENT AGENCIES, OFFICIALS, LANDLORDS, AND EMPLOYEES SHALL
26 NOT, IN ANY APPLICATION OR INTERVIEW OR IN ANY OTHER WAY, REQUIRE
27 AN APPLICANT TO DISCLOSE ANY INFORMATION CONTAINED IN SEALED

1 CONVICTION RECORDS. AN APPLICANT NEED NOT, IN ANSWER TO ANY
2 QUESTION CONCERNING CONVICTION RECORDS THAT HAVE BEEN SEALED,
3 INCLUDE A REFERENCE TO OR INFORMATION CONCERNING THE SEALED
4 CONVICTION RECORDS AND MAY STATE THAT THE APPLICANT HAS NOT
5 BEEN CRIMINALLY CONVICTED.

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

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

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

25 (f) THE OFFICE OF THE STATE COURT ADMINISTRATOR SHALL POST
26 ON ITS WEB SITE A LIST OF ALL PETITIONS TO SEAL CONVICTION RECORDS
27 THAT ARE FILED WITH A DISTRICT COURT. A DISTRICT COURT MAY NOT

1 GRANT A PETITION TO SEAL CONVICTION RECORDS UNTIL AT LEAST THIRTY
2 DAYS AFTER THE POSTING. AFTER THE EXPIRATION OF THIRTY DAYS
3 FOLLOWING THE POSTING, THE PETITION TO SEAL CONVICTION RECORDS
4 AND INFORMATION PERTINENT THERETO SHALL BE REMOVED FROM THE
5 WEB SITE OF THE OFFICE OF THE STATE COURT ADMINISTRATOR.

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

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

15 (3) **Advisements.** (a) WHENEVER A DEFENDANT IS SENTENCED
16 FOLLOWING A CONVICTION OF AN OFFENSE DESCRIBED IN PARAGRAPH (a)
17 OF SUBSECTION (2) OF THIS SECTION, THE COURT SHALL PROVIDE HIM OR
18 HER WITH A WRITTEN ADVISEMENT OF HIS OR HER RIGHTS CONCERNING
19 THE SEALING OF HIS OR HER CONVICTION RECORDS PURSUANT TO THIS
20 SECTION IF HE OR SHE COMPLIES WITH THE APPLICABLE PROVISIONS OF
21 THIS SECTION.

22 (b) IN ADDITION TO, AND NOT IN LIEU OF, THE REQUIREMENT
23 DESCRIBED IN PARAGRAPH (a) OF THIS SUBSECTION (3):

24 (I) IF A DEFENDANT IS SENTENCED TO PROBATION FOLLOWING A
25 CONVICTION OF AN OFFENSE DESCRIBED IN PARAGRAPH (a) OF SUBSECTION
26 (2) OF THIS SECTION, THE PROBATION DEPARTMENT, UPON THE
27 TERMINATION OF THE DEFENDANT'S PROBATION, SHALL PROVIDE THE

1 DEFENDANT WITH A WRITTEN ADVISEMENT OF HIS OR HER RIGHTS
2 CONCERNING THE SEALING OF HIS OR HER CONVICTION RECORDS
3 PURSUANT TO THIS SECTION IF HE OR SHE COMPLIES WITH THE APPLICABLE
4 PROVISIONS OF THIS SECTION.

5 (II) IF A DEFENDANT IS RELEASED ON PAROLE FOLLOWING A
6 CONVICTION FOR AN OFFENSE DESCRIBED IN PARAGRAPH (a) OF
7 SUBSECTION (2) OF THIS SECTION, THE DEFENDANT'S PAROLE OFFICER,
8 UPON THE TERMINATION OF THE DEFENDANT'S PAROLE, SHALL PROVIDE
9 THE DEFENDANT WITH A WRITTEN ADVISEMENT OF HIS OR HER RIGHTS
10 CONCERNING THE SEALING OF HIS OR HER CONVICTION RECORDS
11 PURSUANT TO THIS SECTION IF HE OR SHE COMPLIES WITH THE APPLICABLE
12 PROVISIONS OF THIS SECTION.

13 (4) (a) **Applicability.** THE PROVISIONS OF THIS SECTION SHALL
14 APPLY ONLY TO CONVICTION RECORDS PERTAINING TO JUDGMENTS OF
15 CONVICTION ENTERED ON OR AFTER JULY 1, 2011.

16 (b) FOR ANY JUDGMENT OF CONVICTION ENTERED PRIOR TO JULY
17 1, 2011, FOR WHICH THE DEFENDANT WOULD OTHERWISE QUALIFY FOR
18 RELIEF UNDER THIS SECTION, THE DEFENDANT MAY, AFTER WAITING THE
19 REQUIRED WAITING PERIOD AND FULFILLING ALL OTHER STATUTORY
20 REQUIREMENTS UNDER THIS SECTION, OBTAIN AN ORDER FROM THE
21 COURT TO SEAL CONVICTION RECORDS IF:

22 (I) THE DISTRICT ATTORNEY DOES NOT OBJECT TO THE SEALING;
23 AND

24 (II) THE DEFENDANT PAYS TO THE OFFICE OF THE PROSECUTING
25 ATTORNEY ALL REASONABLE ATTORNEY FEES AND COSTS OF THE
26 PROSECUTING ATTORNEY RELATING TO THE PETITION TO SEAL PRIOR TO
27 THE ENTRY OF AN ORDER SEALING THE CONVICTION RECORDS; AND

1 (III) THE DEFENDANT PAYS:
2 (A) THE FILING FEE REQUIRED BY LAW; AND
3 (B) AN ADDITIONAL FILING FEE OF TWO HUNDRED DOLLARS TO
4 COVER THE ACTUAL COSTS RELATED TO THE FILING OF THE PETITION TO
5 SEAL RECORDS.

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

10 (d) IF THE DISTRICT ATTORNEY OBJECTS TO THE PETITION, THE
11 COURT SHALL DISMISS THE PETITION.

12 (5) **Rules of discovery - rules of evidence - witness testimony.**
13 COURT ORDERS SEALING RECORDS OF OFFICIAL ACTIONS PURSUANT TO
14 THIS SECTION SHALL NOT LIMIT THE OPERATIONS OF:

15 (a) THE COLORADO RULES OF CIVIL PROCEDURE RELATED TO
16 DISCOVERY OR THE COLORADO RULES OF EVIDENCE PROMULGATED BY
17 THE SUPREME COURT OF COLORADO OR ANY OTHER STATE OR FEDERAL
18 COURT; OR

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

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