

First Regular Session
Sixty-eighth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 11-0062.01 Michael Dohr

SENATE BILL 11-044

SENATE SPONSORSHIP

Steadman,

HOUSE SPONSORSHIP

(None),

Senate Committees
Judiciary

House Committees

A BILL FOR AN ACT

101 CONCERNING THE COLLATERAL CONSEQUENCES OF A CONVICTION.

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 creates a process for persons to seek relief from the collateral consequences of a criminal conviction. The state public defender shall identify and publish a collection of the collateral consequences that are possible in Colorado based on state and federal laws and regulations. The judicial department shall publish the collection on its web site. The court, at a defendant's first appearance and at sentencing, shall inform the defendant about the possible collateral

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.

consequences of a conviction.

An individual may petition the court, with notice to the district attorney, for limited relief from a collateral consequence of a conviction or for restoration of rights. The court may grant the relief if the relief will help the individual obtain employment, housing, public benefits, or occupational licensing, the individual has substantial need for the relief, and granting the petition would not pose a public safety risk. If the court grants the limited relief, the court must specify the relief and any restrictions.

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

2 **SECTION 1.** Title 16, Colorado Revised Statutes, is amended BY
3 THE ADDITION OF A NEW ARTICLE to read:

4 **ARTICLE 24**

5 **Colorado Collateral Consequences of Conviction Act**

6 **16-24-101. Short title.** THIS ARTICLE SHALL BE KNOWN AND MAY
7 BE CITED AS THE "COLORADO COLLATERAL CONSEQUENCES OF
8 CONVICTION ACT".

9 **16-24-102. Legislative declaration.** (1) THE GENERAL
10 ASSEMBLY FINDS THAT:

11 (a) THE NUMBER OF INDIVIDUALS IN COLORADO WHO HAVE BEEN
12 CONVICTED OF A CRIME HAS INCREASED SUBSTANTIALLY SINCE THE
13 1970's. THE GROWTH OF THIS CONVICTED POPULATION MEANS THAT
14 EVERY YEAR IN COLORADO THOUSANDS OF INDIVIDUALS ARE RELEASED
15 FROM INCARCERATION, PROBATION, AND PAROLE SUPERVISION. THESE
16 INDIVIDUALS MUST SUCCESSFULLY REINTEGRATE INTO SOCIETY OR BE AT
17 RISK FOR RECIDIVISM.

18 (b) COLORADO HAS A STRONG INTEREST IN PREVENTING
19 RECIDIVISM AMONG ITS CONVICTED POPULATION. AN INDIVIDUAL WHO
20 CANNOT SUCCESSFULLY REENTER SOCIETY DUE IN PART TO COLLATERAL

1 CONSEQUENCES OF HIS OR HER ORIGINAL CRIME AND SUBSEQUENTLY
2 REOFFENDS GENERATES THE FINANCIAL AND HUMAN COSTS OF THE NEW
3 CRIME, INCLUDING EXPENDITURES OF LAW ENFORCEMENT, JUDICIAL AND
4 CORRECTIONS RESOURCES, AND THE LOSS OF THE PRODUCTIVE WORK THAT
5 THE INDIVIDUAL COULD HAVE CONTRIBUTED TO THE ECONOMY.

6 (c) MAJOR CHALLENGES EXIST FOR INDIVIDUALS WITH CRIMINAL
7 RECORDS, INCLUDING THE INCREASINGLY BURDENSOME LEGAL EFFECT OF
8 THOSE RECORDS AND THE AVAILABILITY OF PUBLIC RECORD INFORMATION,
9 INCLUDING CRIMINAL CONVICTIONS, ABOUT ALL COLORADANS TO ALL
10 ARMS OF GOVERNMENT AND THE GENERAL PUBLIC;

11 (d) A CRIMINAL CONVICTION NEGATIVELY AFFECTS AN
12 INDIVIDUAL'S LEGAL STATUS THROUGH THE ENFORCEMENT OF
13 COLLATERAL CONSEQUENCES AGAINST THE INDIVIDUAL. IN RECENT
14 YEARS, THOSE COLLATERAL CONSEQUENCES HAVE INCREASED IN NUMBER
15 AND SEVERITY.

16 (e) A STRONG CONNECTION EXISTS BETWEEN EMPLOYMENT AND
17 HOUSING STABILITY AND AN INDIVIDUAL'S ABILITY TO LIVE AS A
18 LAW-ABIDING CITIZEN.

19 (2) THEREFORE, THE GENERAL ASSEMBLY DECLARES THAT IT IS
20 NECESSARY TO PROVIDE A PROCESS THROUGH WHICH THOSE INDIVIDUALS
21 WHOSE PRIOR CONVICTIONS INHIBIT THEM FROM GAINING OR MAINTAINING
22 EMPLOYMENT, HOUSING, PUBLIC BENEFITS, OR OTHER NECESSITIES FOR
23 SUCCESSFUL REINTEGRATION MAY GAIN LIMITED RELIEF FROM THE
24 COLLATERAL CONSEQUENCES OF THEIR CONVICTIONS.

25 **16-24-103. Definitions.** AS USED IN THIS ARTICLE, UNLESS THE
26 CONTEXT OTHERWISE REQUIRES:

27 (1) "COLLATERAL CONSEQUENCE" MEANS A COLLATERAL

1 SANCTION OR A DISQUALIFICATION.

2 (2) "COLLATERAL SANCTION" MEANS A PENALTY, DISABILITY, OR
3 DISADVANTAGE, HOWEVER DENOMINATED, IMPOSED ON AN INDIVIDUAL AS
4 A RESULT OF THE INDIVIDUAL'S CONVICTION OF AN OFFENSE WHICH
5 APPLIES BY OPERATION OF LAW WHETHER OR NOT THE PENALTY,
6 DISABILITY, OR DISADVANTAGE IS INCLUDED IN THE JUDGMENT OR
7 SENTENCE. THE TERM DOES NOT INCLUDE IMPRISONMENT, PROBATION,
8 PAROLE, SUPERVISED RELEASE, FORFEITURE, RESTITUTION, FINE,
9 ASSESSMENT, OR COSTS OF PROSECUTION.

10 (3) "CONVICTION" OR "CONVICTED" MEANS A VERDICT OF GUILTY
11 BY A JUDGE OR JURY OR A PLEA OF GUILTY OR NOLO CONTENDERE THAT IS
12 ACCEPTED BY THE COURT OR AN ADJUDICATION FOR AN OFFENSE THAT
13 WOULD CONSTITUTE A CRIMINAL OFFENSE IF COMMITTED BY AN ADULT, OR
14 A CONVICTION OF A CRIME UNDER THE LAWS OF ANY OTHER STATE, THE
15 UNITED STATES, OR ANY TERRITORY SUBJECT TO THE JURISDICTION OF THE
16 UNITED STATES, WHICH, IF COMMITTED WITHIN THIS STATE, WOULD BE A
17 FELONY OR MISDEMEANOR IN COLORADO. "CONVICTED" OR
18 "CONVICTION" ALSO INCLUDES HAVING RECEIVED A DEFERRED JUDGMENT
19 AND SENTENCE OR A DEFERRED ADJUDICATION; EXCEPT THAT A PERSON
20 SHALL NOT BE DEEMED TO HAVE BEEN CONVICTED IF THE PERSON HAS
21 SUCCESSFULLY COMPLETED A DEFERRED SENTENCE OR A DEFERRED
22 ADJUDICATION.

23 (4) "DECISION-MAKER" MEANS THE STATE ACTING THROUGH A
24 DEPARTMENT, AGENCY, OFFICER, OR INSTRUMENTALITY, INCLUDING A
25 POLITICAL SUBDIVISION, EDUCATIONAL INSTITUTION, BOARD, OR
26 COMMISSION, OR ITS EMPLOYEES, OR A GOVERNMENT CONTRACTOR,
27 INCLUDING A SUBCONTRACTOR, MADE SUBJECT TO THIS ACT BY

1 CONTRACT, BY LAW OTHER THAN THIS ACT, OR BY ORDINANCE.

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

7 (6) "OFFENSE" MEANS A FELONY, MISDEMEANOR, OR PETTY
8 OFFENSE UNDER THE LAW OF THIS STATE, ANOTHER STATE, OR THE UNITED
9 STATES OR A MUNICIPAL ORDINANCE VIOLATION.

10 (7) "PERSON" MEANS AN INDIVIDUAL, CORPORATION, BUSINESS
11 TRUST, ESTATE, TRUST, PARTNERSHIP, LIMITED LIABILITY COMPANY,
12 ASSOCIATION, JOINT VENTURE, PUBLIC CORPORATION, GOVERNMENT OR
13 GOVERNMENTAL SUBDIVISION, AGENCY, OR INSTRUMENTALITY, OR ANY
14 OTHER LEGAL OR COMMERCIAL ENTITY.

15 **16-24-104. Limitation on scope.** (1) THIS ARTICLE DOES NOT
16 PROVIDE A BASIS FOR:

- 17 (a) INVALIDATING A PLEA, CONVICTION, OR SENTENCE;
18 (b) A CAUSE OF ACTION FOR MONEY DAMAGES; OR
19 (c) A CLAIM FOR RELIEF FROM OR DEFENSE TO THE APPLICATION OF
20 A COLLATERAL CONSEQUENCE BASED ON A FAILURE TO COMPLY WITH
21 SECTION 16-24-105, 16-24-106, OR 16-24-107.

22 (2) THIS ARTICLE DOES NOT AFFECT:

- 23 (a) THE DUTY AN INDIVIDUAL'S ATTORNEY OWES TO THE
24 INDIVIDUAL;
25 (b) A CLAIM OR RIGHT OF A VICTIM OF AN OFFENSE; OR
26 (c) A RIGHT OR REMEDY UNDER LAW OTHER THAN THIS ARTICLE
27 AVAILABLE TO AN INDIVIDUAL CONVICTED OF AN OFFENSE.

1 **16-24-105. Identification, collection, and publication of laws**
2 **regarding collateral consequences. (1) THE STATE PUBLIC DEFENDER:**

3 (a) SHALL IDENTIFY ALL PROVISIONS IN THE COLORADO AND
4 UNITED STATES CONSTITUTIONS, COLORADO AND UNITED STATES
5 STATUTES, AND COLORADO ADMINISTRATIVE RULES WHICH IMPOSE A
6 COLLATERAL SANCTION OR AUTHORIZE THE IMPOSITION OF A
7 DISQUALIFICATION AND ANY PROVISION OF LAW THAT MAY AFFORD RELIEF
8 FROM A COLLATERAL CONSEQUENCE;

9 (b) NOT LATER THAN ONE HUNDRED EIGHTY DAYS AFTER THE
10 EFFECTIVE DATE OF THIS ARTICLE, SHALL PREPARE A COLLECTION OF
11 CITATIONS TO, AND THE TEXT OR SHORT DESCRIPTIONS OF, THE PROVISIONS
12 IDENTIFIED UNDER PARAGRAPH (a) OF THIS SUBSECTION (1);

13 (c) SHALL UPDATE THE COLLECTION OF CITATIONS WITHIN ONE
14 HUNDRED EIGHTY DAYS AFTER EACH REGULAR SESSION OF THE GENERAL
15 ASSEMBLY; AND

16 (d) MAY RELY ON THE STUDY OF THIS STATE'S COLLATERAL
17 SANCTIONS, DISQUALIFICATIONS, AND RELIEF PROVISIONS PREPARED BY
18 THE NATIONAL INSTITUTE OF JUSTICE DESCRIBED IN SECTION 510 OF THE
19 FEDERAL "COURT SECURITY IMPROVEMENT ACT OF 2007", PUB.L.
20 110-177 IN COMPLYING WITH PARAGRAPHS (a) AND (b) OF THIS
21 SUBSECTION (1).

22 (2) THE STATE PUBLIC DEFENDER SHALL INCLUDE THE FOLLOWING
23 STATEMENTS IN A PROMINENT MANNER AT THE BEGINNING OF THE
24 COLLECTION REQUIRED BY SUBSECTION (1) OF THIS SECTION:

25 (a) THIS COLLECTION HAS NOT BEEN ENACTED INTO LAW AND DOES
26 NOT HAVE THE FORCE OF LAW.

27 (b) AN ERROR OR OMISSION IN THIS COLLECTION IS NOT A REASON

1 FOR INVALIDATING A PLEA, CONVICTION, OR SENTENCE OR FOR NOT
2 IMPOSING A COLLATERAL SANCTION OR AUTHORIZING A
3 DISQUALIFICATION.

4 (c) THE LAWS OF OTHER JURISDICTIONS AND POLITICAL
5 SUBDIVISIONS OF THE STATE WHICH IMPOSE ADDITIONAL COLLATERAL
6 SANCTIONS AND AUTHORIZE ADDITIONAL DISQUALIFICATIONS ARE NOT
7 LISTED IN THIS COLLECTION.

8 (d) THIS COLLECTION DOES NOT INCLUDE ANY LAW OR OTHER
9 PROVISION REGARDING THE IMPOSITION OF OR RELIEF FROM A COLLATERAL
10 SANCTION OR A DISQUALIFICATION ENACTED OR ADOPTED AFTER THE LAST
11 DATE THE COLLECTION WAS UPDATED.

12 (3) THE STATE PUBLIC DEFENDER SHALL PUBLISH THE COLLECTION
13 PREPARED AND UPDATED AS REQUIRED BY SUBSECTION (1) OF THIS
14 SECTION ON ITS WEB SITE WITHOUT CHARGE NOT LATER THAN THIRTY
15 DAYS AFTER IT IS CREATED OR UPDATED AS A SERVICE TO THE PUBLIC.
16 THE COLLECTION SHALL BE AVAILABLE TO THE PUBLIC ON THE STATE
17 JUDICIAL DEPARTMENT'S WEB SITE WITHOUT CHARGE NOT LATER THAN
18 THIRTY DAYS AFTER IT IS CREATED OR UPDATED.

19 **16-24-106. Notice of collateral consequences in pretrial**
20 **proceeding.** WHEN AN INDIVIDUAL RECEIVES FORMAL NOTICE THAT THE
21 INDIVIDUAL IS CHARGED WITH AN OFFENSE, THE COURT AT THE
22 INDIVIDUAL'S FIRST COURT APPEARANCE SHALL COMMUNICATE THE
23 FOLLOWING INFORMATION TO THE INDIVIDUAL IN WRITING AND IN THE
24 FOLLOWING FORM:

25 NOTICE OF ADDITIONAL LEGAL CONSEQUENCES
26 IF YOU PLEAD GUILTY OR ARE CONVICTED OF AN OFFENSE
27 YOU MAY SUFFER ADDITIONAL LEGAL CONSEQUENCES

1 BEYOND JAIL OR PRISON, PERIODS OF PAROLE, AND FINES.

2 THESE CONSEQUENCES MAY INCLUDE:

3 ! BEING UNABLE TO GET OR KEEP SOME
4 LICENSES, PERMITS, OR JOBS;

5 ! BEING UNABLE TO GET OR KEEP BENEFITS
6 SUCH AS PUBLIC HOUSING OR EDUCATION;

7 ! RECEIVING A HARSHER SENTENCE IF YOU ARE
8 CONVICTED OF ANOTHER OFFENSE IN THE
9 FUTURE;

10 ! HAVING THE GOVERNMENT TAKE YOUR
11 PROPERTY; AND

12 ! BEING UNABLE TO VOTE OR POSSESS A
13 FIREARM.

14 IF YOU ARE NOT A UNITED STATES CITIZEN, A GUILTY PLEA
15 OR CONVICTION MAY ALSO RESULT IN YOUR DEPORTATION,
16 REMOVAL, EXCLUSION FROM ADMISSION TO THE UNITED
17 STATES, OR DENIAL OF CITIZENSHIP.

18 THE LAW MAY PROVIDE WAYS TO OBTAIN SOME RELIEF
19 FROM THESE CONSEQUENCES.

20 FURTHER INFORMATION ABOUT THE CONSEQUENCES OF
21 CONVICTION IS AVAILABLE ON THE INTERNET AT THE STATE
22 JUDICIAL DEPARTMENT'S WEB SITE.

23 **16-24-107. Notice of collateral consequences at sentencing and**
24 **upon release.** (1) AT AN INDIVIDUAL'S SENTENCING HEARING, THE

25 COURT SHALL ADVISE THE INDIVIDUAL:

26 (a) THAT COLLATERAL CONSEQUENCES MAY APPLY BECAUSE OF
27 THE CONVICTION;

1 (b) OF THE INTERNET ADDRESS OF THE COLLECTION OF LAWS
2 PUBLISHED UNDER SECTION 16-24-105 (3);

3 (c) THAT THERE MAY BE WAYS TO OBTAIN RELIEF FROM
4 COLLATERAL CONSEQUENCES;

5 (d) OF CONTACT INFORMATION FOR GOVERNMENT OR NONPROFIT
6 AGENCIES, GROUPS, OR ORGANIZATIONS, IF ANY, OFFERING ASSISTANCE TO
7 INDIVIDUALS SEEKING RELIEF FROM COLLATERAL CONSEQUENCES; AND

8 (e) OF WHEN AN INDIVIDUAL CONVICTED OF AN OFFENSE MAY
9 VOTE UNDER THIS STATE'S LAW.

10 (2) IF AN INDIVIDUAL IS SENTENCED TO IMPRISONMENT OR OTHER
11 INCARCERATION, THE OFFICER OR AGENCY RELEASING THE INDIVIDUAL
12 SHALL PROVIDE THE NOTICE REQUIRED BY SUBSECTION (1) OF THIS
13 SECTION NOT MORE THAN THIRTY, AND, IF PRACTICABLE, AT LEAST TEN
14 DAYS BEFORE RELEASE.

15 **16-24-108. Decision to disqualify.** IN DECIDING WHETHER TO
16 IMPOSE A DISQUALIFICATION, A DECISION-MAKER SHALL UNDERTAKE AN
17 INDIVIDUALIZED ASSESSMENT TO DETERMINE WHETHER THE BENEFIT OR
18 OPPORTUNITY AT ISSUE SHOULD BE DENIED THE INDIVIDUAL. IN MAKING
19 THAT DECISION, THE DECISION-MAKER MAY CONSIDER, IF SUBSTANTIALLY
20 RELATED TO THE BENEFIT OR OPPORTUNITY AT ISSUE, THE PARTICULAR
21 FACTS AND CIRCUMSTANCES INVOLVED IN THE OFFENSE AND THE
22 ESSENTIAL ELEMENTS OF THE OFFENSE. THE DECISION-MAKER SHALL ALSO
23 CONSIDER OTHER RELEVANT INFORMATION, INCLUDING THE EFFECT ON
24 THIRD PARTIES OF GRANTING THE BENEFIT OR OPPORTUNITY. IF A COURT
25 ORDER OF LIMITED RELIEF OR CERTIFICATE OF RESTORATION OF RIGHTS
26 PURSUANT TO SECTION 16-24-110 OR 16-24-111 IS ISSUED, THE
27 DECISION-MAKER SHALL NOT CONSIDER THE CRIMINAL CONVICTION, IN

1 WHOLE OR IN PART, AS GROUNDS FOR IMPOSITION OF A COLLATERAL
2 SANCTION RELATED TO EMPLOYMENT, PUBLIC HOUSING BENEFITS, OR
3 OCCUPATIONAL LICENSING.

4 **16-24-109. Effect of conviction by another state or the United**
5 **States - relieved or pardoned conviction.** (1) A CONVICTION THAT IS
6 REVERSED, OVERTURNED, OR OTHERWISE VACATED BY A COURT OF
7 COMPETENT JURISDICTION OF THIS STATE, ANOTHER STATE, OR THE
8 UNITED STATES ON GROUNDS OTHER THAN REHABILITATION OR GOOD
9 BEHAVIOR MAY NOT SERVE AS THE BASIS FOR AUTHORIZING OR IMPOSING
10 A COLLATERAL CONSEQUENCE IN THIS STATE.

11 (2) A PARDON ISSUED BY ANOTHER STATE OR THE UNITED STATES
12 HAS THE SAME EFFECT FOR PURPOSES OF AUTHORIZING, IMPOSING, AND
13 RELIEVING A COLLATERAL CONSEQUENCE IN THIS STATE AS IT HAS IN THE
14 ISSUING JURISDICTION.

15 (3) A CONVICTION THAT HAS BEEN SET ASIDE OR RELIEVED BY
16 EXPUNGEMENT, SEALING, ANNULMENT, OR VACATION BY A COURT OF
17 COMPETENT JURISDICTION OF ANOTHER STATE OR THE UNITED STATES ON
18 GROUNDS OF REHABILITATION OR GOOD BEHAVIOR, OR FOR WHICH CIVIL
19 RIGHTS ARE RESTORED PURSUANT TO STATUTE, HAS THE SAME EFFECT FOR
20 PURPOSES OF AUTHORIZING OR IMPOSING COLLATERAL CONSEQUENCES IN
21 THIS STATE AS IT HAS IN THE JURISDICTION OF CONVICTION. HOWEVER,
22 SUCH RELIEF OR RESTORATION OF CIVIL RIGHTS DOES NOT RELIEVE
23 COLLATERAL CONSEQUENCES APPLICABLE UNDER THE LAW OF THIS STATE
24 FOR WHICH RELIEF COULD NOT BE GRANTED UNDER SECTION 16-24-112 OR
25 FOR WHICH RELIEF WAS EXPRESSLY WITHHELD BY THE COURT ORDER OR
26 BY THE LAW OF THE JURISDICTION THAT RELIEVED THE CONVICTION. AN
27 INDIVIDUAL CONVICTED IN ANOTHER JURISDICTION MAY SEEK RELIEF

1 UNDER SECTION 16-24-110 OR 16-24-111 FROM ANY COLLATERAL
2 CONSEQUENCE FOR WHICH RELIEF WAS NOT GRANTED IN THE ISSUING
3 JURISDICTION, OTHER THAN THOSE LISTED IN SECTION 16-24-112, AND THE
4 DESIGNATED BOARD OR AGENCY SHALL CONSIDER THAT THE CONVICTION
5 WAS RELIEVED OR CIVIL RIGHTS RESTORED IN DECIDING WHETHER TO ISSUE
6 AN ORDER OF LIMITED RELIEF OR CERTIFICATE OF RESTORATION OF RIGHTS.

7 **16-24-110. Order of limited relief.** (1) AN INDIVIDUAL
8 CONVICTED OF AN OFFENSE MAY PETITION FOR AN ORDER OF LIMITED
9 RELIEF FROM ONE OR MORE COLLATERAL SANCTIONS RELATED TO
10 EMPLOYMENT, EDUCATION, HOUSING, PUBLIC BENEFITS, OR
11 OCCUPATIONAL LICENSING. WITH NOTICE TO THE DISTRICT ATTORNEY,
12 THE PETITION MAY BE PRESENTED TO THE SENTENCING COURT AT OR
13 BEFORE SENTENCING OR AT ANY TIME AFTER SENTENCING.

14 (2) EXCEPT AS OTHERWISE PROVIDED IN SECTION 16-24-112, THE
15 COURT MAY ISSUE AN ORDER OF LIMITED RELIEF RELIEVING ONE OR MORE
16 OF THE COLLATERAL SANCTIONS DESCRIBED IN SUBSECTION (1) OF THIS
17 SECTION IF, AFTER REVIEWING THE PETITION, THE INDIVIDUAL'S CRIMINAL
18 HISTORY, ANY FILING BY A VICTIM UNDER SECTION 16-24-115 OR A
19 PROSECUTOR, AND ANY OTHER RELEVANT EVIDENCE, IT FINDS THE
20 INDIVIDUAL HAS ESTABLISHED BY A PREPONDERANCE OF THE EVIDENCE
21 THAT:

22 (a) GRANTING THE PETITION WILL MATERIALLY ASSIST THE
23 INDIVIDUAL IN OBTAINING OR MAINTAINING EMPLOYMENT, EDUCATION,
24 HOUSING, PUBLIC BENEFITS, OR OCCUPATIONAL LICENSING;

25 (b) THE INDIVIDUAL HAS SUBSTANTIAL NEED FOR THE RELIEF
26 REQUESTED IN ORDER TO LIVE A LAW-ABIDING LIFE; AND

27 (c) GRANTING THE PETITION WOULD NOT POSE AN UNREASONABLE

1 RISK TO THE SAFETY OR WELFARE OF THE PUBLIC OR ANY INDIVIDUAL.

2 (3) THE ORDER OF LIMITED RELIEF MUST SPECIFY:

3 (a) THE COLLATERAL SANCTION FROM WHICH RELIEF IS GRANTED;

4 AND

5 (b) ANY RESTRICTION IMPOSED PURSUANT TO SECTION 16-24-113

6 (1).

7 (4) AN ORDER OF LIMITED RELIEF RELIEVES A COLLATERAL
8 SANCTION TO THE EXTENT PROVIDED IN THE ORDER.

9 (5) IF AN ORDER OF LIMITED RELIEF IS GRANTED, A
10 DECISION-MAKER SHALL NOT USE THE CRIMINAL CONVICTION, IN WHOLE
11 OR IN PART, AS GROUNDS FOR IMPOSITION OF A COLLATERAL SANCTION
12 RELATED TO EMPLOYMENT, EDUCATION, PUBLIC HOUSING BENEFITS, OR
13 OCCUPATIONAL LICENSING.

14 **16-24-111. Certificate of restoration of rights.** (1) AN
15 INDIVIDUAL CONVICTED OF AN OFFENSE MAY PETITION THE SENTENCING
16 COURT, WITH NOTICE TO THE DISTRICT ATTORNEY, FOR A CERTIFICATE OF
17 RESTORATION OF RIGHTS RELIEVING COLLATERAL SANCTIONS NOT SOONER
18 THAN FIVE YEARS AFTER THE INDIVIDUAL'S MOST RECENT CONVICTION OF
19 A FELONY OR MISDEMEANOR IN ANY JURISDICTION, OR NOT SOONER THAN
20 FIVE YEARS AFTER THE INDIVIDUAL'S RELEASE FROM SUPERVISION,
21 WHICHEVER IS LATER. THE DISTRICT ATTORNEY SHALL NOTIFY THE VICTIM
22 IF THE VICTIM RECEIVES NOTIFICATION UNDER THE "COLORADO CRIME
23 VICTIM COMPENSATION ACT" PURSUANT TO ARTICLE 4.1 OF TITLE 24,
24 C.R.S.

25 (2) EXCEPT AS OTHERWISE PROVIDED IN SECTION 16-24-112, THE
26 COURT MAY ISSUE A CERTIFICATE OF RESTORATION OF RIGHTS IF, AFTER
27 REVIEWING THE PETITION, THE INDIVIDUAL'S CRIMINAL HISTORY, ANY

1 FILING BY A VICTIM UNDER SECTION 16-24-115 OR A PROSECUTOR, AND
2 ANY OTHER RELEVANT EVIDENCE, IT FINDS THE INDIVIDUAL HAS
3 ESTABLISHED BY A PREPONDERANCE OF THE EVIDENCE THAT:

4 (a) THE INDIVIDUAL IS ENGAGED IN, OR SEEKING TO ENGAGE IN, A
5 LAWFUL OCCUPATION OR ACTIVITY, INCLUDING EMPLOYMENT, TRAINING,
6 EDUCATION, OR REHABILITATIVE PROGRAMS, OR THE INDIVIDUAL
7 OTHERWISE HAS A LAWFUL SOURCE OF SUPPORT;

8 (b) THE INDIVIDUAL IS NOT IN VIOLATION OF THE TERMS OF ANY
9 CRIMINAL SENTENCE, OR THAT ANY FAILURE TO COMPLY IS JUSTIFIED,
10 EXCUSED, INVOLUNTARY, OR INSUBSTANTIAL;

11 (c) A CRIMINAL CHARGE IS NOT PENDING AGAINST THE
12 INDIVIDUAL; AND

13 (d) GRANTING THE PETITION WOULD NOT POSE AN UNREASONABLE
14 RISK TO THE SAFETY OR WELFARE OF THE PUBLIC OR ANY INDIVIDUAL.

15 (3) A CERTIFICATE OF RESTORATION OF RIGHTS MUST SPECIFY ANY
16 RESTRICTION IMPOSED AND COLLATERAL SANCTION FROM WHICH RELIEF
17 HAS NOT BEEN GRANTED UNDER SECTION 16-24-113 (1).

18 (4) A CERTIFICATE OF RESTORATION OF RIGHTS RELIEVES ALL
19 COLLATERAL SANCTIONS, EXCEPT THOSE LISTED IN SECTION 16-24-112
20 AND ANY OTHERS SPECIFICALLY EXCLUDED IN THE CERTIFICATE.

21 **16-24-112. Collateral sanctions not subject to order of limited**
22 **relief or certificate of restoration of rights.** (1) A COURT MAY NOT
23 ORDER LIMITED RELIEF OR A CERTIFICATE OF RESTORATION OF RIGHTS TO
24 RELIEVE THE FOLLOWING COLLATERAL SANCTIONS:

25 (a) REQUIREMENTS IMPOSED BY THE "COLORADO SEX OFFENDER
26 REGISTRATION ACT", ARTICLE 22 OF THIS TITLE, OR ANY ASSOCIATED
27 REGULATIONS;

1 (b) A MOTOR VEHICLE LICENSE SUSPENSION, REVOCATION,
2 LIMITATION, OR INELIGIBILITY PURSUANT TO TITLE 42, C.R.S., FOR WHICH
3 RESTORATION OR RELIEF IS AVAILABLE;

4 (c) INELIGIBILITY FOR EMPLOYMENT OF CONVICTED INDIVIDUALS
5 BY LAW ENFORCEMENT AGENCIES, INCLUDING THE ATTORNEY GENERAL,
6 A DISTRICT ATTORNEY'S OFFICE, A POLICE DEPARTMENT, A SHERIFF'S
7 DEPARTMENT, THE COLORADO STATE PATROL, AND THE DEPARTMENT OF
8 CORRECTIONS;

9 (d) INELIGIBILITY FOR EMPLOYMENT PURSUANT TO SECTION
10 27-90-111, C.R.S.; OR

11 (e) INELIGIBILITY FOR EMPLOYMENT PURSUANT TO SECTION
12 22-60.5-107 (2) OR (2.5), C.R.S.

13 **16-24-113. Issuance, modification, and revocation of order of**
14 **limited relief and certificate of restoration of rights.** (1) WHEN AN
15 INDIVIDUAL FILES A PETITION UNDER SECTION 16-24-110 OR 16-24-111,
16 INCLUDING A PETITION FOR ENLARGEMENT OF AN EXISTING ORDER OF
17 LIMITED RELIEF OR CERTIFICATE OF RESTORATION OF RIGHTS, THE COURT
18 SHALL NOTIFY THE OFFICE THAT PROSECUTED THE OFFENSE GIVING RISE TO
19 THE COLLATERAL CONSEQUENCE FROM WHICH RELIEF IS SOUGHT AND, IF
20 THE CONVICTION WAS NOT OBTAINED IN A COURT OF THIS STATE, THE
21 OFFICE OF THE ATTORNEY GENERAL OF THIS STATE OR THE APPROPRIATE
22 DISTRICT ATTORNEY'S OFFICE IN THIS STATE. THE COURT MAY ISSUE AN
23 ORDER. WHEN ISSUING, DENYING, MODIFYING, OR REVOKING AN ORDER
24 OR CERTIFICATE, THE COURT MAY IMPOSE CONDITIONS FOR
25 REAPPLICATION.

26 (2) THE COURT MAY RESTRICT OR REVOKE AN ORDER OF LIMITED
27 RELIEF OR CERTIFICATE OF RESTORATION OF RIGHTS IT ISSUED IN THIS

1 STATE IF IT FINDS JUST CAUSE BY A PREPONDERANCE OF THE EVIDENCE.
2 "JUST CAUSE" INCLUDES SUBSEQUENT CONVICTION OF A FELONY OR A
3 CLASS 1 MISDEMEANOR IN THIS STATE. AN ORDER OF RESTRICTION OR
4 REVOCATION MAY BE ISSUED:

5 (a) ON MOTION OF THE OFFICE OF THE PROSECUTOR THAT
6 OBTAINED THE CONVICTION, OR A GOVERNMENT AGENCY DESIGNATED BY
7 THAT PROSECUTOR;

8 (b) AFTER NOTICE TO THE INDIVIDUAL AND ANY DISTRICT
9 ATTORNEY THAT HAS APPEARED IN THE MATTER; AND

10 (c) AFTER A HEARING UNDER ARTICLE 4 OF TITLE 24, C.R.S., IF
11 REQUESTED BY THE INDIVIDUAL OR THE PROSECUTOR THAT MADE THE
12 MOTION OR ANY PROSECUTOR THAT HAS APPEARED IN THE MATTER.

13 (3) THE COURT OR DESIGNATED BOARD OR AGENCY SHALL ORDER
14 ANY TEST, REPORT, INVESTIGATION, OR DISCLOSURE BY THE INDIVIDUAL
15 THAT IT REASONABLY BELIEVES NECESSARY TO ITS DECISION TO ISSUE,
16 MODIFY, OR REVOKE AN ORDER OF LIMITED RELIEF OR CERTIFICATE OF
17 RESTORATION OF RIGHTS. IF THERE ARE MATERIAL DISPUTED ISSUES OF
18 FACT OR LAW, THE INDIVIDUAL AND ANY PROSECUTOR NOTIFIED UNDER
19 SUBSECTION (1) OF THIS SECTION OR ANOTHER PROSECUTORIAL AGENCY
20 DESIGNATED BY A PROSECUTOR NOTIFIED UNDER SUBSECTION (1) OF THIS
21 SECTION MAY SUBMIT EVIDENCE AND BE HEARD ON THOSE ISSUES.

22 **16-24-114. Reliance on order or certificate as evidence of due**
23 **or reasonable care.** IN A JUDICIAL OR ADMINISTRATIVE PROCEEDING
24 ALLEGING NEGLIGENCE OR OTHER FAULT, AN ORDER OF LIMITED RELIEF OR
25 A CERTIFICATE OF RESTORATION OF RIGHTS MAY BE INTRODUCED AS PRIMA
26 FACIE EVIDENCE OF A PERSON'S DUE OR REASONABLE CARE IN HIRING,
27 RETAINING, LICENSING, LEASING TO, ADMITTING TO A SCHOOL OR

1 PROGRAM, OR OTHERWISE TRANSACTING BUSINESS OR ENGAGING IN
2 ACTIVITY WITH THE INDIVIDUAL TO WHOM THE ORDER WAS ISSUED, IF THE
3 PERSON KNEW OF THE ORDER OR CERTIFICATE AT THE TIME OF THE
4 ALLEGED NEGLIGENCE OR OTHER FAULT.

5 **16-24-115. Victim's rights.** A VICTIM OF AN OFFENSE MAY
6 PARTICIPATE IN A PROCEEDING FOR ISSUANCE, MODIFICATION, OR
7 REVOCATION OF AN ORDER OF LIMITED RELIEF OR A CERTIFICATE OF
8 RESTORATION OF RIGHTS IN THE SAME MANNER AS AT A SENTENCING
9 PROCEEDING PURSUANT TO SECTION 24-4.1-302.5, C.R.S.

10 **16-24-116. Applicability.** (1) IN APPLYING AND CONSTRUING
11 THIS ARTICLE, CONSIDERATION MUST BE GIVEN TO THE NEED TO PROMOTE
12 UNIFORMITY OF THE LAW WITH RESPECT TO ITS SUBJECT MATTER AMONG
13 STATES THAT ENACT IT.

14 (2) THIS ARTICLE APPLIES TO COLLATERAL CONSEQUENCES
15 WHENEVER ENACTED OR IMPOSED, UNLESS THE LAW CREATING THE
16 COLLATERAL CONSEQUENCE EXPRESSLY STATES THAT THIS ARTICLE DOES
17 NOT APPLY.

18 (3) THIS ARTICLE DOES NOT INVALIDATE THE IMPOSITION OF A
19 COLLATERAL SANCTION ON AN INDIVIDUAL BEFORE THE EFFECTIVE DATE
20 OF THIS ARTICLE, BUT A COLLATERAL SANCTION VALIDLY IMPOSED BEFORE
21 THE EFFECTIVE DATE OF THIS ARTICLE MAY BE THE SUBJECT OF RELIEF
22 UNDER THIS ARTICLE.

23 **SECTION 2. Act subject to petition - effective date.** This act
24 shall take effect at 12:01 a.m. on the day following the expiration of the
25 ninety-day period after final adjournment of the general assembly (August
26 10, 2011, if adjournment sine die is on May 11, 2011); except that, if a
27 referendum petition is filed pursuant to section 1 (3) of article V of the

1 state constitution against this act or an item, section, or part of this act
2 within such period, then the act, item, section, or part shall not take effect
3 unless approved by the people at the general election to be held in
4 November 2012 and shall take effect on the date of the official
5 declaration of the vote thereon by the governor.