

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

PREAMENDED

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

LLS NO. 12-0114.01 Michael Dohr x4347

SENATE BILL 12-105

SENATE SPONSORSHIP

Steadman, Carroll, Guzman

HOUSE SPONSORSHIP

Levy, Hullinghorst, Lee, Pabon

Senate Committees

Judiciary
Finance

House Committees

A BILL FOR AN ACT

101 **CONCERNING PROVISIONS THAT IMPROVE THE REINTEGRATION**
102 **OPPORTUNITIES FOR PERSONS INVOLVED IN THE CRIMINAL**
103 **JUSTICE SYSTEM.**

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 court, at a defendant's first appearance and at sentencing, shall inform the defendant in writing about the potential collateral consequences of a conviction. At sentencing, the court may issue an order of collateral relief that relieves specific collateral consequences if the

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.

defendant is sentenced to probation or a community corrections program.

A court may issue a certificate of rehabilitation to a person with a criminal record that relieves collateral consequences associated with the person's offense. The court may issue a certificate of fitness if the person applies for the judgment after he or she has completed a specific period of time after completion of his or her criminal sentence. A certificate of fitness and order of collateral relief shall be included in the Colorado integrated criminal justice information system (CJIS). The chief information officer for the CJIS shall purge annually the database of arrest records that did not result in a conviction if the statute of limitations for the crime that caused the arrest has passed.

The bill allows a person convicted of a petty offense or a municipal offense to petition the court for sealing the record of the conviction 3 years after the conviction occurred.

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

2 **SECTION 1.** In Colorado Revised Statutes, **add** article 24 to title
3 16 as follows:

4 **ARTICLE 24**

5 **Rehabilitation for People with Criminal Records Act**

6 **16-24-101. Short title.** THIS ARTICLE IS KNOWN AND MAY BE
7 CITED AS THE "REHABILITATION FOR PEOPLE WITH CRIMINAL RECORDS
8 ACT".

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

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

1 (b) COLORADO HAS A STRONG INTEREST IN PROMOTING
2 REHABILITATION AND EMPLOYMENT TO PREVENT RECIDIVISM AMONG ITS
3 CONVICTED POPULATION. IF AN INDIVIDUAL CANNOT SUCCESSFULLY
4 REENTER SOCIETY DUE IN PART TO THE COLLATERAL CONSEQUENCES
5 ARISING FROM HIS OR HER ORIGINAL CONVICTION AND THAT PERSON
6 SUBSEQUENTLY REOFFENDS, THE NEW CRIME GENERATES SIGNIFICANT
7 FINANCIAL AND HUMAN COSTS, INCLUDING HARM TO ONE OR MORE
8 VICTIMS, EXPENDITURES OF LAW ENFORCEMENT, JUDICIAL, AND
9 CORRECTIONS RESOURCES AND THE LOSS OF THE PRODUCTIVE WORK THAT
10 THE INDIVIDUAL COULD HAVE CONTRIBUTED TO THE ECONOMY.

11 (c) MAJOR CHALLENGES EXIST FOR INDIVIDUALS WITH CRIMINAL
12 RECORDS, INCLUDING THE INCREASINGLY BURDENSOME LEGAL EFFECT OF
13 THOSE RECORDS AND THE AVAILABILITY OF PUBLIC RECORDS
14 INFORMATION, INCLUDING CRIMINAL CONVICTIONS, ABOUT ALL
15 COLORADANS TO ALL ARMS OF GOVERNMENT AND THE GENERAL PUBLIC;

16 (d) A CRIMINAL CONVICTION NEGATIVELY AFFECTS AN
17 INDIVIDUAL'S LEGAL STATUS THROUGH THE ENFORCEMENT OF
18 COLLATERAL CONSEQUENCES AGAINST THE INDIVIDUAL. IN RECENT
19 YEARS, THOSE COLLATERAL CONSEQUENCES HAVE INCREASED IN NUMBER
20 AND SEVERITY.

21 (e) A STRONG CONNECTION EXISTS BETWEEN EMPLOYMENT AND
22 HOUSING STABILITY AND AN INDIVIDUAL'S ABILITY TO LIVE AS A
23 LAW-ABIDING CITIZEN;

24 (f) PEOPLE WITH CRIMINAL RECORDS ARE NOT A PROTECTED CLASS
25 UNDER ANY FEDERAL CIVIL RIGHT OR STATE OF COLORADO HUMAN RIGHTS
26 LEGISLATION.

27 (2) THEREFORE, THE GENERAL ASSEMBLY DECLARES THAT IT IS

1 NECESSARY TO PROVIDE INDIVIDUALS CHARGED WITH CRIMINAL OFFENSES,
2 BEING SENTENCED AFTER A CRIMINAL CONVICTION, OR RELEASED FROM
3 SUPERVISION OR INCARCERATION AFTER A CRIMINAL CONVICTION WITH
4 NOTICE OF POTENTIAL COLLATERAL CONSEQUENCES ARISING FROM THE
5 CONVICTION. THIS INFORMATION WILL ALLOW THESE INDIVIDUALS TO
6 CONSIDER SUCH CONSEQUENCES WHEN ENTERING PLEA AGREEMENTS,
7 PREPARING FOR REINTEGRATION AFTER SUPERVISION, OR DEVELOPING A
8 PAROLE PLAN.

9 **16-24-103. Definitions.** AS USED IN THIS ARTICLE, UNLESS THE
10 CONTEXT OTHERWISE REQUIRES:

11 (1) "COLLATERAL CONSEQUENCE" MEANS A COLLATERAL
12 SANCTION OR A DISQUALIFICATION.

13 (2) "COLLATERAL SANCTION" MEANS A PENALTY, PROHIBITION,
14 BAR, OR DISADVANTAGE, HOWEVER DENOMINATED, IMPOSED ON AN
15 INDIVIDUAL AS A RESULT OF THE INDIVIDUAL'S CONVICTION OF AN
16 OFFENSE, WHICH PENALTY, PROHIBITION, BAR, OR DISADVANTAGE APPLIES
17 BY OPERATION OF LAW REGARDLESS OF WHETHER THE PENALTY,
18 PROHIBITION, BAR, OR DISADVANTAGE IS INCLUDED IN THE JUDGMENT OR
19 SENTENCE. "COLLATERAL SANCTION" DOES NOT INCLUDE IMPRISONMENT,
20 PROBATION, PAROLE, SUPERVISED RELEASE, FORFEITURE, RESTITUTION,
21 FINE, ASSESSMENT, OR COSTS OF PROSECUTION.

22 (3) "CONVICTION" OR "CONVICTED" MEANS A VERDICT OF GUILTY
23 BY A JUDGE OR JURY OR A PLEA OF GUILTY OR NOLO CONTENDERE THAT IS
24 ACCEPTED BY THE COURT OR AN ADJUDICATION FOR AN OFFENSE THAT
25 WOULD CONSTITUTE A CRIMINAL OFFENSE IF COMMITTED BY AN ADULT, OR
26 A CONVICTION OF A CRIME UNDER THE LAWS OF ANY OTHER STATE, THE
27 UNITED STATES, OR ANY TERRITORY SUBJECT TO THE JURISDICTION OF THE

1 UNITED STATES, WHICH, IF COMMITTED WITHIN THIS STATE, WOULD BE A
2 FELONY OR MISDEMEANOR. "CONVICTION" OR "CONVICTED" ALSO
3 INCLUDES HAVING RECEIVED A DEFERRED JUDGMENT AND SENTENCE OR
4 A DEFERRED ADJUDICATION; EXCEPT THAT A PERSON SHALL NOT BE
5 DEEMED TO HAVE BEEN CONVICTED IF THE PERSON HAS SUCCESSFULLY
6 COMPLETED A DEFERRED SENTENCE OR A DEFERRED ADJUDICATION.

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

12 (5) "FELONY" MEANS A CONVICTION OF A FELONY IN THIS STATE,
13 OR A CONVICTION OF AN OFFENSE IN ANY OTHER JURISDICTION FOR WHICH
14 A SENTENCE TO A TERM OF IMPRISONMENT IN EXCESS OF ONE YEAR WAS
15 AUTHORIZED.

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

19 **16-24-104. Limitation on scope.** (1) THIS ARTICLE DOES NOT
20 PROVIDE A BASIS FOR:

21 (a) INVALIDATING A PLEA, CONVICTION, OR SENTENCE;

22 (b) A CAUSE OF ACTION FOR MONEY DAMAGES;

23 (c) A CLAIM FOR RELIEF FROM OR DEFENSE TO THE APPLICATION OF
24 A COLLATERAL CONSEQUENCE BASED ON A FAILURE TO COMPLY WITH
25 SECTION 16-24-105 OR 16-24-106;

26 (d) INVALIDATING OR CHANGING THE REQUIREMENTS IMPOSED BY
27 THE "COLORADO SEX OFFENDER REGISTRATION ACT", ARTICLE 22 OF THIS

1 TITLE, OR ANY ASSOCIATED REGULATIONS; OR

2 (e) A CHALLENGE TO THE CONDITIONS OF PROBATION IMPOSED
3 PURSUANT TO SECTION 18-1.3-204, C.R.S., OR THE CONDITIONS OF PAROLE
4 IMPOSED PURSUANT TO ARTICLE 17, C.R.S.

5 (2) THIS ARTICLE DOES NOT AFFECT OR PRECLUDE:

6 (a) A CLAIM OR RIGHT OF A VICTIM OF AN OFFENSE; OR

7 (b) A RIGHT OR REMEDY AVAILABLE UNDER LAW, OTHER THAN
8 THIS ARTICLE, TO AN INDIVIDUAL CONVICTED OF AN OFFENSE.

9 (3) A CERTIFICATE OF REHABILITATION ISSUED UNDER THIS
10 ARTICLE DOES NOT OPERATE AS A PARDON, SEALING, OR EXPUNGEMENT.

11 (4) A COURT'S DECISION DENYING OR GRANTING RELIEF PURSUANT
12 TO SECTIONS 16-24-107 AND 16-24-108 IS NOT PART OF THE DEFENDANT'S
13 CRIMINAL CASE AND MAY NOT BE APPEALED.

14 **16-24-105. Notice of collateral consequences in pretrial**
15 **proceeding.** WHEN AN INDIVIDUAL RECEIVES FORMAL NOTICE THAT THE
16 INDIVIDUAL IS CHARGED WITH AN OFFENSE, THE COURT AT THE
17 INDIVIDUAL'S FIRST COURT APPEARANCE SHALL COMMUNICATE THE
18 FOLLOWING INFORMATION TO THE INDIVIDUAL IN WRITING AND IN THE
19 FOLLOWING FORM:

20 NOTICE OF ADDITIONAL LEGAL CONSEQUENCES

21 IF YOU PLEAD GUILTY OR ARE CONVICTED OF AN OFFENSE,

22 YOU MAY SUFFER ADDITIONAL LEGAL CONSEQUENCES

23 BEYOND JAIL OR PRISON, PERIODS OF PROBATION OR

24 PAROLE, AND FINES. THESE CONSEQUENCES MAY INCLUDE:

25 ! BEING UNABLE TO GET OR KEEP SOME
26 LICENSES, PERMITS, OR JOBS;

27 ! BEING UNABLE TO GET OR KEEP BENEFITS

- 1 SUCH AS PUBLIC HOUSING OR EDUCATION;
- 2 ! RECEIVING A HARSHER SENTENCE IF YOU ARE
- 3 CONVICTED OF ANOTHER OFFENSE IN THE
- 4 FUTURE;
- 5 ! HAVING THE GOVERNMENT TAKE YOUR
- 6 PROPERTY; AND
- 7 ! BEING UNABLE TO VOTE OR POSSESS A
- 8 FIREARM.

9 IF YOU ARE NOT A UNITED STATES CITIZEN, A GUILTY PLEA
10 OR CONVICTION MAY ALSO RESULT IN YOUR DEPORTATION,
11 REMOVAL, EXCLUSION FROM ADMISSION TO THE UNITED
12 STATES, OR DENIAL OF CITIZENSHIP.

13 FURTHER INFORMATION ABOUT THE COLLATERAL
14 CONSEQUENCES OF A CONVICTION IS AVAILABLE ON THE
15 INTERNET AT THE STATE PUBLIC DEFENDER'S WEB SITE.

16 **16-24-106. Notice of collateral consequences at sentencing and**
17 **upon release.** (1) AT AN INDIVIDUAL'S SENTENCING HEARING, THE COURT
18 SHALL ADVISE THE INDIVIDUAL IN WRITING:

19 (a) THAT COLLATERAL CONSEQUENCES MAY APPLY BECAUSE OF
20 THE CONVICTION;

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

25 ==

26 (c) OF THE TIME AT WHICH THE VOTING RIGHTS OF AN INDIVIDUAL
27 CONVICTED OF AN OFFENSE ARE RESTORED UNDER COLORADO LAW.

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

6 **16-24-107. Sentencing order - collateral relief.** (1) AT THE TIME
7 OF SENTENCING, A COURT MAY ENTER AN ORDER OF COLLATERAL RELIEF
8 IF THE COURT SENTENCES THE DEFENDANT TO PROBATION OR TO A
9 COMMUNITY CORRECTIONS PROGRAM FOR THE PURPOSE OF ENHANCING
10 THE DEFENDANT'S EMPLOYMENT OR EMPLOYMENT PROSPECTS AND TO
11 IMPROVE THE DEFENDANT'S LIKELIHOOD OF SUCCESS ON PROBATION OR IN
12 THE COMMUNITY CORRECTIONS PROGRAM. IF THE COURT ISSUES AN ORDER
13 OF COLLATERAL RELIEF, THE DEFENDANT DOES NOT HAVE TO PAY A FILING
14 FEE.

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

23 (3) (a) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, A
24 ORDER OF COLLATERAL RELIEF CANNOT RELIEVE ANY
25 EMPLOYMENT-RELATED COLLATERAL CONSEQUENCES IMPOSED BY LAW BY
26 REASON OF THE APPLICANT'S CONVICTION OF A CRIME THAT WOULD
27 PREVENT HIS OR HER EMPLOYMENT BY THE DEPARTMENT OF CORRECTIONS,

1 DIVISION OF YOUTH CORRECTIONS IN THE DEPARTMENT OF HUMAN
2 SERVICES, OR ANY OTHER LAW ENFORCEMENT AGENCY IN THE STATE OF
3 COLORADO.

4 (b) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, AN ORDER
5 OF COLLATERAL RELIEF CANNOT RELIEVE ANY COLLATERAL
6 CONSEQUENCES IMPOSED BY LAW FOR LICENSURE BY THE DEPARTMENT OF
7 EDUCATION OR ANY COLLATERAL CONSEQUENCES IMPOSED BY LAW FOR
8 EMPLOYMENT WITH THE JUDICIAL DEPARTMENT.

9 (4) IF THE COURT ISSUES AN ORDER OF COLLATERAL RELIEF, IT
10 SHALL PROVIDE A COPY OF THE ORDER OF COLLATERAL RELIEF TO THE
11 CHIEF INFORMATION OFFICER OF THE COLORADO CRIME INFORMATION
12 CENTER, _____ AND THE CHIEF INFORMATION OFFICER SHALL ENTER THE
13 ORDER OF COLLATERAL RELIEF INTO THE COLORADO CRIME INFORMATION
14 CENTER, _____

15 (5) THE COURT MAY REVOKE AN ORDER OF COLLATERAL RELIEF
16 UPON CLEAR AND CONVINCING EVIDENCE OF A SUBSEQUENT CRIMINAL
17 CONVICTION OR PROOF THAT THE HOLDER OF THE JUDGMENT HAS BECOME
18 A PRESENT RISK TO PUBLIC SAFETY. ANY BARS, PROHIBITIONS, SANCTIONS,
19 AND DISQUALIFICATIONS THEREBY RELIEVED SHALL BE REINSTATED AS OF
20 THE DATE OF THE WRITTEN ORDER OF REVOCATION. THE COURT SHALL
21 PROVIDE A COPY OF THE ORDER OF REVOCATION TO THE HOLDER.

22 **16-24-108. Certificate of rehabilitation.** (1) A COURT MAY ISSUE
23 A CERTIFICATE OF REHABILITATION THAT RELIEVES A PERSON WITH A
24 CRIMINAL RECORD OF ANY OR ALL COLLATERAL CONSEQUENCES OF
25 CRIMINAL CONVICTIONS, WHETHER IN HOUSING OR EMPLOYMENT
26 BARRIERS OR ANY OTHER SANCTION OR DISQUALIFICATION THAT THE
27 COURT SHALL SPECIFY, INCLUDING BUT NOT LIMITED TO STATUTORY,

1 REGULATORY, OR OTHER COLLATERAL CONSEQUENCES THAT THE COURT
2 MAY SEE FIT TO RELIEVE.

3 (2) (a) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, A
4 CERTIFICATE OF REHABILITATION CANNOT RELIEVE ANY
5 EMPLOYMENT-RELATED COLLATERAL CONSEQUENCES IMPOSED BY LAW BY
6 REASON OF THE APPLICANT'S CONVICTION OF A CRIME THAT WOULD
7 PREVENT HIS OR HER EMPLOYMENT BY THE DEPARTMENT OF CORRECTIONS,
8 DIVISION OF YOUTH CORRECTIONS IN THE DEPARTMENT OF HUMAN
9 SERVICES, OR ANY OTHER LAW ENFORCEMENT AGENCY IN THE STATE OF
10 COLORADO.

11 (b) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, A
12 CERTIFICATE OF REHABILITATION CANNOT RELIEVE ANY COLLATERAL
13 CONSEQUENCES IMPOSED BY LAW FOR LICENSURE BY THE DEPARTMENT OF
14 EDUCATION OR ANY COLLATERAL CONSEQUENCES IMPOSED BY LAW FOR
15 EMPLOYMENT WITH THE JUDICIAL DEPARTMENT.

16 (3) **Jurisdiction and venue.** (a) THE COURT MAY ISSUE A
17 CERTIFICATE OF REHABILITATION TO AN ELIGIBLE APPLICANT FOR A
18 CONVICTION THAT OCCURRED IN THAT COURT IF THE COURT IMPOSED THE
19 SENTENCE.

20 (b) FOR FEDERAL CONVICTIONS OR CONVICTIONS FROM OTHER
21 STATES, PROPER VENUE IS IN THE COUNTY OF THE APPLICANT'S RESIDENCE
22 IN COLORADO, AND THE APPLICANT SHALL PROVE EITHER:

23 (I) THAT HE OR SHE IS A CITIZEN OF THE STATE OF COLORADO; OR

24 (II) IF HE OR SHE IS NOT A CITIZEN OF COLORADO, THAT HIS OR HER
25 CONVICTION FROM ANOTHER JURISDICTION IS CREATING, WILL CREATE, OR
26 HAS A DIRECT COLLATERAL CONSEQUENCE IN COLORADO.

27 (4) **Timing.** (a) IF AN ORDER OF COLLATERAL RELIEF PURSUANT

1 TO SECTION 16-24-107 IS NOT ISSUED AT THE TIME OF SENTENCING, A
2 COURT SHALL NOT ISSUE A CERTIFICATE OF REHABILITATION OF ANY KIND
3 UNTIL THE APPLICABLE TIME PRESCRIBED IN PARAGRAPH (b) OF THIS
4 SUBSECTION (4) HAS ELAPSED AFTER TERMINATION OF THE APPLICANT'S
5 CRIMINAL SENTENCE, AND THE APPLICANT SUBMITS A VERIFIED
6 APPLICATION TO THE COURT THAT SETS FORTH WITH PARTICULARITY THE
7 APPLICANT'S GROUNDS FOR BELIEVING THAT HE OR SHE IS REHABILITATED
8 AND NOT A RISK TO PUBLIC SAFETY. WHEN THE INDIVIDUAL FILES THE
9 APPLICATION, HE OR SHE SHALL PAY A FILING FEE OF TWO HUNDRED
10 TWENTY-FIVE DOLLARS, WHICH SHALL BE DEPOSITED IN THE JUDICIAL
11 STABILIZATION CASH FUND CREATED IN SECTION 13-32-101, C.R.S.

12 (b) A COURT MAY ORDER A CERTIFICATE OF REHABILITATION
13 AFTER:

14 (I) AT LEAST THREE YEARS AFTER TERMINATION OF THE
15 APPLICANT'S CRIMINAL SENTENCE IN THE CASE OF THE MOST RECENT
16 ELIGIBLE FELONY CONVICTION; AND

17 (II) AT LEAST ONE YEAR AFTER THE TERMINATION OF THE
18 APPLICANT'S CRIMINAL SENTENCE IN THE CASE OF THE MOST RECENT
19 MISDEMEANOR CONVICTION.

20 (5) **Eligibility.** (a) (I) A COURT SHALL NOT ISSUE A CERTIFICATE
21 OF REHABILITATION IF THE DEFENDANT HAS HAD TWO OR MORE FELONY
22 CONVICTIONS;

23 (II) FOR THE PURPOSES OF THIS SUBSECTION (5), THE FOLLOWING
24 RULES OF CONSTRUCTION APPLY:

25 (A) TWO OR MORE CONVICTIONS OF FELONIES CHARGED IN
26 SEPARATE COUNTS OF ONE INDICTMENT OR INFORMATION ARE DEEMED TO
27 BE ONE CONVICTION;

1 (B) TWO OR MORE CONVICTIONS OF FELONIES CHARGED IN TWO OR
2 MORE INDICTMENTS OR INFORMATIONS, FILED IN THE SAME COURT PRIOR
3 TO ENTRY OF JUDGMENT UNDER ANY OF THEM, ARE DEEMED TO BE ONE
4 CONVICTION.

5 (b) A COURT SHALL NOT ISSUE A CERTIFICATE OF REHABILITATION
6 IF THE DEFENDANT:

7 (I) HAS BEEN CONVICTED OF A FELONY THAT INCLUDES AN
8 ELEMENT THAT REQUIRES A VICTIM TO SUFFER PERMANENT DISABILITY OR
9 SERIOUS BODILY INJURY;

10 (II) HAS BEEN CONVICTED OF A FELONY ASSAULT INVOLVING
11 DOMESTIC VIOLENCE;

12 (III) IS A HABITUAL OFFENDER PURSUANT TO SECTION 42-2-202,
13 C.R.S.; OR

14 (IV) IS REQUIRED TO REGISTER AS A SEX OFFENDER PURSUANT TO
15 SECTION 16-22-103.

16 (6) **Application contents.** (a) AN APPLICATION FOR A
17 CERTIFICATE OF REHABILITATION SHALL CITE THE GROUNDS FOR
18 GRANTING THE RELIEF.

19 (b) THE APPLICANT SHALL FILE HIS OR HER APPLICATION FOR A
20 CERTIFICATE OF REHABILITATION WITH THE APPROPRIATE COURT
21 PURSUANT TO SUBSECTION (3) OF THIS SECTION, AND HE OR SHE SHALL
22 PROVIDE A COPY OF THE APPLICATION TO THE DISTRICT ATTORNEY FOR THE
23 JURISDICTION IN WHICH THE APPLICATION IS FILED. WHEN THE INDIVIDUAL
24 FILES THE APPLICATION, HE OR SHE SHALL PAY A FILING FEE OF TWO
25 HUNDRED TWENTY-FIVE DOLLARS, WHICH SHALL BE DEPOSITED IN THE
26 JUDICIAL STABILIZATION CASH FUND CREATED IN SECTION 13-32-101,
27 C.R.S.

1 (7) **Hearing.** (a) THE COURT MAY CONDUCT A HEARING ON THE
2 APPLICATION OR ON ANY MATTER RELEVANT TO THE GRANTING OR
3 DENYING OF THE APPLICATION AND MAY TAKE TESTIMONY UNDER OATH.

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

7 (8) **Standard for granting relief.** (a) A COURT MAY ISSUE A
8 CERTIFICATE OF REHABILITATION IF THE COURT FINDS THAT:

9 (I) THE CERTIFICATE OF REHABILITATION IS CONSISTENT WITH THE
10 APPLICANT'S REHABILITATION; AND

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

14 (b) THE COURT THAT PREVIOUSLY ISSUED A CERTIFICATE OF
15 REHABILITATION, ON ITS OWN MOTION OR EITHER BY CAUSE SHOWN BY
16 THE DISTRICT ATTORNEY OR ON GROUNDS OFFERED BY THE APPLICANT,
17 MAY AT ANY TIME ISSUE A SUBSEQUENT JUDGMENT TO ENLARGE, LIMIT, OR
18 CIRCUMSCRIBE THE RELIEF PREVIOUSLY GRANTED.

19 (c) A COURT MAY REVOKE A CERTIFICATE OF REHABILITATION
20 UPON CLEAR AND CONVINCING EVIDENCE OF A SUBSEQUENT CRIMINAL
21 CONVICTION OR PROOF THAT THE HOLDER OF THE JUDGMENT HAS BECOME
22 A PRESENT RISK TO PUBLIC SAFETY. ANY BARS, PROHIBITIONS, SANCTIONS,
23 AND DISQUALIFICATIONS THEREBY RELIEVED SHALL BE REINSTATED AS OF
24 THE DATE OF THE WRITTEN ORDER OF REVOCATION. THE COURT SHALL
25 PROVIDE A COPY OF THE ORDER OF REVOCATION TO THE HOLDER.

26 (9) IF THE COURT ISSUES A CERTIFICATE OF REHABILITATION, IT
27 SHALL PROVIDE A COPY OF THE CERTIFICATE OF REHABILITATION TO THE

1 CHIEF INFORMATION OFFICER OF THE COLORADO CRIME INFORMATION
2 CENTER, AND THE CHIEF INFORMATION OFFICER SHALL ENTER THE
3 CERTIFICATE OF REHABILITATION INTO THE COLORADO CRIME
4 INFORMATION CENTER.

5 (10) A PERSON WHO KNOWINGLY USES OR ATTEMPTS TO USE A
6 COPY OF A REVOKED CERTIFICATE OF REHABILITATION TO OBTAIN OR TO
7 EXERCISE ANY RIGHT OR PRIVILEGE THAT HE OR SHE WOULD NOT BE
8 ENTITLED TO OBTAIN OR TO EXERCISE WITHOUT A VALID JUDGMENT IS
9 GUILTY OF A CLASS 1 MISDEMEANOR.

10

11 **SECTION 2.** In Colorado Revised Statutes, 24-34-104, **add** (9)
12 (b) (VIII.5) as follows:

13 **24-34-104. General assembly review of regulatory agencies**
14 **and functions for termination, continuation, or reestablishment.**

15 (9) (b) In such hearings, the determination as to whether an agency has
16 demonstrated a public need for continued existence of the agency or
17 function and for the degree of regulation it practices shall be based on the
18 following factors, among others:

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

1 DISQUALIFICATION.

2 **SECTION 3.** In Colorado Revised Statutes, 24-34-104.1, **amend**
3 (2) (d), (2) (e), (4) (b) (II), and (4) (b) (III); and **add** (2) (f) and (4) (b)
4 (IV) as follows:

5 **24-34-104.1. General assembly sunrise review of new**
6 **regulation of occupations and professions.** (2) Any professional or
7 occupational group or organization, any individual, or any other interested
8 party that proposes the regulation of any unregulated professional or
9 occupational group shall submit the following information to the
10 department of regulatory agencies. A proposal to regulate a professional
11 or occupational group shall be reviewed only when the party requesting
12 such review files with the department a statement of support for the
13 proposed regulation that has been signed by at least ten members of the
14 professional or occupational group for which regulation is being sought
15 or at least ten individuals who are not members of such professional or
16 occupational group, along with the following information:

17 (d) The benefit to the public that would result from the proposed
18 regulation; ~~and~~

19 (e) The cost of the proposed regulation; AND

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

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

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

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

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

10 **SECTION 4.** In Colorado Revised Statutes, **add** 24-72-308.7 as
11 follows:

12 **24-72-308.7. Sealing of criminal conviction records**
13 **information for petty offenses and municipal offenses for convictions.**

14 _____ (1) **Definitions.** FOR PURPOSES OF THIS SECTION, "CONVICTION
15 RECORDS" MEANS ARREST AND CRIMINAL RECORDS INFORMATION AND
16 ANY RECORDS PERTAINING TO A JUDGMENT OF CONVICTION.

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

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

26 (B) THE DEFENDANT HAS NOT BEEN CHARGED OR CONVICTED FOR
27 A CRIMINAL OFFENSE IN THE THREE OR MORE YEARS SINCE THE DATE OF

1 THE FINAL DISPOSITION OF ALL CRIMINAL PROCEEDINGS AGAINST HIM OR
2 HER OR THE DATE OF THE DEFENDANT'S RELEASE FROM SUPERVISION,
3 WHICHEVER IS LATER.

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

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

15 (IV) AN ORDER SEALING CONVICTION RECORDS SHALL NOT DENY
16 ACCESS TO THE CRIMINAL RECORDS OF A DEFENDANT BY ANY COURT, LAW
17 ENFORCEMENT AGENCY, CRIMINAL JUSTICE AGENCY, PROSECUTING
18 ATTORNEY, OR PARTY OR AGENCY REQUIRED BY LAW TO CONDUCT A
19 CRIMINAL HISTORY RECORD CHECK ON AN INDIVIDUAL. AN ORDER SEALING
20 CONVICTION RECORDS SHALL NOT BE CONSTRUED TO VACATE A
21 CONVICTION. A CONVICTION SEALED PURSUANT TO THIS SECTION MAY BE
22 USED BY A CRIMINAL JUSTICE AGENCY, LAW ENFORCEMENT AGENCY,
23 COURT, OR PROSECUTING ATTORNEY FOR ANY LAWFUL PURPOSE RELATING
24 TO THE INVESTIGATION OR PROSECUTION OF ANY CASE, INCLUDING BUT
25 NOT LIMITED TO ANY SUBSEQUENT CASE THAT IS FILED AGAINST THE
26 DEFENDANT, OR FOR ANY OTHER LAWFUL PURPOSE WITHIN THE SCOPE OF
27 HIS, HER, OR ITS DUTIES. IF A DEFENDANT IS CONVICTED OF A NEW

1 CRIMINAL OFFENSE AFTER AN ORDER SEALING CONVICTION RECORDS IS
2 ENTERED, THE COURT SHALL ORDER THE CONVICTION RECORDS TO BE
3 UNSEALED. A PARTY OR AGENCY REQUIRED BY LAW TO CONDUCT A
4 CRIMINAL HISTORY RECORD CHECK SHALL BE AUTHORIZED TO USE ANY
5 SEALED CONVICTION FOR THE LAWFUL PURPOSE FOR WHICH THE CRIMINAL
6 HISTORY RECORD CHECK IS REQUIRED BY LAW.

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

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

24 (II) (A) UPON THE FILING OF A PETITION, THE COURT SHALL
25 REVIEW THE PETITION AND DETERMINE WHETHER THERE ARE GROUNDS
26 UNDER THIS SECTION TO PROCEED TO A HEARING ON THE PETITION. IF THE
27 COURT DETERMINES THAT THE PETITION ON ITS FACE IS INSUFFICIENT OR

1 IF THE COURT DETERMINES THAT, AFTER TAKING JUDICIAL NOTICE OF
2 MATTERS OUTSIDE THE PETITION, THE DEFENDANT IS NOT ENTITLED TO
3 RELIEF UNDER THIS SECTION, THE COURT SHALL ENTER AN ORDER DENYING
4 THE PETITION AND MAIL A COPY OF THE ORDER TO THE DEFENDANT. THE
5 COURT'S ORDER SHALL SPECIFY THE REASONS FOR THE DENIAL OF THE
6 PETITION.

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

13 (c) AFTER THE HEARING DESCRIBED IN SUBPARAGRAPH (II) OF
14 PARAGRAPH (b) OF THIS SUBSECTION (2) IS CONDUCTED AND IF THE COURT
15 FINDS THAT THE HARM TO THE PRIVACY OF THE DEFENDANT OR THE
16 DANGERS OF UNWARRANTED, ADVERSE CONSEQUENCES TO THE
17 DEFENDANT OUTWEIGH THE PUBLIC INTEREST IN RETAINING THE
18 CONVICTION RECORDS, THE COURT MAY ORDER THE CONVICTION RECORDS,
19 EXCEPT BASIC IDENTIFICATION INFORMATION, TO BE SEALED. IN MAKING
20 THIS DETERMINATION, THE COURT SHALL, AT A MINIMUM, CONSIDER THE
21 SEVERITY OF THE OFFENSE THAT IS THE BASIS OF THE CONVICTION
22 RECORDS SOUGHT TO BE SEALED, THE CRIMINAL HISTORY OF THE
23 DEFENDANT, THE NUMBER OF CONVICTIONS AND DATES OF THE
24 CONVICTIONS FOR WHICH THE DEFENDANT IS SEEKING TO HAVE THE
25 RECORDS SEALED, AND THE NEED FOR THE GOVERNMENT AGENCY TO
26 RETAIN THE RECORDS. AN ORDER ENTERED PURSUANT TO THIS PARAGRAPH
27 (c) SHALL BE DIRECTED TO EACH CUSTODIAN WHO MAY HAVE CUSTODY OF

1 ANY PART OF THE CONVICTION RECORDS THAT ARE THE SUBJECT OF THE
2 ORDER. WHENEVER A COURT ENTERS AN ORDER SEALING CONVICTION
3 RECORDS PURSUANT TO THIS PARAGRAPH (c), THE DEFENDANT SHALL
4 PROVIDE THE COLORADO BUREAU OF INVESTIGATION AND EACH
5 CUSTODIAN OF THE CONVICTION RECORDS WITH A COPY OF THE ORDER.
6 THE PETITIONER SHALL PROVIDE A PRIVATE CUSTODIAN WITH A COPY OF
7 THE ORDER AND SEND THE PRIVATE CUSTODIAN AN ELECTRONIC
8 NOTIFICATION OF THE ORDER. EACH PRIVATE CUSTODIAN THAT RECEIVES
9 A COPY OF THE ORDER FROM THE PETITIONER SHALL REMOVE THE RECORDS
10 THAT ARE SUBJECT TO AN ORDER FROM ITS DATABASE. THE DEFENDANT
11 SHALL PAY TO THE BUREAU ANY COSTS RELATED TO THE SEALING OF HIS
12 OR HER CRIMINAL CONVICTION RECORDS IN THE CUSTODY OF THE BUREAU.
13 THEREAFTER, THE DEFENDANT MAY REQUEST AND THE COURT MAY GRANT
14 AN ORDER SEALING THE CIVIL CASE IN WHICH THE CONVICTION RECORDS
15 WERE SEALED.

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

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

26 (f) (I) EXCEPT AS OTHERWISE PROVIDED IN SUBPARAGRAPH (III) OF
27 PARAGRAPH (a) OF THIS SUBSECTION (2) OR IN SUBPARAGRAPHS (II) AND

1 (III) OF THIS PARAGRAPH (f), EMPLOYERS, STATE AND LOCAL
2 GOVERNMENT AGENCIES, OFFICIALS, LANDLORDS, AND EMPLOYEES SHALL
3 NOT, IN ANY APPLICATION OR INTERVIEW OR IN ANY OTHER WAY, REQUIRE
4 AN APPLICANT TO DISCLOSE ANY INFORMATION CONTAINED IN SEALED
5 CONVICTION RECORDS. AN APPLICANT NEED NOT, IN RESPONSE TO ANY
6 QUESTION CONCERNING CONVICTION RECORDS THAT HAVE BEEN SEALED,
7 INCLUDE A REFERENCE TO OR INFORMATION CONCERNING THE SEALED
8 CONVICTION RECORDS AND MAY STATE THAT THE APPLICANT HAS NOT
9 BEEN CRIMINALLY CONVICTED.

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

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

24 (IV) ANY MEMBER OF THE PUBLIC MAY PETITION THE COURT TO
25 UNSEAL ANY FILE THAT HAS BEEN PREVIOUSLY SEALED UPON A SHOWING
26 THAT CIRCUMSTANCES HAVE COME INTO EXISTENCE SINCE THE ORIGINAL
27 SEALING AND, AS A RESULT, THE PUBLIC INTEREST IN DISCLOSURE NOW

1 OUTWEIGHS THE DEFENDANT'S INTEREST IN PRIVACY.

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

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

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

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

25 (b) IN ADDITION TO, AND NOT IN LIEU OF, THE REQUIREMENT
26 DESCRIBED IN PARAGRAPH (a) OF THIS SUBSECTION (3), IF A DEFENDANT
27 IS SENTENCED TO PROBATION FOLLOWING A CONVICTION OF A PETTY OR

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

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

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

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

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

19 **SECTION 5. In Colorado Revised Statutes, 8-2-201, add (3) as**
20 **follows:**

21 **8-2-201. Damages - fellow servant rule abolished - limitation**
22 **on admission of criminal history.** (3) **IN A JUDICIAL OR ADMINISTRATIVE**
23 **PROCEEDING ALLEGING NEGLIGENCE OR OTHER FAULT, AN ORDER OF**
24 **COLLATERAL RELIEF OR A CERTIFICATE OF REHABILITATION ISSUED UNDER**
25 **ARTICLE 24 OF TITLE 16 MAY BE INTRODUCED AS EVIDENCE OF A PERSON'S**
26 **DUE CARE IN HIRING, RETAINING, LICENSING, LEASING TO, ADMITTING TO**
27 **A SCHOOL OR PROGRAM, OR OTHERWISE TRANSACTING BUSINESS OR**

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

4 **SECTION 6.** In Colorado Revised Statutes, 24-5-101, add (3) as
5 follows:

6 **24-5-101. Effect of criminal conviction on employment rights.**

7 (3) WHENEVER A STATE OR LOCAL AGENCY IS REQUIRED TO MAKE A
8 FINDING DESCRIBED IN SUBSECTION (2) OF THIS SECTION, AN ORDER OF
9 COLLATERAL RELIEF OR A CERTIFICATE OF REHABILITATION ISSUED UNDER
10 ARTICLE 24 OF TITLE 16, IF ISSUED TO A PERSON SEEKING EMPLOYMENT
11 AND APPLICABLE TO THE TYPE OF EMPLOYMENT SOUGHT, SHALL CREATE
12 A PRESUMPTION THAT THE PERSON IS OF GOOD MORAL CHARACTER AS IT
13 RELATES TO THE EMPLOYMENT SOUGHT.

14 **SECTION 7.** In Colorado Revised Statutes, 24-72-308, amend
15 (1) (a) (I) and (1) (a) (III) introductory portion as follows:

16 **24-72-308. Sealing of arrest and criminal records other than**
17 **convictions.** (1) (a) (I) Except as otherwise provided in subparagraphs
18 (II) and (III) of this paragraph (a), any person in interest may petition the
19 district court of the district in which any arrest and criminal records
20 information pertaining to said person in interest is located for the sealing
21 of all of said records, except basic identification information, if the
22 records are a record of official actions involving a criminal offense for
23 which said person in interest was not charged AND THE STATUTE OF
24 LIMITATIONS FOR THE OFFENSE FOR WHICH THE PERSON WAS ARRESTED
25 THAT HAS THE LONGEST STATUTE OF LIMITATIONS HAS RUN, in any case
26 which was completely dismissed, or in any case in which said person in
27 interest was acquitted.

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

8 **SECTION 8. Act subject to petition - effective date.** This act
9 takes effect at 12:01 a.m. on the day following the expiration of the
10 ninety-day period after final adjournment of the general assembly (August
11 8, 2012, if adjournment sine die is on May 9, 2012); except that, if a
12 referendum petition is filed pursuant to section 1 (3) of article V of the
13 state constitution against this act or an item, section, or part of this act
14 within such period, then the act, item, section, or part will not take effect
15 unless approved by the people at the general election to be held in
16 November 2012 and, in such case, will take effect on the date of the
17 official declaration of the vote thereon by the governor.