

Second Regular Session
Sixty-eighth General Assembly
STATE OF COLORADO

INTRODUCED

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

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; OR
- 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 (2) THIS ARTICLE DOES NOT AFFECT OR PRECLUDE:

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

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

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

5 **16-24-105. Notice of collateral consequences in pretrial**
6 **proceeding.** WHEN AN INDIVIDUAL RECEIVES FORMAL NOTICE THAT THE
7 INDIVIDUAL IS CHARGED WITH AN OFFENSE, THE COURT AT THE
8 INDIVIDUAL'S FIRST COURT APPEARANCE SHALL COMMUNICATE THE
9 FOLLOWING INFORMATION TO THE INDIVIDUAL IN WRITING AND IN THE
10 FOLLOWING FORM:

11 NOTICE OF ADDITIONAL LEGAL CONSEQUENCES

12 IF YOU PLEAD GUILTY OR ARE CONVICTED OF AN OFFENSE,
13 YOU MAY SUFFER ADDITIONAL LEGAL CONSEQUENCES
14 BEYOND JAIL OR PRISON, PERIODS OF PROBATION OR
15 PAROLE, AND FINES. THESE CONSEQUENCES MAY INCLUDE:

- 16 ! BEING UNABLE TO GET OR KEEP SOME
17 LICENSES, PERMITS, OR JOBS;
- 18 ! BEING UNABLE TO GET OR KEEP BENEFITS
19 SUCH AS PUBLIC HOUSING OR EDUCATION;
- 20 ! RECEIVING A HARSHER SENTENCE IF YOU ARE
21 CONVICTED OF ANOTHER OFFENSE IN THE
22 FUTURE;
- 23 ! HAVING THE GOVERNMENT TAKE YOUR
24 PROPERTY; AND
- 25 ! BEING UNABLE TO VOTE OR POSSESS A
26 FIREARM.

27 IF YOU ARE NOT A UNITED STATES CITIZEN, A GUILTY PLEA

1 OR CONVICTION MAY ALSO RESULT IN YOUR DEPORTATION,
2 REMOVAL, EXCLUSION FROM ADMISSION TO THE UNITED
3 STATES, OR DENIAL OF CITIZENSHIP.

4 FURTHER INFORMATION ABOUT THE COLLATERAL
5 CONSEQUENCES OF A CONVICTION IS AVAILABLE ON THE
6 INTERNET AT THE STATE PUBLIC DEFENDER'S WEB SITE.

7 **16-24-106. Notice of collateral consequences at sentencing and**
8 **upon release.** (1) AT AN INDIVIDUAL'S SENTENCING HEARING, THE COURT
9 SHALL ADVISE THE INDIVIDUAL IN WRITING:

10 (a) THAT COLLATERAL CONSEQUENCES MAY APPLY BECAUSE OF
11 THE CONVICTION;

12 (b) THAT THE STATE PUBLIC DEFENDER HAS COMPILED A LIST OF
13 LAWS THAT IMPOSE COLLATERAL CONSEQUENCES RELATED TO A CRIMINAL
14 CONVICTION AND THAT THE LIST IS AVAILABLE ON THE STATE PUBLIC
15 DEFENDER'S WEB SITE;

16 (c) OF CONTACT INFORMATION FOR GOVERNMENT OR NONPROFIT
17 AGENCIES, GROUPS, OR ORGANIZATIONS, IF ANY, OFFERING ASSISTANCE TO
18 INDIVIDUALS FACING COLLATERAL CONSEQUENCES OF CONVICTIONS; AND

19 (d) OF THE TIME AT WHICH THE VOTING RIGHTS OF AN INDIVIDUAL
20 CONVICTED OF AN OFFENSE ARE RESTORED UNDER COLORADO LAW.

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

26 **16-24-107. Sentencing order - collateral relief.** (1) AT THE TIME
27 OF SENTENCING, A COURT MAY ENTER AN ORDER OF COLLATERAL RELIEF

1 IF THE COURT SENTENCES THE DEFENDANT TO PROBATION OR TO A
2 COMMUNITY CORRECTIONS PROGRAM FOR THE PURPOSE OF ENHANCING
3 THE DEFENDANT'S EMPLOYMENT OR EMPLOYMENT PROSPECTS AND TO
4 IMPROVE THE DEFENDANT'S LIKELIHOOD OF SUCCESS ON PROBATION OR IN
5 THE COMMUNITY CORRECTIONS PROGRAM. IF THE COURT ISSUES AN ORDER
6 OF COLLATERAL RELIEF, THE DEFENDANT DOES NOT HAVE TO PAY A FILING
7 FEE.

8 (2) AN ORDER OF COLLATERAL RELIEF MAY RELIEVE A DEFENDANT
9 OF ANY COLLATERAL CONSEQUENCES OF THE CONVICTION, WHETHER IN
10 HOUSING OR EMPLOYMENT BARRIERS OR ANY OTHER SANCTION OR
11 DISQUALIFICATION THAT THE COURT SHALL SPECIFY, INCLUDING BUT NOT
12 LIMITED TO STATUTORY, REGULATORY, OR OTHER COLLATERAL
13 CONSEQUENCES THAT THE COURT MAY SEE FIT TO RELIEVE THAT WILL
14 ASSIST THE DEFENDANT IN SUCCESSFULLY COMPLETING PROBATION OR A
15 COMMUNITY CORRECTIONS SENTENCE.

16 (3) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, A ORDER
17 OF COLLATERAL RELIEF CANNOT RELIEVE ANY EMPLOYMENT-RELATED
18 COLLATERAL CONSEQUENCES IMPOSED BY LAW BY REASON OF THE
19 APPLICANT'S CONVICTION OF A CRIME THAT WOULD PREVENT HIS OR HER
20 EMPLOYMENT BY THE DEPARTMENT OF CORRECTIONS, DIVISION OF YOUTH
21 CORRECTIONS IN THE DEPARTMENT OF HUMAN SERVICES, OR ANY OTHER
22 LAW ENFORCEMENT AGENCY IN THE STATE OF COLORADO.

23 (4) IF THE COURT ISSUES AN ORDER OF COLLATERAL RELIEF, IT
24 SHALL PROVIDE A COPY OF THE ORDER OF COLLATERAL RELIEF TO THE
25 CHIEF INFORMATION OFFICER OF THE COLORADO INTEGRATED CRIMINAL
26 JUSTICE INFORMATION SYSTEM, AND THE CHIEF INFORMATION OFFICER
27 SHALL ENTER THE ORDER OF COLLATERAL RELIEF INTO THE CRIMINAL

1 JUSTICE INFORMATION SYSTEM.

2 **16-24-108. Certificate of rehabilitation.** (1) A COURT MAY ISSUE
3 A CERTIFICATE OF REHABILITATION THAT RELIEVES A PERSON WITH A
4 CRIMINAL RECORD OF ANY OR ALL COLLATERAL CONSEQUENCES OF
5 CRIMINAL CONVICTIONS, WHETHER IN HOUSING OR EMPLOYMENT
6 BARRIERS OR ANY OTHER SANCTION OR DISQUALIFICATION THAT THE
7 COURT SHALL SPECIFY, INCLUDING BUT NOT LIMITED TO STATUTORY,
8 REGULATORY, OR OTHER COLLATERAL CONSEQUENCES THAT THE COURT
9 MAY SEE FIT TO RELIEVE.

10 (2) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, A
11 CERTIFICATE OF REHABILITATION CANNOT RELIEVE ANY
12 EMPLOYMENT-RELATED COLLATERAL CONSEQUENCES IMPOSED BY LAW BY
13 REASON OF THE APPLICANT'S CONVICTION OF A CRIME THAT WOULD
14 PREVENT HIS OR HER EMPLOYMENT BY THE DEPARTMENT OF CORRECTIONS,
15 DIVISION OF YOUTH CORRECTIONS IN THE DEPARTMENT OF HUMAN
16 SERVICES, OR ANY OTHER LAW ENFORCEMENT AGENCY IN THE STATE OF
17 COLORADO.

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

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

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

26 (II) IF HE OR SHE IS NOT A CITIZEN OF COLORADO, THAT HIS OR HER
27 CONVICTION FROM ANOTHER JURISDICTION IS CREATING, WILL CREATE, OR

1 HAS A DIRECT COLLATERAL CONSEQUENCE IN COLORADO.

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

14 (b) A COURT MAY ORDER A CERTIFICATE OF REHABILITATION
15 AFTER:

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

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

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

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

27 (A) TWO OR MORE CONVICTIONS OF FELONIES CHARGED IN

1 SEPARATE COUNTS OF ONE INDICTMENT OR INFORMATION ARE DEEMED TO
2 BE ONE CONVICTION;

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

7 (b) A COURT SHALL NOT ISSUE A CERTIFICATE OF REHABILITATION
8 IF THE DEFENDANT:

9 (I) HAS BEEN CONVICTED OF A FELONY THAT RESULTED IN
10 PERMANENT DISABILITY OR SERIOUS BODILY INJURY OF ANOTHER;

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

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

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

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

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

1 C.R.S.

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

5 (b) THE COURT MAY HEAR TESTIMONY FROM VICTIMS OR ANY
6 PROPONENT OR OPPONENT OF THE APPLICATION.

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 INTEGRATED CRIMINAL
2 JUSTICE INFORMATION SYSTEM, AND THE CHIEF INFORMATION OFFICER
3 SHALL ENTER THE CERTIFICATE OF REHABILITATION INTO THE CRIMINAL
4 JUSTICE INFORMATION SYSTEM.

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) A COURT'S DECISION DENYING OR GRANTING RELIEF
11 PURSUANT TO THIS SECTION IS NOT PART OF THE DEFENDANT'S CRIMINAL
12 CASE AND MAY NOT BE APPEALED THROUGH THE DEFENDANT'S CRIMINAL
13 CASE.

14 **SECTION 2.** In Colorado Revised Statutes, **add** 16-20.5-109 as
15 follows:

16 **16-20.5-109. Removal of arrest records.** ANNUALLY, THE CHIEF
17 INFORMATION OFFICER SHALL REMOVE ALL ARREST RECORDS FROM THE
18 CICJIS THAT DID NOT RESULT IN A CONVICTION AND FOR WHICH THE
19 STATUTE OF LIMITATIONS HAS RUN.

20 **SECTION 3.** In Colorado Revised Statutes, 24-34-104, **add** (9)
21 (b) (VIII.5) as follows:

22 **24-34-104. General assembly review of regulatory agencies**
23 **and functions for termination, continuation, or reestablishment.**

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

1 (VIII.5) WHETHER THE AGENCY THROUGH ITS LICENSING OR
2 CERTIFICATION PROCESS IMPOSES ANY DISQUALIFICATIONS ON APPLICANTS
3 BASED ON PAST CRIMINAL HISTORY AND, IF SO, WHETHER THE
4 DISQUALIFICATIONS SERVE PUBLIC SAFETY OR COMMERCIAL OR CONSUMER
5 PROTECTION INTERESTS. TO ASSIST IN CONSIDERING THIS FACTOR, THE
6 ANALYSIS PREPARED PURSUANT TO SUBPARAGRAPH (I) OF PARAGRAPH (a)
7 OF SUBSECTION (8) OF THIS SECTION SHALL INCLUDE DATA ON THE
8 NUMBER OF LICENSES OR CERTIFICATIONS THAT WERE DENIED, REVOKED,
9 OR SUSPENDED BASED ON A DISQUALIFICATION AND THE BASIS FOR THE
10 DISQUALIFICATION.

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

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

26 (d) The benefit to the public that would result from the proposed
27 regulation; and

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

2 (f) A DESCRIPTION OF ANY ANTICIPATED DISQUALIFICATIONS ON
3 AN APPLICANT FOR LICENSURE, CERTIFICATION, RELICENSURE, OR
4 RECERTIFICATION BASED ON CRIMINAL HISTORY AND HOW THE
5 DISQUALIFICATIONS SERVE PUBLIC SAFETY OR CONSUMER PROTECTION
6 INTERESTS.

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

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

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

15 (IV) WHETHER THE IMPOSITION OF ANY DISQUALIFICATIONS ON
16 APPLICANTS FOR LICENSURE, CERTIFICATION, RELICENSURE, OR
17 RECERTIFICATION BASED ON CRIMINAL HISTORY SERVES PUBLIC SAFETY OR
18 COMMERCIAL OR CONSUMER PROTECTION INTERESTS.

19 **SECTION 5.** In Colorado Revised Statutes, **add** 24-72-308.7 as
20 follows:

21 **24-72-308.7. Sealing of criminal conviction records**
22 **information for petty offenses and municipal offenses for convictions**
23 **entered on or after July 1, 2008, and prior to July 1, 2011.**

24 (1) **Definitions.** FOR PURPOSES OF THIS SECTION, "CONVICTION RECORDS"
25 MEANS ARREST AND CRIMINAL RECORDS INFORMATION AND ANY RECORDS
26 PERTAINING TO A JUDGMENT OF CONVICTION.

27 (2) **Sealing of conviction records.** (a) (I) A DEFENDANT MAY

1 PETITION THE DISTRICT COURT OF THE DISTRICT IN WHICH ANY
2 CONVICTION RECORDS PERTAINING TO THE DEFENDANT FOR A PETTY
3 OFFENSE OR MUNICIPAL VIOLATION ARE LOCATED FOR THE SEALING OF THE
4 CONVICTION RECORDS, EXCEPT BASIC IDENTIFYING INFORMATION, IF:

5 (A) THE PETITION IS FILED THREE OR MORE YEARS AFTER THE DATE
6 OF THE FINAL DISPOSITION OF ALL CRIMINAL PROCEEDINGS AGAINST THE
7 DEFENDANT OR THE RELEASE OF THE DEFENDANT FROM SUPERVISION
8 CONCERNING A CRIMINAL CONVICTION, WHICHEVER IS LATER; AND

9 (B) THE DEFENDANT HAS NOT BEEN CHARGED OR CONVICTED FOR
10 A CRIMINAL OFFENSE IN THE THREE OR MORE YEARS SINCE THE DATE OF
11 THE FINAL DISPOSITION OF ALL CRIMINAL PROCEEDINGS AGAINST HIM OR
12 HER OR THE DATE OF THE DEFENDANT'S RELEASE FROM SUPERVISION,
13 WHICHEVER IS LATER.

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

21 (III) AN ORDER SEALING CONVICTION RECORDS SHALL NOT DENY
22 ACCESS TO THE CRIMINAL RECORDS OF A DEFENDANT BY ANY COURT, LAW
23 ENFORCEMENT AGENCY, CRIMINAL JUSTICE AGENCY, PROSECUTING
24 ATTORNEY, OR PARTY OR AGENCY REQUIRED BY LAW TO CONDUCT A
25 CRIMINAL HISTORY RECORD CHECK ON AN INDIVIDUAL. AN ORDER SEALING
26 CONVICTION RECORDS SHALL NOT BE CONSTRUED TO VACATE A
27 CONVICTION. A CONVICTION SEALED PURSUANT TO THIS SECTION MAY BE

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

13 (IV) CONVICTION RECORDS MAY NOT BE SEALED IF THE
14 DEFENDANT STILL OWES RESTITUTION, FINES, COURT COSTS, LATE FEES, OR
15 OTHER FEES ORDERED BY THE COURT IN THE CASE THAT IS THE SUBJECT OF
16 THE PETITION TO SEAL CONVICTION RECORDS, UNLESS THE COURT THAT
17 ENTERED THE ORDER FOR RESTITUTION, FINES, COURT COSTS, LATE FEES,
18 OR OTHER FEES HAS VACATED THE ORDER.

19 (b) (I) A PETITION TO SEAL CONVICTION RECORDS PURSUANT TO
20 THIS SECTION SHALL INCLUDE A LISTING OF EACH CUSTODIAN OF THE
21 RECORDS TO WHOM THE SEALING ORDER IS DIRECTED AND ANY
22 INFORMATION THAT ACCURATELY AND COMPLETELY IDENTIFIES THE
23 RECORDS TO BE SEALED. A VERIFIED COPY OF THE DEFENDANT'S CRIMINAL
24 HISTORY, CURRENT THROUGH AT LEAST THE TWENTIETH DAY PRIOR TO THE
25 DATE OF THE FILING OF THE PETITION, SHALL BE SUBMITTED TO THE COURT
26 BY THE DEFENDANT ALONG WITH THE PETITION AT THE TIME OF FILING,
27 BUT IN NO EVENT LATER THAN THE TENTH DAY AFTER THE PETITION IS

1 FILED. THE DEFENDANT SHALL BE RESPONSIBLE FOR OBTAINING AND
2 PAYING FOR HIS OR HER CRIMINAL HISTORY RECORD.

3 (II) (A) UPON THE FILING OF A PETITION, THE COURT SHALL
4 REVIEW THE PETITION AND DETERMINE WHETHER THERE ARE GROUNDS
5 UNDER THIS SECTION TO PROCEED TO A HEARING ON THE PETITION. IF THE
6 COURT DETERMINES THAT THE PETITION ON ITS FACE IS INSUFFICIENT OR
7 IF THE COURT DETERMINES THAT, AFTER TAKING JUDICIAL NOTICE OF
8 MATTERS OUTSIDE THE PETITION, THE DEFENDANT IS NOT ENTITLED TO
9 RELIEF UNDER THIS SECTION, THE COURT SHALL ENTER AN ORDER DENYING
10 THE PETITION AND MAIL A COPY OF THE ORDER TO THE DEFENDANT. THE
11 COURT'S ORDER SHALL SPECIFY THE REASONS FOR THE DENIAL OF THE
12 PETITION.

13 (B) IF THE COURT DETERMINES THAT THE PETITION IS SUFFICIENT
14 ON ITS FACE AND THAT NO OTHER GROUNDS EXIST AT THAT TIME FOR THE
15 COURT TO DENY THE PETITION UNDER THIS SECTION, THE COURT SHALL SET
16 A DATE FOR A HEARING, AND THE DEFENDANT SHALL NOTIFY BY CERTIFIED
17 MAIL THE PROSECUTING ATTORNEY, THE ARRESTING AGENCY, AND ANY
18 OTHER PERSON OR AGENCY IDENTIFIED BY THE DEFENDANT.

19 (c) AFTER THE HEARING DESCRIBED IN SUBPARAGRAPH (II) OF
20 PARAGRAPH (b) OF THIS SUBSECTION (2) IS CONDUCTED AND IF THE COURT
21 FINDS THAT THE HARM TO THE PRIVACY OF THE DEFENDANT OR THE
22 DANGERS OF UNWARRANTED, ADVERSE CONSEQUENCES TO THE
23 DEFENDANT OUTWEIGH THE PUBLIC INTEREST IN RETAINING THE
24 CONVICTION RECORDS, THE COURT MAY ORDER THE CONVICTION RECORDS,
25 EXCEPT BASIC IDENTIFICATION INFORMATION, TO BE SEALED. IN MAKING
26 THIS DETERMINATION, THE COURT SHALL, AT A MINIMUM, CONSIDER THE
27 SEVERITY OF THE OFFENSE THAT IS THE BASIS OF THE CONVICTION

1 RECORDS SOUGHT TO BE SEALED, THE CRIMINAL HISTORY OF THE
2 DEFENDANT, THE NUMBER OF CONVICTIONS AND DATES OF THE
3 CONVICTIONS FOR WHICH THE DEFENDANT IS SEEKING TO HAVE THE
4 RECORDS SEALED, AND THE NEED FOR THE GOVERNMENT AGENCY TO
5 RETAIN THE RECORDS. AN ORDER ENTERED PURSUANT TO THIS PARAGRAPH
6 (c) SHALL BE DIRECTED TO EACH CUSTODIAN WHO MAY HAVE CUSTODY OF
7 ANY PART OF THE CONVICTION RECORDS THAT ARE THE SUBJECT OF THE
8 ORDER. WHENEVER A COURT ENTERS AN ORDER SEALING CONVICTION
9 RECORDS PURSUANT TO THIS PARAGRAPH (c), THE DEFENDANT SHALL
10 PROVIDE THE COLORADO BUREAU OF INVESTIGATION AND EACH
11 CUSTODIAN OF THE CONVICTION RECORDS WITH A COPY OF THE ORDER.
12 THE PETITIONER SHALL PROVIDE A PRIVATE CUSTODIAN WITH A COPY OF
13 THE ORDER AND SEND THE PRIVATE CUSTODIAN AN ELECTRONIC
14 NOTIFICATION OF THE ORDER. EACH PRIVATE CUSTODIAN THAT RECEIVES
15 A COPY OF THE ORDER FROM THE PETITIONER SHALL REMOVE THE RECORDS
16 THAT ARE SUBJECT TO AN ORDER FROM ITS DATABASE. THE DEFENDANT
17 SHALL PAY TO THE BUREAU ANY COSTS RELATED TO THE SEALING OF HIS
18 OR HER CRIMINAL CONVICTION RECORDS IN THE CUSTODY OF THE BUREAU.
19 THEREAFTER, THE DEFENDANT MAY REQUEST AND THE COURT MAY GRANT
20 AN ORDER SEALING THE CIVIL CASE IN WHICH THE CONVICTION RECORDS
21 WERE SEALED.

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

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

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

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

27 (III) THE PROVISIONS OF SUBPARAGRAPH (I) OF THIS PARAGRAPH

1 (f) SHALL NOT APPLY TO A CRIMINAL JUSTICE AGENCY OR TO AN
2 APPLICANT TO A CRIMINAL JUSTICE AGENCY.

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

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

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

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

25 (3) **Advisements.** (a) WHENEVER A DEFENDANT IS SENTENCED
26 FOLLOWING A CONVICTION OF A PETTY OR MUNICIPAL OFFENSE, THE
27 COURT SHALL PROVIDE HIM OR HER WITH A WRITTEN ADVISEMENT OF HIS

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

4 (b) IN ADDITION TO, AND NOT IN LIEU OF, THE REQUIREMENT
5 DESCRIBED IN PARAGRAPH (a) OF THIS SUBSECTION (3), IF A DEFENDANT
6 IS SENTENCED TO PROBATION FOLLOWING A CONVICTION OF A PETTY OR
7 MUNICIPAL OFFENSE, THE PROBATION DEPARTMENT, UPON THE
8 TERMINATION OF THE DEFENDANT'S PROBATION, SHALL PROVIDE THE
9 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) THE PROVISIONS OF THIS SECTION SHALL NOT APPLY TO
14 CONVICTION RECORDS THAT ARE IN THE POSSESSION OF A CRIMINAL
15 JUSTICE AGENCY WHEN AN INQUIRY CONCERNING THE CONVICTION
16 RECORDS IS MADE BY ANOTHER CRIMINAL JUSTICE AGENCY.

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

20 (a) THE RULES OF DISCOVERY OR THE RULES OF EVIDENCE
21 PROMULGATED BY THE SUPREME COURT OF COLORADO OR ANY OTHER
22 STATE OR FEDERAL COURT; OR

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

25 **SECTION 6. Act subject to petition - effective date.** This act
26 takes effect at 12:01 a.m. on the day following the expiration of the
27 ninety-day period after final adjournment of the general assembly (August

1 8, 2012, if adjournment sine die is on May 9, 2012); except that, if a
2 referendum petition is filed pursuant to section 1 (3) of article V of the
3 state constitution against this act or an item, section, or part of this act
4 within such period, then the act, item, section, or part will not take effect
5 unless approved by the people at the general election to be held in
6 November 2012 and, in such case, will take effect on the date of the
7 official declaration of the vote thereon by the governor.