

HOUSE COMMITTEE OF REFERENCE REPORT

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Chairman of Committee

April 2, 2013  
Date

Committee on Judiciary.

After consideration on the merits, the Committee recommends the following:

HB13-1082 be amended as follows, and as so amended, be referred to the Committee of the Whole with favorable recommendation:

- 1 Amend printed bill, strike everything below the enacting clause and  
2 substitute:
- 3 "SECTION 1. In Colorado Revised Statutes, 19-1-306, **amend**  
4 (2) (a), (3), (5) (c) (I), (6), and (7); and **add** (5) (a.5) and (10) as follows:  
5 **19-1-306. Expungement of juvenile delinquent records.**  
6 (2) (a) AT THE TIME OF THE ADJUDICATION, the court shall advise THE  
7 ADJUDICATED JUVENILE AND any ~~person~~ RESPONDENT PARENT OR  
8 GUARDIAN of the right to petition the court for the expungement of ~~such~~  
9 ~~person's~~ THE JUVENILE'S record. ~~at the time of adjudication, or~~ The court,  
10 on its own motion or the motion of the juvenile probation department, ~~or~~  
11 the juvenile parole department, THE JUVENILE, A RESPONDENT PARENT OR  
12 GUARDIAN, OR A COURT-APPOINTED GUARDIAN AD LITEM, may initiate  
13 expungement proceedings concerning the record of any juvenile who has  
14 been under the jurisdiction of the court.
- 15 (3) AFTER EXPUNGEMENT, basic identification information on the  
16 juvenile and a list of any state and local agencies and officials having  
17 contact with the juvenile, as they appear from the records, shall not be  
18 open to the public but shall be available to a district attorney, local law  
19 enforcement agency, ~~and~~ the department of human services, THE STATE  
20 JUDICIAL DEPARTMENT, AND THE VICTIM AS DEFINED IN SECTION  
21 24-4.1-302(5), C.R.S.; except that such information shall not be available  
22 to an agency of the military forces of the United States.
- 23 (5) (a.5) NOTWITHSTANDING ANY ORDER FOR EXPUNGEMENT  
24 PURSUANT TO THIS SECTION, ANY CRIMINAL JUSTICE RECORD OF A  
25 JUVENILE WHO HAS BEEN CHARGED, ADJUDICATED, OR CONVICTED AS A

1 REPEAT, MANDATORY, VIOLENT, OR AGGRAVATED JUVENILE OFFENDER OR  
2 FOR AN OFFENSE INVOLVING UNLAWFUL SEXUAL BEHAVIOR, AS DEFINED  
3 IN SECTION 16-22-102 (9), C.R.S., SHALL BE AVAILABLE FOR USE BY A  
4 COURT, A DISTRICT ATTORNEY, ANY LAW ENFORCEMENT AGENCY, ANY  
5 AGENCY OF THE STATE JUDICIAL DEPARTMENT IN ANY SUBSEQUENT  
6 CRIMINAL INVESTIGATION, PROSECUTION, OR ADJUDICATION UNDER THIS  
7 TITLE OR DURING PROBATION OR PAROLE SUPERVISION, IF OTHERWISE  
8 PERMITTED BY LAW.

9 (c) The court may order expunged all records in the petitioner's  
10 case in the custody of the court and any records in the custody of any  
11 other agency or official if at the hearing the court finds that:

12 (I) The petitioner who is the subject of the hearing has not been  
13 convicted of, OR ADJUDICATED A JUVENILE DELINQUENT FOR, ~~a~~ ANY  
14 felony OFFENSE or of a misdemeanor ~~and has not been adjudicated a~~  
15 ~~juvenile delinquent~~ OFFENSE INVOLVING DOMESTIC VIOLENCE, UNLAWFUL  
16 SEXUAL BEHAVIOR, OR POSSESSION OF A WEAPON since the termination of  
17 the court's jurisdiction or the petitioner's unconditional release from  
18 parole supervision;

19 (6) A person is eligible to petition for an expungement order:

20 (a) Immediately upon: ~~a finding of not guilty at an adjudicatory~~  
21 ~~trial;~~

22 (I) A FINDING OF NOT GUILTY AT AN ADJUDICATORY TRIAL;

23 (II) DISMISSAL OF THE PETITION IN ITS ENTIRETY AS A RESULT OF  
24 NONPROSECUTION OF THE OFFENSE; OR

25 (III) SUCCESSFUL COMPLETION OF A JUVENILE DIVERSION  
26 PROGRAM, A DEFERRED ADJUDICATION, OR AN INFORMAL ADJUSTMENT;

27 (a.5) At any time for the purposes described in paragraph (d) of  
28 subsection (5) of this section;

29 (b) One year from THE DATE OF:

30 (I) ~~The date of~~ A law enforcement contact that did not result in a  
31 referral to another agency; OR

32 (II) ~~The completion of a juvenile diversion program or informal~~  
33 ~~adjustment~~ TERMINATION OF THE COURT'S JURISDICTION OVER THE  
34 PETITIONER AFTER SUCCESSFUL COMPLETION OF PROBATION;

35 (c) ~~Four~~ THREE years from the date of:

36 (I) ~~The termination of the court's jurisdiction over the petitioner;~~

37 (II) The petitioner's unconditional release from commitment to the  
38 department of human services; or

39 (III) The petitioner's unconditional release from parole  
40 supervision; OR

41 (IV) (Deleted by amendment, L. 96, p. 1163, § 6, effective  
42 January 1, 1997.)

1 (d) ~~For~~ FIVE years from the date of THE TERMINATION OF THE  
2 COURT'S JURISDICTION OVER THE PETITIONER OR THE PETITIONER'S  
3 UNCONDITIONAL RELEASE FROM PROBATION OR PAROLE SUPERVISION,  
4 WHICHEVER DATE IS LATER, IF:

5 (I) ~~The termination of the court's jurisdiction over the juvenile or~~  
6 ~~the juvenile's unconditional release from parole supervision, whichever~~  
7 ~~date is later, if the juvenile has been adjudicated a repeat, or mandatory,~~  
8 VIOLENT, OR AGGRAVATED juvenile offender and if the juvenile has not  
9 further violated any criminal statute; OR

10 (II) THE JUVENILE HAS BEEN ADJUDICATED FOR AN OFFENSE  
11 INVOLVING UNLAWFUL SEXUAL BEHAVIOR AS DEFINED IN SECTION  
12 16-22-102 (9), C.R.S., THE JUVENILE HAS SUCCESSFULLY COMPLETED  
13 OFFENSE-SPECIFIC TREATMENT AS ORDERED BY THE COURT, AND THE  
14 JUVENILE HAS NOT FURTHER VIOLATED ANY CRIMINAL STATUTE.

15 (7) The following persons are not eligible to petition for the  
16 expungement of any juvenile record:

17 (a) Any person who has been adjudicated as an aggravated  
18 juvenile offender PURSUANT TO SECTION 19-2-516(4) or a violent juvenile  
19 offender PURSUANT TO SECTION 19-2-516 (3);

20 (b) ~~Any person who has been adjudicated for an offense that~~  
21 ~~would constitute a crime of violence under section 18-1.3-406, C.R.S.;~~  
22 ~~had the person been an adult at the time the offense was committed;~~

23 (c) Any person who, as a juvenile, has been charged by the direct  
24 filing of an information in the district court or by indictment pursuant to  
25 section 19-2-517, unless the person was sentenced as a juvenile in the  
26 same matter;

27 (d) Any person who has been adjudicated for an offense involving  
28 unlawful sexual behavior as defined in section 16-22-102 (9), C.R.S.;

29 (e) ANY PERSON WHO HAS FAILED TO PAY COURT-ORDERED  
30 RESTITUTION TO A VICTIM OF THE OFFENSE THAT IS THE BASIS FOR THE  
31 JUVENILE RECORD.

32 (10) NOTHING IN THIS SECTION SHALL BE CONSTRUED TO  
33 AUTHORIZE THE PHYSICAL DESTRUCTION OF ANY CRIMINAL JUSTICE  
34 RECORD.

35 **SECTION 2.** In Colorado Revised Statutes, 24-4.1-302, **add** (2)  
36 (r.3) as follows:

37 **24-4.1-302. Definitions.** As used in this part 3, and for no other  
38 purpose, including the expansion of the rights of any defendant:

39 (2) "Critical stages" means the following stages of the criminal  
40 justice process:

41 (r.3) ANY PETITION FOR EXPUNGEMENT AS DESCRIBED IN SECTION  
42 19-1-306 (5) (a), C.R.S.;

1           **SECTION 3.** In Colorado Revised Statutes, 24-4.1-302.5, **amend**  
2 (1) (d) (VI) and (1) (d) (VII); and **add** (1) (d) (VIII) as follows:

3           **24-4.1-302.5. Rights afforded to victims.** (1) In order to  
4 preserve and protect a victim's rights to justice and due process, each  
5 victim of a crime shall have the following rights:

6           (d) The right to be heard at any court proceeding:

7           (VI) At which the defendant requests a modification of the no  
8 contact provision of the mandatory criminal protection order under  
9 section 18-1-1001, C.R.S., or section 19-2-707, C.R.S.; ~~or~~

10           (VII) Involving a subpoena for records concerning the victim's  
11 medical history, mental health, education, or victim compensation, or any  
12 other records that are privileged pursuant to section 13-90-107, C.R.S.;

13 OR  
14           (VIII) INVOLVING A PETITION FOR EXPUNGEMENT AS DESCRIBED  
15 IN SECTION 19-1-306 (5) (a), C.R.S.

16           **SECTION 4.** In Colorado Revised Statutes, 24-4.1-303, **add** (11)  
17 (b.5) as follows:

18           **24-4.1-303. Procedures for ensuring rights of victims of**  
19 **crimes.** (11) The district attorney shall inform a victim of the following:

20           (b.5) ANY CRITICAL STAGE DESCRIBED IN SECTION 24-4.1-302 (2)  
21 (r.3) RELATING TO A PETITION FOR THE EXPUNGEMENT OF JUVENILE  
22 RECORDS, WHICH RECORDS CONCERN AN OFFENSE COMMITTED BY THE  
23 JUVENILE AGAINST THE VICTIM;

24           **SECTION 5. Act subject to petition - effective date.** This act  
25 takes effect at 12:01 a.m. on the day following the expiration of the  
26 ninety-day period after final adjournment of the general assembly (August  
27 7, 2013, if adjournment sine die is on May 8, 2013); except that, if a  
28 referendum petition is filed pursuant to section 1 (3) of article V of the  
29 state constitution against this act or an item, section, or part of this act  
30 within such period, then the act, item, section, or part will not take effect  
31 unless approved by the people at the general election to be held in  
32 November 2014 and, in such case, will take effect on the date of the  
33 official declaration of the vote thereon by the governor."

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