

First Regular Session
Sixty-ninth General Assembly
STATE OF COLORADO

REREVISED

*This Version Includes All Amendments
Adopted in the Second House*

LLS NO. 13-0297.01 Michael Dohr x4347

SENATE BILL 13-123

SENATE SPONSORSHIP

Steadman,

HOUSE SPONSORSHIP

Levy,

Senate Committees

Judiciary
Appropriations

House Committees

Judiciary
Finance
Appropriations

A BILL FOR AN ACT

101 **CONCERNING PROVISIONS THAT IMPROVE THE REINTEGRATION**
102 **OPPORTUNITIES FOR PERSONS INVOLVED IN THE CRIMINAL**
103 **JUSTICE SYSTEM, AND, IN CONNECTION THEREWITH, MAKING AN**
104 **APPROPRIATION.**

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>.)

Under current law prior to a person's release on probation or parole the person's probation or parole officer provides the person with a notice

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.*

HOUSE
3rd Reading Unamended
May 6, 2013

HOUSE
Amended 2nd Reading
May 3, 2013

SENATE
3rd Reading Unamended
April 18, 2013

SENATE
Amended 2nd Reading
April 17, 2013

regarding sealing criminal records. The bill specifies what the notice must contain.

The bill provides that a pardon issued by the governor waives all collateral consequences associated with each conviction for which the person received a pardon unless the pardon limits the scope of the pardon regarding collateral consequences. If the governor grants a pardon or a request for clemency, the governor shall provide a copy of the pardon or clemency to the Colorado bureau of investigation, and the Colorado bureau of investigation shall include a note in the individual's record in the Colorado crime information center that a pardon was issued or clemency was granted.

Under current law, certain drug convictions are subject to sealing; the bill extends sealing to most other crimes.

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

2 **SECTION 1.** In Colorado Revised Statutes, 16-11-209, **add** (4)
3 as follows:

4 **16-11-209. Duties of probation officers.** (4) (a) PRIOR TO AN
5 OFFENDER BEING RELEASED FROM PROBATION, THE PROBATION OFFICER
6 RELEASING THE INDIVIDUAL SHALL PROVIDE THE NOTICE DESCRIBED IN
7 PARAGRAPH (b) OF THIS SUBSECTION (4) AT THE LAST MEETING THE
8 OFFICER HAS WITH THE PERSON.

9 (b) THE NOTICE SHALL CONTAIN THE FOLLOWING INFORMATION:

10 (I) THAT A PERSON CONVICTED OF CERTAIN CRIMES HAS THE RIGHT
11 TO SEEK TO HAVE HIS OR HER CRIMINAL RECORD SEALED;

12 (II) THAT THERE ARE COLLATERAL CONSEQUENCES ASSOCIATED
13 WITH A CRIMINAL CONVICTION THAT A SEALING ORDER CAN ALLEVIATE;

14 (III) THE LIST OF CRIMES THAT ARE ELIGIBLE FOR SEALING AND
15 THE ASSOCIATED TIME PERIOD THAT A PERSON MUST WAIT PRIOR TO
16 SEEKING SEALING;

17 (IV) THAT THE STATE PUBLIC DEFENDER HAS COMPILED A LIST OF
18 LAWS THAT IMPOSE COLLATERAL CONSEQUENCES RELATED TO A CRIMINAL

1 CONVICTION AND THAT THE LIST IS AVAILABLE ON THE STATE PUBLIC
2 DEFENDER'S WEB SITE; AND

3 (V) THAT THE PERSON SHOULD SEEK LEGAL COUNSEL IF HE OR SHE
4 HAS ANY QUESTIONS REGARDING RECORD SEALING.

5 **SECTION 2.** In Colorado Revised Statutes, 17-2-102, **add** (12)
6 as follows:

7 **17-2-102. Division of adult parole - general powers, duties, and**
8 **functions - definitions.** (12) (a) PRIOR TO AN OFFENDER BEING RELEASED
9 FROM PAROLE, THE COMMUNITY PAROLE OFFICER RELEASING THE
10 INDIVIDUAL SHALL PROVIDE THE NOTICE DESCRIBED IN PARAGRAPH (b) OF
11 THIS SUBSECTION (12) AT THE LAST MEETING THE OFFICER HAS WITH THE
12 PERSON.

13 (b) THE NOTICE SHALL CONTAIN THE FOLLOWING INFORMATION:

14 (I) THAT A PERSON CONVICTED OF CERTAIN CRIMES HAS THE RIGHT
15 TO SEEK TO HAVE HIS OR HER CRIMINAL RECORD SEALED;

16 (II) THAT THERE ARE COLLATERAL CONSEQUENCES ASSOCIATED
17 WITH A CRIMINAL CONVICTION THAT A SEALING ORDER CAN ALLEVIATE;

18 (III) THE LIST OF CRIMES THAT ARE ELIGIBLE FOR SEALING AND
19 THE ASSOCIATED TIME PERIOD THAT A PERSON MUST WAIT PRIOR TO
20 SEEKING SEALING;

21 (IV) 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; AND

25 (V) THAT THE PERSON SHOULD SEEK LEGAL COUNSEL IF HE OR SHE
26 HAS ANY QUESTIONS REGARDING RECORD SEALING.

27 **SECTION 3.** In Colorado Revised Statutes, **add** 16-17-103 as

1 follows:

2 **16-17-103. Effect of pardon and commutation of sentence -**

3 **definitions.** (1) A PARDON ISSUED BY THE GOVERNOR SHALL WAIVE ALL
4 COLLATERAL CONSEQUENCES ASSOCIATED WITH EACH CONVICTION FOR
5 WHICH THE PERSON RECEIVED A PARDON UNLESS THE PARDON LIMITS THE
6 SCOPE OF THE PARDON REGARDING COLLATERAL CONSEQUENCES.

7 (2) IF THE GOVERNOR GRANTS A PARDON OR A REQUEST FOR
8 COMMUTATION OF SENTENCE, THE GOVERNOR SHALL PROVIDE A COPY OF
9 THE PARDON OR COMMUTATION OF SENTENCE TO THE COLORADO BUREAU
10 OF INVESTIGATION, AND THE COLORADO BUREAU OF INVESTIGATION
11 SHALL NOTE IN THE INDIVIDUAL'S RECORD IN THE COLORADO CRIME
12 INFORMATION CENTER THAT A PARDON WAS ISSUED OR COMMUTATION OF
13 SENTENCE WAS GRANTED.

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

24 **SECTION 4.** In Colorado Revised Statutes, 24-34-102, **amend**
25 (8.7) as follows:

26 **24-34-102. Division of professions and occupations - creation**
27 **- duties of division and department heads - license renewal,**

1 **reinstatement, and endorsement - definitions - rules - review of**
2 **functions - repeal.** (8.7) Unless there is a specific statutory
3 disqualification that prohibits an applicant from obtaining licensure based
4 on a criminal conviction, if ~~the~~ A licensing entity IN TITLE 10 OR 12,
5 C.R.S., determines that an applicant for licensure has a criminal record,
6 the licensing entity is governed by section 24-5-101 for purposes of
7 granting or denying licensure or placing any conditions on licensure.

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

10 **24-34-104. General assembly review of regulatory agencies**
11 **and functions for termination, continuation, or reestablishment.**

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

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

26 **SECTION 6.** In Colorado Revised Statutes, 24-34-104.1, **amend**
27 (2) (d), (2) (e), (4) (b) (II), and (4) (b) (III); and **add** (2) (f) and (4) (b)

1 (IV) as follows:

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

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

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

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

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

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

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

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

7 **SECTION 7.** In Colorado Revised Statutes, 24-72-308, **amend**
8 (1) (a) (I), (1) (a) (III) introductory portion, (1) (b) (II) and (2) (b); and
9 **add** (4) as follows:

10 **24-72-308. Sealing of arrest and criminal records other than**
11 **convictions.** (1) (a) (I) Except as otherwise provided in subparagraphs
12 (II) and (III) of this paragraph (a), any person in interest may petition the
13 district court of the district in which any arrest and criminal records
14 information pertaining to said person in interest is located for the sealing
15 of all of said records, except basic identification information, if the
16 records are a record of official actions involving a criminal offense for
17 which said person in interest was not charged AND THE STATUTE OF
18 LIMITATIONS FOR THE OFFENSE FOR WHICH THE PERSON WAS ARRESTED
19 THAT HAS THE LONGEST STATUTE OF LIMITATIONS HAS RUN, in any case
20 which was completely dismissed, or in any case in which said person in
21 interest was acquitted.

22 (III) A person in interest may petition the district court of the
23 district in which any arrest and criminal records information pertaining
24 to said person in interest is located for the sealing of all of said records,
25 except basic identification information, if the records are a record of
26 official actions involving a criminal offense that was not charged or a
27 case that was dismissed due to a plea agreement in a separate case, and

1 if:

2 (b) (II) (A) Upon the filing of a petition, the court shall review the
3 petition and determine whether there are grounds under this section to
4 proceed to a hearing on the petition. If the court determines that the
5 petition on its face is insufficient or if the court determines that, after
6 taking judicial notice of matters outside the petition, the petitioner is not
7 entitled to relief under this section, the court shall enter an order denying
8 the petition and mail a copy of the order to the petitioner. The court's
9 order shall specify the reasons for the denial of the petition. IF THE
10 PETITION PERTAINS TO A DISMISSAL THAT IS NOT THE RESULT OF A
11 COMPLETION OF A DEFERRED DISPOSITION OR A MULTI-CASE DISPOSITION,
12 THE COURT SHALL ORDER A RECORD SEALED IF THE PETITION IS SUFFICIENT
13 ON ITS FACE.

14 (B) If the court determines that the petition is sufficient on its face
15 and that no other grounds exist at that time for the court to deny the
16 petition under this section, the court shall set a date for a hearing and the
17 petitioner shall notify the prosecuting attorney by certified mail, the
18 arresting agency, and any other person or agency identified by the
19 petitioner. IF THE PETITION PERTAINS TO A DISMISSAL THAT IS NOT THE
20 RESULT OF A COMPLETION OF A DEFERRED DISPOSITION OR A MULTI-CASE
21 DISPOSITION, THE COURT SHALL ORDER A RECORD SEALED IF THE PETITION
22 IS SUFFICIENT ON ITS FACE.

23 (2) **Advisements.** (b) In addition to, and not in lieu of, the
24 requirement described in paragraph (a) of this subsection (2):

25 (I) If a defendant's case is dismissed after a period of supervision
26 by probation, the probation department, upon the termination of the
27 defendant's probation, shall provide the defendant with a written

1 advisement of his or her rights pursuant to this section concerning the
2 sealing of his or her criminal justice records if he or she complies with the
3 applicable provisions of this section.

4 (II) IF A DEFENDANT IS RELEASED ON PAROLE, THE DEFENDANT'S
5 PAROLE OFFICER, UPON THE TERMINATION OF THE DEFENDANT'S PAROLE,
6 SHALL PROVIDE THE DEFENDANT WITH A WRITTEN ADVISEMENT OF HIS OR
7 HER RIGHTS CONCERNING THE SEALING OF HIS OR HER CRIMINAL JUSTICE
8 RECORDS PURSUANT TO THIS SECTION IF HE OR SHE COMPLIES WITH THE
9 APPLICABLE PROVISIONS OF THIS SECTION.

10 (4) A PERSON MAY FILE A PETITION WITH THE COURT FOR SEALING
11 OF EACH CASE ONCE EVERY TWELVE-MONTH PERIOD.

12 **SECTION 8.** In Colorado Revised Statutes, 24-72-308.5, **amend**
13 (2) (f) (I); and **add (6)** as follows:

14 **24-72-308.5. Sealing of criminal conviction records**
15 **information for offenses involving controlled substances for**
16 **convictions entered on or after July 1, 2008, and prior to July 1, 2011.**

17 (2) **Sealing of conviction records.** (f) (I) Except as otherwise provided
18 in subparagraph (II) of paragraph (a) of this subsection (2) or in
19 subparagraphs (II) and (III) of this paragraph (f), employers, state and
20 local government agencies, officials, landlords, and employees shall not,
21 in any application or interview or in any other way, require an applicant
22 to disclose any information contained in sealed conviction records. An
23 applicant need not, in answer to any question concerning conviction
24 records that have been sealed, include a reference to or information
25 concerning the sealed conviction records and may state that the applicant
26 has not been criminally convicted. AN APPLICATION MAY NOT BE DENIED
27 SOLELY BECAUSE OF THE APPLICANT'S REFUSAL TO DISCLOSE CONVICTION

1 RECORDS THAT HAVE BEEN SEALED.

2 (6) A PERSON MAY FILE A PETITION WITH THE COURT FOR SEALING
3 OF EACH CASE ONCE EVERY TWELVE-MONTH PERIOD.

4 SECTION 9. In Colorado Revised Statutes, 24-72-308.6, **add** (6)
5 as follows:

6 24-72-308.6. Sealing of criminal conviction records
7 information for offenses involving controlled substances for
8 convictions entered on or after July 1, 2011. (6) A PERSON MAY FILE
9 A PETITION WITH THE COURT FOR SEALING OF EACH CASE ONCE EVERY
10 TWELVE-MONTH PERIOD.

11 SECTION 10. In Colorado Revised Statutes, **add** 24-72-308.9 as
12 follows:

13 24-72-308.9. Sealing of criminal conviction records
14 information for petty offenses and municipal offenses for convictions.

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

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

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

27 (B) THE DEFENDANT HAS NOT BEEN CHARGED OR CONVICTED FOR

1 A FELONY, MISDEMEANOR, OR MISDEMEANOR TRAFFIC OFFENSE IN THE
2 THREE OR MORE YEARS SINCE THE DATE OF THE FINAL DISPOSITION OF ALL
3 CRIMINAL PROCEEDINGS AGAINST HIM OR HER OR THE DATE OF THE
4 DEFENDANT'S RELEASE FROM SUPERVISION, WHICHEVER IS LATER; AND

5 (C) THE CONVICTION RECORDS TO BE SEALED ARE NOT FOR A
6 MISDEMEANOR TRAFFIC OFFENSE COMMITTED EITHER BY A HOLDER OF A
7 COMMERCIAL LEARNER'S PERMIT OR A COMMERCIAL DRIVER'S LICENSE, AS
8 DEFINED IN SECTION 42-2-402, C.R.S., OR BY THE OPERATOR OF A
9 COMMERCIAL MOTOR VEHICLE AS DEFINED IN SECTION 42-2-402, C.R.S.

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

17 (III) A PETITION TO SEAL RECORDS PURSUANT TO THIS SECTION
18 MAY ONLY BE FILED ONCE DURING A TWELVE-MONTH PERIOD. THE COURT
19 SHALL IMMEDIATELY DISMISS A SECOND OR SUBSEQUENT PETITION FILED
20 WITHIN TWELVE MONTHS OF ANOTHER PETITION.

21 (IV) 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 FELONY,
7 MISDEMEANOR, OR MISDEMEANOR TRAFFIC OFFENSE AFTER AN ORDER
8 SEALING CONVICTION RECORDS IS ENTERED, THE COURT SHALL ORDER THE
9 CONVICTION RECORDS TO BE UNSEALED. A PARTY OR AGENCY REQUIRED
10 BY LAW TO CONDUCT A CRIMINAL HISTORY RECORD CHECK SHALL BE
11 AUTHORIZED TO USE ANY SEALED CONVICTION FOR THE LAWFUL PURPOSE
12 FOR WHICH THE CRIMINAL HISTORY RECORD CHECK IS REQUIRED BY LAW.

13 (V) CONVICTION RECORDS MAY NOT BE SEALED IF THE DEFENDANT
14 STILL OWES RESTITUTION, FINES, COURT COSTS, LATE FEES, OR OTHER FEES
15 ORDERED BY THE COURT IN THE CASE THAT IS THE SUBJECT OF THE
16 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) MUST 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 IS
6 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 11.** In Colorado Revised Statutes, add 18-1.3-107 as
26 follows:

27 **18-1.3-107. Sentencing order - collateral relief.** (1) AT THE TIME

1 A DEFENDANT ENTERS INTO AN ALTERNATIVE TO SENTENCING IN THIS PART
2 1, UPON THE REQUEST OF THE DEFENDANT OR UPON THE COURT'S OWN
3 MOTION, A COURT MAY ENTER AN ORDER OF COLLATERAL RELIEF FOR THE
4 PURPOSE OF PRESERVING OR ENHANCING THE DEFENDANT'S EMPLOYMENT
5 OR EMPLOYMENT PROSPECTS AND TO IMPROVE THE DEFENDANT'S
6 LIKELIHOOD OF SUCCESS IN THE ALTERNATIVE TO SENTENCING PROGRAM.

7 (2) **Application contents.** (a) AN APPLICATION FOR AN ORDER OF
8 COLLATERAL RELIEF MUST CITE THE GROUNDS FOR GRANTING THE RELIEF,
9 THE TYPE OF RELIEF SOUGHT, AND THE SPECIFIC COLLATERAL
10 CONSEQUENCE FROM WHICH THE APPLICANT IS SEEKING RELIEF AND MUST
11 INCLUDE A COPY OF A RECENT COLORADO BUREAU OF INVESTIGATION
12 FINGERPRINT-BASED CRIMINAL HISTORY RECORDS CHECK. THE STATE
13 COURT ADMINISTRATOR MAY PRODUCE AN APPLICATION FORM THAT AN
14 APPLICANT MAY SUBMIT IN APPLICATION.

15 (b) THE APPLICANT SHALL PROVIDE A COPY OF THE APPLICATION
16 TO THE DISTRICT ATTORNEY AND TO THE REGULATORY OR LICENSING
17 BODY THAT HAS JURISDICTION OVER THE COLLATERAL CONSEQUENCE
18 FROM WHICH THE APPLICANT IS SEEKING RELIEF, IF ANY, BY CERTIFIED
19 MAIL OR PERSONAL SERVICE WITHIN TEN DAYS AFTER FILING THE
20 APPLICATION WITH THE COURT.

21 (3) AN ORDER OF COLLATERAL RELIEF MAY RELIEVE A DEFENDANT
22 OF ANY COLLATERAL CONSEQUENCES OF THE CONVICTION, WHETHER IN
23 HOUSING OR EMPLOYMENT BARRIERS OR ANY OTHER SANCTION OR
24 DISQUALIFICATION THAT THE COURT SHALL SPECIFY, INCLUDING BUT NOT
25 LIMITED TO STATUTORY, REGULATORY, OR OTHER COLLATERAL
26 CONSEQUENCES THAT THE COURT MAY SEE FIT TO RELIEVE THAT WILL
27 ASSIST THE DEFENDANT IN SUCCESSFULLY COMPLETING PROBATION OR A

1 COMMUNITY CORRECTIONS SENTENCE.

2 (4) (a) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, AN
3 ORDER OF COLLATERAL RELIEF CANNOT RELIEVE ANY COLLATERAL
4 CONSEQUENCES IMPOSED BY LAW FOR LICENSURE BY THE DEPARTMENT OF
5 EDUCATION OR ANY COLLATERAL CONSEQUENCES IMPOSED BY LAW FOR
6 EMPLOYMENT WITH THE JUDICIAL BRANCH, THE DEPARTMENT OF
7 CORRECTIONS, DIVISION OF YOUTH CORRECTIONS IN THE DEPARTMENT OF
8 HUMAN SERVICES, OR ANY OTHER LAW ENFORCEMENT AGENCY IN THE
9 STATE OF COLORADO.

10 (b) A COURT SHALL NOT ISSUE AN ORDER OF COLLATERAL RELIEF
11 IF THE DEFENDANT:

12 (I) HAS BEEN CONVICTED OF A FELONY THAT INCLUDED AN
13 ELEMENT THAT REQUIRES A VICTIM TO SUFFER PERMANENT DISABILITY;

14 (II) HAS BEEN CONVICTED OF A CRIME OF VIOLENCE AS DESCRIBED
15 IN SECTION 18-1.3-406; OR

16 (III) IS REQUIRED TO REGISTER AS A SEX OFFENDER PURSUANT TO
17 SECTION 16-22-103, C.R.S.

18 (5) **Hearing.** (a) THE COURT MAY CONDUCT A HEARING OR
19 INCLUDE A HEARING ON THE MATTER AT THE DEFENDANT'S SENTENCING
20 HEARING ON THE APPLICATION OR ON ANY MATTER RELEVANT TO THE
21 GRANTING OR DENYING OF THE APPLICATION AND MAY TAKE TESTIMONY
22 UNDER OATH.

23 (b) THE COURT MAY HEAR TESTIMONY FROM VICTIMS OR ANY
24 PROONENT OR OPPONENT OF THE APPLICATION AND MAY HEAR
25 ARGUMENT FROM THE PETITIONER AND THE DISTRICT ATTORNEY.

26 (6) **Standard for granting relief.** (a) A COURT MAY ISSUE AN
27 ORDER OF COLLATERAL RELIEF IF THE COURT FINDS THAT:

1 (I) THE ORDER OF COLLATERAL RELIEF IS CONSISTENT WITH THE
2 APPLICANT'S REHABILITATION; AND

3 (II) GRANTING THE APPLICATION WOULD IMPROVE THE
4 APPLICANT'S LIKELIHOOD OF SUCCESS IN REINTEGRATING INTO SOCIETY
5 AND IS IN THE PUBLIC'S INTEREST.

6 (b) THE COURT THAT PREVIOUSLY ISSUED AN ORDER OF
7 COLLATERAL RELIEF, ON ITS OWN MOTION OR EITHER BY CAUSE SHOWN BY
8 THE DISTRICT ATTORNEY OR ON GROUNDS OFFERED BY THE APPLICANT,
9 MAY AT ANY TIME ISSUE A SUBSEQUENT JUDGMENT TO ENLARGE, LIMIT, OR
10 CIRCUMSCRIBE THE RELIEF PREVIOUSLY GRANTED.

11 (c) UPON THE MOTION OF THE DISTRICT ATTORNEY OR PROBATION
12 OFFICER OR UPON THE COURT'S OWN MOTION, A COURT MAY REVOKE AN
13 ORDER OF COLLATERAL RELIEF UPON EVIDENCE OF A SUBSEQUENT
14 CRIMINAL CONVICTION OR PROOF THAT THE DEFENDANT IS NO LONGER
15 ENTITLED TO RELIEF. ANY BARS, PROHIBITIONS, SANCTIONS, AND
16 DISQUALIFICATIONS THEREBY RELIEVED SHALL BE REINSTATED AS OF THE
17 DATE OF THE WRITTEN ORDER OF REVOCATION. THE COURT SHALL
18 PROVIDE A COPY OF THE ORDER OF REVOCATION TO THE HOLDER AND TO
19 ANY REGULATORY OR LICENSING ENTITY THAT THE DEFENDANT NOTICED
20 IN HIS OR HER MOTION FOR RELIEF.

21 (7) IF THE COURT ISSUES AN ORDER OF COLLATERAL RELIEF, IT
22 SHALL SEND A COPY OF THE ORDER OF COLLATERAL RELIEF THROUGH THE
23 COLORADO INTEGRATED CRIMINAL JUSTICE INFORMATION SYSTEM TO THE
24 COLORADO BUREAU OF INVESTIGATION, AND THE COLORADO BUREAU OF
25 INVESTIGATION SHALL NOTE IN THE APPLICANT'S RECORD IN THE
26 COLORADO CRIME INFORMATION CENTER THAT THE ORDER OF
27 COLLATERAL RELIEF WAS ISSUED.

1 (8) Definitions. AS USED IN THIS SECTION, UNLESS THE CONTEXT
2 OTHERWISE REQUIRES:

3 (a) "COLLATERAL CONSEQUENCE" MEANS A COLLATERAL
4 SANCTION OR A DISQUALIFICATION.

5 (b) "COLLATERAL SANCTION" MEANS A PENALTY, PROHIBITION,
6 BAR, OR DISADVANTAGE, HOWEVER DENOMINATED, IMPOSED ON AN
7 INDIVIDUAL AS A RESULT OF THE INDIVIDUAL'S CONVICTION OF AN
8 OFFENSE, WHICH PENALTY, PROHIBITION, BAR, OR DISADVANTAGE APPLIES
9 BY OPERATION OF LAW REGARDLESS OF WHETHER THE PENALTY,
10 PROHIBITION, BAR, OR DISADVANTAGE IS INCLUDED IN THE JUDGMENT OR
11 SENTENCE. "COLLATERAL SANCTION" DOES NOT INCLUDE IMPRISONMENT,
12 PROBATION, PAROLE, SUPERVISED RELEASE, FORFEITURE, RESTITUTION,
13 FINE, ASSESSMENT, COSTS OF PROSECUTION, OR A RESTRAINT OR SANCTION
14 ON AN INDIVIDUAL'S DRIVING PRIVILEGE.

15 (c) "CONVICTION" OR "CONVICTED" MEANS A VERDICT OF GUILTY
16 BY A JUDGE OR JURY OR A PLEA OF GUILTY OR NOLO CONTENDERE THAT IS
17 ACCEPTED BY THE COURT ___ ___ OR A CONVICTION OF A CRIME UNDER THE
18 LAWS OF ANY OTHER STATE, THE UNITED STATES, OR ANY TERRITORY
19 SUBJECT TO THE JURISDICTION OF THE UNITED STATES, WHICH, IF
20 COMMITTED WITHIN THIS STATE, WOULD BE A FELONY OR MISDEMEANOR.
21 "CONVICTION" OR "CONVICTED" ALSO INCLUDES HAVING RECEIVED A
22 DEFERRED JUDGMENT AND SENTENCE; ___ EXCEPT THAT A PERSON SHALL
23 NOT BE DEEMED TO HAVE BEEN CONVICTED IF THE PERSON HAS
24 SUCCESSFULLY COMPLETED A DEFERRED SENTENCE.

25 (d) "DISQUALIFICATION" MEANS A PENALTY, PROHIBITION, BAR, OR
26 DISADVANTAGE, HOWEVER DENOMINATED, THAT AN ADMINISTRATIVE
27 AGENCY, GOVERNMENTAL OFFICIAL, OR COURT IN A CIVIL PROCEEDING IS

1 AUTHORIZED, BUT NOT REQUIRED, TO IMPOSE ON AN INDIVIDUAL ON
2 GROUNDS RELATING TO THE INDIVIDUAL'S CONVICTION OF AN OFFENSE.

3 **SECTION 12.** In Colorado Revised Statutes, add 18-1.3-213 as
4 follows:

5 **18-1.3-213. Sentencing order - collateral relief.** (1) AT THE TIME
6 OF SENTENCING, UPON THE REQUEST OF THE DEFENDANT OR UPON THE
7 COURT'S OWN MOTION, A COURT THAT SENTENCES THE DEFENDANT TO
8 PROBATION MAY ENTER AN ORDER OF COLLATERAL RELIEF FOR THE
9 PURPOSE OF PRESERVING OR ENHANCING THE DEFENDANT'S EMPLOYMENT
10 OR EMPLOYMENT PROSPECTS AND TO IMPROVE THE DEFENDANT'S
11 LIKELIHOOD OF SUCCESS ON PROBATION OR IN THE COMMUNITY
12 CORRECTIONS PROGRAM.

13 **(2) Application contents.** (a) AN APPLICATION FOR AN ORDER OF
14 COLLATERAL RELIEF MUST CITE THE GROUNDS FOR GRANTING THE RELIEF,
15 THE TYPE OF RELIEF SOUGHT, AND THE SPECIFIC COLLATERAL
16 CONSEQUENCE FROM WHICH THE APPLICANT IS SEEKING RELIEF AND MUST
17 INCLUDE A COPY OF A RECENT COLORADO BUREAU OF INVESTIGATION
18 FINGERPRINT-BASED CRIMINAL HISTORY RECORDS CHECK. THE STATE
19 COURT ADMINISTRATOR MAY PRODUCE AN APPLICATION FORM THAT AN
20 APPLICANT MAY SUBMIT IN APPLICATION.

21 **(b)** THE APPLICANT SHALL PROVIDE A COPY OF THE APPLICATION
22 TO THE DISTRICT ATTORNEY AND TO THE REGULATORY OR LICENSING
23 BODY THAT HAS JURISDICTION OVER THE COLLATERAL CONSEQUENCE
24 FROM WHICH THE APPLICANT IS SEEKING RELIEF, IF ANY, BY CERTIFIED
25 MAIL OR PERSONAL SERVICE WITHIN TEN DAYS AFTER FILING THE
26 APPLICATION WITH THE COURT.

27 **(3)** AN ORDER OF COLLATERAL RELIEF MAY RELIEVE A DEFENDANT

1 OF ANY COLLATERAL CONSEQUENCES OF THE CONVICTION, WHETHER IN
2 HOUSING OR EMPLOYMENT BARRIERS OR ANY OTHER SANCTION OR
3 DISQUALIFICATION THAT THE COURT SHALL SPECIFY, INCLUDING BUT NOT
4 LIMITED TO STATUTORY, REGULATORY, OR OTHER COLLATERAL
5 CONSEQUENCES THAT THE COURT MAY SEE FIT TO RELIEVE THAT WILL
6 ASSIST THE DEFENDANT IN SUCCESSFULLY COMPLETING PROBATION OR A
7 COMMUNITY CORRECTIONS SENTENCE.

8 (4) (a) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, AN
9 ORDER OF COLLATERAL RELIEF CANNOT RELIEVE ANY COLLATERAL
10 CONSEQUENCES IMPOSED BY LAW FOR LICENSURE BY THE DEPARTMENT OF
11 EDUCATION OR ANY COLLATERAL CONSEQUENCES IMPOSED BY LAW FOR
12 EMPLOYMENT WITH THE JUDICIAL BRANCH, THE DEPARTMENT OF
13 CORRECTIONS, DIVISION OF YOUTH CORRECTIONS IN THE DEPARTMENT OF
14 HUMAN SERVICES, OR ANY OTHER LAW ENFORCEMENT AGENCY IN THE
15 STATE OF COLORADO.

16 (b) A COURT SHALL NOT ISSUE AN ORDER OF COLLATERAL RELIEF
17 IF THE DEFENDANT:

18 (I) HAS BEEN CONVICTED OF A FELONY THAT INCLUDED AN
19 ELEMENT THAT REQUIRES A VICTIM TO SUFFER PERMANENT DISABILITY;

20 (II) HAS BEEN CONVICTED OF A CRIME OF VIOLENCE AS DESCRIBED
21 IN SECTION 18-1.3-406; OR

22 (III) IS REQUIRED TO REGISTER AS A SEX OFFENDER PURSUANT TO
23 SECTION 16-22-103, C.R.S.

24 (5) **Hearing.** (a) THE COURT MAY CONDUCT A HEARING OR
25 INCLUDE A HEARING ON THE MATTER AT THE DEFENDANT'S SENTENCING
26 HEARING ON THE APPLICATION OR ON ANY MATTER RELEVANT TO THE
27 GRANTING OR DENYING OF THE APPLICATION AND MAY TAKE TESTIMONY

1 UNDER OATH.

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

5 (6) Standard for granting relief. (a) A COURT MAY ISSUE AN
6 ORDER OF COLLATERAL RELIEF IF THE COURT FINDS THAT:

7 (I) THE ORDER OF COLLATERAL RELIEF IS CONSISTENT WITH THE
8 APPLICANT'S REHABILITATION; AND

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

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

17 (c) UPON THE MOTION OF THE DISTRICT ATTORNEY OR PROBATION
18 OFFICER OR UPON THE COURT'S OWN MOTION, A COURT MAY REVOKE AN
19 ORDER OF COLLATERAL RELIEF UPON EVIDENCE OF A SUBSEQUENT
20 CRIMINAL CONVICTION OR PROOF THAT THE DEFENDANT IS NO LONGER
21 ENTITLED TO RELIEF. ANY BARS, PROHIBITIONS, SANCTIONS, AND
22 DISQUALIFICATIONS THEREBY RELIEVED SHALL BE REINSTATED AS OF THE
23 DATE OF THE WRITTEN ORDER OF REVOCATION. THE COURT SHALL
24 PROVIDE A COPY OF THE ORDER OF REVOCATION TO THE HOLDER AND TO
25 ANY REGULATORY OR LICENSING ENTITY THAT THE DEFENDANT NOTICED
26 IN HIS OR HER MOTION FOR RELIEF.

27 (7) IF THE COURT ISSUES AN ORDER OF COLLATERAL RELIEF, IT

1 SHALL SEND A COPY OF THE ORDER OF COLLATERAL RELIEF THROUGH THE
2 COLORADO INTEGRATED CRIMINAL JUSTICE INFORMATION SYSTEM TO THE
3 COLORADO BUREAU OF INVESTIGATION, AND THE COLORADO BUREAU OF
4 INVESTIGATION SHALL NOTE IN THE APPLICANT'S RECORD IN THE
5 COLORADO CRIME INFORMATION CENTER THAT THE ORDER OF
6 COLLATERAL RELIEF WAS ISSUED.

7 (8) Definitions. AS USED IN THIS SECTION, UNLESS THE CONTEXT
8 OTHERWISE REQUIRES:

9 (a) "COLLATERAL CONSEQUENCE" MEANS A COLLATERAL
10 SANCTION OR A DISQUALIFICATION.

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

21 (c) "CONVICTION" OR "CONVICTED" MEANS A VERDICT OF GUILTY
22 BY A JUDGE OR JURY OR A PLEA OF GUILTY OR NOLO CONTENDERE THAT IS
23 ACCEPTED BY THE COURT ___ OR A CONVICTION OF A CRIME UNDER THE
24 LAWS OF ANY OTHER STATE, THE UNITED STATES, OR ANY TERRITORY
25 SUBJECT TO THE JURISDICTION OF THE UNITED STATES, WHICH, IF
26 COMMITTED WITHIN THIS STATE, WOULD BE A FELONY OR MISDEMEANOR.
27 "CONVICTION" OR "CONVICTED" ALSO INCLUDES HAVING RECEIVED A

1 DEFERRED JUDGMENT AND SENTENCE; ___ EXCEPT THAT A PERSON SHALL
2 NOT BE DEEMED TO HAVE BEEN CONVICTED IF THE PERSON HAS
3 SUCCESSFULLY COMPLETED A DEFERRED SENTENCE.

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

9 **SECTION 13.** In Colorado Revised Statutes, add 18-1.3-303 as
10 follows:

11 **18-1.3-303. Sentencing order - collateral relief.** (1) AT THE TIME
12 OF SENTENCING, UPON THE REQUEST OF THE DEFENDANT OR UPON THE
13 COURT'S OWN MOTION, A COURT MAY ENTER AN ORDER OF COLLATERAL
14 RELIEF IF THE COURT SENTENCES THE DEFENDANT TO A COMMUNITY
15 CORRECTIONS PROGRAM FOR THE PURPOSE OF PRESERVING OR ENHANCING
16 THE DEFENDANT'S EMPLOYMENT OR EMPLOYMENT PROSPECTS AND TO
17 IMPROVE THE DEFENDANT'S LIKELIHOOD OF SUCCESS ON PROBATION OR IN
18 THE COMMUNITY CORRECTIONS PROGRAM.

19 (2) **Application contents.** (a) AN APPLICATION FOR AN ORDER OF
20 COLLATERAL RELIEF MUST CITE THE GROUNDS FOR GRANTING THE RELIEF,
21 THE TYPE OF RELIEF SOUGHT, AND THE SPECIFIC COLLATERAL
22 CONSEQUENCE FROM WHICH THE APPLICANT IS SEEKING RELIEF AND MUST
23 INCLUDE A COPY OF A RECENT COLORADO BUREAU OF INVESTIGATION
24 FINGERPRINT-BASED CRIMINAL HISTORY RECORDS CHECK. THE STATE
25 COURT ADMINISTRATOR MAY PRODUCE AN APPLICATION FORM THAT AN
26 APPLICANT MAY SUBMIT IN APPLICATION.

27 (b) THE APPLICANT SHALL PROVIDE A COPY OF THE APPLICATION

1 TO THE DISTRICT ATTORNEY AND TO THE REGULATORY OR LICENSING
2 BODY THAT HAS JURISDICTION OVER THE COLLATERAL CONSEQUENCE
3 FROM WHICH THE APPLICANT IS SEEKING RELIEF, IF ANY, BY CERTIFIED
4 MAIL OR PERSONAL SERVICE WITHIN TEN DAYS AFTER FILING THE
5 APPLICATION WITH THE COURT.

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

14 (4) (a) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, AN
15 ORDER OF COLLATERAL RELIEF CANNOT RELIEVE ANY COLLATERAL
16 CONSEQUENCES IMPOSED BY LAW FOR LICENSURE BY THE DEPARTMENT OF
17 EDUCATION OR ANY COLLATERAL CONSEQUENCES IMPOSED BY LAW FOR
18 EMPLOYMENT WITH THE JUDICIAL BRANCH, THE DEPARTMENT OF
19 CORRECTIONS, DIVISION OF YOUTH CORRECTIONS IN THE DEPARTMENT OF
20 HUMAN SERVICES, OR ANY OTHER LAW ENFORCEMENT AGENCY IN THE
21 STATE OF COLORADO.

22 (b) A COURT SHALL NOT ISSUE AN ORDER OF COLLATERAL RELIEF
23 IF THE DEFENDANT:

24 (I) HAS BEEN CONVICTED OF A FELONY THAT INCLUDED AN
25 ELEMENT THAT REQUIRES A VICTIM TO SUFFER PERMANENT DISABILITY;

26 (II) HAS BEEN CONVICTED OF A CRIME OF VIOLENCE AS DESCRIBED
27 IN SECTION 18-1.3-406; OR

1 (III) IS REQUIRED TO REGISTER AS A SEX OFFENDER PURSUANT TO
2 SECTION 16-22-103, C.R.S.

3 (5) **Hearing.** (a) THE COURT MAY CONDUCT A HEARING OR
4 INCLUDE A HEARING ON THE MATTER AT THE DEFENDANT'S SENTENCING
5 HEARING ON THE APPLICATION OR ON ANY MATTER RELEVANT TO THE
6 GRANTING OR DENYING OF THE APPLICATION AND MAY TAKE TESTIMONY
7 UNDER OATH.

8 (b) THE COURT MAY HEAR TESTIMONY FROM VICTIMS OR ANY
9 PROONENT OR OPPONENT OF THE APPLICATION AND MAY HEAR
10 ARGUMENT FROM THE PETITIONER AND THE DISTRICT ATTORNEY.

11 (6) **Standard for granting relief.** (a) A COURT MAY ISSUE AN
12 ORDER OF COLLATERAL RELIEF IF THE COURT FINDS THAT:

13 (I) THE ORDER OF COLLATERAL RELIEF IS CONSISTENT WITH THE
14 APPLICANT'S REHABILITATION; AND

15 (II) GRANTING THE APPLICATION WOULD IMPROVE THE
16 APPLICANT'S LIKELIHOOD OF SUCCESS IN REINTEGRATING INTO SOCIETY
17 AND IS IN THE PUBLIC'S INTEREST.

18 (b) THE COURT THAT PREVIOUSLY ISSUED AN ORDER OF
19 COLLATERAL RELIEF, ON ITS OWN MOTION OR EITHER BY CAUSE SHOWN BY
20 THE DISTRICT ATTORNEY OR ON GROUNDS OFFERED BY THE APPLICANT,
21 MAY AT ANY TIME ISSUE A SUBSEQUENT JUDGMENT TO ENLARGE, LIMIT, OR
22 CIRCUMSCRIBE THE RELIEF PREVIOUSLY GRANTED.

23 (c) UPON THE MOTION OF THE DISTRICT ATTORNEY OR PROBATION
24 OFFICER OR UPON THE COURT'S OWN MOTION, A COURT MAY REVOKE AN
25 ORDER OF COLLATERAL RELIEF UPON EVIDENCE OF A SUBSEQUENT
26 CRIMINAL CONVICTION OR PROOF THAT THE DEFENDANT IS NO LONGER
27 ENTITLED TO RELIEF. ANY BARS, PROHIBITIONS, SANCTIONS, AND

1 DISQUALIFICATIONS THEREBY RELIEVED SHALL BE REINSTATED AS OF THE
2 DATE OF THE WRITTEN ORDER OF REVOCATION. THE COURT SHALL
3 PROVIDE A COPY OF THE ORDER OF REVOCATION TO THE HOLDER AND TO
4 ANY REGULATORY OR LICENSING ENTITY THAT THE DEFENDANT NOTICED
5 IN HIS OR HER MOTION FOR RELIEF.

6 (7) IF THE COURT ISSUES AN ORDER OF COLLATERAL RELIEF, IT
7 SHALL SEND A COPY OF THE ORDER OF COLLATERAL RELIEF THROUGH THE
8 COLORADO INTEGRATED CRIMINAL JUSTICE INFORMATION SYSTEM TO THE
9 COLORADO BUREAU OF INVESTIGATION, AND THE COLORADO BUREAU OF
10 INVESTIGATION SHALL NOTE IN THE APPLICANT'S RECORD IN THE
11 COLORADO CRIME INFORMATION CENTER THAT THE ORDER OF
12 COLLATERAL RELIEF WAS ISSUED.

13 (8) **Definitions.** AS USED IN THIS SECTION, UNLESS THE CONTEXT
14 OTHERWISE REQUIRES:

15 (a) "COLLATERAL CONSEQUENCE" MEANS A COLLATERAL
16 SANCTION OR A DISQUALIFICATION.

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

27 (c) "CONVICTION" OR "CONVICTED" MEANS A VERDICT OF GUILTY

1 BY A JUDGE OR JURY OR A PLEA OF GUILTY OR NOLO CONTENDERE THAT IS
2 ACCEPTED BY THE COURT ___ OR A CONVICTION OF A CRIME UNDER THE
3 LAWS OF ANY OTHER STATE, THE UNITED STATES, OR ANY TERRITORY
4 SUBJECT TO THE JURISDICTION OF THE UNITED STATES, WHICH, IF
5 COMMITTED WITHIN THIS STATE, WOULD BE A FELONY OR MISDEMEANOR.
6 "CONVICTION" OR "CONVICTED" ALSO INCLUDES HAVING RECEIVED A
7 DEFERRED JUDGMENT AND SENTENCE; ___ EXCEPT THAT A PERSON SHALL
8 NOT BE DEEMED TO HAVE BEEN CONVICTED IF THE PERSON HAS
9 SUCCESSFULLY COMPLETED A DEFERRED SENTENCE.

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

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16 **SECTION 14. In Colorado Revised Statutes, 24-72-308, add (3)**

17 (f) as follows:

18 **24-72-308. Sealing of arrest and criminal records other than**
19 **convictions. (3) Exceptions. (f) IF A PERSON WHO SEEKS TO HAVE HIS OR**
20 **HER ARREST RECORDS SEALED FOR CHARGES THAT ARE NOT COVERED BY**
21 **PARAGRAPH (a) OF THIS SUBSECTION (3), THE FACT THAT THE PERSON WAS**
22 **CHARGED FOR A CRIME COVERED IN PARAGRAPH (a) OF THIS SUBSECTION**
23 **AS A PART OF THE SAME ARREST DOES NOT PROHIBIT A COURT FROM**
24 **SEALING THE ARREST RECORDS RELATED TO THE CHARGES THAT ARE NOT**
25 **COVERED IN PARAGRAPH (a) OF THIS SUBSECTION (3). _____**

26 **SECTION 15. Appropriation. (1) In addition to any other**
27 **appropriation, there is hereby appropriated, out of any moneys in the**

1 general fund not otherwise appropriated, to the judicial department, for
2 the fiscal year beginning July 1, 2013, the sum of \$533,199 and 6.9 FTE,
3 or so much thereof as may be necessary, to be allocated for the
4 implementation of this act as follows:

5 (a) \$424,913 and 6.9 FTE ■ to trial court programs for personal
6 services;

7 (b) \$13,680 ■ to trial court programs for operating expenses; and

8 (c) \$94,606 ■ to centrally administered programs for courthouse
9 capital/infrastructure maintenance.

10 (2) In addition to any other appropriation, there is hereby
11 appropriated, out of any moneys in the Colorado bureau of investigation
12 identification unit fund created in section 24-33.5-426, Colorado Revised
13 Statutes, not otherwise appropriated, to the department of public safety,
14 for the fiscal year beginning July 1, 2013, the sum of \$169,902 and 3.0
15 FTE, or so much thereof as may be necessary, to be allocated for the
16 implementation of this act as follows:

17 (a) \$152,943 and 3.0 FTE ■ to the Colorado bureau of
18 investigation, Colorado crime information center, identification, for
19 personal services;

20 (b) \$2,850 ■ to the Colorado bureau of investigation, Colorado
21 crime information center, identification, for operating expenses; and

22 (c) \$14,109 ■ to the Colorado bureau of investigation, Colorado
23 crime information center, identification, for capital outlay.

24 (3) In addition to any other appropriation, there is hereby
25 appropriated, out of any moneys in the general fund not otherwise
26 appropriated, to the department of public safety, for the fiscal year
27 beginning July 1, 2013, the sum of \$15,000, or so much thereof as may

1 be necessary, to be allocated to the Colorado bureau of investigation,
2 Colorado crime information center, identification, personal services, for
3 contractual software modifications related to the implementation of this
4 act.

5 **SECTION 16. Safety clause.** The general assembly hereby finds,
6 determines, and declares that this act is necessary for the immediate
7 preservation of the public peace, health, and safety.