

SENATE COMMITTEE OF REFERENCE REPORT

Chairman of Committee

April 1, 2013
Date

Committee on Judiciary.

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

SB13-123 be amended as follows, and as so amended, be referred to the Committee on Appropriations with favorable recommendation:

- 1 Amend printed bill, page 2, line 16, strike "AND".
- 2 Page 2, after line 16 insert:
 - 3 "(IV) THAT THE STATE PUBLIC DEFENDER HAS COMPILED A LIST OF
 - 4 LAWS THAT IMPOSE COLLATERAL CONSEQUENCES RELATED TO A CRIMINAL
 - 5 CONVICTION AND THAT THE LIST IS AVAILABLE ON THE STATE PUBLIC
 - 6 DEFENDER'S WEB SITE; AND".
- 7 Renumber succeeding subparagraph accordingly.
- 8 Page 3, line 15, strike "AND".
- 9 Page 3, after line 15 insert:
 - 10 "(IV) THAT THE STATE PUBLIC DEFENDER HAS COMPILED A LIST OF
 - 11 LAWS THAT IMPOSE COLLATERAL CONSEQUENCES RELATED TO A CRIMINAL
 - 12 CONVICTION AND THAT THE LIST IS AVAILABLE ON THE STATE PUBLIC
 - 13 DEFENDER'S WEB SITE; AND".
- 14 Renumber succeeding subparagraph accordingly.
- 15 Page 3, line 20, strike "**clemency.**" and substitute "**commutation of**
- 16 **sentence - definitions.**".
- 17 Page 3, line 26, strike "CLEMENCY," and substitute "COMMUTATION OF
- 18 SENTENCE,".

1 Page 3, line 27, strike "CLEMENCY" and substitute "COMMUTATION OF
2 SENTENCE".

3 Page 4, line 1, strike "INCLUDE A".

4 Page 4, line 3, strike "CLEMENCY" and substitute "COMMUTATION OF
5 SENTENCE".

6 Page 4, after line 3 insert:

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

17 Page 5, line 27, after "OR" insert "COMMERCIAL OR".

18 Page 7, strike lines 23 through 27 and substitute:

19 "**24-72-308.9. Sealing of criminal conviction records**
20 **information for petty offenses and municipal offenses for convictions.**

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

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

29 (A) THE PETITION IS FILED THREE OR MORE YEARS AFTER THE DATE
30 OF THE FINAL DISPOSITION OF ALL CRIMINAL PROCEEDINGS AGAINST THE
31 DEFENDANT OR THE RELEASE OF THE DEFENDANT FROM SUPERVISION
32 CONCERNING A CRIMINAL CONVICTION, WHICHEVER IS LATER; AND

33 (B) THE DEFENDANT HAS NOT BEEN CHARGED OR CONVICTED FOR
34 A FELONY, MISDEMEANOR, OR TRAFFIC OFFENSE IN THE THREE OR MORE
35 YEARS SINCE THE DATE OF THE FINAL DISPOSITION OF ALL CRIMINAL
36 PROCEEDINGS AGAINST HIM OR HER OR THE DATE OF THE DEFENDANT'S
37 RELEASE FROM SUPERVISION, WHICHEVER IS LATER.

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

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

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

31 (V) CONVICTION RECORDS MAY NOT BE SEALED IF THE DEFENDANT
32 STILL OWES RESTITUTION, FINES, COURT COSTS, LATE FEES, OR OTHER FEES
33 ORDERED BY THE COURT IN THE CASE THAT IS THE SUBJECT OF THE
34 PETITION TO SEAL CONVICTION RECORDS, UNLESS THE COURT THAT
35 ENTERED THE ORDER FOR RESTITUTION, FINES, COURT COSTS, LATE FEES,
36 OR OTHER FEES HAS VACATED THE ORDER.

37 (b) (I) A PETITION TO SEAL CONVICTION RECORDS PURSUANT TO
38 THIS SECTION SHALL INCLUDE A LISTING OF EACH CUSTODIAN OF THE
39 RECORDS TO WHOM THE SEALING ORDER IS DIRECTED AND ANY
40 INFORMATION THAT ACCURATELY AND COMPLETELY IDENTIFIES THE
41 RECORDS TO BE SEALED. A VERIFIED COPY OF THE DEFENDANT'S CRIMINAL
42 HISTORY, CURRENT THROUGH AT LEAST THE TWENTIETH DAY PRIOR TO THE

1 DATE OF THE FILING OF THE PETITION, SHALL BE SUBMITTED TO THE COURT
2 BY THE DEFENDANT ALONG WITH THE PETITION AT THE TIME OF FILING,
3 BUT IN NO EVENT LATER THAN THE TENTH DAY AFTER THE PETITION IS
4 FILED. THE DEFENDANT SHALL BE RESPONSIBLE FOR OBTAINING AND
5 PAYING FOR HIS OR HER CRIMINAL HISTORY RECORD.

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

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

22 (c) AFTER THE HEARING DESCRIBED IN SUBPARAGRAPH (II) OF
23 PARAGRAPH (b) OF THIS SUBSECTION (2) IS CONDUCTED AND IF THE COURT
24 FINDS THAT THE HARM TO THE PRIVACY OF THE DEFENDANT OR THE
25 DANGERS OF UNWARRANTED, ADVERSE CONSEQUENCES TO THE
26 DEFENDANT OUTWEIGH THE PUBLIC INTEREST IN RETAINING THE
27 CONVICTION RECORDS, THE COURT MAY ORDER THE CONVICTION RECORDS,
28 EXCEPT BASIC IDENTIFICATION INFORMATION, TO BE SEALED. IN MAKING
29 THIS DETERMINATION, THE COURT SHALL, AT A MINIMUM, CONSIDER THE
30 SEVERITY OF THE OFFENSE THAT IS THE BASIS OF THE CONVICTION
31 RECORDS SOUGHT TO BE SEALED, THE CRIMINAL HISTORY OF THE
32 DEFENDANT, THE NUMBER OF CONVICTIONS AND DATES OF THE
33 CONVICTIONS FOR WHICH THE DEFENDANT IS SEEKING TO HAVE THE
34 RECORDS SEALED, AND THE NEED FOR THE GOVERNMENT AGENCY TO
35 RETAIN THE RECORDS. AN ORDER ENTERED PURSUANT TO THIS PARAGRAPH
36 (c) MUST BE DIRECTED TO EACH CUSTODIAN WHO MAY HAVE CUSTODY OF
37 ANY PART OF THE CONVICTION RECORDS THAT ARE THE SUBJECT OF THE
38 ORDER. WHENEVER A COURT ENTERS AN ORDER SEALING CONVICTION
39 RECORDS PURSUANT TO THIS PARAGRAPH (c), THE DEFENDANT SHALL
40 PROVIDE THE COLORADO BUREAU OF INVESTIGATION AND EACH
41 CUSTODIAN OF THE CONVICTION RECORDS WITH A COPY OF THE ORDER.
42 THE PETITIONER SHALL PROVIDE A PRIVATE CUSTODIAN WITH A COPY OF

1 THE ORDER AND SEND THE PRIVATE CUSTODIAN AN ELECTRONIC
2 NOTIFICATION OF THE ORDER. EACH PRIVATE CUSTODIAN THAT RECEIVES
3 A COPY OF THE ORDER FROM THE PETITIONER SHALL REMOVE THE RECORDS
4 THAT ARE SUBJECT TO AN ORDER FROM ITS DATABASE. THE DEFENDANT
5 SHALL PAY TO THE BUREAU ANY COSTS RELATED TO THE SEALING OF HIS
6 OR HER CRIMINAL CONVICTION RECORDS IN THE CUSTODY OF THE BUREAU.
7 THEREAFTER, THE DEFENDANT MAY REQUEST AND THE COURT MAY GRANT
8 AN ORDER SEALING THE CIVIL CASE IN WHICH THE CONVICTION RECORDS
9 WERE SEALED.

10 (d) EXCEPT AS OTHERWISE PROVIDED IN SUBPARAGRAPH (III) OF
11 PARAGRAPH (a) OF THIS SUBSECTION (2), UPON THE ENTRY OF AN ORDER
12 TO SEAL THE CONVICTION RECORDS, THE DEFENDANT AND ALL CRIMINAL
13 JUSTICE AGENCIES MAY PROPERLY REPLY, UPON AN INQUIRY IN THE
14 MATTER, THAT PUBLIC CONVICTION RECORDS DO NOT EXIST WITH RESPECT
15 TO THE DEFENDANT.

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

20 (f) (I) EXCEPT AS OTHERWISE PROVIDED IN SUBPARAGRAPH (III) OF
21 PARAGRAPH (a) OF THIS SUBSECTION (2) OR IN SUBPARAGRAPHS (II) AND
22 (III) OF THIS PARAGRAPH (f), EMPLOYERS, STATE AND LOCAL
23 GOVERNMENT AGENCIES, OFFICIALS, LANDLORDS, AND EMPLOYEES SHALL
24 NOT, IN ANY APPLICATION OR INTERVIEW OR IN ANY OTHER WAY, REQUIRE
25 AN APPLICANT TO DISCLOSE ANY INFORMATION CONTAINED IN SEALED
26 CONVICTION RECORDS. AN APPLICANT NEED NOT, IN RESPONSE TO ANY
27 QUESTION CONCERNING CONVICTION RECORDS THAT HAVE BEEN SEALED,
28 INCLUDE A REFERENCE TO OR INFORMATION CONCERNING THE SEALED
29 CONVICTION RECORDS AND MAY STATE THAT THE APPLICANT HAS NOT
30 BEEN CRIMINALLY CONVICTED.

31 (II) SUBPARAGRAPH (I) OF THIS PARAGRAPH (f) SHALL NOT
32 PRECLUDE THE BAR COMMITTEE OF THE COLORADO STATE BOARD OF LAW
33 EXAMINERS FROM MAKING FURTHER INQUIRIES INTO THE FACT OF A
34 CONVICTION THAT COMES TO THE ATTENTION OF THE BAR COMMITTEE
35 THROUGH OTHER MEANS. THE BAR COMMITTEE OF THE COLORADO STATE
36 BOARD OF LAW EXAMINERS SHALL HAVE A RIGHT TO INQUIRE INTO THE
37 MORAL AND ETHICAL QUALIFICATIONS OF AN APPLICANT, AND THE
38 APPLICANT SHALL NOT HAVE A RIGHT TO PRIVACY OR PRIVILEGE THAT
39 JUSTIFIES HIS OR HER REFUSAL TO ANSWER A QUESTION CONCERNING
40 SEALED CONVICTION RECORDS THAT HAVE COME TO THE ATTENTION OF
41 THE BAR COMMITTEE THROUGH OTHER MEANS.

1 (III) THE PROVISIONS OF SUBPARAGRAPH (I) OF THIS PARAGRAPH
2 (f) SHALL NOT APPLY TO A CRIMINAL JUSTICE AGENCY OR TO AN
3 APPLICANT TO A CRIMINAL JUSTICE AGENCY.

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

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

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

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

26 (3) **Advisements.** (a) WHENEVER A DEFENDANT IS SENTENCED
27 FOLLOWING A CONVICTION OF A PETTY OR MUNICIPAL OFFENSE, THE
28 COURT SHALL PROVIDE HIM OR HER WITH A WRITTEN ADVISEMENT OF HIS
29 OR HER RIGHTS CONCERNING THE SEALING OF HIS OR HER CONVICTION
30 RECORDS PURSUANT TO THIS SECTION IF HE OR SHE COMPLIES WITH THE
31 APPLICABLE PROVISIONS OF THIS SECTION.

32 (b) IN ADDITION TO, AND NOT IN LIEU OF, THE REQUIREMENT
33 DESCRIBED IN PARAGRAPH (a) OF THIS SUBSECTION (3), IF A DEFENDANT IS
34 SENTENCED TO PROBATION FOLLOWING A CONVICTION OF A PETTY OR
35 MUNICIPAL OFFENSE, THE PROBATION DEPARTMENT, UPON THE
36 TERMINATION OF THE DEFENDANT'S PROBATION, SHALL PROVIDE THE
37 DEFENDANT WITH A WRITTEN ADVISEMENT OF HIS OR HER RIGHTS
38 CONCERNING THE SEALING OF HIS OR HER CONVICTION RECORDS
39 PURSUANT TO THIS SECTION IF HE OR SHE COMPLIES WITH THE APPLICABLE
40 PROVISIONS OF THIS SECTION.

41 (4) THE PROVISIONS OF THIS SECTION SHALL NOT APPLY TO
42 CONVICTION RECORDS THAT ARE IN THE POSSESSION OF A CRIMINAL

1 JUSTICE AGENCY WHEN AN INQUIRY CONCERNING THE CONVICTION
2 RECORDS IS MADE BY ANOTHER CRIMINAL JUSTICE AGENCY.

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

6 (a) THE RULES OF DISCOVERY OR THE RULES OF EVIDENCE
7 PROMULGATED BY THE SUPREME COURT OF COLORADO OR ANY OTHER
8 STATE OR FEDERAL COURT; OR

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

11 **SECTION 10.** In Colorado Revised Statutes, **add** 18-1.3-107 as
12 follows:

13 **18-1.3-107. Sentencing order - collateral relief.** (1) AT THE TIME
14 A DEFENDANT ENTERS INTO AN ALTERNATIVE TO SENTENCING IN THIS PART
15 1, UPON THE REQUEST OF THE DEFENDANT OR UPON THE COURT'S OWN
16 MOTION, A COURT MAY ENTER AN ORDER OF COLLATERAL RELIEF FOR THE
17 PURPOSE OF PRESERVING OR ENHANCING THE DEFENDANT'S EMPLOYMENT
18 OR EMPLOYMENT PROSPECTS AND TO IMPROVE THE DEFENDANT'S
19 LIKELIHOOD OF SUCCESS IN THE ALTERNATIVE TO SENTENCING PROGRAM.

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

28 (b) THE APPLICANT SHALL PROVIDE A COPY OF THE APPLICATION
29 TO THE DISTRICT ATTORNEY AND TO THE REGULATORY OR LICENSING
30 BODY THAT HAS JURISDICTION OVER THE COLLATERAL CONSEQUENCE
31 FROM WHICH THE APPLICANT IS SEEKING RELIEF, IF ANY, BY CERTIFIED
32 MAIL OR PERSONAL SERVICE WITHIN TEN DAYS AFTER FILING THE
33 APPLICATION WITH THE COURT.

34 (3) AN ORDER OF COLLATERAL RELIEF MAY RELIEVE A DEFENDANT
35 OF ANY COLLATERAL CONSEQUENCES OF THE CONVICTION, WHETHER IN
36 HOUSING OR EMPLOYMENT BARRIERS OR ANY OTHER SANCTION OR
37 DISQUALIFICATION THAT THE COURT SHALL SPECIFY, INCLUDING BUT NOT
38 LIMITED TO STATUTORY, REGULATORY, OR OTHER COLLATERAL
39 CONSEQUENCES THAT THE COURT MAY SEE FIT TO RELIEVE THAT WILL
40 ASSIST THE DEFENDANT IN SUCCESSFULLY COMPLETING PROBATION OR A
41 COMMUNITY CORRECTIONS SENTENCE.

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

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

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

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

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

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

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

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

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

29 (II) GRANTING THE APPLICATION WOULD IMPROVE THE
30 APPLICANT'S LIKELIHOOD OF SUCCESS IN REINTEGRATING INTO SOCIETY
31 AND IS IN THE PUBLIC'S INTEREST.

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

37 (c) UPON THE MOTION OF THE DISTRICT ATTORNEY OR PROBATION
38 OFFICER OR UPON THE COURT'S OWN MOTION, A COURT MAY REVOKE AN
39 ORDER OF COLLATERAL RELIEF UPON EVIDENCE OF A SUBSEQUENT
40 CRIMINAL CONVICTION OR PROOF THAT THE DEFENDANT IS NO LONGER
41 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
28 BY A JUDGE OR JURY OR A PLEA OF GUILTY OR NOLO CONTENDERE THAT IS
29 ACCEPTED BY THE COURT OR AN ADJUDICATION FOR AN OFFENSE THAT
30 WOULD CONSTITUTE A CRIMINAL OFFENSE IF COMMITTED BY AN ADULT, OR
31 A CONVICTION OF A CRIME UNDER THE LAWS OF ANY OTHER STATE, THE
32 UNITED STATES, OR ANY TERRITORY SUBJECT TO THE JURISDICTION OF THE
33 UNITED STATES, WHICH, IF COMMITTED WITHIN THIS STATE, WOULD BE A
34 FELONY OR MISDEMEANOR. "CONVICTION" OR "CONVICTED" ALSO
35 INCLUDES HAVING RECEIVED A DEFERRED JUDGMENT AND SENTENCE OR
36 A DEFERRED ADJUDICATION; EXCEPT THAT A PERSON SHALL NOT BE
37 DEEMED TO HAVE BEEN CONVICTED IF THE PERSON HAS SUCCESSFULLY
38 COMPLETED A DEFERRED SENTENCE OR A DEFERRED ADJUDICATION.

39 (d) "DISQUALIFICATION" MEANS A PENALTY, PROHIBITION, BAR, OR
40 DISADVANTAGE, HOWEVER DENOMINATED, THAT AN ADMINISTRATIVE
41 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 11.** 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
28 OF ANY COLLATERAL CONSEQUENCES OF THE CONVICTION, WHETHER IN
29 HOUSING OR EMPLOYMENT BARRIERS OR ANY OTHER SANCTION OR
30 DISQUALIFICATION THAT THE COURT SHALL SPECIFY, INCLUDING BUT NOT
31 LIMITED TO STATUTORY, REGULATORY, OR OTHER COLLATERAL
32 CONSEQUENCES THAT THE COURT MAY SEE FIT TO RELIEVE THAT WILL
33 ASSIST THE DEFENDANT IN SUCCESSFULLY COMPLETING PROBATION OR A
34 COMMUNITY CORRECTIONS SENTENCE.

35 (4) (a) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, AN
36 ORDER OF COLLATERAL RELIEF CANNOT RELIEVE ANY COLLATERAL
37 CONSEQUENCES IMPOSED BY LAW FOR LICENSURE BY THE DEPARTMENT OF
38 EDUCATION OR ANY COLLATERAL CONSEQUENCES IMPOSED BY LAW FOR
39 EMPLOYMENT WITH THE JUDICIAL BRANCH, THE DEPARTMENT OF
40 CORRECTIONS, DIVISION OF YOUTH CORRECTIONS IN THE DEPARTMENT OF
41 HUMAN SERVICES, OR ANY OTHER LAW ENFORCEMENT AGENCY IN THE
42 STATE OF COLORADO.

1 (b) A COURT SHALL NOT ISSUE AN ORDER OF COLLATERAL RELIEF
2 IF THE DEFENDANT:
3 (I) HAS BEEN CONVICTED OF A FELONY THAT INCLUDED AN
4 ELEMENT THAT REQUIRES A VICTIM TO SUFFER PERMANENT DISABILITY;
5 (II) Has been convicted of a crime of violence as described in
6 section 18-1.3-406; OR
7 (III) IS REQUIRED TO REGISTER AS A SEX OFFENDER PURSUANT TO
8 SECTION 16-22-103, C.R.S.
9 (5) **Hearing.** (a) THE COURT MAY CONDUCT A HEARING OR
10 INCLUDE A HEARING ON THE MATTER AT THE DEFENDANT'S SENTENCING
11 HEARING ON THE APPLICATION OR ON ANY MATTER RELEVANT TO THE
12 GRANTING OR DENYING OF THE APPLICATION AND MAY TAKE TESTIMONY
13 UNDER OATH.
14 (b) THE COURT MAY HEAR TESTIMONY FROM VICTIMS OR ANY
15 PROPONENT OR OPPONENT OF THE APPLICATION AND MAY HEAR
16 ARGUMENT FROM THE PETITIONER AND THE DISTRICT ATTORNEY.
17 (6) **Standard for granting relief.** (a) A COURT MAY ISSUE AN
18 ORDER OF COLLATERAL RELIEF IF THE COURT FINDS THAT:
19 (I) THE ORDER OF COLLATERAL RELIEF IS CONSISTENT WITH THE
20 APPLICANT'S REHABILITATION; AND
21 (II) GRANTING THE APPLICATION WOULD IMPROVE THE
22 APPLICANT'S LIKELIHOOD OF SUCCESS IN REINTEGRATING INTO SOCIETY
23 AND IS IN THE PUBLIC'S INTEREST.
24 (b) THE COURT THAT PREVIOUSLY ISSUED AN ORDER OF
25 COLLATERAL RELIEF, ON ITS OWN MOTION OR EITHER BY CAUSE SHOWN BY
26 THE DISTRICT ATTORNEY OR ON GROUNDS OFFERED BY THE APPLICANT,
27 MAY AT ANY TIME ISSUE A SUBSEQUENT JUDGMENT TO ENLARGE, LIMIT, OR
28 CIRCUMSCRIBE THE RELIEF PREVIOUSLY GRANTED.
29 (c) UPON THE MOTION OF THE DISTRICT ATTORNEY OR PROBATION
30 OFFICER OR UPON THE COURT'S OWN MOTION, A COURT MAY REVOKE AN
31 ORDER OF COLLATERAL RELIEF UPON EVIDENCE OF A SUBSEQUENT
32 CRIMINAL CONVICTION OR PROOF THAT THE DEFENDANT IS NO LONGER
33 ENTITLED TO RELIEF. ANY BARS, PROHIBITIONS, SANCTIONS, AND
34 DISQUALIFICATIONS THEREBY RELIEVED SHALL BE REINSTATED AS OF THE
35 DATE OF THE WRITTEN ORDER OF REVOCATION. THE COURT SHALL
36 PROVIDE A COPY OF THE ORDER OF REVOCATION TO THE HOLDER AND TO
37 ANY REGULATORY OR LICENSING ENTITY THAT THE DEFENDANT NOTICED
38 IN HIS OR HER MOTION FOR RELIEF.
39 (7) IF THE COURT ISSUES AN ORDER OF COLLATERAL RELIEF, IT
40 SHALL SEND A COPY OF THE ORDER OF COLLATERAL RELIEF THROUGH THE
41 COLORADO INTEGRATED CRIMINAL JUSTICE INFORMATION SYSTEM TO THE
42 COLORADO BUREAU OF INVESTIGATION, AND THE COLORADO BUREAU OF

1 INVESTIGATION SHALL NOTE IN THE APPLICANT'S RECORD IN THE
2 COLORADO CRIME INFORMATION CENTER THAT THE ORDER OF
3 COLLATERAL RELIEF WAS ISSUED.

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

6 (a) "COLLATERAL CONSEQUENCE" MEANS A COLLATERAL
7 SANCTION OR A DISQUALIFICATION.

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

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

30 (d) "DISQUALIFICATION" MEANS A PENALTY, PROHIBITION, BAR, OR
31 DISADVANTAGE, HOWEVER DENOMINATED, THAT AN ADMINISTRATIVE
32 AGENCY, GOVERNMENTAL OFFICIAL, OR COURT IN A CIVIL PROCEEDING IS
33 AUTHORIZED, BUT NOT REQUIRED, TO IMPOSE ON AN INDIVIDUAL ON
34 GROUNDS RELATING TO THE INDIVIDUAL'S CONVICTION OF AN OFFENSE.

35 **SECTION 12.** In Colorado Revised Statutes, **add** 18-1.3-303 as
36 follows:

37 **18-1.3-303. Sentencing order - collateral relief.** (1) AT THE TIME
38 OF SENTENCING, UPON THE REQUEST OF THE DEFENDANT OR UPON THE
39 COURT'S OWN MOTION, A COURT MAY ENTER AN ORDER OF COLLATERAL
40 RELIEF IF THE COURT SENTENCES THE DEFENDANT TO A COMMUNITY
41 CORRECTIONS PROGRAM FOR THE PURPOSE OF PRESERVING OR ENHANCING
42 THE DEFENDANT'S EMPLOYMENT OR EMPLOYMENT PROSPECTS AND TO

1 IMPROVE THE DEFENDANT'S LIKELIHOOD OF SUCCESS ON PROBATION OR IN
2 THE COMMUNITY CORRECTIONS PROGRAM.

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

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

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

25 (4) (a) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, AN
26 ORDER OF COLLATERAL RELIEF CANNOT RELIEVE ANY COLLATERAL
27 CONSEQUENCES IMPOSED BY LAW FOR LICENSURE BY THE DEPARTMENT OF
28 EDUCATION OR ANY COLLATERAL CONSEQUENCES IMPOSED BY LAW FOR
29 EMPLOYMENT WITH THE JUDICIAL BRANCH, THE DEPARTMENT OF
30 CORRECTIONS, DIVISION OF YOUTH CORRECTIONS IN THE DEPARTMENT OF
31 HUMAN SERVICES, OR ANY OTHER LAW ENFORCEMENT AGENCY IN THE
32 STATE OF COLORADO.

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

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

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

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

41 (5) **Hearing.** (a) THE COURT MAY CONDUCT A HEARING OR
42 INCLUDE A HEARING ON THE MATTER AT THE DEFENDANT'S SENTENCING

1 HEARING ON THE APPLICATION OR ON ANY MATTER RELEVANT TO THE
2 GRANTING OR DENYING OF THE APPLICATION AND MAY TAKE TESTIMONY
3 UNDER OATH.

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

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

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

29 (7) IF THE COURT ISSUES AN ORDER OF COLLATERAL RELIEF, IT
30 SHALL SEND A COPY OF THE ORDER OF COLLATERAL RELIEF THROUGH THE
31 COLORADO INTEGRATED CRIMINAL JUSTICE INFORMATION SYSTEM TO THE
32 COLORADO BUREAU OF INVESTIGATION, AND THE COLORADO BUREAU OF
33 INVESTIGATION SHALL NOTE IN THE APPLICANT'S RECORD IN THE
34 COLORADO CRIME INFORMATION CENTER THAT THE ORDER OF
35 COLLATERAL RELIEF WAS ISSUED.

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

38 (a) "COLLATERAL CONSEQUENCE" MEANS A COLLATERAL
39 SANCTION OR A DISQUALIFICATION.

40 (b) "COLLATERAL SANCTION" MEANS A PENALTY, PROHIBITION,
41 BAR, OR DISADVANTAGE, HOWEVER DENOMINATED, IMPOSED ON AN
42 INDIVIDUAL AS A RESULT OF THE INDIVIDUAL'S CONVICTION OF AN

1 OFFENSE, WHICH PENALTY, PROHIBITION, BAR, OR DISADVANTAGE APPLIES
2 BY OPERATION OF LAW REGARDLESS OF WHETHER THE PENALTY,
3 PROHIBITION, BAR, OR DISADVANTAGE IS INCLUDED IN THE JUDGMENT OR
4 SENTENCE. "COLLATERAL SANCTION" DOES NOT INCLUDE IMPRISONMENT,
5 PROBATION, PAROLE, SUPERVISED RELEASE, FORFEITURE, RESTITUTION,
6 FINE, ASSESSMENT, COSTS OF PROSECUTION, OR A RESTRAINT OR SANCTION
7 ON AN INDIVIDUAL'S DRIVING PRIVILEGE.

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

20 (d) "DISQUALIFICATION" MEANS A PENALTY, PROHIBITION, BAR, OR
21 DISADVANTAGE, HOWEVER DENOMINATED, THAT AN ADMINISTRATIVE
22 AGENCY, GOVERNMENTAL OFFICIAL, OR COURT IN A CIVIL PROCEEDING IS
23 AUTHORIZED, BUT NOT REQUIRED, TO IMPOSE ON AN INDIVIDUAL ON
24 GROUNDS RELATING TO THE INDIVIDUAL'S CONVICTION OF AN OFFENSE.

25 **SECTION 13.** In Colorado Revised Statutes, 16-11.3-103, **add**
26 (2.8) as follows:

27 **16-11.3-103. Duties of the commission - mission - staffing -**
28 **repeal.** (2.8) (a) USING EMPIRICAL ANALYSIS AND EVIDENCE-BASED DATA
29 AND RESEARCH, THE RE-ENTRY TASK FORCE OF THE COMMISSION MUST
30 STUDY COLLATERAL CONSEQUENCES AND MAKE RECOMMENDATIONS TO
31 THE COMMISSION FOR RECOMMENDATION TO THE LEGISLATURE
32 REGARDING:

33 (I) WHETHER ADDITIONAL PROVISIONS FOR SEALING CRIMINAL
34 CONVICTION RECORDS SHOULD BE ENACTED;

35 (II) WHETHER A CERTIFICATE OF REHABILITATION THAT PROVIDES
36 RELIEF FROM COLLATERAL CONSEQUENCES SHOULD BE CREATED IN
37 STATUTE;

38 (III) BEST PRACTICES FOR PROSECUTORS AND DEFENSE ATTORNEYS
39 FOR ADVISING DEFENDANTS IN CRIMINAL ACTIONS AS TO THE POTENTIAL
40 COLLATERAL CONSEQUENCES PRIOR TO ENTERING A PLEA;

41 (IV) WHETHER A STANDARD REGULATORY AND LICENSING
42 APPROACH FOR THE IMPOSITION OF COLLATERAL CONSEQUENCES SHOULD

1 BE DEVELOPED INCLUDING TREATMENT OF CRIMINAL CONVICTIONS,
2 DEFERRED JUDGMENTS, DEFERRED PROSECUTIONS, AND OTHER CRIMINAL
3 SANCTIONS;

4 (V) METHODS TO IMPROVE ACCURACY OF CRIMINAL HISTORY
5 RECORDS, PARTICULARLY ARREST RECORDS WHEN A FINAL DISPOSITION IS
6 NOT INDICATED; AND

7 (VI) ANY OTHER RECOMMENDATIONS TO IMPROVE REINTEGRATION
8 OF OFFENDERS, REDUCE RECIDIVISM, AND TAKE AN EVIDENCE-BASED
9 APPROACH TO THE APPLICATION OF COLLATERAL CONSEQUENCES.

10 (b) BY DECEMBER 15, 2013, THE COMMISSION SHALL PROVIDE TO
11 THE JUDICIARY COMMITTEES OF THE HOUSE OF REPRESENTATIVES AND THE
12 SENATE, OR THEIR SUCCESSOR COMMITTEES, A WRITTEN REPORT OF THE
13 COMMISSION'S RECOMMENDATIONS. IF THE COMMISSION IS UNABLE TO
14 BRING FORTH RECOMMENDATIONS, FOR EACH ISSUE IN PARAGRAPH (a) OF
15 SUBSECTION (2.8) OF THIS SECTION, TO THE GENERAL ASSEMBLY TO
16 CONSIDER, THE COMMISSION SHALL PROVIDE IN THE REPORT THE REASONS
17 THE COMMISSION COULD NOT MAKE ANY RECOMMENDATIONS AND, IF
18 POSSIBLE, DESCRIBE THE SPECIFIC AREAS OF DISAGREEMENT THAT
19 PREVENTED THE COMMISSION FROM MAKING ANY RECOMMENDATIONS.

20 (c) THIS SUBSECTION (2.8) IS REPEALED, EFFECTIVE JULY 1, 2014.

21 **SECTION 14.** In Colorado Revised Statutes, 24-72-308, **add** (3)
22 (f) as follows:

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

31 Strike pages 8 through 16.

32 Page 17, strike lines 1 through 25.

33 Renumber succeeding section accordingly.

** ** ** ** **