

First Regular Session
Sixty-ninth General Assembly
STATE OF COLORADO

ENGROSSED

*This Version Includes All Amendments Adopted
on Second Reading in the House of Introduction*

LLS NO. 13-0297.01 Michael Dohr x4347

SENATE BILL 13-123

SENATE SPONSORSHIP

Steadman,

HOUSE SPONSORSHIP

Levy,

Senate Committees

Judiciary
Appropriations

House Committees

A BILL FOR AN ACT

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

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) (b) (II) and (2) (b); and **add** (4) as follows:

9 **24-72-308. Sealing of arrest and criminal records other than**
10 **convictions.** (1) (b) (II) (A) Upon the filing of a petition, the court shall
11 review the petition and determine whether there are grounds under this
12 section to proceed to a hearing on the petition. If the court determines that
13 the petition on its face is insufficient or if the court determines that, after
14 taking judicial notice of matters outside the petition, the petitioner is not
15 entitled to relief under this section, the court shall enter an order denying
16 the petition and mail a copy of the order to the petitioner. The court's
17 order shall specify the reasons for the denial of the petition. IF THE
18 PETITION PERTAINS TO A DISMISSAL THAT IS NOT THE RESULT OF A
19 COMPLETION OF A DEFERRED DISPOSITION OR A MULTI-CASE DISPOSITION,
20 THE COURT SHALL ORDER A RECORD SEALED IF THE PETITION IS SUFFICIENT
21 ON ITS FACE.

22 (B) If the court determines that the petition is sufficient on its face
23 and that no other grounds exist at that time for the court to deny the
24 petition under this section, the court shall set a date for a hearing and the
25 petitioner shall notify the prosecuting attorney by certified mail, the
26 arresting agency, and any other person or agency identified by the
27 petitioner. IF THE PETITION PERTAINS TO A DISMISSAL THAT IS NOT THE

1 RESULT OF A COMPLETION OF A DEFERRED DISPOSITION OR A MULTI-CASE
2 DISPOSITION, THE COURT SHALL ORDER A RECORD SEALED IF THE PETITION
3 IS SUFFICIENT ON ITS FACE.

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

6 (I) If a defendant's case is dismissed after a period of supervision
7 by probation, the probation department, upon the termination of the
8 defendant's probation, shall provide the defendant with a written
9 advisement of his or her rights pursuant to this section concerning the
10 sealing of his or her criminal justice records if he or she complies with the
11 applicable provisions of this section.

12 (II) IF A DEFENDANT IS RELEASED ON PAROLE, THE DEFENDANT'S
13 PAROLE OFFICER, UPON THE TERMINATION OF THE DEFENDANT'S PAROLE,
14 SHALL PROVIDE THE DEFENDANT WITH A WRITTEN ADVISEMENT OF HIS OR
15 HER RIGHTS CONCERNING THE SEALING OF HIS OR HER CRIMINAL JUSTICE
16 RECORDS PURSUANT TO THIS SECTION IF HE OR SHE COMPLIES WITH THE
17 APPLICABLE PROVISIONS OF THIS SECTION.

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

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

22 **24-72-308.5. Sealing of criminal conviction records**
23 **information for offenses involving controlled substances for**
24 **convictions entered on or after July 1, 2008, and prior to July 1, 2011.**

25 (2) **Sealing of conviction records.** (f) (I) Except as otherwise provided
26 in subparagraph (II) of paragraph (a) of this subsection (2) or in
27 subparagraphs (II) and (III) of this paragraph (f), employers, state and

1 local government agencies, officials, landlords, and employees shall not,
2 in any application or interview or in any other way, require an applicant
3 to disclose any information contained in sealed conviction records. An
4 applicant need not, in answer to any question concerning conviction
5 records that have been sealed, include a reference to or information
6 concerning the sealed conviction records and may state that the applicant
7 has not been criminally convicted. AN APPLICATION MAY NOT BE DENIED
8 SOLELY BECAUSE OF THE APPLICANT'S REFUSAL TO DISCLOSE CONVICTION
9 RECORDS THAT HAVE BEEN SEALED.

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

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

14 24-72-308.6. Sealing of criminal conviction records
15 information for offenses involving controlled substances for
16 convictions entered on or after July 1, 2011. (6) A PERSON MAY FILE
17 A PETITION WITH THE COURT FOR SEALING OF EACH CASE ONCE EVERY
18 TWELVE-MONTH PERIOD.

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

21 24-72-308.9. Sealing of criminal conviction records
22 information for petty offenses and municipal offenses for convictions.

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

26 (2) Sealing of conviction records. (a) (I) A DEFENDANT MAY
27 PETITION THE DISTRICT COURT OF THE DISTRICT IN WHICH ANY

1 CONVICTION RECORDS PERTAINING TO THE DEFENDANT FOR A PETTY
2 OFFENSE OR MUNICIPAL VIOLATION ARE LOCATED FOR THE SEALING OF THE
3 CONVICTION RECORDS, EXCEPT BASIC IDENTIFYING INFORMATION, IF:

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

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

13 (C) THE CONVICTION RECORDS TO BE SEALED ARE NOT FOR A
14 TRAFFIC OFFENSE COMMITTED EITHER BY A HOLDER OF A COMMERCIAL
15 LEARNER'S PERMIT OR A COMMERCIAL DRIVER'S LICENSE, AS DEFINED IN
16 SECTION 42-2-402, C.R.S., OR BY THE OPERATOR OF A COMMERCIAL
17 MOTOR VEHICLE AS DEFINED IN SECTION 42-2-402, C.R.S.

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

25 (III) A PETITION TO SEAL RECORDS PURSUANT TO THIS SECTION
26 MAY ONLY BE FILED ONCE DURING A TWELVE-MONTH PERIOD. THE COURT
27 SHALL IMMEDIATELY DISMISS A SECOND OR SUBSEQUENT PETITION FILED

1 WITHIN TWELVE MONTHS OF ANOTHER PETITION.

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

21 (V) CONVICTION RECORDS MAY NOT BE SEALED IF THE DEFENDANT
22 STILL OWES RESTITUTION, FINES, COURT COSTS, LATE FEES, OR OTHER FEES
23 ORDERED BY THE COURT IN THE CASE THAT IS THE SUBJECT OF THE
24 PETITION TO SEAL CONVICTION RECORDS, UNLESS THE COURT THAT
25 ENTERED THE ORDER FOR RESTITUTION, FINES, COURT COSTS, LATE FEES,
26 OR OTHER FEES HAS VACATED THE ORDER.

27 (b) (I) A PETITION TO SEAL CONVICTION RECORDS PURSUANT TO

1 THIS SECTION SHALL INCLUDE A LISTING OF EACH CUSTODIAN OF THE
2 RECORDS TO WHOM THE SEALING ORDER IS DIRECTED AND ANY
3 INFORMATION THAT ACCURATELY AND COMPLETELY IDENTIFIES THE
4 RECORDS TO BE SEALED. A VERIFIED COPY OF THE DEFENDANT'S CRIMINAL
5 HISTORY, CURRENT THROUGH AT LEAST THE TWENTIETH DAY PRIOR TO THE
6 DATE OF THE FILING OF THE PETITION, SHALL BE SUBMITTED TO THE COURT
7 BY THE DEFENDANT ALONG WITH THE PETITION AT THE TIME OF FILING,
8 BUT IN NO EVENT LATER THAN THE TENTH DAY AFTER THE PETITION IS
9 FILED. THE DEFENDANT SHALL BE RESPONSIBLE FOR OBTAINING AND
10 PAYING FOR HIS OR HER CRIMINAL HISTORY RECORD.

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

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

27 (c) AFTER THE HEARING DESCRIBED IN SUBPARAGRAPH (II) OF

1 PARAGRAPH (b) OF THIS SUBSECTION (2) IS CONDUCTED AND IF THE COURT
2 FINDS THAT THE HARM TO THE PRIVACY OF THE DEFENDANT OR THE
3 DANGERS OF UNWARRANTED, ADVERSE CONSEQUENCES TO THE
4 DEFENDANT OUTWEIGH THE PUBLIC INTEREST IN RETAINING THE
5 CONVICTION RECORDS, THE COURT MAY ORDER THE CONVICTION RECORDS,
6 EXCEPT BASIC IDENTIFICATION INFORMATION, TO BE SEALED. IN MAKING
7 THIS DETERMINATION, THE COURT SHALL, AT A MINIMUM, CONSIDER THE
8 SEVERITY OF THE OFFENSE THAT IS THE BASIS OF THE CONVICTION
9 RECORDS SOUGHT TO BE SEALED, THE CRIMINAL HISTORY OF THE
10 DEFENDANT, THE NUMBER OF CONVICTIONS AND DATES OF THE
11 CONVICTIONS FOR WHICH THE DEFENDANT IS SEEKING TO HAVE THE
12 RECORDS SEALED, AND THE NEED FOR THE GOVERNMENT AGENCY TO
13 RETAIN THE RECORDS. AN ORDER ENTERED PURSUANT TO THIS PARAGRAPH
14 (c) MUST BE DIRECTED TO EACH CUSTODIAN WHO MAY HAVE CUSTODY OF
15 ANY PART OF THE CONVICTION RECORDS THAT ARE THE SUBJECT OF THE
16 ORDER. WHENEVER A COURT ENTERS AN ORDER SEALING CONVICTION
17 RECORDS PURSUANT TO THIS PARAGRAPH (c), THE DEFENDANT SHALL
18 PROVIDE THE COLORADO BUREAU OF INVESTIGATION AND EACH
19 CUSTODIAN OF THE CONVICTION RECORDS WITH A COPY OF THE ORDER.
20 THE PETITIONER SHALL PROVIDE A PRIVATE CUSTODIAN WITH A COPY OF
21 THE ORDER AND SEND THE PRIVATE CUSTODIAN AN ELECTRONIC
22 NOTIFICATION OF THE ORDER. EACH PRIVATE CUSTODIAN THAT RECEIVES
23 A COPY OF THE ORDER FROM THE PETITIONER SHALL REMOVE THE RECORDS
24 THAT ARE SUBJECT TO AN ORDER FROM ITS DATABASE. THE DEFENDANT
25 SHALL PAY TO THE BUREAU ANY COSTS RELATED TO THE SEALING OF HIS
26 OR HER CRIMINAL CONVICTION RECORDS IN THE CUSTODY OF THE BUREAU.
27 THEREAFTER, THE DEFENDANT MAY REQUEST AND THE COURT MAY GRANT

1 AN ORDER SEALING THE CIVIL CASE IN WHICH THE CONVICTION RECORDS
2 WERE SEALED.

3 (d) EXCEPT AS OTHERWISE PROVIDED IN SUBPARAGRAPH (III) OF
4 PARAGRAPH (a) OF THIS SUBSECTION (2), UPON THE ENTRY OF AN ORDER
5 TO SEAL THE CONVICTION RECORDS, THE DEFENDANT AND ALL CRIMINAL
6 JUSTICE AGENCIES MAY PROPERLY REPLY, UPON AN INQUIRY IN THE
7 MATTER, THAT PUBLIC CONVICTION RECORDS DO NOT EXIST WITH RESPECT
8 TO THE DEFENDANT.

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

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

24 (II) SUBPARAGRAPH (I) OF THIS PARAGRAPH (f) SHALL NOT
25 PRECLUDE THE BAR COMMITTEE OF THE COLORADO STATE BOARD OF LAW
26 EXAMINERS FROM MAKING FURTHER INQUIRIES INTO THE FACT OF A
27 CONVICTION THAT COMES TO THE ATTENTION OF THE BAR COMMITTEE

1 THROUGH OTHER MEANS. THE BAR COMMITTEE OF THE COLORADO STATE
2 BOARD OF LAW EXAMINERS SHALL HAVE A RIGHT TO INQUIRE INTO THE
3 MORAL AND ETHICAL QUALIFICATIONS OF AN APPLICANT, AND THE
4 APPLICANT SHALL NOT HAVE A RIGHT TO PRIVACY OR PRIVILEGE THAT
5 JUSTIFIES HIS OR HER REFUSAL TO ANSWER A QUESTION CONCERNING
6 SEALED CONVICTION RECORDS THAT HAVE COME TO THE ATTENTION OF
7 THE BAR COMMITTEE THROUGH OTHER MEANS.

8 (III) THE PROVISIONS OF SUBPARAGRAPH (I) OF THIS PARAGRAPH
9 (f) SHALL NOT APPLY TO A CRIMINAL JUSTICE AGENCY OR TO AN
10 APPLICANT TO A CRIMINAL JUSTICE AGENCY.

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

16 (g) THE OFFICE OF THE STATE COURT ADMINISTRATOR SHALL POST
17 ON ITS WEB SITE A LIST OF ALL PETITIONS TO SEAL CONVICTION RECORDS
18 THAT ARE FILED WITH A DISTRICT COURT. A DISTRICT COURT MAY NOT
19 GRANT A PETITION TO SEAL CONVICTION RECORDS UNTIL AT LEAST THIRTY
20 DAYS AFTER THE POSTING. AFTER THE EXPIRATION OF THIRTY DAYS
21 FOLLOWING THE POSTING, THE PETITION TO SEAL CONVICTION RECORDS
22 AND INFORMATION PERTINENT THERETO SHALL BE REMOVED FROM THE
23 WEB SITE OF THE OFFICE OF THE STATE COURT ADMINISTRATOR.

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

26 (i) NOTWITHSTANDING ANY PROVISION IN THIS SECTION TO THE
27 CONTRARY, IN REGARD TO ANY CONVICTION OF A DEFENDANT RESULTING

1 FROM A SINGLE CASE IN WHICH THE DEFENDANT IS CONVICTED OF MORE
2 THAN ONE OFFENSE, RECORDS OF THE CONVICTION MAY BE SEALED
3 PURSUANT TO THE PROVISIONS OF THIS SECTION ONLY IF THE RECORDS OF
4 EVERY CONVICTION OF THE DEFENDANT RESULTING FROM THAT CASE MAY
5 BE SEALED PURSUANT TO THE PROVISIONS OF THIS SECTION.

6 (3) **Advisements.** (a) WHENEVER A DEFENDANT IS SENTENCED
7 FOLLOWING A CONVICTION OF A PETTY OR MUNICIPAL OFFENSE, THE
8 COURT SHALL PROVIDE HIM OR HER WITH A WRITTEN ADVISEMENT OF HIS
9 OR HER RIGHTS CONCERNING THE SEALING OF HIS OR HER CONVICTION
10 RECORDS PURSUANT TO THIS SECTION IF HE OR SHE COMPLIES WITH THE
11 APPLICABLE PROVISIONS OF THIS SECTION.

12 (b) IN ADDITION TO, AND NOT IN LIEU OF, THE REQUIREMENT
13 DESCRIBED IN PARAGRAPH (a) OF THIS SUBSECTION (3), IF A DEFENDANT IS
14 SENTENCED TO PROBATION FOLLOWING A CONVICTION OF A PETTY OR
15 MUNICIPAL OFFENSE, THE PROBATION DEPARTMENT, UPON THE
16 TERMINATION OF THE DEFENDANT'S PROBATION, SHALL PROVIDE THE
17 DEFENDANT WITH A WRITTEN ADVISEMENT OF HIS OR HER RIGHTS
18 CONCERNING THE SEALING OF HIS OR HER CONVICTION RECORDS
19 PURSUANT TO THIS SECTION IF HE OR SHE COMPLIES WITH THE APPLICABLE
20 PROVISIONS OF THIS SECTION.

21 (4) THE PROVISIONS OF THIS SECTION SHALL NOT APPLY TO
22 CONVICTION RECORDS THAT ARE IN THE POSSESSION OF A CRIMINAL
23 JUSTICE AGENCY WHEN AN INQUIRY CONCERNING THE CONVICTION
24 RECORDS IS MADE BY ANOTHER CRIMINAL JUSTICE AGENCY.

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

1 (a) THE RULES OF DISCOVERY OR THE RULES OF EVIDENCE
2 PROMULGATED BY THE SUPREME COURT OF COLORADO OR ANY OTHER
3 STATE OR FEDERAL COURT; OR

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

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

8 **18-1.3-107. Sentencing order - collateral relief.** (1) AT THE TIME
9 A DEFENDANT ENTERS INTO AN ALTERNATIVE TO SENTENCING IN THIS PART
10 1, UPON THE REQUEST OF THE DEFENDANT OR UPON THE COURT'S OWN
11 MOTION, A COURT MAY ENTER AN ORDER OF COLLATERAL RELIEF FOR THE
12 PURPOSE OF PRESERVING OR ENHANCING THE DEFENDANT'S EMPLOYMENT
13 OR EMPLOYMENT PROSPECTS AND TO IMPROVE THE DEFENDANT'S
14 LIKELIHOOD OF SUCCESS IN THE ALTERNATIVE TO SENTENCING PROGRAM.

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

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

1 APPLICATION WITH THE COURT.

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

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

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

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

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

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

26 (5) **Hearing.** (a) THE COURT MAY CONDUCT A HEARING OR
27 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

1 IN HIS OR HER MOTION FOR RELIEF.

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

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

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

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

23 (c) "CONVICTION" OR "CONVICTED" MEANS A VERDICT OF GUILTY
24 BY A JUDGE OR JURY OR A PLEA OF GUILTY OR NOLO CONTENDERE THAT IS
25 ACCEPTED BY THE COURT ___ ___ OR A CONVICTION OF A CRIME UNDER THE
26 LAWS OF ANY OTHER STATE, THE UNITED STATES, OR ANY TERRITORY
27 SUBJECT TO THE JURISDICTION OF THE UNITED STATES, WHICH, IF

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

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

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

13 **18-1.3-213. Sentencing order - collateral relief.** (1) AT THE TIME
14 OF SENTENCING, UPON THE REQUEST OF THE DEFENDANT OR UPON THE
15 COURT'S OWN MOTION, A COURT THAT SENTENCES THE DEFENDANT TO
16 PROBATION 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 ON PROBATION OR IN THE COMMUNITY
20 CORRECTIONS PROGRAM.

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

1 APPLICANT MAY SUBMIT IN APPLICATION.

2 (b) THE APPLICANT SHALL PROVIDE A COPY OF THE APPLICATION
3 TO THE DISTRICT ATTORNEY AND TO THE REGULATORY OR LICENSING
4 BODY THAT HAS JURISDICTION OVER THE COLLATERAL CONSEQUENCE
5 FROM WHICH THE APPLICANT IS SEEKING RELIEF, IF ANY, BY CERTIFIED
6 MAIL OR PERSONAL SERVICE WITHIN TEN DAYS AFTER FILING THE
7 APPLICATION WITH THE COURT.

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

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

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

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

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

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

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

10 (b) THE COURT MAY HEAR TESTIMONY FROM VICTIMS OR ANY
11 PROPONENT OR OPPONENT OF THE APPLICATION AND MAY HEAR
12 ARGUMENT FROM THE PETITIONER AND THE DISTRICT ATTORNEY.

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

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

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

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

25 (c) UPON THE MOTION OF THE DISTRICT ATTORNEY OR PROBATION
26 OFFICER OR UPON THE COURT'S OWN MOTION, A COURT MAY REVOKE AN
27 ORDER OF COLLATERAL RELIEF UPON EVIDENCE OF A SUBSEQUENT

1 CRIMINAL CONVICTION OR PROOF THAT THE DEFENDANT IS NO LONGER
2 ENTITLED TO RELIEF. ANY BARS, PROHIBITIONS, SANCTIONS, AND
3 DISQUALIFICATIONS THEREBY RELIEVED SHALL BE REINSTATED AS OF THE
4 DATE OF THE WRITTEN ORDER OF REVOCATION. THE COURT SHALL
5 PROVIDE A COPY OF THE ORDER OF REVOCATION TO THE HOLDER AND TO
6 ANY REGULATORY OR LICENSING ENTITY THAT THE DEFENDANT NOTICED
7 IN HIS OR HER MOTION FOR RELIEF.

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

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

17 (a) "COLLATERAL CONSEQUENCE" MEANS A COLLATERAL
18 SANCTION OR A DISQUALIFICATION.

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

1 ON AN INDIVIDUAL'S DRIVING PRIVILEGE.

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

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

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

19 **18-1.3-303. Sentencing order - collateral relief.** (1) AT THE TIME
20 OF SENTENCING, UPON THE REQUEST OF THE DEFENDANT OR UPON THE
21 COURT'S OWN MOTION, A COURT MAY ENTER AN ORDER OF COLLATERAL
22 RELIEF IF THE COURT SENTENCES THE DEFENDANT TO A COMMUNITY
23 CORRECTIONS PROGRAM FOR THE PURPOSE OF PRESERVING OR ENHANCING
24 THE DEFENDANT'S EMPLOYMENT OR EMPLOYMENT PROSPECTS AND TO
25 IMPROVE THE DEFENDANT'S LIKELIHOOD OF SUCCESS ON PROBATION OR IN
26 THE COMMUNITY CORRECTIONS PROGRAM.

27 **(2) Application contents.** (a) AN APPLICATION FOR AN ORDER OF

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

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

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

22 (4) (a) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, AN
23 ORDER OF COLLATERAL RELIEF CANNOT RELIEVE ANY COLLATERAL
24 CONSEQUENCES IMPOSED BY LAW FOR LICENSURE BY THE DEPARTMENT OF
25 EDUCATION OR ANY COLLATERAL CONSEQUENCES IMPOSED BY LAW FOR
26 EMPLOYMENT WITH THE JUDICIAL BRANCH, THE DEPARTMENT OF
27 CORRECTIONS, DIVISION OF YOUTH CORRECTIONS IN THE DEPARTMENT OF

1 HUMAN SERVICES, OR ANY OTHER LAW ENFORCEMENT AGENCY IN THE
2 STATE OF COLORADO.

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

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

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

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

11 (5) **Hearing.** (a) THE COURT MAY CONDUCT A HEARING OR
12 INCLUDE A HEARING ON THE MATTER AT THE DEFENDANT'S SENTENCING
13 HEARING ON THE APPLICATION OR ON ANY MATTER RELEVANT TO THE
14 GRANTING OR DENYING OF THE APPLICATION AND MAY TAKE TESTIMONY
15 UNDER OATH.

16 (b) THE COURT MAY HEAR TESTIMONY FROM VICTIMS OR ANY
17 PROPONENT OR OPPONENT OF THE APPLICATION AND MAY HEAR
18 ARGUMENT FROM THE PETITIONER AND THE DISTRICT ATTORNEY.

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

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

23 (II) GRANTING THE APPLICATION WOULD IMPROVE THE
24 APPLICANT'S LIKELIHOOD OF SUCCESS IN REINTEGRATING INTO SOCIETY
25 AND IS IN THE PUBLIC'S INTEREST.

26 (b) THE COURT THAT PREVIOUSLY ISSUED AN ORDER OF
27 COLLATERAL RELIEF, ON ITS OWN MOTION OR EITHER BY CAUSE SHOWN BY

1 THE DISTRICT ATTORNEY OR ON GROUNDS OFFERED BY THE APPLICANT,
2 MAY AT ANY TIME ISSUE A SUBSEQUENT JUDGMENT TO ENLARGE, LIMIT, OR
3 CIRCUMSCRIBE THE RELIEF PREVIOUSLY GRANTED.

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

14 (7) IF THE COURT ISSUES AN ORDER OF COLLATERAL RELIEF, IT
15 SHALL SEND A COPY OF THE ORDER OF COLLATERAL RELIEF THROUGH THE
16 COLORADO INTEGRATED CRIMINAL JUSTICE INFORMATION SYSTEM TO THE
17 COLORADO BUREAU OF INVESTIGATION, AND THE COLORADO BUREAU OF
18 INVESTIGATION SHALL NOTE IN THE APPLICANT'S RECORD IN THE
19 COLORADO CRIME INFORMATION CENTER THAT THE ORDER OF
20 COLLATERAL RELIEF WAS ISSUED.

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

23 (a) "COLLATERAL CONSEQUENCE" MEANS A COLLATERAL
24 SANCTION OR A DISQUALIFICATION.

25 (b) "COLLATERAL SANCTION" MEANS A PENALTY, PROHIBITION,
26 BAR, OR DISADVANTAGE, HOWEVER DENOMINATED, IMPOSED ON AN
27 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 A CONVICTION OF A CRIME UNDER THE
11 LAWS OF ANY OTHER STATE, THE UNITED STATES, OR ANY TERRITORY
12 SUBJECT TO THE JURISDICTION OF THE UNITED STATES, WHICH, IF
13 COMMITTED WITHIN THIS STATE, WOULD BE A FELONY OR MISDEMEANOR.
14 "CONVICTION" OR "CONVICTED" ALSO INCLUDES HAVING RECEIVED A
15 DEFERRED JUDGMENT AND SENTENCE; ___ EXCEPT THAT A PERSON SHALL
16 NOT BE DEEMED TO HAVE BEEN CONVICTED IF THE PERSON HAS
17 SUCCESSFULLY COMPLETED A DEFERRED SENTENCE.

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

23 ___

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

25 (f) as follows:

26 **24-72-308. Sealing of arrest and criminal records other than**
27 **convictions. (3) Exceptions. (f) If a person who seeks to have his or**

1 HER ARREST RECORDS SEALED FOR CHARGES THAT ARE NOT COVERED BY
2 PARAGRAPH (a) OF THIS SUBSECTION (3), THE FACT THAT THE PERSON WAS
3 CHARGED FOR A CRIME COVERED IN PARAGRAPH (a) OF THIS SUBSECTION
4 AS A PART OF THE SAME ARREST DOES NOT PROHIBIT A COURT FROM
5 SEALING THE ARREST RECORDS RELATED TO THE CHARGES THAT ARE NOT
6 COVERED IN PARAGRAPH (a) OF THIS SUBSECTION (3). _____

7 **SECTION 15. Appropriation.** (1) In addition to any other
8 appropriation, there is hereby appropriated, out of any moneys in the
9 general fund not otherwise appropriated, to the judicial department, for
10 the fiscal year beginning July 1, 2013, the sum of \$533,199 and 6.9 FTE,
11 or so much thereof as may be necessary, to be allocated for the
12 implementation of this act as follows:

13 (a) \$424,913 and 6.9 FTE to be allocated to trial court programs
14 for personal services;

15 (b) \$13,680 to be allocated to trial court programs for operating
16 expenses; and

17 (c) \$94,606 to be allocated to centrally administered programs for
18 courthouse capital/infrastructure maintenance.

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

26 (a) \$152,943 and 3.0 FTE to be allocated to the Colorado bureau
27 of investigation, Colorado crime information center, identification, for

1 personal services;

2 (b) \$2,850 to be allocated to the Colorado bureau of investigation,
3 Colorado crime information center, identification, for operating expenses;
4 and

5 (c) \$14,109 to be allocated to the Colorado bureau of
6 investigation, Colorado crime information center, identification, for
7 capital outlay.

8 (3) In addition to any other appropriation, there is hereby
9 appropriated, out of any moneys in the general fund not otherwise
10 appropriated, to the department of public safety, for the fiscal year
11 beginning July 1, 2013, the sum of \$15,000, or so much thereof as may
12 be necessary, to be allocated to the Colorado bureau of investigation,
13 Colorado crime information center, identification, personal services, for
14 contractual software modifications related to the implementation of this
15 act.

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