

Second Regular Session
Sixty-sixth General Assembly
STATE OF COLORADO

REREVISED

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

LLS NO. 08-0404.01 Richard Sweetman

HOUSE BILL 08-1082

HOUSE SPONSORSHIP

Ferrandino,

SENATE SPONSORSHIP

Bacon,

House Committees

Judiciary
Appropriations

Senate Committees

Judiciary
Appropriations

A BILL FOR AN ACT

101 **CONCERNING THE SEALING OF CRIMINAL JUSTICE RECORDS, AND**
102 **MAKING AN APPROPRIATION IN CONNECTION THEREWITH.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)

Reduces the number of years that a person must wait before filing a petition to seal arrest and criminal records information pertaining to a criminal offense that was not charged or a case that was dismissed due to a plea agreement in a separate case. Requires a probation department or a parole officer under certain circumstances to advise a defendant of the right to seal criminal justice records.

Extends the criminal justice record sealing procedure to

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
3rd Reading Unamended
May 2, 2008

SENATE
Amended 2nd Reading
May 1, 2008

HOUSE
3rd Reading Unamended
April 22, 2008

HOUSE
Amended 2nd Reading
April 21, 2008

convictions. Permits a defendant, after a specified number of years following the completion of a sentence or release from supervision, whichever is later, to petition the district court to seal criminal conviction records information ("conviction records"). Prohibits the sealing of conviction records if the defendant still owes court-ordered restitution, fines, or fees. Specifies the procedure for sealing conviction records. Requires the court, in making the decision whether to seal conviction records, to weigh the privacy interests of the defendant against the public interest in retaining the conviction records as open records.

Prohibits employers and certain institutions and agencies from requiring an applicant to disclose information in sealed conviction records. Permits the bar committee of the state board of law examiners to make inquiries into the fact of a conviction that comes to the attention of the bar committee through other means. Requires a defendant to be advised of the right to seal conviction records by the court, the probation department, and the defendant's parole officer under the appropriate circumstances.

Prohibits the sealing of conviction records as to traffic offenses and infractions, any offense with an underlying factual basis involving unlawful sexual behavior, crimes involving specified special circumstances for which enhanced sentencing is required, and other specified offenses. Specifies that court orders sealing conviction records shall not limit the operation of discovery rules in civil cases.

Specifies that the conviction records sealing procedure shall apply to judgments of conviction entered on and after a specified date. Permits the procedure to apply to judgments of conviction entered before a specified date with the consent of the prosecuting attorney.

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

SECTION 1. 24-72-308 (1) (a) (III), (2), and (3) (a), Colorado Revised Statutes, are amended to read:

24-72-308. Sealing of arrest and criminal records other than convictions. (1) (a) (III) A person in interest may petition the district court of the district in which any arrest and criminal records information pertaining to said person in interest is located for the sealing of all of said records, except basic identification information, if the records are a record of official actions involving a criminal offense that was not charged or a case that was dismissed due to a plea agreement in a separate case, and

1 if:

2 (A) The petition is filed ~~fifteen~~ TEN years or more after the date
3 of the final disposition of all criminal proceedings against the person in
4 interest; and

5 (B) The person in interest has not been charged for ~~any~~ A criminal
6 offense in the ~~fifteen~~ TEN years since the date of the final disposition of
7 all criminal proceedings against the person in interest.

8 (2) **Advisements.** (a) Whenever a defendant HAS APPEARED
9 BEFORE THE COURT AND has charges against him OR HER dismissed OR
10 NOT FILED, OR WHENEVER THE DEFENDANT is acquitted, ~~or is sentenced~~
11 ~~following a conviction~~, the court shall provide him OR HER with a written
12 advisement of his OR HER rights PURSUANT TO THIS SECTION concerning
13 the sealing of his OR HER criminal justice records if he OR SHE complies
14 with the applicable provisions of this section.

15 (b) IN ADDITION TO, AND NOT IN LIEU OF, THE REQUIREMENT
16 DESCRIBED IN PARAGRAPH (a) OF THIS SUBSECTION (2), IF A DEFENDANT'S
17 CASE IS DISMISSED AFTER A PERIOD OF SUPERVISION BY PROBATION, THE
18 PROBATION DEPARTMENT, UPON THE TERMINATION OF THE DEFENDANT'S
19 PROBATION, SHALL PROVIDE THE DEFENDANT WITH A WRITTEN
20 ADVISEMENT OF HIS OR HER RIGHTS PURSUANT TO THIS SECTION
21 CONCERNING THE SEALING OF HIS OR HER CRIMINAL JUSTICE RECORDS IF
22 HE OR SHE COMPLIES WITH THE APPLICABLE PROVISIONS OF THIS SECTION.

23

24

25 (3) **Exceptions.** (a) This section shall not apply to records
26 pertaining to:

27 (I) ~~Any~~ A class 1 or class 2 misdemeanor traffic offense;

- 1 (II) ~~Any~~ A class A or class B traffic infraction; or
2 (III) ~~Any~~ A conviction for a violation of section 42-4-1301 (1) or
3 (2), C.R.S.

4 **SECTION 2.** Part 3 of article 72 of title 24, Colorado Revised
5 Statutes, is amended BY THE ADDITION OF A NEW SECTION to
6 read:

7 **24-72-308.5. Sealing of criminal conviction records**
8 **information for offenses involving controlled substances.**

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

12 (2) **Sealing of conviction records.** (a) (I) **SUBJECT TO THE**
13 **LIMITATIONS DESCRIBED IN SUBSECTION (4)** OF THIS SECTION, A
14 DEFENDANT MAY PETITION THE DISTRICT COURT OF THE DISTRICT IN WHICH
15 ANY CONVICTION RECORDS PERTAINING TO THE DEFENDANT ARE LOCATED
16 FOR THE SEALING OF THE CONVICTION RECORDS, EXCEPT BASIC
17 IDENTIFYING INFORMATION, IF:

18 (A) THE PETITION IS FILED TEN OR MORE YEARS AFTER THE DATE
19 OF THE FINAL DISPOSITION OF ALL CRIMINAL PROCEEDINGS AGAINST THE
20 DEFENDANT OR THE RELEASE OF THE DEFENDANT FROM SUPERVISION
21 CONCERNING A CRIMINAL CONVICTION, WHICHEVER IS LATER; AND

22 (B) THE DEFENDANT HAS NOT BEEN CHARGED OR CONVICTED FOR
23 A CRIMINAL OFFENSE IN THE TEN OR MORE YEARS SINCE THE DATE OF THE
24 FINAL DISPOSITION OF ALL CRIMINAL PROCEEDINGS AGAINST HIM OR HER
25 OR THE DATE OF THE DEFENDANT'S RELEASE FROM SUPERVISION,
26 WHICHEVER IS LATER.

27 (II) AN ORDER SEALING CONVICTION RECORDS SHALL NOT DENY

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

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

26 (b) (I) A PETITION TO SEAL CONVICTION RECORDS PURSUANT TO
27 THIS SECTION SHALL INCLUDE A LISTING OF EACH CUSTODIAN OF THE

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

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

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

26 (c) AFTER THE HEARING DESCRIBED IN SUBPARAGRAPH (II) OF
27 PARAGRAPH (b) OF THIS SUBSECTION (2) IS CONDUCTED AND IF THE COURT

1 FINDS THAT THE HARM TO THE PRIVACY OF THE DEFENDANT OR THE
2 DANGERS OF UNWARRANTED, ADVERSE CONSEQUENCES TO THE
3 DEFENDANT OUTWEIGH THE PUBLIC INTEREST IN RETAINING THE
4 CONVICTION RECORDS, THE COURT MAY ORDER THE CONVICTION RECORDS,
5 EXCEPT BASIC IDENTIFICATION INFORMATION, TO BE SEALED. IN MAKING
6 THIS DETERMINATION, THE COURT SHALL, AT A MINIMUM, CONSIDER THE
7 SEVERITY OF THE OFFENSE THAT IS THE BASIS OF THE CONVICTION
8 RECORDS SOUGHT TO BE SEALED, THE CRIMINAL HISTORY OF THE
9 DEFENDANT, AND THE NEED FOR THE GOVERNMENT AGENCY TO RETAIN
10 THE RECORDS. AN ORDER ENTERED PURSUANT TO THIS PARAGRAPH (c)
11 SHALL BE DIRECTED TO EACH CUSTODIAN WHO MAY HAVE CUSTODY OF
12 ANY PART OF THE CONVICTION RECORDS THAT ARE THE SUBJECT OF THE
13 ORDER. WHENEVER A COURT ENTERS AN ORDER SEALING CONVICTION
14 RECORDS PURSUANT TO THIS PARAGRAPH (c), THE DEFENDANT SHALL
15 PROVIDE THE COLORADO BUREAU OF INVESTIGATION AND EACH
16 CUSTODIAN OF THE CONVICTION RECORDS WITH A COPY OF THE ORDER
17 AND SHALL PAY TO THE BUREAU ANY COSTS RELATED TO THE SEALING OF
18 HIS OR HER CRIMINAL CONVICTION RECORDS IN THE CUSTODY OF THE
19 BUREAU. THEREAFTER, THE DEFENDANT MAY REQUEST AND THE COURT
20 MAY GRANT AN ORDER SEALING THE CIVIL CASE IN WHICH THE
21 CONVICTION RECORDS WERE SEALED.

22 (d) EXCEPT AS OTHERWISE PROVIDED IN SUBPARAGRAPH (II) 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 CONVICTION RECORDS DO NOT EXIST WITH RESPECT TO THE
27 DEFENDANT.

1 (e) EXCEPT AS OTHERWISE PROVIDED IN SUBPARAGRAPH (II) 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 (II) 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 ANSWER 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. [REDACTED]

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 AN OFFENSE DESCRIBED IN PARAGRAPH (a)
27 OF SUBSECTION (4) OF THIS SECTION, THE COURT SHALL PROVIDE HIM OR

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

5 (b) IN ADDITION TO, AND NOT IN LIEU OF, THE REQUIREMENT
6 DESCRIBED IN PARAGRAPH (a) OF THIS SUBSECTION (3):

7 (I) IF A DEFENDANT IS SENTENCED TO PROBATION FOLLOWING A
8 CONVICTION OF AN OFFENSE DESCRIBED IN PARAGRAPH (a) OF SUBSECTION
9 (4) OF THIS SECTION, THE PROBATION DEPARTMENT, UPON THE
10 TERMINATION OF THE DEFENDANT'S PROBATION, SHALL PROVIDE THE
11 DEFENDANT WITH A WRITTEN ADVISEMENT OF HIS OR HER RIGHTS
12 CONCERNING THE SEALING OF HIS OR HER CONVICTION RECORDS
13 PURSUANT TO THIS SECTION IF HE OR SHE COMPLIES WITH THE APPLICABLE
14 PROVISIONS OF THIS SECTION.

15 (II) IF A DEFENDANT IS RELEASED ON PAROLE FOLLOWING A
16 CONVICTION OF AN OFFENSE DESCRIBED IN PARAGRAPH (a) OF SUBSECTION
17 (4) OF THIS SECTION, THE DEFENDANT'S PAROLE OFFICER, UPON THE
18 TERMINATION OF THE DEFENDANT'S PAROLE, SHALL PROVIDE THE
19 DEFENDANT WITH A WRITTEN ADVISEMENT OF HIS OR HER RIGHTS
20 CONCERNING THE SEALING OF HIS OR HER CONVICTION RECORDS
21 PURSUANT TO THIS SECTION IF HE OR SHE COMPLIES WITH THE APPLICABLE
22 PROVISIONS OF THIS SECTION.

23 [REDACTED] [REDACTED]
24 (4) (a) **Applicability.** EXCEPT AS OTHERWISE PROVIDED IN
25 PARAGRAPH (b) OF THIS SUBSECTION (4), THE PROVISIONS OF THIS SECTION
26 SHALL APPLY ONLY TO CONVICTION RECORDS PERTAINING TO JUDGMENTS
27 OF CONVICTION ENTERED ON AND AFTER JULY 1, 2008, FOR:

1 (I) ANY PETTY OFFENSE IN VIOLATION OF A PROVISION OF _____
2 ARTICLE 18 OF TITLE 18, C.R.S.;

3 (II) ANY MISDEMEANOR IN VIOLATION OF A PROVISION OF _____
4 ARTICLE 18 OF TITLE 18, C.R.S.;

5 (III) ANY CLASS 5 OR CLASS 6 FELONY IN VIOLATION OF A
6 PROVISION OF _____ ARTICLE 18 OF TITLE 18, C.R.S.; EXCEPT THAT, THE
7 PROVISIONS OF THIS SECTION SHALL NOT APPLY TO CONVICTION RECORDS
8 PERTAINING TO A JUDGMENT OF CONVICTION FOR A CLASS 5 OR CLASS 6
9 FELONY FOR THE SALE, MANUFACTURING, OR DISPENSING OF A
10 CONTROLLED SUBSTANCE, AS DEFINED IN SECTION 18-18-102 (5), C.R.S.;
11 ATTEMPT OR CONSPIRACY TO COMMIT THE SALE, MANUFACTURING, OR
12 DISPENSING OF A CONTROLLED SUBSTANCE; OR POSSESSION WITH THE
13 INTENT TO MANUFACTURE, DISPENSE, OR SELL A CONTROLLED SUBSTANCE

14 (IV) ANY OFFENSE THAT WOULD BE CLASSIFIED AS A CLASS 5 OR
15 6 FELONY IN VIOLATION OF A PROVISION OF ARTICLE 18 OF TITLE 18,
16 C.R.S., IF THE OFFENSE WERE TO HAVE OCCURRED ON JULY 1, 2008.

17 (b) FOR ANY JUDGMENT OF CONVICTION ENTERED PRIOR TO JULY
18 1, 2008, FOR WHICH THE DEFENDANT WOULD OTHERWISE QUALIFY FOR
19 RELIEF UNDER THIS SECTION, THE DEFENDANT MAY OBTAIN AN ORDER
20 FROM THE COURT TO SEAL CONVICTION RECORDS IF:

21 (I) THE PROSECUTING ATTORNEY DOES NOT OBJECT TO THE
22 SEALING; AND

23 (II) THE DEFENDANT PAYS TO THE OFFICE OF THE PROSECUTING
24 ATTORNEY ALL REASONABLE ATTORNEY FEES AND COSTS OF THE
25 PROSECUTING ATTORNEY RELATING TO THE PETITION TO SEAL PRIOR TO
26 THE ENTRY OF AN ORDER SEALING THE CONVICTION RECORDS; AND

27 (III) THE DEFENDANT PAYS:

1 (A) THE FILING FEE REQUIRED BY LAW; AND

2 (B) AN ADDITIONAL FILING FEE OF TWO HUNDRED DOLLARS TO
3 COVER THE ACTUAL COSTS RELATED TO THE FILING OF THE PETITION TO
4 SEAL RECORDS.

5 (c) THE ADDITIONAL FILING FEES COLLECTED UNDER
6 SUB-SUBPARAGRAPH (B) OF SUBPARAGRAPH (III) OF PARAGRAPH (b) OF
7 THIS SUBSECTION (4) SHALL BE TRANSMITTED TO THE STATE TREASURER
8 FOR DEPOSIT IN THE JUDICIAL STABILIZATION CASH FUND CREATED IN
9 SECTION 13-32-101 (1.5), C.R.S.

10 (d) THE PROVISIONS OF THIS SECTION SHALL NOT APPLY TO
11 CONVICTION RECORDS THAT ARE IN THE POSSESSION OF A CRIMINAL
12 JUSTICE AGENCY WHEN AN INQUIRY CONCERNING THE CONVICTION
13 RECORDS IS MADE BY ANOTHER CRIMINAL JUSTICE AGENCY.

14

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

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

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

23 **SECTION 3. Appropriation.** (1) In addition to any other
24 appropriation, there is hereby appropriated, out of any moneys in the
25 judicial stabilization cash fund created in section 13-32-101 (1.5),
26 Colorado Revised Statutes, not otherwise appropriated, to the judicial
27 department, for the fiscal year beginning July 1, 2008, the sum of four

1 hundred forty-five thousand seven hundred eighty-one dollars (\$445,781)
2 and 6.2 FTE, or so much thereof as may be necessary, for the
3 implementation of this act.

4 (2) In addition to any other appropriation, there is hereby
5 appropriated, to the department of public safety, for allocation to the
6 Colorado bureau of investigation, for the fiscal year beginning July 1,
7 2008, the sum of thirty-six thousand eight hundred ninety-three dollars
8 (\$36,893) cash funds and 0.9 FTE, or so much thereof as may be
9 necessary, for the implementation of this act. Said sum shall be from
10 payments collected by the bureau from defendants for costs related to
11 sealing criminal conviction records.

12 **SECTION 4. Effective date.** This act shall take effect July 1,
13 2008.

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