

NOTE: The governor signed this measure on 5/17/2013.

An Act

HOUSE BILL 13-1082

BY REPRESENTATIVE(S) Labuda, Court, Kagan, Levy, Melton, Rosenthal, Young;
also SENATOR(S) Steadman, Aguilar, Cadman, Giron, Guzman, Jahn, Johnston, Kerr, King, Newell, Nicholson, Tochtrop, Todd, Ulibarri, Morse.

CONCERNING JUVENILE DELINQUENCY RECORDS.

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

SECTION 1. In Colorado Revised Statutes, 19-1-306, **amend** (2) (a), (3), (5) (c) (I), (6), and (7); and **add** (5) (a.5) and (10) as follows:

19-1-306. Expungement of juvenile delinquent records.

(2) (a) AT THE TIME OF THE ADJUDICATION, the court shall advise THE ADJUDICATED JUVENILE AND any ~~person~~ RESPONDENT PARENT OR GUARDIAN of the right to petition the court for the expungement of ~~such person's~~ THE JUVENILE'S record. ~~at the time of adjudication, or~~ The court, on its own motion or the motion of the juvenile probation department, ~~or~~ the juvenile parole department, THE JUVENILE, A RESPONDENT PARENT OR GUARDIAN, OR A COURT-APPOINTED GUARDIAN AD LITEM, may initiate expungement proceedings concerning the record of any juvenile who has been under the jurisdiction of the court.

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

(3) AFTER EXPUNGEMENT, basic identification information on the juvenile and a list of any state and local agencies and officials having contact with the juvenile, as they appear from the records, shall not be open to the public but shall be available to a district attorney, local law enforcement agency, and the department of human services, THE STATE JUDICIAL DEPARTMENT, AND THE VICTIM AS DEFINED IN SECTION 24-4.1-302 (5), C.R.S.; except that such information shall not be available to an agency of the military forces of the United States.

(5) (a.5) NOTWITHSTANDING ANY ORDER FOR EXPUNGEMENT PURSUANT TO THIS SECTION, ANY CRIMINAL JUSTICE RECORD OF A JUVENILE WHO HAS BEEN CHARGED, ADJUDICATED, OR CONVICTED AS A REPEAT OR MANDATORY JUVENILE OFFENDER SHALL BE AVAILABLE FOR USE BY A COURT, A DISTRICT ATTORNEY, ANY LAW ENFORCEMENT AGENCY, ANY AGENCY OF THE STATE JUDICIAL DEPARTMENT IN ANY SUBSEQUENT CRIMINAL INVESTIGATION, PROSECUTION, OR ADJUDICATION UNDER THIS TITLE OR DURING PROBATION OR PAROLE SUPERVISION, IF OTHERWISE PERMITTED BY LAW.

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

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

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

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

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

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

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

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

(b) One year from THE DATE OF:

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

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

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

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

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

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

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

(d) ~~Ten~~ FIVE years from the date of THE TERMINATION OF THE COURT'S JURISDICTION OVER THE PETITIONER OR THE PETITIONER'S UNCONDITIONAL RELEASE FROM PROBATION OR PAROLE SUPERVISION, WHICHEVER DATE IS LATER, ~~IF the termination of the court's jurisdiction over the juvenile or the juvenile's unconditional release from parole supervision, whichever date is later, if the juvenile has been adjudicated a repeat or mandatory juvenile offender and if the juvenile has not further violated any criminal statute.~~

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

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

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

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

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

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

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

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

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

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

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

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

24-4.1-302.5. Rights afforded to victims. (1) In order to preserve and protect a victim's rights to justice and due process, each victim of a

crime shall have the following rights:

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

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

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

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

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

24-4.1-303. Procedures for ensuring rights of victims of crimes.

(11) The district attorney shall inform a victim of the following:

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

SECTION 5. Act subject to petition - effective date. This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly (August 7, 2013, if adjournment sine die is on May 8, 2013); except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless

approved by the people at the general election to be held in November 2014 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

Mark Ferrandino
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

John P. Morse
PRESIDENT OF
THE SENATE

Marilyn Eddins
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

Cindi L. Markwell
SECRETARY OF
THE SENATE

APPROVED _____

John W. Hickenlooper
GOVERNOR OF THE STATE OF COLORADO