

Colorado Revised Statutes



24-72-308. Sealing of records.

****Update notice:** This section has been added by

[CHAPTER 148, COLO. SESS. LAWS OF 2008.](#)

(1)(a)(I) Except as otherwise provided in subparagraphs (II) and (III) of this paragraph (a), any 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 for which said person in interest was not charged, in any case which was completely dismissed, or in any case in which said person in interest was acquitted.

(II) Except as provided in subparagraph (III) of this paragraph (a), arrest or criminal records information may not be sealed if:

(A) An offense is not charged due to a plea agreement in a separate case;

(B) A dismissal occurs as part of a plea agreement in a separate case; or

(C) The defendant still owes restitution, fines, court costs, late fees, or other fees ordered by the court in the case that is the subject of the petition to seal criminal records, unless the court that entered the order for restitution, fines, court costs, late fees, or other fees has vacated such order.

(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 if:

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

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

(b)(I) Any petition to seal criminal records shall include a listing of each custodian of the records to whom the sealing order is directed and any information which accurately and completely identifies the records to be sealed.

(II)(A) Upon the filing of a petition, the court shall review the petition and determine whether there are grounds under this section to proceed to a hearing on the petition. If the court determines that the petition on its face is insufficient or if the court determines that, after taking judicial notice of matters outside the petition, the petitioner is not entitled to relief under this section, the court shall enter an order denying the petition and mail a copy of the order to the petitioner. The court's order shall specify the reasons for the denial of the petition.

(B) If the court determines that the petition is sufficient on its face and that no other grounds exist at that time for the court to deny the petition under this section, the court shall set a date for a hearing and the petitioner shall notify the prosecuting attorney by certified mail, the arresting agency, and any other person or agency identified by the petitioner.

(c) After the hearing described in subparagraph (II) of paragraph (b) of this subsection (1) is conducted and if the court finds that the harm to the privacy of the petitioner or dangers of unwarranted adverse consequences to the petitioner outweigh the public interest in retaining the records, the court may order such records, except basic identification information, to be sealed. Any order entered pursuant to this paragraph (c) shall be directed to every custodian who may have custody of any part of the arrest and criminal records information which is the subject of the order. Whenever a court enters an order sealing criminal records pursuant to this paragraph (c), the petitioner shall provide the Colorado bureau of investigation and every custodian of such records with a copy of such order. Thereafter, the petitioner may request and the court may grant an order sealing the civil case in which the records were sealed.

(d) Upon the entry of an order to seal the records, the petitioner and all criminal justice agencies may properly reply, upon any inquiry in the matter, that no such records exist with respect to such person.

(e) Inspection of the records included in an order sealing criminal records may thereafter be permitted by the court only upon petition by the person who is the subject of such records or by the prosecuting attorney and only for those purposes named in such petition.

(f) (I) Employers, educational institutions, state and local government agencies, officials, and employees shall not, in any application or interview or in any other way, require an applicant to disclose any information contained in sealed records. An applicant need not, in answer to any question concerning arrest and criminal records information that has been sealed, include a reference to or information concerning such sealed information and may state that no such action has ever occurred. Such an application may not be denied solely because of the applicant's refusal to disclose arrest and criminal records information that has been sealed.

(II) Subparagraph (I) of this paragraph (f) shall not preclude the bar committee of the Colorado state board of law examiners from making further inquiries into the fact of a conviction which comes to the attention of the bar committee through other means. The bar committee of the Colorado state board of law examiners shall have a right to inquire into the moral and ethical qualifications of an applicant, and the applicant shall have no right to privacy or privilege which justifies his refusal to answer to any question concerning arrest and criminal records information that has come to the attention of the bar committee through other means.

(g) Nothing in this section shall be construed to authorize the physical destruction of any criminal justice records.

(1.5) For the purpose of protecting the author of any correspondence which becomes a part of criminal justice records, the court having jurisdiction in the judicial district in which the criminal justice records are located may, in its discretion, with or without a hearing thereon, enter an order to seal any information, including, but not limited to, basic identification information contained in said correspondence. However, the court may, in its discretion, enter an order which allows the disclosure of sealed information to defense counsel or, if the defendant is not represented by counsel, to the defendant.

(2) **Advisements.** Whenever a defendant has charges against him dismissed, is acquitted, or is sentenced following a conviction, the

court shall provide him with a written advisement of his rights concerning the sealing of his criminal justice records if he complies with the applicable provisions of this section.

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

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

(II) Any class A or class B traffic infraction; or

(III) Any conviction for a violation of section [42-4-1301](#)(1) or (2), C.R.S.

(b) Court orders sealing records of official actions entered pursuant to this section shall not limit the operation of rules of discovery promulgated by the supreme court of Colorado.

(c) This section shall not apply to records pertaining to a conviction of an offense for which the factual basis involved unlawful sexual behavior, as defined in section [16-22-102](#)(9), C.R.S.

(d) This section shall not apply to arrest and criminal justice information or criminal justice records in the possession and custody of a criminal justice agency when inquiry concerning the arrest and criminal justice information or criminal justice records is made by another criminal justice agency.

Source: **L. 77:** Entire part added, p. 1249, § 1, effective December 31. **L. 78:** (1) and (2) amended, (1.1) to (1.3) and (9) added, and (3)(b) repealed, pp. 403, 406, §§ 2, 3, effective May 5. **L. 79:** (1)(a), (1.1)(c) to (1.1)(f), and (9) amended and (10) added, p. 975, § 1, effective March 13. **L. 81:** Entire section R&RE, p. 1238, § 2, effective June 4. **L. 82:** (2)(b)(I), (2)(b)(II), and (5)(a) amended, p. 655, § 8, effective January 1, 1983. **L. 83:** (1)(a) amended, p. 680, § 4, effective July 1; (2)(i) and (3)(c)(II) amended, p. 963, § 11, effective July 1, 1984. **L. 87:** (5)(a) amended, p. 1498, § 8, effective July 1. **L. 88:** Entire section R&RE, p. 979, § 3, effective April 20. **L. 92:** (1.5) added, p. 281, § 1, effective July 1; (3) amended, p. 1106, § 7, effective July 1. **L. 95:** (3)(a) amended, p. 314, § 1, effective July 1. **L. 96:** (1)(a) amended, p. 736, § 5, effective July 1; (3)(c) amended and (3)(d) added, p. 1587, § 13, effective July 1. **L. 2002:** (3)(c) amended, p. 1190, § 33, effective July 1. **L. 2003:** (1)(b)(II) amended, p. 634, § 1, effective March 18. **L. 2004:** (1)(a) amended, p. 1375, § 1, effective August 4. **L. 2006:** (1)(a)(II) amended, p. 422, § 4, effective April 13.

ANNOTATION

Colorado Acts

CHAPTER 148, COLO. SESS. LAWS OF 2008

AN ACT

HOUSE BILL 08-1121

BY REPRESENTATIVE(S) Marostica, Buescher, Garza-Hicks, Jahn, Kerr J., Rose, Labuda, and Stafford;

also SENATOR(S) Takis.

CONCERNING CHANGES IN COLORADO LAW TO COMPLY WITH FEDERAL REQUIREMENTS FOR THE ADMINISTRATION OF A COMMERCIAL DRIVER'S LICENSE UNDER THE FEDERAL "MOTOR CARRIER SAFETY IMPROVEMENT ACT OF 1999", AND, IN CONNECTION THEREWITH, BROADENING THE SCOPE OF A CONVICTION FOR A VEHICLE OFFENSE, PROHIBITING DIVERSION PROGRAMS FOR HOLDERS OF A COMMERCIAL DRIVER'S LICENSE, DELETING REDUNDANT LANGUAGE, ENSURING THAT CONVICTION NOTICES ARE PROVIDED IN A TIMELY MANNER, AND LIMITING A COMMERCIAL DRIVER'S LICENSE PERMIT TO ONE YEAR.

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

SECTION 1. [24-72-308](#) (3), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

[24-72-308](#). Sealing of records. (3) Exceptions. (e) THIS SECTION SHALL NOT APPLY TO RECORDS PERTAINING TO A CONVICTION OF AN OFFENSE CONCERNING THE HOLDER OF A COMMERCIAL DRIVER'S LICENSE AS DEFINED IN SECTION [42-2-402](#), C.R.S., OR THE OPERATOR OF A COMMERCIAL MOTOR VEHICLE AS DEFINED IN SECTION [42-2-402](#), C.R.S.

SECTION 2. [42-1-102](#) (19), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

[42-1-102](#). Definitions. As used in articles 1 to 4 of this title, unless the context otherwise requires:

(19) "Convicted" or "conviction" means:

(e) AS TO A HOLDER OF A COMMERCIAL DRIVER'S LICENSE AS DEFINED IN SECTION [42-2-402](#) OR THE OPERATOR OF A COMMERCIAL MOTOR VEHICLE AS DEFINED IN SECTION [42-2-402](#):

(I) AN UNVACATED ADJUDICATION OF GUILT OR A DETERMINATION BY AN AUTHORIZED ADMINISTRATIVE HEARING THAT A PERSON HAS VIOLATED OR FAILED TO COMPLY WITH THE LAW;

(II) AN UNVACATED FORFEITURE OF BAIL OR COLLATERAL DEPOSITED TO SECURE THE PERSON'S APPEARANCE IN COURT;

(III) THE PAYMENT OF A FINE OR COURT COST OR VIOLATION OF A CONDITION OF RELEASE WITHOUT BAIL, REGARDLESS OF WHETHER OR NOT THE PENALTY IS REBATED, SUSPENDED, OR PROBATED; OR

(IV) A DEFERRED SENTENCE.

SECTION 3. [42-2-106](#) (1), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

[42-2-106](#). Instruction permits and temporary licenses. (1) (f)

NOTWITHSTANDING PARAGRAPHS (a) TO (d) OF THIS SUBSECTION (1), A TEMPORARY INSTRUCTION PERMIT TO OPERATE A COMMERCIAL MOTOR VEHICLE AS DEFINED IN SECTION [42-2-402](#) SHALL EXPIRE ONE YEAR AFTER ISSUANCE.

SECTION 4. The introductory portion to [42-2-121](#) (5) (a), Colorado Revised Statutes, is amended, and the said [42-2-121](#) (5) (a) is further amended BY THE ADDITION OF THE FOLLOWING NEW SUBPARAGRAPHS, to read:

[42-2-121](#). Records to be kept by department – admission of records in court. (5) (a) Upon application by a person, the department shall expunge all records concerning a conviction of a person for driving any vehicle in this state with an alcohol level of at least 0.02 but not more than 0.05 grams of alcohol per hundred milliliters of blood or at least 0.02 but not more than 0.05 grams of alcohol per two hundred ten liters of breath while under twenty-one years of age pursuant to section [42-4-1301](#) (2) (a.5) and any records concerning an administrative determination resulting in a revocation under section [42-2-126](#) (2) (a) (I.5) ~~or (2) (a) (IV)~~ if:

(V) SUCH PERSON HAS NEVER HELD A COMMERCIAL DRIVER'S LICENSE AS DEFINED IN SECTION [42-2-402](#); AND

(VI) SUCH PERSON WAS NOT OPERATING A COMMERCIAL MOTOR VEHICLE AS DEFINED IN SECTION [42-2-402](#).

SECTION 5. [42-4-1715](#) (1) (b) (I), Colorado Revised Statutes, is amended BY THE ADDITION OF THE FOLLOWING NEW SUB-SUBPARAGRAPHS to read:

[42-4-1715](#). Convictions, judgments, and charges recorded – public inspection. (1) (b) (I) Upon application by a person, the court shall expunge all records concerning a conviction of the person for driving any vehicle in this state with an alcohol level of at least 0.02 but not more than 0.05 grams of alcohol per hundred milliliters of blood or at least 0.02 but not more than 0.05 grams of alcohol per two hundred ten liters of breath while under twenty-one years of age pursuant to section [42-4-1301](#) (2) (a.5) if:

(E) SUCH PERSON HAS NEVER HELD A COMMERCIAL DRIVER'S LICENSE AS DEFINED IN SECTION [42-2-402](#); AND

(F) SUCH PERSON WAS NOT OPERATING A COMMERCIAL MOTOR VEHICLE AS DEFINED IN SECTION [42-2-402](#).

SECTION 6. [42-4-1715](#) (2) and (4) (b), Colorado Revised Statutes, are amended to read:

[42-4-1715](#). Convictions, judgments, and charges recorded – public inspection. (2) (a) SUBJECT TO PARAGRAPH (b) OF THIS SUBSECTION (2), within ten days after the entry of a judgment, conviction, or forfeiture of bail of a person upon a charge of violating ~~any provision of~~ this article or other law regulating the operation of vehicles on highways, the judge or clerk of the court in which the entry of a judgment was made, ~~or~~ the conviction was had, or bail was forfeited shall prepare and ~~immediately~~ forward to the department an abstract of the record of ~~said~~THE court covering every case in which ~~said~~THE person had a judgment entered against him or her, was ~~so~~ convicted, or forfeited bail, which abstract ~~must~~SHALL be certified by the ~~person so required to prepare the same~~PREPARER to be true and correct.

(b) FOR THE HOLDER OF A COMMERCIAL DRIVER'S LICENSE AS DEFINED IN SECTION [42-2-402](#) OR AN OFFENSE COMMITTED BY A PERSON OPERATING A COMMERCIAL MOTOR VEHICLE AS DEFINED IN SECTION [42-2-402](#), WITHIN FIVE DAYS AFTER CONVICTION OF A PERSON UPON A CHARGE OF VIOLATING THIS ARTICLE OR OTHER LAW REGULATING THE OPERATION OF VEHICLES ON HIGHWAYS, THE JUDGE OR

CLERK OF THE COURT IN WHICH THE PERSON WAS CONVICTED SHALL PREPARE AND FORWARD TO THE DEPARTMENT AN ABSTRACT OF THE RECORD OF THE COURT COVERING EVERY CASE IN WHICH THE PERSON WAS CONVICTED, WHICH ABSTRACT SHALL BE CERTIFIED BY THE PREPARER TO BE TRUE AND CORRECT.

~~(4) (b) Every juvenile court shall forward a like report to the department upon the adjudication of delinquency of any juvenile based upon conduct which would establish vehicular homicide if committed by an adult.~~

SECTION 7. Part 17 of article 4 of title 42, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

42-4-1719. Violations - commercial driver's licenses - compliance with federal regulation. AS TO A HOLDER OF A COMMERCIAL DRIVER'S LICENSE AS DEFINED IN SECTION 42-2-402 OR THE OPERATOR OF A COMMERCIAL MOTOR VEHICLE AS DEFINED IN SECTION 42-2-402, A COURT SHALL NOT DEFER IMPOSITION OF JUDGMENT OR ALLOW A PERSON TO ENTER INTO A DIVERSION PROGRAM THAT WOULD PREVENT A DRIVER'S CONVICTION FOR ANY VIOLATION, IN ANY TYPE OF MOTOR VEHICLE, OF A TRAFFIC CONTROL LAW FROM APPEARING ON THE DRIVER'S RECORD.

SECTION 8. Effective date - applicability. This act shall take effect July 1, 2008, and shall apply to offenses occurring on or after said date.

SECTION 9. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

April 28, 2008 - Session Law Chaptered. Chapter No. 148

April 17, 2008 - Enacted