

SENATE COMMITTEE OF REFERENCE AMENDMENT

Committee on Judiciary.

SB22-099 be amended as follows:

1 Amend printed bill, page 22, strike lines 24 and 25 and substitute:
2 "SECTION 16. In Colorado Revised Statutes, **amend** 24-72-708
3 as follows:".

4 Strike page 23.

5 Page 24, strike lines 1 through 7 and substitute:

6 "**records.** (a) (I) A defendant may file a motion IN THE CRIMINAL CASE
7 in which any conviction records pertaining to the defendant for a
8 municipal violation are located for the sealing of the conviction records
9 WITHIN THE TIME FRAMES DESCRIBED IN SUBSECTION (1)(a)(II) OF THIS
10 SECTION, except basic identification information, if:

11 ~~(A) The motion is filed three or more years after the date of the~~
12 ~~final disposition of all criminal proceedings against the defendant or the~~
13 ~~release of the defendant from supervision concerning a criminal~~
14 ~~conviction, whichever is later; and THE DEFENDANT HAS NOT BEEN~~
15 ~~CHARGED WITH OR CONVICTED OF A FELONY, MISDEMEANOR, OR~~
16 ~~MISDEMEANOR TRAFFIC OFFENSE IN THREE OR MORE YEARS SINCE THE~~
17 ~~DATE OF THE FINAL DISPOSITION OF ALL CRIMINAL PROCEEDINGS AGAINST~~
18 ~~THE DEFENDANT OR THE DATE OF THE DEFENDANT'S RELEASE FROM~~
19 ~~SUPERVISION, WHICHEVER IS LATER; OR~~

20 ~~(B) The defendant has not been charged or convicted of a felony,~~
21 ~~misdemeanor, or misdemeanor traffic offense in the three or more years~~
22 ~~since the date of the final disposition of all criminal proceedings against~~
23 ~~him or her or the date of the defendant's release from supervision,~~
24 ~~whichever is later; and THE DEFENDANT HAS A SINGLE SUBSEQUENT~~
25 ~~CONVICTION THAT WAS NOT A FELONY AND DID NOT INVOLVE DOMESTIC~~
26 ~~VIOLENCE, AS DEFINED IN SECTION 18-6-800.3(1); UNLAWFUL SEXUAL~~
27 ~~BEHAVIOR, AS DEFINED IN SECTION 16-22-102(9); OR CHILD ABUSE, AS~~
28 ~~DEFINED IN SECTION 18-6-401.~~

29 ~~(C) The conviction records to be sealed are not for a misdemeanor~~
30 ~~traffic offense committed either by a holder of a commercial learner's~~
31 ~~permit or a commercial driver's license, as defined in section 42-2-402,~~
32 ~~or by the operator of a commercial motor vehicle, as defined in section~~
33 ~~42-2-402.~~

34 (II) (A) ~~Notwithstanding the provisions of subsection (1)(a)(I)(B)~~
35 ~~of this section, a defendant may petition the district court of the district~~
36 ~~in which any conviction records pertaining to the defendant for a~~
37 ~~municipal violation, except a municipal assault or battery offense in~~
38 ~~which the underlying factual basis involves domestic violence, as defined~~

1 ~~in section 18-6-800.3 (1), or any other municipal violation in which the~~
2 ~~underlying factual basis involves domestic violence, as defined in section~~
3 ~~18-6-800.3 (1), or petty offense are located for the sealing of the~~
4 ~~conviction records, except basic identification information, if: A MOTION~~
5 ~~FILED PURSUANT TO SUBSECTION (1)(a)(I) OF THIS SECTION MAY BE FILED~~
6 ~~THREE YEARS AFTER THE LATER OF THE DATE OF THE FINAL DISPOSITION~~
7 ~~OF ALL CRIMINAL PROCEEDINGS AGAINST THE DEFENDANT OR THE RELEASE~~
8 ~~OF THE DEFENDANT FROM SUPERVISION CONCERNING A CRIMINAL~~
9 ~~CONVICTION.~~

10 ~~(A) The defendant was convicted of a single offense that was not~~
11 ~~a felony and did not involve domestic violence as defined in section~~
12 ~~18-6-800.3 (1), unlawful sexual behavior as defined in section 16-22-102~~
13 ~~(9), or child abuse as defined in section 18-6-401;~~

14 ~~(B) That offense occurred within three years of the date of the~~
15 ~~final disposition of all criminal proceedings against him or her related to~~
16 ~~the conviction that the defendant is seeking to have sealed or within three~~
17 ~~years of the date of the defendant's release from supervision related to the~~
18 ~~conviction that the defendant is seeking to have sealed, whichever is later;~~
19 ~~and A MOTION FILED PURSUANT TO SUBSECTION (1)(a)(II) OF THIS SECTION~~
20 ~~MAY BE FILED TEN YEARS AFTER THE DATE OF THE FINAL DISPOSITION OF~~
21 ~~ALL CRIMINAL PROCEEDINGS AGAINST THE DEFENDANT FOR THE~~
22 ~~SUBSEQUENT CRIMINAL CASE OR TEN YEARS AFTER THE DATE OF THE~~
23 ~~DEFENDANT'S RELEASE FROM SUPERVISION FOR THE SUBSEQUENT~~
24 ~~CRIMINAL CASE, WHICHEVER IS LATER. TO FILE A MOTION PURSUANT TO~~
25 ~~SUBSECTION (1)(A)(II) OF THIS SECTION, THE DEFENDANT MUST NOT HAVE~~
26 ~~BEEN CONVICTED OF A FELONY, MISDEMEANOR, OR MISDEMEANOR TRAFFIC~~
27 ~~OFFENSE IN TEN OR MORE YEARS SINCE THE DATE OF THE FINAL~~
28 ~~DISPOSITION OF ALL CRIMINAL PROCEEDINGS AGAINST THE DEFENDANT~~
29 ~~FOR THE SUBSEQUENT CRIMINAL CASE OR IN THE TEN OR MORE YEARS~~
30 ~~SINCE THE DATE OF THE DEFENDANT'S RELEASE FROM SUPERVISION FOR~~
31 ~~THE SUBSEQUENT CASE, WHICHEVER IS LATER.~~

32 ~~(C) The defendant has not been convicted of a felony,~~
33 ~~misdemeanor, or misdemeanor traffic offense in the ten or more years~~
34 ~~since the date of the final disposition of all criminal proceedings against~~
35 ~~him or her for the subsequent criminal case or in the ten or more years~~
36 ~~since the date of the defendant's release from supervision for the~~
37 ~~subsequent case, whichever is later.~~

38 ~~(b) Upon filing the petition MOTION, the defendant shall pay the~~
39 ~~filing fee required by law.~~

40 (2) (a) Upon the filing of a motion, the court shall review the
41 motion and determine whether there are grounds pursuant to this section
42 to proceed to a hearing on the ~~petition~~ MOTION. If the court determines
43 that the motion on its face is insufficient or if the court determines that,

1 after taking judicial notice of matters outside the motion, the defendant
2 is not entitled to relief pursuant to this section, the court shall enter an
3 order denying the motion and mail a copy of the order to the defendant.
4 The court's order shall specify the reasons for the denial of the motion.
5 (b) IF THE PROSECUTOR FILES A WRITTEN OBJECTION, THE COURT
6 SHALL SET A DATE WITHIN FORTY-TWO DAYS OF THE FILING OF THE
7 MOTION FOR A HEARING AND THE COURT SHALL NOTIFY THE PROSECUTING
8 ATTORNEY, THE MUNICIPAL POLICE DEPARTMENT OR LOCAL LAW
9 ENFORCEMENT AGENCY, AND ANY OTHER PERSON OR AGENCY IDENTIFIED
10 BY THE DEFENDANT. If the court determines that the ~~petition~~ MOTION is
11 sufficient on its face and that no other grounds exist at that time for the
12 court to deny the ~~petition pursuant to this section~~ MOTION, the court shall
13 ~~set a date for a hearing and the court shall notify by certified mail the~~
14 ~~prosecuting attorney, the arresting agency, and any other person or agency~~
15 ~~identified by the defendant~~ GRANT THE MOTION.
16 ~~(3)~~ (c) After the hearing described in ~~subsection (2)~~ SUBSECTION
17 (2)(b) of this section is conducted and if the court finds that the harm to
18 the privacy of the defendant or the dangers of unwarranted, adverse
19 consequences to the defendant outweigh the public interest in retaining
20 public access to the conviction records, the court may order the
21 conviction records, except basic identification information, to be sealed.
22 In making this determination, the court shall, at a minimum, consider the
23 factors in section 24-72-706 (1)(g).".

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