






## Colorado Revised Statutes

-  **Colorado Revised Statutes**
-  **TITLE 24 GOVERNMENT – STATE**
-  **PUBLIC (OPEN) RECORDS**
-  **ARTICLE 72 Public Records**
-  **PART 3 CRIMINAL JUSTICE RECORDS**

### **24-72-308. Sealing of arrest and criminal records other than convictions.**

(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 ten 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 a criminal offense in the ten 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.

(III) Notwithstanding the provisions of subparagraph (I) of this paragraph (f), the department of education may require a licensed educator or an applicant for an educator's license who files a petition to seal a criminal record to notify the department of education of the pending petition to seal. The department shall have the right to inquire into the facts of the criminal offense for which the petition to seal is pending. The educator or applicant shall have no right to privacy or privilege that justifies his or her refusal to answer any questions concerning the arrest and criminal records information contained in the pending petition to seal.

(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. (a) Whenever a defendant has appeared before the court and has charges against him or her dismissed or not filed, or whenever the defendant is acquitted, the court shall provide him or her with a written advisement of his or her rights pursuant to this section concerning the sealing of his or her criminal justice records if he or she complies with the applicable provisions of this section.

(b) In addition to, and not in lieu of, the requirement described in paragraph (a) of this subsection (2), if a defendant's case is dismissed after a period of supervision by probation, the probation department, upon the termination of the defendant's probation, shall provide the defendant with a written advisement of his or her rights pursuant to this section concerning the sealing of his or her criminal justice records if he or she complies with the applicable provisions of this section.

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

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

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

(III) A 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.

(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.

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. L. 2008: (1) (f) (III) added, p. 1668, § 14, effective May 29; (1) (a) (III), (2), and (3) (a) amended, p. 1937, § 1, effective July 1; (3) (e) added, p. 473, § 1, effective July 1.

Editor's note: Section 8 of chapter [148](#), Session Laws of Colorado 2008, provides that the act enacting subsection (3) (e) applies to offenses occurring on or after July 1, 2008.