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Seventy-first General Assembly
STATE OF COLORADO

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BILL 3

LLS NO. 18-0299.01 Jerry Barry x4341

INTERIM COMMITTEE BILL

Sentencing in the Criminal Justice System Interim Study Committee

BILL TOPIC: "Relief From Collateral Consequences"

A BILL FOR AN ACT

101 CONCERNING RELIEF FROM COLLATERAL CONSEQUENCES OF
102 CRIMINAL ACTIONS.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov/>.)

Sentencing in the Criminal Justice System Interim Study Committee. Current law has separate collateral relief sections for when a court orders an alternative sentence, probation, or community corrections. The bill combines collateral relief provisions into one section and authorizes a court to enter an order for collateral relief at the time it sentences a defendant or any time thereafter. The bill requires a

*Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.*

fingerprint-based criminal history record check only if the hearing is held after sentencing.

The bill adds the authority for a juvenile court to enter an order for collateral relief using the same process as criminal courts.

Current law directs a state or local agency, when deciding whether to issue a license or permit, to consider an individual's criminal record in determining whether the individual is of good moral character. The bill changes the determination to consider whether the individual is qualified. The bill also prohibits a state or local agency from taking adverse action concerning a license or permit or not extending an offer of employment if an individual has been arrested but not charged, or has been convicted but pardoned, had the conviction record sealed, or had a collateral order entered concerning the conviction.

The bill authorizes the department of regulatory agencies (department) to issue a conditional license to a person who has a criminal conviction and requires the department to delete and keep confidential the conditional designation if the person has no subsequent conviction when applying for renewal or within 2 years unless the department determines that the conditional designation remains necessary.

For sunset review hearings conducted after review by the department, the bill requires the collection of data concerning licensing and registration action taken due to specified criminal justice actions.

The bill specifies that it is a discriminatory or unfair employment practice to inquire about or to take adverse action based on an arrest that did not result in a charge or a conviction that has been sealed or expunged.

The bill establishes a preference for bidders for state contracts who comply with the state employment practices related to criminal backgrounds.

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

2 **SECTION 1.** In Colorado Revised Statutes, 18-1.3-107, **amend**
3 (1), (2)(a), (3), (4)(b)(I), (5)(a), (6)(c), and (8)(c); and **add** (2)(c) as
4 follows:

5 **18-1.3-107. Sentencing order - collateral relief - definitions.**

6 (1) ~~At the time a defendant enters into an alternative to sentencing in this~~
7 ~~part~~ **1** OF SENTENCING OR AT ANY TIME THEREAFTER, upon the request of
8 the defendant or upon the court's own motion, a court may enter an order

1 of collateral relief IN THE CRIMINAL CASE for the purpose of preserving or
2 enhancing the defendant's employment or employment prospects and to
3 improve the defendant's likelihood of success in the ~~alternative to~~
4 ~~sentencing program~~ COMMUNITY.

5 (2) **Application contents.** (a) An application for an order of
6 collateral relief must cite the grounds for granting the relief, the type of
7 relief sought, and the specific collateral consequence from which the
8 applicant is seeking relief and must include a copy of a recent ~~Colorado~~
9 ~~bureau of investigation fingerprint-based~~ criminal history records RECORD
10 check. The state court administrator may produce an application form that
11 an applicant may submit in application.

12 (c) AN APPLICATION FILED AFTER A SENTENCE HAS BEEN IMPOSED
13 MUST INCLUDE A COPY OF A RECENT COLORADO BUREAU OF
14 INVESTIGATION FINGERPRINT-BASED CRIMINAL HISTORY RECORD CHECK,
15 THE FILING FEE REQUIRED BY LAW, AND AN ADDITIONAL FILING FEE OF
16 THIRTY DOLLARS TO COVER THE ACTUAL COSTS RELATED TO THE
17 APPLICATION. A COURT MAY WAIVE THE FILING FEES IF IT FINDS THAT THE
18 DEFENDANT IS INDIGENT.

19 (3) An order of collateral relief may relieve a defendant of any
20 collateral consequences of the conviction, whether in housing or
21 employment barriers or any other sanction or disqualification that the
22 court shall specify, including but not limited to statutory, regulatory, or
23 other collateral consequences that the court may see fit to relieve that will
24 assist the defendant in successfully ~~completing probation or a community~~
25 ~~corrections sentence~~ REINTEGRATING INTO THE COMMUNITY.

26 (4) (b) A court shall not issue an order of collateral relief if the
27 defendant:

1 (I) Has been convicted of a felony that included an element that
2 requires a victim to suffer ~~permanent disability~~ SERIOUS BODILY INJURY
3 AND THE VICTIM SUFFERED A PERMANENT IMPAIRMENT OF THE FUNCTION
4 OF ANY PART OR ORGAN OF THE BODY;

5 (5) **Hearing.** (a) The court may conduct a hearing ON ANY
6 MATTER RELEVANT TO THE GRANTING OR DENIAL OF AN APPLICATION or
7 include a hearing on the matter at the defendant's sentencing hearing ~~on~~
8 ~~the application or on any matter relevant to the granting or denying of the~~
9 ~~application~~ and may take testimony under oath.

10 (6) **Standard for granting relief.** (c) Upon the motion of the
11 district attorney or probation officer or upon the court's own motion, a
12 court may revoke an order of collateral relief upon evidence of a
13 subsequent criminal conviction or proof that the defendant is no longer
14 entitled to relief. Any bars, prohibitions, sanctions, and disqualifications
15 thereby relieved ~~shall~~ MAY be reinstated as of the date of the written order
16 of revocation. The court shall provide a copy of the order of revocation
17 to the holder and to any regulatory or licensing entity that the defendant
18 noticed in his or her motion for relief.

19 (8) **Definitions.** As used in this section, unless the context
20 otherwise requires:

21 (c) "Conviction" or "convicted" means a verdict of guilty by a
22 judge or jury or a plea of guilty or nolo contendere that is accepted by the
23 court or a conviction of a crime under the laws of any other state, the
24 United States, or any territory subject to the jurisdiction of the United
25 States, which, if committed within this state, would be a ~~felony or~~
26 ~~misdemeanor~~ CRIME. "Conviction" or "convicted" also includes having
27 received a deferred judgment and sentence. ~~except that a person shall not~~

1 ~~be deemed to have been convicted if the person has successfully~~
2 ~~completed a deferred sentence.~~

3 **SECTION 2.** In Colorado Revised Statutes, **repeal** 18-1.3-213
4 and 18-1.3-303.

5 **SECTION 3.** In Colorado Revised Statutes, 16-11-102, **add**
6 (1)(a)(II.5) and (1)(a)(II.7) as follows:

7 **16-11-102. Presentence or probation investigation.**

8 (1) (a) (II.5) EXCEPT AS PROVIDED IN SUBSECTION (1)(a)(II.7) OF THIS
9 SECTION, IF THE DEFENDANT IS CONVICTED ON OR AFTER THE EFFECTIVE
10 DATE OF THIS SUBSECTION (1)(a)(II.5), THE REPORT DESCRIBED IN
11 SUBSECTION (1)(a)(I) OF THIS SECTION MUST INCLUDE THE FOLLOWING
12 STATEMENT:

13 EACH DEFENDANT MAY, AT THE TIME OF SENTENCING OR AT
14 ANY TIME THEREAFTER, APPLY TO THE COURT FOR AN
15 ORDER OF COLLATERAL RELIEF OF THE CONSEQUENCES OF
16 THE DEFENDANT'S CONVICTION PURSUANT TO THE
17 PROVISIONS OF SECTION 18-1.3-107, COLORADO REVISED
18 STATUTES.

19 (II.7) THE REPORT DESCRIBED IN SUBSECTION (1)(a)(I) OF THIS
20 SECTION NEED NOT INCLUDE THE STATEMENT DESCRIBED IN SUBSECTION
21 (1)(a)(II.5) OF THIS SECTION IF THE DEFENDANT:

22 (A) HAS BEEN CONVICTED OF A FELONY THAT INCLUDED AN
23 ELEMENT THAT REQUIRES A VICTIM TO SUFFER A SERIOUS BODILY INJURY
24 AND THE VICTIM SUFFERED A PERMANENT IMPAIRMENT OF THE FUNCTION
25 OF ANY PART OR ORGAN OF THE BODY;

26 (B) HAS BEEN CONVICTED OF A CRIME OF VIOLENCE AS DESCRIBED
27 IN SECTION 18-1.3-406; OR

1 (C) IS REQUIRED TO REGISTER AS A SEX OFFENDER PURSUANT TO
2 SECTION 16-22-103.

3 **SECTION 4.** In Colorado Revised Statutes, **add** 19-2-927 as
4 follows:

5 **19-2-927. Sentencing order - collateral relief - definitions.**

6 (1) AT THE TIME OF THE ENTRY OF A SENTENCING ORDER OR AT ANY TIME
7 THEREAFTER, UPON THE REQUEST OF THE ADJUDICATED JUVENILE OR UPON
8 THE COURT'S OWN MOTION, A COURT MAY ENTER AN ORDER OF
9 COLLATERAL RELIEF IN THE JUVENILE'S CASE FOR THE PURPOSE OF
10 IMPROVING THE JUVENILE'S LIKELIHOOD OF SUCCESS IN THE COMMUNITY.

11 (2) **Application contents.** (a) AN APPLICATION FOR AN ORDER OF
12 COLLATERAL RELIEF MUST CITE THE GROUNDS FOR GRANTING THE RELIEF,
13 THE TYPE OF RELIEF SOUGHT, AND THE SPECIFIC COLLATERAL
14 CONSEQUENCE FROM WHICH THE APPLICANT IS SEEKING RELIEF AND MUST
15 INCLUDE A COPY OF A RECENT CRIMINAL HISTORY RECORD CHECK. THE
16 STATE COURT ADMINISTRATOR MAY PRODUCE AN APPLICATION FORM THAT
17 AN APPLICANT MAY SUBMIT IN APPLICATION.

18 (b) THE APPLICANT SHALL PROVIDE A COPY OF THE APPLICATION
19 TO THE DISTRICT ATTORNEY AND TO THE REGULATORY OR LICENSING
20 BODY THAT HAS JURISDICTION OVER THE COLLATERAL CONSEQUENCE
21 FROM WHICH THE APPLICANT IS SEEKING RELIEF, IF ANY, BY CERTIFIED
22 MAIL OR PERSONAL SERVICE WITHIN TEN DAYS AFTER FILING THE
23 APPLICATION WITH THE COURT.

24 (c) AN APPLICATION FILED AFTER A SENTENCE ORDER HAS BEEN
25 ENTERED MUST INCLUDE A COPY OF A RECENT COLORADO BUREAU OF
26 INVESTIGATION, FINGERPRINT-BASED CRIMINAL HISTORY RECORD CHECK,
27 THE FILING FEE REQUIRED BY LAW, AND AN ADDITIONAL FILING FEE OF

1 THIRTY DOLLARS TO COVER THE ACTUAL COSTS RELATED TO THE
2 APPLICATION. A COURT MAY WAIVE THE FILING FEES IF IT FINDS THAT THE
3 JUVENILE IS INDIGENT.

4 (3) AN ORDER OF COLLATERAL RELIEF MAY RELIEVE AN
5 ADJUDICATED JUVENILE OF ANY COLLATERAL CONSEQUENCES OF THE
6 ADJUDICATION, WHETHER IN HOUSING OR EMPLOYMENT BARRIERS OR ANY
7 OTHER SANCTION OR DISQUALIFICATION THAT THE COURT SHALL SPECIFY,
8 INCLUDING BUT NOT LIMITED TO STATUTORY, REGULATORY, OR OTHER
9 COLLATERAL CONSEQUENCES THAT THE COURT MAY SEE FIT TO RELIEVE
10 THAT WILL ASSIST THE ADJUDICATED JUVENILE IN SUCCESSFULLY
11 REINTEGRATING INTO THE COMMUNITY.

12 (4) (a) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, AN
13 ORDER OF COLLATERAL RELIEF CANNOT RELIEVE ANY COLLATERAL
14 CONSEQUENCES IMPOSED BY LAW FOR LICENSURE BY THE DEPARTMENT OF
15 EDUCATION OR ANY COLLATERAL CONSEQUENCES IMPOSED BY LAW FOR
16 EMPLOYMENT WITH THE JUDICIAL BRANCH, THE DEPARTMENT OF
17 CORRECTIONS, DIVISION OF YOUTH SERVICES IN THE DEPARTMENT OF
18 HUMAN SERVICES, OR ANY OTHER LAW ENFORCEMENT AGENCY IN THE
19 STATE OF COLORADO.

20 (b) A COURT SHALL NOT ISSUE AN ORDER OF COLLATERAL RELIEF
21 IF THE ADJUDICATED JUVENILE:

22 (I) HAS BEEN ADJUDICATED FOR A FELONY THAT INCLUDED AN
23 ELEMENT THAT REQUIRES A VICTIM TO SUFFER A SERIOUS BODILY INJURY
24 AND THE VICTIM SUFFERED A PERMANENT IMPAIRMENT OF THE FUNCTION
25 OF ANY PART OR ORGAN OF THE BODY;

26 (II) HAS BEEN ADJUDICATED FOR A CRIME OF VIOLENCE AS
27 DESCRIBED IN SECTION 18-1.3-406; OR

1 (III) IS REQUIRED TO REGISTER AS A SEX OFFENDER PURSUANT TO
2 SECTION 16-22-103.

3 (5) **Hearing.** (a) THE COURT MAY CONDUCT A HEARING ON ANY
4 MATTER RELEVANT TO THE GRANTING OR DENYING OF THE APPLICATION,
5 OR INCLUDE A HEARING ON THE MATTER AT THE ADJUDICATED JUVENILE'S
6 SENTENCING HEARING, AND MAY TAKE TESTIMONY UNDER OATH.

7 (b) THE COURT MAY HEAR TESTIMONY FROM VICTIMS OR ANY
8 PROPONENT OR OPPONENT OF THE APPLICATION AND MAY HEAR
9 ARGUMENTS FROM THE APPLICANT AND THE DISTRICT ATTORNEY.

10 (6) **Standard for granting relief.** (a) A COURT MAY ISSUE AN
11 ORDER OF COLLATERAL RELIEF IF THE COURT FINDS THAT:

12 (I) THE ORDER OF COLLATERAL RELIEF IS CONSISTENT WITH THE
13 APPLICANT'S REHABILITATION; AND

14 (II) GRANTING THE APPLICATION WOULD IMPROVE THE
15 APPLICANT'S LIKELIHOOD OF SUCCESS IN REINTEGRATING INTO SOCIETY
16 AND IS IN THE PUBLIC'S INTEREST.

17 (b) THE COURT THAT PREVIOUSLY ISSUED AN ORDER OF
18 COLLATERAL RELIEF, ON ITS OWN MOTION OR EITHER BY CAUSE SHOWN BY
19 THE DISTRICT ATTORNEY OR ON GROUNDS OFFERED BY THE APPLICANT,
20 MAY AT ANY TIME ISSUE A SUBSEQUENT JUDGMENT TO ENLARGE, LIMIT, OR
21 CIRCUMSCRIBE THE RELIEF PREVIOUSLY GRANTED.

22 (c) UPON THE MOTION OF THE DISTRICT ATTORNEY OR PROBATION
23 OFFICER OR UPON THE COURT'S OWN MOTION, A COURT MAY REVOKE AN
24 ORDER OF COLLATERAL RELIEF UPON EVIDENCE OF A SUBSEQUENT
25 CRIMINAL CONVICTION OR ADJUDICATION OR PROOF THAT THE
26 ADJUDICATED JUVENILE IS NO LONGER ENTITLED TO RELIEF. ANY BARS,
27 PROHIBITIONS, SANCTIONS, AND DISQUALIFICATIONS THEREBY RELIEVED

1 MAY BE REINSTATED AS OF THE DATE OF THE WRITTEN ORDER OF
2 REVOCATION. THE COURT SHALL PROVIDE A COPY OF THE ORDER OF
3 REVOCATION TO THE HOLDER AND TO ANY REGULATORY OR LICENSING
4 ENTITY THAT THE DEFENDANT NOTICED IN HIS OR HER MOTION FOR RELIEF.

5 (7) IF THE COURT ISSUES AN ORDER OF COLLATERAL RELIEF, IT
6 SHALL SEND A COPY OF THE ORDER OF COLLATERAL RELIEF THROUGH THE
7 COLORADO INTEGRATED CRIMINAL JUSTICE INFORMATION SYSTEM TO THE
8 COLORADO BUREAU OF INVESTIGATION, AND THE COLORADO BUREAU OF
9 INVESTIGATION SHALL NOTE IN THE APPLICANT'S RECORD IN THE
10 COLORADO CRIME INFORMATION CENTER THAT THE ORDER OF
11 COLLATERAL RELIEF WAS ISSUED.

12 (8) **Definitions.** AS USED IN THIS SECTION, UNLESS THE CONTEXT
13 OTHERWISE REQUIRES:

14 (a) "ADJUDICATION" OR "ADJUDICATED" MEANS A VERDICT OF
15 GUILTY BY A JUDGE OR JURY OR A PLEA OF GUILTY OR NOLO CONTENDERE
16 THAT IS ACCEPTED BY THE COURT OR AN ADJUDICATION FOR A CRIME
17 UNDER THE LAWS OF ANY OTHER STATE, THE UNITED STATES, OR ANY
18 TERRITORY SUBJECT TO THE JURISDICTION OF THE UNITED STATES, WHICH,
19 IF COMMITTED WITHIN THIS STATE, WOULD BE A CRIME. "ADJUDICATION"
20 OR "ADJUDICATED" ALSO INCLUDES HAVING RECEIVED A DEFERRED
21 ADJUDICATION.

22 (b) "COLLATERAL CONSEQUENCE" MEANS A COLLATERAL
23 SANCTION OR A DISQUALIFICATION.

24 (c) "COLLATERAL SANCTION" MEANS A PENALTY, PROHIBITION,
25 BAR, OR DISADVANTAGE, HOWEVER DENOMINATED, IMPOSED ON AN
26 INDIVIDUAL AS A RESULT OF THE INDIVIDUAL'S ADJUDICATION FOR AN
27 OFFENSE, WHICH PENALTY, PROHIBITION, BAR, OR DISADVANTAGE APPLIES

1 BY OPERATION OF LAW REGARDLESS OF WHETHER THE PENALTY,
2 PROHIBITION, BAR, OR DISADVANTAGE IS INCLUDED IN THE JUDGMENT OR
3 SENTENCE. "COLLATERAL SANCTION" DOES NOT INCLUDE IMPRISONMENT,
4 PROBATION, PAROLE, SUPERVISED RELEASE, FORFEITURE, RESTITUTION,
5 FINE, ASSESSMENT, COSTS OF PROSECUTION, OR A RESTRAINT OR SANCTION
6 ON AN INDIVIDUAL'S DRIVING PRIVILEGE.

7 (d) "DISQUALIFICATION" MEANS A PENALTY, PROHIBITION, BAR, OR
8 DISADVANTAGE, HOWEVER DENOMINATED, THAT AN ADMINISTRATIVE
9 AGENCY, GOVERNMENTAL OFFICIAL, OR COURT IN A CIVIL PROCEEDING IS
10 AUTHORIZED, BUT NOT REQUIRED, TO IMPOSE ON AN INDIVIDUAL ON
11 GROUNDS RELATING TO THE INDIVIDUAL'S ADJUDICATION FOR AN OFFENSE.

12 **SECTION 5.** In Colorado Revised Statutes, 19-2-905, **amend** (2)
13 as follows:

14 **19-2-905. Presentence investigation.** (2) (a) The probation
15 department shall conduct a presentence investigation in each case unless
16 waived by the court on its own determination or on recommendation of
17 the prosecution or the juvenile. The level of detail included in the
18 presentence investigation may vary, as appropriate, with the services
19 being considered for the juvenile.

20 (b) (I) EXCEPT AS PROVIDED IN SUBSECTION (2)(b)(II) OF THIS
21 SECTION, IF THE JUVENILE IS ADJUDICATED ON OR AFTER THE EFFECTIVE
22 DATE OF THIS SUBSECTION (2)(b), THE REPORT DESCRIBED IN SUBSECTION
23 (1)(a)(I) OF THIS SECTION MUST INCLUDE THE FOLLOWING STATEMENT:

24 EACH ADJUDICATED JUVENILE MAY, AT THE TIME OF
25 SENTENCING OR AT ANY TIME THEREAFTER, APPLY TO THE
26 COURT FOR AN ORDER OF COLLATERAL RELIEF OF THE
27 CONSEQUENCES OF THE JUVENILE'S ADJUDICATION

1 PURSUANT TO THE PROVISIONS OF SECTION 19-2-927,
2 COLORADO REVISED STATUTES.

3 (II) THE REPORT DESCRIBED IN SUBSECTION (1)(a)(I) OF THIS
4 SECTION NEED NOT INCLUDE THE STATEMENT DESCRIBED IN SUBSECTION
5 (2)(b)(I) OF THIS SECTION IF THE JUVENILE:

6 (A) HAS BEEN ADJUDICATED FOR A FELONY THAT INCLUDED AN
7 ELEMENT THAT REQUIRES A VICTIM TO SUFFER A SERIOUS BODILY INJURY
8 AND THE VICTIM SUFFERED A PERMANENT IMPAIRMENT OF THE FUNCTION
9 OF ANY PART OR ORGAN OF THE BODY;

10 (B) HAS BEEN ADJUDICATED FOR A CRIME OF VIOLENCE AS
11 DESCRIBED IN SECTION 18-1.3-406; OR

12 (C) IS REQUIRED TO REGISTER AS A SEX OFFENDER PURSUANT TO
13 SECTION 16-22-103.

14 **SECTION 6.** In Colorado Revised Statutes, 24-5-101, **amend** (2),
15 (3)(c), and (4) introductory portion; and **repeal** (3)(d) and (3)(e) as
16 follows:

17 **24-5-101. Effect of criminal conviction on employment rights.**

18 (2) (a) Whenever any state or local agency is required to make a finding
19 that an applicant for a license, certification, permit, or registration is a
20 person of good moral character as a condition to the issuance thereof, OR
21 EVALUATE THE IMPACT OF AN APPLICANT'S CRIMINAL RECORD, the fact that
22 such applicant has, at some time prior thereto, been convicted of a felony
23 or other offense involving moral turpitude, and pertinent circumstances
24 connected with such conviction, shall be given consideration in
25 determining whether, in fact, the applicant is ~~a person of good moral~~
26 ~~character at the time of the application~~ QUALIFIED. The intent of this
27 section is to expand employment opportunities for persons who,

1 notwithstanding that fact of conviction of an offense, have been
2 rehabilitated and are ready to accept the responsibilities of a law-abiding
3 and productive member of society.

4 (b) IN EVALUATING AN APPLICANT, AN AGENCY SHALL COMPLY
5 WITH SUBSECTION (4) OF THIS SECTION AND SHALL NOT USE THE
6 DETERMINATION OF THE FOLLOWING INFORMATION AS A BASIS FOR DENIAL
7 OR TAKING ADVERSE ACTION AGAINST ANY APPLICANT OTHERWISE
8 QUALIFIED:

9 (I) THE APPLICANT HAS BEEN ARRESTED FOR OR CHARGED WITH
10 BUT NOT CONVICTED OF A CRIMINAL OFFENSE AND THE CRIMINAL CASE IS
11 NOT ACTIVELY PENDING;

12 (II) THE APPLICANT HAS BEEN CONVICTED OF A CRIMINAL OFFENSE
13 BUT PARDONED;

14 (III) THE APPLICANT HAS BEEN CONVICTED OF A CRIMINAL
15 OFFENSE BUT RECORDS OF THE CONVICTION HAVE BEEN SEALED OR
16 EXPUNGED; OR

17 (IV) A COURT HAS ISSUED AN ORDER OF COLLATERAL RELIEF
18 SPECIFIC TO THE CREDENTIAL SOUGHT BY THE APPLICANT.

19 (3) (c) If, after determining that an applicant is a finalist or after
20 making a conditional offer of employment to an applicant, the agency
21 determines that the applicant has ~~been arrested or charged but not~~
22 ~~convicted of a criminal offense and the criminal case is not actively~~
23 ~~pending~~ A CRIMINAL HISTORY, the agency SHALL COMPLY WITH
24 SUBSECTION (4) OF THIS SECTION AND shall not use ~~that~~ THE
25 DETERMINATION OF THE FOLLOWING information as a basis for not making
26 an offer of employment or for withdrawing the conditional offer of
27 employment:

1 (I) THE APPLICANT HAS BEEN ARRESTED FOR OR CHARGED WITH
2 BUT NOT CONVICTED OF A CRIMINAL OFFENSE AND THE CRIMINAL CASE IS
3 NOT ACTIVELY PENDING;

4 (II) THE APPLICANT HAS BEEN CONVICTED OF A CRIMINAL OFFENSE
5 BUT PARDONED;

6 (III) THE APPLICANT HAS BEEN CONVICTED OF A CRIMINAL
7 OFFENSE BUT RECORDS OF THE CONVICTION HAVE BEEN SEALED OR
8 EXPUNGED; OR

9 (IV) A COURT HAS ISSUED AN ORDER OF COLLATERAL RELIEF
10 SPECIFIC TO THE EMPLOYMENT SOUGHT BY THE APPLICANT.

11 ~~(d) If, after determining that an applicant is a finalist or after~~
12 ~~making a conditional offer of employment to an applicant, the agency~~
13 ~~determines that the applicant has had a criminal conviction expunged or~~
14 ~~sealed from his or her record, received a pardon, or that charges were~~
15 ~~dismissed pursuant to successfully completing a deferred judgment or~~
16 ~~sentence, the agency shall not use that information as a basis for not~~
17 ~~making an offer of employment or for withdrawing the conditional offer~~
18 ~~of employment unless, after reviewing the factors in subsection (4) of this~~
19 ~~section, the agency determines that the applicant should be disqualified~~
20 ~~for the position.~~

21 ~~(e) Nothing in this section prevents an agency from considering~~
22 ~~criminal history information that the applicant voluntarily provides.~~

23 (4) Except as provided in subsection (6) of this section, WHEN
24 CONSIDERING AN APPLICANT FOR A LICENSE, CERTIFICATION, PERMIT, OR
25 REGISTRATION PURSUANT TO SUBSECTION (2) OF THIS SECTION OR, if, after
26 determining that an applicant is a finalist or making a conditional offer of
27 employment to an applicant, the agency determines that the applicant has

1 ~~been convicted of a crime~~ A CONVICTION OTHER THAN AS DESCRIBED IN
2 SUBSECTION (2)(b) OR (3)(c) OF THIS SECTION, the agency shall consider
3 the following factors when determining whether the conviction
4 disqualifies the applicant: ~~for the position:~~

5 **SECTION 7.** In Colorado Revised Statutes, 24-34-104, **amend**
6 (6)(b)(IX) as follows:

7 **24-34-104. General assembly review of regulatory agencies**
8 **and functions for repeal, continuation, or reestablishment - legislative**
9 **declaration - repeal.** (6)(b) In the hearings, the determination as to
10 whether an agency has demonstrated a public need for the continued
11 existence of the agency or function and for the degree of regulation it
12 practices is based on the following factors, among others:

13 (IX) Whether the agency through its licensing or certification
14 process imposes any SANCTIONS OR disqualifications on applicants based
15 on past criminal history and, if so, whether the SANCTIONS OR
16 disqualifications serve public safety or commercial or consumer
17 protection interests. To assist in considering this factor, the analysis
18 prepared pursuant to ~~paragraph (a) of subsection (5)~~ SUBSECTION (5)(a)
19 of this section must include data on the number of licenses or
20 certifications that the agency denied BASED ON THE APPLICANT'S CRIMINAL
21 HISTORY, THE NUMBER OF CONDITIONAL LICENSES OR CERTIFICATIONS
22 ISSUED BASED UPON THE APPLICANT'S CRIMINAL HISTORY, AND THE
23 NUMBER OF LICENSES OR CERTIFICATIONS revoked or suspended based on
24 ~~a disqualification and the basis for the disqualification~~ AN INDIVIDUAL'S
25 CRIMINAL CONDUCT. FOR EACH SET OF DATA, THE ANALYSIS MUST
26 INCLUDE THE CRIMINAL OFFENSES THAT LED TO THE SANCTION OR
27 DISQUALIFICATION AND WHETHER IT IS APPROPRIATE TO CHANGE ANY

1 MANDATORY COLLATERAL SANCTIONS, AS DEFINED IN SECTION
2 18-1.3-107, TO DISCRETIONARY DISQUALIFICATIONS.

3 **SECTION 8.** In Colorado Revised Statutes, 24-34-107, **add** (5)
4 as follows:

5 **24-34-107. Applications for licenses - authority to suspend**
6 **licenses - rules.** (5) WHEN ANY DIVISION, BOARD, OR AGENCY OF THE
7 DEPARTMENT OF REGULATORY AGENCIES DETERMINES THAT AN
8 INDIVIDUAL APPLYING FOR A LICENSE HAS BEEN CONVICTED OF A CRIME
9 PRIOR TO THE APPLICATION BEING SUBMITTED, IT MAY, SUBJECT TO THE
10 PROVISIONS OF SECTION 24-5-101, ISSUE A CONDITIONAL LICENSE TO THAT
11 INDIVIDUAL. IF THE INDIVIDUAL REMAINS FREE OF ANY CRIMINAL
12 CONVICTION OR LICENSING SANCTION EITHER UNTIL THE INDIVIDUAL
13 APPLIES FOR A RENEWAL OF THE LICENSE OR A PERIOD OF TWO YEARS,
14 WHICHEVER IS SOONER, THE INDIVIDUAL MAY REQUEST THAT THE
15 CONDITIONAL DESIGNATION OR ANY RELATED ADVERSE ACTION BE
16 REMOVED. THE DIVISION, BOARD, OR AGENCY SHALL GRANT THE REQUEST
17 UNLESS IT DETERMINES THAT, UNDER THE PROVISIONS OF SECTION
18 24-5-101, THE CONDITIONAL DESIGNATION REMAINS NECESSARY. IF THE
19 DIVISION, BOARD, OR AGENCY REMOVES THE CONDITIONAL DESIGNATION,
20 IT SHALL MAKE THE ORIGINAL CONDITIONAL DESIGNATION CONFIDENTIAL
21 AND REMOVE FROM THE INDIVIDUAL'S PROFESSIONAL HISTORY ANY
22 REFERENCE TO CRIMES COMMITTED BEFORE THE APPLICATION FOR
23 LICENSURE WAS SUBMITTED.

24 **SECTION 9.** In Colorado Revised Statutes, 24-34-402, **amend**
25 (1)(i); and **add** (1)(j) as follows:

26 **24-34-402. Discriminatory or unfair employment practices.**

27 (1) It shall be a discriminatory or unfair employment practice:

1 (i) Unless otherwise permitted by federal law, for an employer to
2 discharge, discipline, discriminate against, coerce, intimidate, threaten,
3 or interfere with any employee or other person because the employee
4 inquired about, disclosed, compared, or otherwise discussed the
5 employee's wages; to require as a condition of employment nondisclosure
6 by an employee of his or her wages; or to require an employee to sign a
7 waiver or other document that purports to deny an employee the right to
8 disclose his or her wage information; OR

9 (j) FOR AN EMPLOYER, EMPLOYMENT AGENCY, OR LABOR
10 ORGANIZATION TO MAKE ANY INQUIRY ABOUT, OR TO ACT ADVERSELY TO
11 AN INDIVIDUAL ON THE BASIS OF:

12 (I) A RECORD OF ANY ARREST OR CHARGE THAT DID NOT RESULT
13 IN A CONVICTION AND THE CRIMINAL CASE IS NOT ACTIVELY PENDING; OR

14 (II) ANY CRIMINAL JUSTICE RECORD THAT HAS BEEN SEALED OR
15 EXPUNGED.

16 **SECTION 10.** In Colorado Revised Statutes, **add** 24-103-911 as
17 follows:

18 **24-103-911. Bid preferences - state contracts - state**
19 **employment practices - definition.** (1) AS USED IN THIS SECTION,
20 UNLESS THE CONTEXT OTHERWISE REQUIRES, "QUALIFIED BIDDER" MEANS
21 A BIDDER THAT FOLLOWS THE STATE EMPLOYMENT PROCEDURES
22 DESCRIBED IN SECTION 24-5-101 (3) AND (4).

23 (2) ALL INVITATIONS FOR BIDS FOR CONTRACTS PURSUANT TO THIS
24 PART 9 MUST INCLUDE LANGUAGE THAT DESCRIBES THE AVAILABILITY OF
25 THE PURCHASING PREFERENCE FOR BIDDERS THAT FOLLOW STATE
26 EMPLOYMENT PRACTICES. A GOVERNMENTAL BODY SHALL AWARD THE
27 CONTRACT TO A QUALIFIED BIDDER SUBJECT TO THE CONDITIONS SPECIFIED

1 IN SUBSECTION (3) OF THIS SECTION.

2 (3) THE PREFERENCE SPECIFIED IN SUBSECTION (2) OF THIS SECTION
3 APPLIES ONLY IF ALL OF THE FOLLOWING CONDITIONS ARE MET AND
4 SELECTING A QUALIFIED BIDDER WOULD NOT OTHERWISE BE
5 DISADVANTAGEOUS TO THE STATE UPON CONSIDERATION OF THESE
6 CONDITIONS, SINGLY OR IN COMBINATION:

7 (a) THE QUALITY OF THE PRODUCTS OR SERVICES OF THE
8 QUALIFIED BIDDER MEETS THE SPECIFICATION OF THE BID;

9 (b) THE PRODUCTS OR SERVICES OF THE QUALIFIED BIDDER ARE
10 SUITABLE FOR THE USE REQUIRED BY THE PURCHASING ENTITY;

11 (c) ANY QUALIFIED BIDDER IS ABLE TO SUPPLY SUCH PRODUCTS OR
12 SERVICES IN SUFFICIENT QUANTITY, AS INDICATED IN THE INVITATION FOR
13 BIDS;

14 (d) THE BID PRICE OF THE QUALIFIED BIDDER DOES NOT EXCEED
15 THE LOWEST BID PRICE FOR PRODUCTS OR SERVICES OF BIDDERS THAT ARE
16 NOT QUALIFIED BY MORE THAN FIVE PERCENT; AND

17 (e) THE HEAD OF THE GOVERNMENTAL BODY OR OTHER OFFICIAL
18 CHARGED BY LAW WITH THE DUTY TO PURCHASE PRODUCTS OR SERVICES
19 HAS MADE A DETERMINATION THAT THE GOVERNMENTAL BODY IS ABLE TO
20 PURCHASE THE PRODUCTS OR SERVICES OUT OF THE GOVERNMENTAL
21 BODY'S EXISTING BUDGET WITHOUT ANY FURTHER SUPPLEMENTAL OR
22 ADDITIONAL APPROPRIATION.

23 (4) IF THE BID PRICE OF A QUALIFIED BIDDER EXCEEDS THE BID
24 PRICE FOR PRODUCTS OR SERVICES OF ANOTHER BIDDER WHO IS NOT A
25 QUALIFIED BIDDER BY MORE THAN FIVE PERCENT, A GOVERNMENTAL BODY
26 MAY AWARD THE CONTRACT TO A QUALIFIED BIDDER IF THE
27 GOVERNMENTAL BODY DEMONSTRATES, ON THE BASIS OF ASSESSMENTS

1 SUCH AS THE COSTS OF OWNERSHIP AND SOCIO-ECONOMIC ANALYSIS, THAT
2 LONG-TERM SAVINGS TO THE STATE WILL RESULT FROM PURCHASING THE
3 PRODUCTS OR SERVICES IN ACCORDANCE WITH THE REQUIREMENTS OF THIS
4 SECTION. NOTHING IN THIS SECTION REQUIRES THAT A GOVERNMENTAL
5 BODY PERFORM AN ANALYSIS OF THE COSTS OF OWNERSHIP OR A
6 LIFE-CYCLE ANALYSIS IN CONNECTION WITH THE PURCHASE OF ANY
7 PRODUCTS OR SERVICES.

8 (5) ANY BIDDER THAT SEEKS TO QUALIFY FOR THE PREFERENCE
9 CREATED BY SUBSECTION (2) OF THIS SECTION SHALL PROVIDE
10 DOCUMENTATION TO THE GOVERNMENTAL BODY INVITING THE BID THAT
11 THE BIDDER FOLLOWS THE EMPLOYMENT PRACTICES DESCRIBED IN
12 SECTION 24-5-101 (3) AND (4).

13 **SECTION 11. Effective date - applicability.** This act takes
14 effect July 1, 2018, and applies to presentencing investigation reports,
15 sentencing orders, and employment decisions made on or after said date.

16 **SECTION 12. Safety clause.** The general assembly hereby finds,
17 determines, and declares that this act is necessary for the immediate
18 preservation of the public peace, health, and safety.