

# INSTRUCTIONS TO FILE AN APPLICATION FOR AN ORDER OF COLLATERAL RELIEF

These standard instructions are for informational purposes only and do not constitute legal advice about your case. If you choose to represent yourself, you are bound by the same rules and procedures as an attorney.

## GENERAL INFORMATION

- ◆ If you are convicted of a crime, you will face certain penalties imposed by the court such as jail time, probation, fines, etc. Your conviction may also bring about additional consequences other than the penalties imposed by the court. For example, you may not be able to get a certain type of job or license, or you may not be eligible for certain public benefits or housing. These additional consequences are known as “collateral consequences.”
- ◆ These instructions will give you some general information about collateral consequences and explain the basic steps you will need to follow in order to file an application asking the court to provide you with relief from collateral consequences. You must meet the eligibility requirements listed below in order to apply for relief. However, the Court will make the final decision whether to grant the relief you are requesting.
- ◆ An Order of Collateral Relief may relieve a Defendant of any collateral consequences of a criminal conviction, including housing and employment barriers or any other sanction or disqualification that the court shall specify which will assist the Defendant in successfully completing an alternative to sentencing, probation or community corrections sentence. Further information on various collateral consequences can be found on the State Public Defender’s website at [www.coloradodefenders.us](http://www.coloradodefenders.us).
- ◆ A “collateral consequence” does not include imprisonment, probation, parole, supervised release, forfeiture, restitution, fine, assessment, costs of prosecution, or a restraint or sanction on an individual’s driving privilege.
- ◆ If you are granted collateral relief, that relief may later be revoked if you get another criminal conviction or if there is evidence that you are no longer entitled to the relief.
  
- ◆ You **MAY** ask the court for an Order for Collateral Relief if:
  - You are sentenced to probation; **OR**
  - You are sentenced to a community corrections program; **OR**
  - You have entered into an “alternative to sentencing” as defined in Colorado Revised Statutes (C.R.S.) §18-1.3-101--107.
  
- ◆ You **MAY NOT** ask the court for an Order for Collateral Relief if:
  - You have been convicted of a felony that included an element that requires a victim to suffer permanent disability; **OR**
  - You have been convicted of a crime of violence as described in §18-1.3-406, C.R.S.; **OR**
  - You are required to register as a sex-offender pursuant to §16-22-103, C.R.S.
  
- In addition, a court cannot grant relief from any collateral consequence imposed by law for licensure by the Department of Education, or for employment with the Colorado Judicial Branch, Department of Corrections, Division of Youth Corrections in the Department of Human Services, or any other law enforcement agency in the State of Colorado.
  
- ◆ For more information, please review §18-1.3-107, §18-1.3-213, and §18-1.3-303, C.R.S.
- ◆ If you have a disability and need a reasonable accommodation to access the courts, please contact your local ADA Coordinator. Contact information can be obtained from the following website:  
[http://www.courts.state.co.us/Administration/HR/ADA/Coordinator\\_List.cfm](http://www.courts.state.co.us/Administration/HR/ADA/Coordinator_List.cfm)

## COMMON TERMS

- Application: Document that starts the process of requesting an Order for Collateral Relief.
- Applicant: The person who files an Application for an Order of Collateral Relief.
- Collateral Consequence: A penalty, prohibition, bar, or disadvantage imposed on an individual as a result of the individual’s criminal conviction, which applies regardless of whether it was included in the judgment or sentence; **OR** a penalty, prohibition, bar, or disadvantage that an administrative agency, governmental official, or court in a

- civil proceeding is authorized, but not required, to impose on an individual on grounds relating to the individual's conviction or a criminal offense.
- Collateral Relief: Relief given by the court for a collateral consequence of a criminal conviction.
  - Conviction: A verdict of guilty by a judge or jury or a plea of guilty or no contest that is accepted by the court or a conviction of a crime under the laws of any other state, the United States, or any territory subject to the jurisdiction of the United States, which, if committed within this state, would be a felony or misdemeanor. "Conviction" or "Convicted" also includes having received a deferred judgment and sentence, except that a person shall not be deemed to have been convicted if the person has successfully completed a deferred sentence.
  - Crime of Violence: A "crime of violence" means any of the following listed crimes that was committed, conspired to be committed, or attempted to be committed by a person during which, or in the immediate flight therefrom, the person used, or possessed and threatened the use of a deadly weapon; OR caused serious bodily injury or death to any other person except another person involved in the crime: any crime against an at-risk adult or at-risk juvenile; murder; first or second degree assault; kidnapping; a sexual offense; aggravated robbery; first degree arson; escape; criminal extortion; or first or second degree unlawful termination of pregnancy. "Crime of violence" also means any unlawful sexual offense in which the defendant caused bodily injury to the victim or in which the defendant used threat, intimidation, or force against the victim.

**If you do not understand this information, please contact an attorney.**

## FEES

No filing fee is required. Other fees that a party to the case may encounter are as follows:

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| <input type="checkbox"/> Records Search Fees                         | Varies and is payable to the agency       |
| <input type="checkbox"/> Copies of Documents (Documents on File)     | \$ .75 per page or \$1.50 if double-sided |
| <input type="checkbox"/> Copies of Documents (Documents not on File) | \$ .25 per page or \$.50 if double-sided  |
| <input type="checkbox"/> Certification Fee                           | \$ 20.00                                  |

## FORMS

To access forms online, go to the website at [www.courts.state.co.us](http://www.courts.state.co.us) and then click "Forms" tab. The forms are available in PDF or WORD by selecting **Criminal Law – Applying For Relief From Collateral Consequences**. You may complete a form online and print or you may print it and type or print legibly in black ink.

- JDF 238 Application for an Order of Collateral Relief
- JDF 239 Order of Collateral Relief

## STEPS TO FILING YOUR APPLICATION

### Step 1: Obtain your criminal history records

In order to apply for an Order of Collateral Relief, you **MUST** obtain a recent copy of a Colorado Bureau of Investigation **fingerprint-based** criminal history check and attach the records to your application.

- You can contact the Colorado Bureau of Investigation (CBI) at 303-239-4201. CBI is located at 690 Kipling Street, Suite 3000, Lakewood, CO 80215.

### Step 2: Complete the appropriate forms.

- Application for an Order of Collateral Relief (JDF 238).**
  - All sections of the application must be completed before the application is filed (including the caption).
  - Enter your name and contact information.
  - In order to apply for collateral relief, make sure that your circumstances comply with the eligibility requirements in the beginning of these instructions. If you are unsure as to whether you fall into one of these three categories, fill out the application to the best of your knowledge and the court will make the ultimate decision. You can also consult with an attorney if you need legal advice.

- In paragraphs 4 and 5 of the application you must state the specific collateral consequence(s) that you will experience due to the underlying conviction and what type of relief you are asking the court to order with regard to those collateral consequences.
  - In order to grant the relief you are asking for, the court must find that: (1) an Order of Collateral Relief is consistent with your rehabilitation, and (2) granting the Order would improve your likelihood of success in reintegrating into society. Provide detailed explanations in paragraphs 6 and 7 of the application to help the court make these determinations.
  - Attach a recent copy of a Colorado Bureau of Investigation fingerprint-based criminal history check to the application (this document MUST be provided).**
  - In paragraph 8, you may select whether you want the court to conduct a hearing on your application. If you have not had your sentencing hearing and you would like the court to address your application at your sentencing hearing, OR if you have already had your sentencing hearing and you would like to request a separate hearing to address your application, indicate Yes. The court may grant your request for a hearing, but the court is not required to do so.
  - Sign and date the application (or have your attorney sign, if applicable).
- Order of Collateral Relief (JDF 239).**
- Complete only the caption (the information on the top of the first page in the box) on this form, and file it with the court.
  - The Court will complete the rest of the form after it makes a decision regarding the relief you are asking for in your application.

**Step 3: You are ready to file the application with the Court.**

Provide the court with the documents completed as described in Steps 1 - 2 above.

**Step 4: Provide a copy to the District Attorney and relevant government body.**

- Within 10 days after you file your application, you must provide a copy of your completed application to the District Attorney and to any regulatory or licensing bodies that govern over the collateral consequence(s) from which you are seeking relief. You must send a copy of your completed application by **certified mail** or you must **personally serve** the application.
  - If you send the completed application by certified mail:** Complete the Certificate of Service which is attached to the application, and file it with the court.
  - If you have the recipient personally served the completed application:** Use JDF 718 (Personal Service Affidavit) for each party served personally, and file the completed JDF 718 forms with the court.

**Step 5: The Court will review your application and supporting documents to determine if a hearing will be set.**

- The court may grant you a hearing on your request for collateral relief, or the court may make a decision without the need for a hearing. If the court finds that you are not eligible based upon your application, the court may deny your request for collateral relief without a hearing.
- If a hearing is granted, the hearing could be held at the same time as your sentencing hearing or the hearing may be held at a separate time.

**Step 6: Be prepared if a hearing is granted.**

- If the court grants a hearing on your request for collateral relief, you may be required to give testimony under oath as to the information you provided in your application.
- The court may also hear testimony or argument (either for or against your application) from victims, the District Attorney, or other persons who are either for or against your application.

**Step 7: Following the hearing.**

- If the court grants your request for collateral relief and issues an Order as such, the court will send a copy of the Order of Collateral Relief through the Colorado Integrated Criminal Justice Information System to the Colorado Bureau of Investigation (CBI), and CBI will note in your record in the Colorado Crime Information Center that the Order of Collateral Relief was issued.