

INSTRUCTIONS TO FILE A MOTION TO SEAL CRIMINAL JUSTICE RECORDS PURSUANT TO § 24-72-705, C.R.S. (SIMPLIFIED PROCESS)

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

- ◆ Any person in interest may motion the District or County Court to seal any arrest and criminal records information pertaining to the person in interest, except basic identification information, by filing a motion in the case in the county in which any arrest and/or criminal records are filed.
- ◆ A person may file a Motion with the Court for sealing of each case once every twelve-month period.
- ◆ The arrest records may be included in the court case file or you may need to contact the arresting agency.
- ◆ The Court, law enforcement and criminal justice agencies will always have access to the file. The files are not destroyed. However, as provided under the statute, if inquiries are made by anyone other than a criminal justice agency, all agencies may respond that “*no such record exists with respect to such person*”.
- ◆ For additional information, please review Colorado Revised Statute § 24-72-705, 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

In order to qualify to have your criminal record sealed, you must meet one of the following requirements:

- You were acquitted of all counts in the case;
- Your case was completely dismissed;
 - Where your record pertains to a dismissal that occurs as part of a plea agreement in a separate case, records in the dismissed case are eligible for sealing at such time as the criminal case in which the conviction was entered is eligible for sealing.
- You completed a diversion agreement pursuant to C.R.S. § 18-1.3-101 when a criminal case has been filed; or
- You completed a deferred judgment and sentence pursuant to § 18-1.3-102 and all counts are dismissed

However, even if you meet the above requirements, you cannot have your criminal record sealed if:

- You still owe restitution, fines, court costs, late fees, or other fees ordered by the court in the case that you are asking to be sealed and the court has not vacated that order.

Other criminal records that cannot be sealed include the following:

- A case in which the only charge(s) is/are class 1 misdemeanor traffic offenses, class 2 misdemeanor traffic offenses, class A traffic infractions, and/or class B traffic infractions.
- **NOTE:** If you are trying to seal records for an offense that is not a class 1 or class 2 misdemeanor traffic offense or a class A or Class B traffic infraction, the fact that you are also charged with a class 1 or class 2 misdemeanor traffic offense or a class A or class B traffic infraction as part of the same arrest does not prohibit the court from sealing the records of the additional offense(s).
- Records pertaining to a deferred judgment and sentence for an offense for which the factual basis involved unlawful sexual behavior, as defined in § 16-22-102(9), C.R.S.
- Records pertaining to deferred judgment and sentence for an offense concerning the holder of a commercial driver’s license, or the operator of a commercial motor vehicle, as defined in § 42-2-402, C.R.S.
- Records pertaining to underage ethyl alcohol, marijuana, and paraphernalia offenses that are subject to the procedure set forth in § 18-13-122, C.R.S.
- Charges that were dismissed pursuant § 16-8.5-116, C.R.S.

COMMON TERMS

- Motion: Document officially commences the Sealing of Records process.
- Person in Interest: The person who is the primary subject of a criminal justice record or his/her legal representative. If the person is under legal disability this means and includes the person's parent.
- Arrest: To take into custody by legal authority.
- Acquitted: The finding of not guilty by a Judge or Jury.
- Criminal Case: A case brought by the government against an individual accused of committing a crime.
- May: In legal terms, "may" is defined as "optional" or "can".
- Shall: In legal terms, "shall" is defined as "required".

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

FEES

A filing fee of \$65.00 is required. If you are unable to pay, you must complete the Motion to File without Payment and Supporting Financial Affidavit (JDF 205) and submit it to the Court. Once you submit the completed JDF 205 form and a blank Order (JDF 206), the Court will decide if you need to pay the filing fee.

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 and then click "Self Help/Forms" tab. The forms are available in PDF or WORD by selecting **All Court Forms and Instructions - Seal My Case - Sealing of Criminal Justice Records Pursuant to §24-72-705**. Please click either PDF or WORD by the title of the form. You may complete a form online and print or you may print it and type or print legibly in black ink.

- JDF 477 Motion to Seal Criminal Justice Records Pursuant to §24-72-705
- JDF 478 Order to Seal Criminal Justice Records Pursuant to §24-72-705
- JDF 492 Order Denying Motion to Seal Criminal Justice Records Pursuant to §24-72-705
- JDF 493 Notice of Hearing on Sealing Criminal Justice Records Pursuant to §24-72-705

STEPS TO FILING YOUR CASE

Step 1: Complete the appropriate forms.

- Motion to Seal Criminal Justice Records Pursuant to § 24-72-705, C.R.S. (JDF 477).**
 - Enter the Defendant's name in the case caption.
 - All applicable sections must be completed before the case is filed.**
 - You are responsible for specifying with a checkmark each criminal justice agency that has the Defendant's criminal records. Do not include the Federal Bureau of Investigation (FBI). It is the Colorado Bureau of Investigation's (CBI) responsibility to contact the FBI if there is a corresponding FBI record.
 - Specify the charge(s) for any arrest record or court case file you want sealed. You may obtain this information from the arresting agency and the court clerk's office.
 - If you had a case that was dismissed due to a plea agreement in a separate case, provide the case number(s) that are related to the plea agreement.

- You must enter the case number(s) of all the files you want sealed. If you are requesting multiple cases to be sealed, a separate filing fee for each case is required.
- List the result of the official action you are motioning to seal.

- Order Denying Motion to Seal Criminal Justice Records Pursuant to § 24-72-705, C.R.S. (JDF 492).**
 - Complete only the caption on this form.
 - The Court will complete this form only if your Petition is denied.

- Order to Seal Criminal Justice Records Pursuant to § 24-72-705, C.R.S. (JDF 478).**
 - Complete all portions of the form.
 - You must indicate the same agencies on the Order as you did on the Motion.
 - The Judge or Magistrate will sign the Order if your Motion is approved.

- Order and Notice of Hearing on Sealing Criminal Justice Records Pursuant to § 24-72-705, C.R.S. (JDF 493).**
 - Complete all portions of the form.
 - The Court will complete this form only if the Court orders a hearing.

Step 2: You are ready to file the case with the Court.

Provide the Court with the documents completed as described in Step 1 above and pay the \$65.00. If you are requesting to seal multiple cases, you must file a separate Motion to Seal and pay a separate \$ 65.00 filing fee for each case.

- You may be required to provide copies of your Motion to Seal for each of the agencies identified on the Order and Notice of Hearing to the Court.

Step 3: The Court will review the Motion and supporting documents to determine if a hearing will be set, if the Motion will be denied without a hearing, or if the Motion will be granted without a hearing.

- If the Motion is denied the Court will send you an Order Denying Motion to Seal Criminal Justice Records Pursuant to § 24-72-705, C.R.S. (JDF 492). This Order will specify the reasons for the denial of the Motion and no hearing will be set.
- If the Motion is granted without a hearing, the Court will send you an Order to Seal Criminal Justice Records Pursuant to § 24-72-705, C.R.S. (JDF 478). The Court will grant the Motion without a hearing only if the Motion is sufficient on its face.
- In all other circumstances, if the Motion is sufficient on its face and no grounds exist at that time for the Court to deny the Motion, a hearing may be set.
 - An Order and Notice of Hearing on Sealing Criminal Justice Records Pursuant to §24-72-705, C.R.S., will be sent to you and all parties in the case.
 - If an agency files an objection to your Motion, you will receive a copy of that objection.

Step 4: Be prepared for the hearing.

If the Court conducts a hearing, you may be asked questions about the request for sealing a criminal justice record and any objections filed, if applicable.

- The Court will either grant or deny the Motion to Seal Arrest and Criminal Records.

Step 5: Following the hearing.

After the Order is entered, it is your responsibility to notify the Colorado Bureau of Investigation (you will be required to pay a fee to this agency to seal records <https://www.colorado.gov/cbi>) and those agencies listed on the Order, by providing each agency with a copy of the signed order. Your failure to notify the agencies may result in the Defendant's arrest and criminal record not being sealed. You do not need to notify the District or County Court.