

INSTRUCTIONS TO FILE A PETITION TO SEAL CRIMINAL CONVICTION RECORDS INVOLVING CONTROLLED SUBSTANCES AND PETTY OFFENSES AND MUNICIPAL VIOLATIONS

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

- ◆ A Defendant may petition the District Court to seal criminal conviction records, except basic identifying information, by filing a civil action in the county in which the criminal conviction record is filed.
- ◆ A separate civil case must be filed for each court case record you want sealed, unless both a county court case (F Case) and a district court case (CR case) were established as a result of the same offense.
- ◆ A person may file a Petition with the Court for sealing of each case once every twelve-month period.
- ◆ If you have been convicted of more than one offense in a single case, the conviction records may be sealed only if the records of every conviction resulting from the case may be sealed pursuant to title 24, article 72, part 7, C.R.S.
- ◆ You **may not** petition the Court to seal criminal conviction records if you still owe restitution, fines, court costs, late fees, or other fees ordered by the Court in the case you are requesting to seal, unless the Court has vacated such order.
- ◆ An Order sealing conviction records shall not be construed to vacate a conviction.
- ◆ If you obtain a conviction for a new criminal offense after an order sealing conviction records is entered, the Court shall order the conviction records to be unsealed.
- ◆ If you are attempting to seal the records for a controlled substance conviction that was entered prior to July 1, 2008, the office of the prosecuting attorney may charge you for all reasonable attorney fees and costs relating to the Petition to Seal. Such costs will be payable prior to the entry of an Order sealing the conviction records.
- ◆ The Court, law enforcement and criminal justice agencies, the prosecuting attorney, or a party/agency required by law to conduct a criminal history record check on an individual will always have access to your conviction records. The sealed conviction(s) may be used for any lawful purpose relating to the investigation or prosecution of any case or for any other lawful purpose within the scope of the person's/agency's duties. Pursuant to § 24-72-703(6), C.R.S., the files are not destroyed.
- ◆ Upon the entry of an Order to Seal and an inquiry in the matter, you and all criminal justice agencies may properly respond *that public conviction records do not exist with respect to the defendant*.
- ◆ For additional information, please review § 24-72-703, § 24-72-704, § 24-72-705, and § 24-72-708, 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

FOR CONTROLLED SUBSTANCE CONVICTIONS ENTERED PRIOR TO JULY 1, 2008, § 24-72-704(2)(b), C.R.S.

- ◆ You may petition the Court to seal criminal conviction records, except basic identifying information, if you meet all the requirements listed below for controlled substance convictions entered on or after July 1, 2008 and prior to July 1, 2011, **AND**
 1. The prosecuting attorney does not object to the sealing;
 2. You pay to the office of the prosecuting attorney all reasonable attorney fees and costs of the prosecuting attorney relating to the Petition to Seal prior to the entry of an Order sealing the conviction records;
 3. You pay the filing fee required by law; **AND**
 4. You pay an additional filing fee of \$200 to cover the actual costs related to the filing of the Petition to Seal Records.

FOR CONTROLLED SUBSTANCE CONVICTIONS ENTERED ON OR AFTER JULY 1, 2008 AND PRIOR TO JULY 1, 2011, § 24-72-704, C.R.S.

You may petition the Court to seal criminal conviction records, except basic identifying information, if:

1. The Petition is filed ten or more years after the date of the final disposition of all criminal proceedings against you or your release from supervision concerning a criminal conviction, whichever is later; **AND**
2. You have not been charged or convicted of a criminal offense in the ten or more years since the date of the final disposition of all criminal proceedings against you or the date of your release from supervision, whichever is later.
3. If you qualify under paragraphs 1 and 2 of this section, you may get the following types of conviction records sealed:
 - a. Any petty offense or misdemeanor in violation of article 18 of title 18, C.R.S.
 - b. Any class 5 or 6 felony in violation of article 18 of title 18, C.R.S. **OTHER THAN** a class 5 or 6 felony conviction for the sale, manufacturing or dispensing of a controlled substance; or attempt or conspiracy to commit the sale, manufacturing or dispensing of a controlled substance; or possession with the intent to manufacture, dispense, or sell a controlled substance.
 - c. Any offense that would be classified as a class 5 or 6 felony in violation of article 18 of title 18, C.R.S. if the offense were to have occurred on July 1, 2008.

FOR CONTROLLED SUBSTANCE CONVICTIONS ENTERED ON OR AFTER JULY 1, 2011, § 24-72-705, C.R.S.

You may petition the Court to seal criminal conviction records, except basic identifying information, if the Petition is filed within the following time frames:

1. If the offense is a petty drug offense in article 18 or title 18, C.R.S., the Petition may be filed one year after the later of the date of the final disposition of all criminal proceedings against you or your release from supervision concerning a criminal conviction.
2. If the offense is a petty offense, a class 2 or 3 misdemeanor, or a level 2 drug misdemeanor in article 18 of title 18, C.R.S. the Petition may be filed three years after the later date of the final disposition of all criminal proceedings against you or your release from supervision concerning a criminal conviction.
3. If the offense is a class 1 misdemeanor, or a level 1 drug misdemeanor in article 18 of title 18, C.R.S., the Petition may be filed five years after the later of the date of the final disposition of all criminal proceedings against you or your release from supervision concerning a criminal conviction.
4. If the offense is a level 4 drug felony, or a class 5 felony or class 6 felony drug possession offense described in §18-18-403.5, C.R.S., as it existed prior to October 1, 2013, §18-18-404, C.R.S., or §18-18-405, C.R.S., as it existed prior to August 11, 2010, the Petition may be filed seven years after the later of the date of the final disposition of all criminal proceedings against you or your release from supervision concerning a criminal conviction.
5. For all other offenses in article 18 of title 18, C.R.S., the Petition may be filed ten years after the later of the date of the final disposition of all criminal proceedings against you or your release from supervision concerning a criminal conviction.

FOR PETTY OFFENSE AND MUNICIPAL VIOLATION CONVICTIONS NOT RELATED TO CONTROLLED SUBSTANCES, § 24-72-708, C.R.S.

You may petition the Court to seal criminal conviction records, except basic identifying information, if:

1. The Petition is filed three or more years after the date of the final disposition of all criminal proceedings against you or the date of your release from supervision concerning a criminal conviction, whichever is later; **AND**
2. You have not been charged or convicted of a felony, misdemeanor, or misdemeanor traffic offense in the three or more years since the date of the final disposition of all criminal proceedings against you or the date of your release from supervision, whichever is later; **AND**
3. The conviction records to be sealed are not for a misdemeanor traffic offense committed either by a holder of a commercial learner's permit or a commercial driver's license, as defined in §42-2-402, C.R.S., or by the operator of a commercial motor vehicle as defined in §42-2-402, C.R.S.

COMMON TERMS

Petition: Document officially commences the Sealing of Conviction Records process.

- Petitioner: The person or persons filing a Petition to Seal Criminal Conviction Records.
- 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.
- Conviction Records: Arrest and criminal records information and any records pertaining to a judgment of conviction.
- 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 \$424.00 is required for controlled substance convictions entered prior to July 1, 2008. For controlled substance convictions entered on or after July 1, 2011, or felony drug offenses occurring on or after October 1, 2013, a filing fee of \$224.00 is required. For petty and municipal offenses (not related to controlled substances), a filing fee of \$424.00 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. If your conviction for a drug conviction occurred prior to July 1, 2008 you may be required to pay the office of the prosecuting attorney all reasonable attorney fees and costs related to the Petition to Seal prior to the entry of an Order sealing the conviction.

Other fees that a party to the case may encounter are as follows:

- Records Search Fees Varies and is payable to the agency
- Copies of Documents (Documents on File) \$.75 per page or \$1.50 if double-sided
- Copies of Documents (Documents not on File) \$.25 per page or \$.50 if double-sided
- Certification Fee \$ 20.00
- Colorado Bureau of Investigation (CBI) Records Seal Fee:
Visit the CBI website at: <http://www.colorado.gov/cs/Satellite/CDPS-CBIMain/CBON/1251621996215>

FORMS

To access forms online, go to the website at www.courts.state.co.us and then click the "Self Help/Forms" tab. The forms are available in PDF by selecting **All Court Forms and Instructions** **Seal my case** Sealing of Criminal Conviction Records. Please click the Download PDF link under 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 612 Petition to Seal Criminal Conviction Records
- JDF 613 Order Denying Petition to Seal Criminal Conviction Records
- JDF 614 Order and Notice of Hearing to Seal Criminal Conviction Records
- JDF 615 Order to Seal Criminal Conviction Records
- JDF 617 Certificate of Service

STEPS TO FILING YOUR CASE

Step 1: Obtain arrest and criminal records.

In order to file a Petition to Seal Criminal Conviction Records, you must obtain the proper case report numbers, court case numbers, and arrest numbers from the original arrest or criminal records. This information is necessary to ensure that your case is sealed properly, if ordered by the Court. A fee may be required to obtain this information. The records may be found in the following locations:

- Court Records. County and district court files are available from the clerk of court's office for each respective court.
- Municipal Court Records. These can be found at each Municipal Court. Contact the specific court for assistance.
- Arrest or Police Records. Contact the arresting agency. Their files have the arresting agency and arrest numbers.

Step 2: Obtain a Current Verified Copy of the Defendant's Criminal History

A verified copy of your criminal history report must be filed with the Court at the time you file the Petition, or no later than 10 days after you file the Petition with the Court. The criminal history records check must be conducted no more than 20 days before you file your paperwork with the Court asking to seal your records. The cost of obtaining the criminal history report is your responsibility. You may obtain the report as follows:

- Criminal history reports can be accessed immediately by using the web-based system <https://www.cbirecordscheck.com/Index.aspx?AspxAutoDetectCookieSupport=1>. You will be charged per result viewed.
- If you are unable to access the Internet, please call the Colorado Bureau of Investigation (CBI) at 303-239-4208 for additional information. CBI is located at 690 Kipling Street, Suite 3000, Lakewood, CO 80215.

Step 3: Complete the appropriate forms.

- Petition to Seal Criminal Conviction Records (JDF 612).**
 - 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 arrest and conviction 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 criminal conviction record or court case file you want sealed. You may obtain this information from the arresting agency and the Court Clerk's office.
 - 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 offense you are petitioning to seal as well as the date you were sentenced and the date you were released from supervision, if applicable.
 - Attach current verified criminal history report (or it must be filed with the Court no later than 10 days after the Petition is filed).
 - This Petition must be signed in the presence of a Court Clerk or Notary Public.
 - If your conviction was for an offense involving a controlled substance under article 18 of title 18, C.R.S., and was entered on or after July 1, 2011, complete the Certificate of Service section at the bottom of the form, stating that you delivered a copy of the Petition to the prosecuting attorney of the case that you are requesting to be sealed. This must be completed for all controlled substance cases **except** a petty offense under article 18 of title 18, C.R.S.
- Order Denying Petition to Seal Criminal Conviction Records (JDF 613).**
 - Complete only the caption on this form.
 - The Court will complete this form only if your Petition is denied.
- Order and Notice of Hearing to Seal Criminal Conviction Records (JDF 614).**
 - Complete all portions of the form.
 - The Court will send this Notice to you if a hearing is set.
 - You may be responsible for sending a copy of the Notice by certified mail to the prosecuting attorney, the arresting agency, and any other person or agency you listed on the Petition.
 - You will need to complete JDF 617 Certificate of Service and also file the certified mail receipts for the prosecuting attorney, the arresting agency, and any other person or agency you listed on the

Petition as proof that they have all been provided with the Order and Notice of Hearing by certified mail. You will need to file JDF 617 Certificate of Service and the certified mail receipts on or before the date of the hearing.

- Order to Seal Criminal Conviction Records (JDF 615).**
 - Complete all portions of the form.
 - You must indicate the same agencies on the Order as you did on the Petition.
 - The Judge or Magistrate will sign the Order if your Petition is approved.

Step 4: You are ready to file the case with the Court.

Provide the Court with the documents completed as described in Steps 1 - 2 above and pay the filing fee. If you are requesting to seal multiple cases, you must file a separate Petition to Seal and pay a separate filing fee for each case. If the Petition has not been signed in the presence of a Notary Public, you will sign the Petition before the Clerk at this time.

- Depending on your situation, you may be required to provide copies of your Petition to Seal to the prosecuting attorney. Make the appropriate number of copies.
- Once the Petition is filed, the Office of the State Court Administrator shall post all Petitions to Seal Conviction Records for 30 calendar days. A District Court may not grant a Petition until at least 30 days after the posting.

Step 5: The Court will review the Petition and supporting documents to determine if a hearing will be set, if the Petition will be denied without a hearing, or if the Petition will be granted without a hearing.

- If the Petition is denied the Court will send you an Order Denying the Petition (JDF 613). This Order will specify the reasons for the denial of the Petition and no hearing will be set.
- If the Court decides to set a hearing:
 - The Court will send you the Order and Notice of Hearing (JDF 614).
 - You shall promptly notify the prosecuting attorney, the arresting agency and any other person or agency you listed on the Petition of the hearing by sending them all a copy of the Order and Notice of Hearing (JDF 614) by certified mail.
 - You will need to complete JDF 617 Certificate of Service and also file the certified mail receipts for the prosecuting attorney, the arresting agency, and any other person or agency you listed on the Petition, as proof that they have all been provided with the Order and Notice of Hearing by certified mail. You will need to file JDF 617 Certificate of Service and the certified mail receipts on or before the date of the hearing.
 - If an agency files an objection, you will receive a copy of that objection.
- If the Court grants your Petition (with or without a hearing), the Judge or Magistrate will sign JDF 615 (Order to Seal Criminal Conviction Records). See Step 7 below for information on what you need to do with this Order once you receive it.

Step 6: Be prepared for the hearing.

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

- The Court will either grant or deny the Petition to Seal Criminal Conviction Records.

Step 7: After your records are ordered to be sealed (following a hearing or without a hearing).

After the Order to seal your records is entered (JDF 615 – Order to Seal Criminal Conviction Records), it is your responsibility to notify the Colorado Bureau of Investigation, and all agencies listed on the Order, by mailing each agency a copy of the signed Order. Your failure to notify the agencies may result in your criminal conviction record not being sealed. You do not need to notify the District or County Court, but you must notify the Municipal Court Clerk if Municipal Court arrest and conviction records are being sealed.

- Approximately 30 days after you send a copy of the Court's Order to the agencies listed, your record will be sealed by the agencies.