

**First Regular Session  
Sixty-ninth General Assembly  
STATE OF COLORADO**

**PREAMENDED**

*This Unofficial Version Includes Committee  
Amendments Not Yet Adopted on Second Reading*

LLS NO. 13-0375.01 Richard Sweetman x4333

**HOUSE BILL 13-1082**

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**HOUSE SPONSORSHIP**

**Labuda,**

**SENATE SPONSORSHIP**

**(None),**

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**House Committees**  
Judiciary

**Senate Committees**

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**A BILL FOR AN ACT**

101 **CONCERNING JUVENILE DELINQUENCY RECORDS.**

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**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://www.leg.state.co.us/billsummaries>.)*

A court that adjudicates a person a juvenile delinquent shall consider initiating expungement proceedings for the person's records not more than 30 days after the person's sentence is discharged.

A court that adjudicates a person an aggravated juvenile offender or a violent juvenile offender, or that adjudicates a person a juvenile delinquent for a felony offense of unlawful sexual behavior, shall consider initiating expungement proceedings for the person's records not

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.  
Capital letters indicate new material to be added to existing statute.  
Dashes through the words indicate deletions from existing statute.

more than 5 years after the person's sentence is discharged.

The bill permits a court to order a petitioner's records expunged in cases where the petitioner has been convicted of a misdemeanor since the termination of the court's jurisdiction or the petitioner's unconditional release from parole supervision.

Under current law, the public has access to arrest and criminal records information, including a physical description, that concerns a juvenile who is adjudicated a juvenile delinquent or is subject to a revocation of probation for:

- ! Committing the crime of possession of a handgun by a juvenile;
- ! Committing an act that would constitute a class 1, 2, 3, or 4 felony; or
- ! Committing an act that would constitute any crime that involves the use or possession of a weapon if such act were committed by an adult.

The bill limits the public's access to include only arrest and criminal records information, including a physical description, that concerns a juvenile who is adjudicated a juvenile delinquent or is subject to a revocation of probation for:

- ! Committing the crime of possession of a handgun by a juvenile; or
- ! Committing an act that would constitute a class 1 felony.

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

2 **SECTION 1.** In Colorado Revised Statutes, 19-1-306, **amend** (2)  
3 (a), (3), (5) (c) (I), (6), and (7); and **add** (5) (a.5) and (10) as follows:

4 **19-1-306. Expungement of juvenile delinquent records.**

5 (2) (a) AT THE TIME OF THE ADJUDICATION, the court shall advise THE  
6 ADJUDICATED JUVENILE AND any **person** RESPONDENT PARENT OR  
7 GUARDIAN of the right to petition the court for the expungement of ~~such~~  
8 ~~person's~~ THE JUVENILE'S record. ~~at the time of adjudication, or~~ The court,  
9 on its own motion or the motion of the juvenile probation department, ~~or~~  
10 the juvenile parole department, THE JUVENILE, A RESPONDENT PARENT OR  
11 GUARDIAN, OR A COURT-APPOINTED GUARDIAN AD LITEM, may initiate  
12 expungement proceedings concerning the record of any juvenile who has

1     been under the jurisdiction of the court.

2             (3) AFTER EXPUNGEMENT, basic identification information on the  
3     juvenile and a list of any state and local agencies and officials having  
4     contact with the juvenile, as they appear from the records, shall not be  
5     open to the public but shall be available to a district attorney, local law  
6     enforcement agency, ~~and~~ the department of human services, THE STATE  
7     JUDICIAL DEPARTMENT, AND THE VICTIM AS DEFINED IN SECTION  
8     24-4.1-302(5), C.R.S.; except that such information shall not be available  
9     to an agency of the military forces of the United States.

10            (5) (a.5) NOTWITHSTANDING ANY ORDER FOR EXPUNGEMENT  
11     PURSUANT TO THIS SECTION, ANY CRIMINAL JUSTICE RECORD OF A  
12     JUVENILE WHO HAS BEEN CHARGED, ADJUDICATED, OR CONVICTED AS A  
13     REPEAT, MANDATORY, VIOLENT, OR AGGRAVATED JUVENILE OFFENDER OR  
14     FOR AN OFFENSE INVOLVING UNLAWFUL SEXUAL BEHAVIOR, AS DEFINED  
15     IN SECTION 16-22-102 (9), C.R.S., SHALL BE AVAILABLE FOR USE BY A  
16     COURT, A DISTRICT ATTORNEY, ANY LAW ENFORCEMENT AGENCY, ANY  
17     AGENCY OF THE STATE JUDICIAL DEPARTMENT IN ANY SUBSEQUENT  
18     CRIMINAL INVESTIGATION, PROSECUTION, OR ADJUDICATION UNDER THIS  
19     TITLE OR DURING PROBATION OR PAROLE SUPERVISION, IF OTHERWISE  
20     PERMITTED BY LAW.

21            (c) The court may order expunged all records in the petitioner's  
22     case in the custody of the court and any records in the custody of any  
23     other agency or official if at the hearing the court finds that:

24            (I) The petitioner who is the subject of the hearing has not been  
25     convicted of, OR ADJUDICATED A JUVENILE DELINQUENT FOR, ~~a~~ ANY  
26     felony OFFENSE or of a misdemeanor ~~and has not been adjudicated a~~  
27     juvenile delinquent OFFENSE INVOLVING DOMESTIC VIOLENCE, UNLAWFUL

1 SEXUAL BEHAVIOR, OR POSSESSION OF A WEAPON since the termination of  
2 the court's jurisdiction or the petitioner's unconditional release from  
3 parole supervision;

4 (6) A person is eligible to petition for an expungement order:

5 (a) Immediately upon: ~~a finding of not guilty at an adjudicatory~~  
6 ~~trial;~~

7 (I) A FINDING OF NOT GUILTY AT AN ADJUDICATORY TRIAL;

8 (II) DISMISSAL OF THE PETITION IN ITS ENTIRETY AS A RESULT OF  
9 NONPROSECUTION OF THE OFFENSE; OR

10 (III) SUCCESSFUL COMPLETION OF A JUVENILE DIVERSION  
11 PROGRAM, A DEFERRED ADJUDICATION, OR AN INFORMAL ADJUSTMENT;

12 (a.5) At any time for the purposes described in paragraph (d) of  
13 subsection (5) of this section;

14 (b) One year from THE DATE OF:

15 (I) ~~The date of~~ A law enforcement contact that did not result in a  
16 referral to another agency; OR

17 (II) ~~The completion of a juvenile diversion program or informal~~  
18 ~~adjustment~~ TERMINATION OF THE COURT'S JURISDICTION OVER THE  
19 PETITIONER AFTER SUCCESSFUL COMPLETION OF PROBATION;

20 (c) ~~Four~~ THREE years from the date of:

21 (I) ~~The termination of the court's jurisdiction over the petitioner;~~

22 (II) The petitioner's unconditional release from commitment to the  
23 department of human services; or

24 (III) The petitioner's unconditional release from parole  
25 supervision; OR

26 (IV) (Deleted by amendment, L. 96, p. 1163, § 6, effective  
27 January 1, 1997.)

1 (d) Ten FIVE years from the date of THE TERMINATION OF THE  
2 COURT'S JURISDICTION OVER THE PETITIONER OR THE PETITIONER'S  
3 UNCONDITIONAL RELEASE FROM PROBATION OR PAROLE SUPERVISION,  
4 WHICHEVER DATE IS LATER, IF:

5 (I) The termination of the court's jurisdiction over the juvenile or  
6 the juvenile's unconditional release from parole supervision, whichever  
7 date is later, if the juvenile has been adjudicated a repeat, or mandatory,  
8 VIOLENT, OR AGGRAVATED juvenile offender and if the juvenile has not  
9 further violated any criminal statute; OR

10 (II) THE JUVENILE HAS BEEN ADJUDICATED FOR AN OFFENSE  
11 INVOLVING UNLAWFUL SEXUAL BEHAVIOR AS DEFINED IN SECTION  
12 16-22-102 (9), C.R.S., THE JUVENILE HAS SUCCESSFULLY COMPLETED  
13 OFFENSE-SPECIFIC TREATMENT AS ORDERED BY THE COURT, AND THE  
14 JUVENILE HAS NOT FURTHER VIOLATED ANY CRIMINAL STATUTE.

15 (7) The following persons are not eligible to petition for the  
16 expungement of any juvenile record:

17 (a) Any person who has been adjudicated as an aggravated  
18 juvenile offender PURSUANT TO SECTION 19-2-516(4) or a violent juvenile  
19 offender PURSUANT TO SECTION 19-2-516 (3);

20 (b) ~~Any person who has been adjudicated for an offense that~~  
21 ~~would constitute a crime of violence under section 18-1.3-406, C.R.S.,~~  
22 ~~had the person been an adult at the time the offense was committed;~~

23 (c) Any person who, as a juvenile, has been charged by the direct  
24 filing of an information in the district court or by indictment pursuant to  
25 section 19-2-517, unless the person was sentenced as a juvenile in the  
26 same matter;

27 (d) Any person who has been adjudicated for an offense involving

1 unlawful sexual behavior as defined in section 16-22-102 (9), C.R.S.;

2 (e) ANY PERSON WHO HAS FAILED TO PAY COURT-ORDERED  
3 RESTITUTION TO A VICTIM OF THE OFFENSE THAT IS THE BASIS FOR THE  
4 JUVENILE RECORD.

5 (10) NOTHING IN THIS SECTION SHALL BE CONSTRUED TO  
6 AUTHORIZE THE PHYSICAL DESTRUCTION OF ANY CRIMINAL JUSTICE  
7 RECORD.

8 **SECTION 2.** In Colorado Revised Statutes, 24-4.1-302, **add** (2)  
9 (r.3) as follows:

10 **24-4.1-302. Definitions.** As used in this part 3, and for no other  
11 purpose, including the expansion of the rights of any defendant:

12 (2) "Critical stages" means the following stages of the criminal  
13 justice process:

14 (r.3) ANY PETITION FOR EXPUNGEMENT AS DESCRIBED IN SECTION  
15 19-1-306 (5) (a), C.R.S.;

16 **SECTION 3.** In Colorado Revised Statutes, 24-4.1-302.5, **amend**  
17 (1) (d) (VI) and (1) (d) (VII); and **add** (1) (d) (VIII) as follows:

18 **24-4.1-302.5. Rights afforded to victims.** (1) In order to  
19 preserve and protect a victim's rights to justice and due process, each  
20 victim of a crime shall have the following rights:

21 (d) The right to be heard at any court proceeding:

22 (VI) At which the defendant requests a modification of the no  
23 contact provision of the mandatory criminal protection order under  
24 section 18-1-1001, C.R.S., or section 19-2-707, C.R.S.; ~~or~~

25 (VII) Involving a subpoena for records concerning the victim's  
26 medical history, mental health, education, or victim compensation, or any  
27 other records that are privileged pursuant to section 13-90-107, C.R.S.;

1 OR

2 (VIII) INVOLVING A PETITION FOR EXPUNGEMENT AS DESCRIBED  
3 IN SECTION 19-1-306 (5) (a), C.R.S.

4 **SECTION 4.** In Colorado Revised Statutes, 24-4.1-303, **add** (11)  
5 (b.5) as follows:

6 **24-4.1-303. Procedures for ensuring rights of victims of**  
7 **crimes.** (11) The district attorney shall inform a victim of the following:

8 (b.5) ANY CRITICAL STAGE DESCRIBED IN SECTION 24-4.1-302 (2)  
9 (r.3) RELATING TO A PETITION FOR THE EXPUNGEMENT OF JUVENILE  
10 RECORDS, WHICH RECORDS CONCERN AN OFFENSE COMMITTED BY THE  
11 JUVENILE AGAINST THE VICTIM;

12 **SECTION 5. Act subject to petition - effective date.** This act  
13 takes effect at 12:01 a.m. on the day following the expiration of the  
14 ninety-day period after final adjournment of the general assembly (August  
15 7, 2013, if adjournment sine die is on May 8, 2013); except that, if a  
16 referendum petition is filed pursuant to section 1 (3) of article V of the  
17 state constitution against this act or an item, section, or part of this act  
18 within such period, then the act, item, section, or part will not take effect  
19 unless approved by the people at the general election to be held in  
20 November 2014 and, in such case, will take effect on the date of the  
21 official declaration of the vote thereon by the governor.