

First Regular Session
Sixty-ninth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 13-0375.01 Richard Sweetman x4333

HOUSE BILL 13-1082

HOUSE SPONSORSHIP

Labuda,

SENATE SPONSORSHIP

(None),

House Committees
Judiciary

Senate Committees

A BILL FOR AN ACT

101 CONCERNING JUVENILE DELINQUENCY RECORDS.

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.

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), (5) (a), (5) (b), and (5) (c) (I); and **add** (2) (a.5) as follows:

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

5 (2) (a) AT THE TIME OF ADJUDICATION, the court shall advise ~~any person~~
6 THE ADJUDICATED JUVENILE of the right to petition the court for the
7 expungement of ~~such person's~~ HIS OR HER record. ~~at the time of~~
8 ~~adjudication, or~~ The court, on its own motion or the motion of the
9 juvenile probation department or the juvenile parole department, may
10 initiate expungement proceedings concerning the record of any juvenile
11 who has been under the jurisdiction of the court.

12 (a.5) (I) ON AND AFTER THE EFFECTIVE DATE OF THIS PARAGRAPH

1 (a.5), EXCEPT AS DESCRIBED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH
2 (a.5), A COURT THAT ADJUDICATES A PERSON A JUVENILE DELINQUENT
3 SHALL CONSIDER INITIATING EXPUNGEMENT PROCEEDINGS FOR THE
4 PERSON'S RECORDS NOT MORE THAN THIRTY DAYS AFTER THE PERSON'S
5 SENTENCE IS DISCHARGED; EXCEPT THAT THIS SUBPARAGRAPH (I) SHALL
6 NOT APPLY TO A COURT THAT:

7 (A) ADJUDICATES A PERSON AN AGGRAVATED JUVENILE OFFENDER
8 OR A VIOLENT JUVENILE OFFENDER; OR

9 (B) ADJUDICATES A PERSON A JUVENILE DELINQUENT FOR AN
10 OFFENSE DESCRIBED AS A FELONY UNDER PART 4 OF ARTICLE 3 OF TITLE
11 18, C.R.S.

12 (II) ON AND AFTER THE EFFECTIVE DATE OF THIS PARAGRAPH (a.5),
13 A COURT THAT ADJUDICATES A PERSON AN AGGRAVATED JUVENILE
14 OFFENDER OR A VIOLENT JUVENILE OFFENDER, OR THAT ADJUDICATES A
15 PERSON A JUVENILE DELINQUENT FOR AN OFFENSE DESCRIBED AS A
16 FELONY UNDER PART 4 OF ARTICLE 3 OF TITLE 18, C.R.S., SHALL CONSIDER
17 INITIATING EXPUNGEMENT PROCEEDINGS FOR THE PERSON'S RECORDS NOT
18 MORE THAN FIVE YEARS AFTER THE PERSON'S SENTENCE IS DISCHARGED.

19 (5) (a) Expungement proceedings shall be initiated BY THE COURT
20 PURSUANT TO PARAGRAPH (a.5) OF SUBSECTION (2) OF THIS SECTION OR
21 by the filing of a petition in the appropriate juvenile court. ~~requesting an~~
22 ~~order of expungement.~~ No filing fee shall be required. Any record that is
23 ordered expunged shall, notwithstanding any such order for expungement,
24 be available to any judge and the probation department for use in any
25 future juvenile or adult sentencing hearing regarding the person whose
26 record was expunged.

27 (b) Upon the filing of a petition OR PURSUANT TO PARAGRAPH

1 (a.5) OF SUBSECTION (2) OF THIS SECTION, the court shall set a date for a
2 hearing on the petition for expungement and shall notify the appropriate
3 prosecuting agency and anyone else whom the court has reason to believe
4 may have relevant information related to the expungement of the record.

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

8 (I) The petitioner who is the subject of the hearing has not been
9 convicted of a felony ~~or of a misdemeanor~~ and has not been adjudicated
10 a juvenile delinquent since the termination of the court's jurisdiction or
11 the petitioner's unconditional release from parole supervision;

12 **SECTION 2.** In Colorado Revised Statutes, 19-1-304, **amend** (1)
13 (b.5) (II) (A) as follows:

14 **19-1-304. Juvenile delinquency records.** (1) (b.5) **Arrest and**
15 **criminal records - certain juveniles - public access - information**
16 **limited.** The public has access to arrest and criminal records information,
17 as defined in section 24-72-302 (1), C.R.S., and including a person's
18 physical description, that:

19 (II) Concerns a juvenile who:

20 (A) Is adjudicated a juvenile delinquent or is subject to a
21 revocation of probation for committing the crime of possession of a
22 handgun by a juvenile or for committing an act that would constitute a
23 ~~class 1, 2, 3, or 4 felony~~ CLASS 1 FELONY or would constitute any crime
24 that involves the use or possession of a ~~weapon~~ HANDGUN if such act
25 were committed by an adult; or

26 **SECTION 3. Act subject to petition - effective date.** This act
27 takes effect at 12:01 a.m. on the day following the expiration of the

1 ninety-day period after final adjournment of the general assembly (August
2 7, 2013, if adjournment sine die is on May 8, 2013); except that, if a
3 referendum petition is filed pursuant to section 1 (3) of article V of the
4 state constitution against this act or an item, section, or part of this act
5 within such period, then the act, item, section, or part will not take effect
6 unless approved by the people at the general election to be held in
7 November 2014 and, in such case, will take effect on the date of the
8 official declaration of the vote thereon by the governor.