

INSTRUCTIONS TO FILE A MOTION TO SEAL CRIMINAL CONVICTION RECORDS

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 motion the Court to seal criminal conviction records, except basic identifying information, by filing a motion in the case in the county in which the criminal conviction record is filed.
- A person may file a Motion with the Court for sealing of each case once every twelve-month period unless otherwise provided by the Court.
- 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.
- The Court **will not** 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 does not 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 sealed conviction records to be unsealed.
- The Court, law enforcement, criminal justice agencies, and the prosecuting attorney may use sealed any sealed conviction(s) for any lawful purpose relating to the investigation or prosecution of any case or for any other lawful purpose within the scope of his, her, or its duties. A party or agency required by law to conduct a criminal history record check is authorized to use any sealed conviction for the lawful purpose for which the criminal history record check is required by law.
- 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 criminal records do not exist with respect to the defendant*.
- For additional information, please review § 24-72-703, § 24-72-706, § 24-72-707, and § 24-72-708, C.R.S.

THE FOLLOWING CONVICTION RECORDS MAY NOT BE SEALED:

- When the only charges in a case are:
 - Class 1 or 2 misdemeanor traffic offenses
 - Class A or B traffic infractions
- A conviction for a violation of C.R.S. § 42-4-1301(1) or (2);
- A conviction for an offense for which the underlying basis involved unlawful sexual behavior as defined in C.R.S. § 16-22-102(9);
- A conviction for a violation of C.R.S. § 18-6-401;
- A conviction that is subject to one or more of the following provisions:
- Sentences for a crime involving extraordinary aggravating circumstances pursuant to C.R.S. 18-1.3-401(8);
- A sentence for an extraordinary risk crime pursuant to C.R.S. § 18-1.3-401 (10);
- Sentencing for a crime involving a pregnant victim pursuant to C.R.S. § 18-1.3-401(13);
- Sentencing for a crime pertaining to a special offender pursuant to C.R.S. § 18-18-407;

- Sentencing for a criminal conviction for which the underlying factual basis involves domestic violence as defined in C.R.S. § 18-6-800.3;
- Sentencing for a criminal conviction for a sexual offense pursuant to Part 4 of Article 3 of Titled 18 of the Colorado Revised Statutes;
- Sentencing for any crime of violence pursuant to C.R.S. § 18-1.3-406;
- Sentencing for a felony crime enumerated in C.R.S. § 24-4.1-302 (1);
- Sentencing for a felony offense in violation of C.R.S. 18-9-202;
- Sentencing for an offense classified as a class 1, 2, or 3 felony or a level 1 drug felony pursuant to any section of Title 18 of the Colorado Revised Statutes;
- Sentencing for an offense in violation of Part 1 of Article 6 of Title 18 of the Colorado Revised Statutes;
- Sentencing for an offense in violation of: C.R.S. § 18-3.5-103 (4), (5), (6), (7), (8), and (9); 18-5-902 (1); or 18-7-203.

PLEASE NOTE: A misdemeanor offense listed above is eligible for sealing if the district attorney consents to the sealing or if the court finds, by clear and convincing evidence, that your need for sealing the record is significant and substantial, the passage of time is such that you are no longer a threat to public safety, and the public disclosure of the record is no longer necessary to protect or inform the public.

EXCEPT AS PROVIDED ABOVE, THE FOLLOWING CRIMES ARE ELIGIBLE FOR SEALING ACCORDING TO THE ASSOCIATED TIME PERIODS LISTED BELOW:

- **Petty offenses and drug petty offenses** – One or more years after the date of the final disposition or all criminal proceedings or release from supervision concerning a criminal conviction, whichever is later.
- **Class 2 misdemeanors, class 3 misdemeanors, and any drug misdemeanor:** Two or more years after the date of the final disposition or all criminal proceedings or release from supervision concerning a criminal conviction, whichever is later.
- **Class 4 felonies, class 5 felonies, class 6 felonies, level 3 drug felonies, level 4 drug felonies, and class 1 misdemeanors:** 3 or more years after the date of the final disposition or all criminal proceedings or release from supervision concerning a criminal conviction, whichever is later. **Note:** A level 4 drug felony or any drug misdemeanor involving possession of a controlled substance may also be sealed within this time period for any conviction for a violation prior to October 1, 2013, of a provision of article 18 of title 18 when the conviction is for a felony or misdemeanor offense when the underlying factual basis of the offense demonstrates that the offense would have been classified as a level 4 drug felony or drug misdemeanor involving the possession of a controlled substance if the offense had been committed on or after October 1, 2013.
- **Offenses committed by victims of human trafficking:** Any time after conviction.
- **All other offenses:** 5 or more years after the date of the final disposition or all criminal proceedings or release from supervision concerning a criminal conviction, whichever is later.

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

A filing fee of \$65.00 is required for a motion to seal criminal convictions. If you are unable to pay, you must complete the **Motion to File without Payment and Supporting Financial Affidavit** and submit it to the Court. Once you submit the completed form and a blank Order, the Court will decide if you need to pay the filing fee.

- Colorado Bureau of Investigation (CBI) Records Seal Fee:
Visit the CBI website at: <https://www.colorado.gov/pacific/cbi/disposition-update-and-sealing-arrestrecord>

STEPS TO FILING YOUR CASE

Step 1: Obtain arrest and criminal records.

In order to file a Motion 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. Denver County Court records can be obtained from the Clerk's Office in Room 160 of the Lindsey-Flanigan Courthouse at 520 W. Colfax Avenue.
- Arrest or Police Records. Contact the arresting agency. Their files have the 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 Motion, or no later than 10 days after you file the Motion 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.

- **Motion 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 motioning 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 Motion is filed).
- **Order Denying Motion to Seal Criminal Conviction Records (JDF 613).**
- Complete only the caption on this form.
- The Court will complete this form only if your Motion 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.
- **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 Motion.
- The Judge or Magistrate will sign the Order if your Motion 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 Motion to Seal and pay a separate filing fee for each case.

- **Please Note:** You are required to provide a copy of your Motion to Seal to the prosecuting attorney. Make the appropriate number of copies.

Step 5: 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 the Motion (DCC 613). This Order will specify the reasons for the denial of the Motion 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 (DCC 614).
- If the Court grants your Motion (with or without a hearing), the Judge or Magistrate will sign DCC 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 Motion 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 DCC 615 – Order to Seal Criminal Conviction Records), it is your responsibility to notify the Colorado Bureau of Investigation (this agency will require a fee to seal your records <https://www.colorado.gov/cbi>), 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 County Court.

- 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.