

§ 24-72-702.5. Sealing criminal justice records other than convictions - simplified process - defendant option - processing fees.

## **Colorado Statutes**

### **Title 24. GOVERNMENT - STATE**

#### **PUBLIC (OPEN) RECORDS**

##### **Article 72. Public Records**

##### **Part 7. CRIMINAL JUSTICE RECORD SEALING**

*Current through Chapter 421 of the 2017 Legislative Session*

#### **§ 24-72-702.5. Sealing criminal justice records other than convictions - simplified process - defendant option - processing fees**

- (1) (a) In addition to the procedures in section 24-72-702, any time a case against a defendant is completely dismissed, when the defendant is acquitted of all counts in the case, the defendant completes a diversion agreement under section 18-1.3-101, or the defendant completes a deferred judgment and sentence under section 18-1.3-102, and all counts are dismissed, the court shall give the defendant eligible to have his or her criminal justice records sealed the option of immediately moving to have his or her criminal justice records sealed. This motion may be informal and may be made in open court at the time of the dismissal of the case or the acquittal of the defendant. The motion may also be made by the defendant at any time subsequent to the dismissal or acquittal through the filing of a written motion in the criminal case with written notice to the prosecuting attorney.
- (b) If the defendant moves under subsection (1)(a) of this section to seal his or her criminal justice records under the expedited procedures of this section, the court shall promptly process the defendant's request to seal the criminal justice records within the criminal case without the filing of an independent civil action and without any further evidence except for evidence of the dismissal or acquittal. Motions filed under this section are procedural in nature and sealing pursuant to this section applies retroactively for all eligible cases when the case has been completely dismissed or the defendant has been acquitted of all counts in a state or municipal criminal case.
- (c) Notwithstanding the provision of subsection (1)(b) of this section, if the defendant is acquitted of or if the case dismissed is a crime enumerated in section 24-4.1-302 (1) in which notice of a hearing on a motion to seal is required pursuant to section

24-4.1-303 (11)(b.7), The court shall allow the district attorney opportunity to notify the victim and shall set a return date for a hearing on the sealing motion no later than forty-two days after receipt of the motion.

- (d) When the court seals criminal justice records under this section, the court shall provide a copy of the court order to the Colorado bureau of investigation, and the defendant shall pay to the bureau any costs related to the sealing of his or her criminal justice records in the custody of the bureau. The court shall also provide a copy of the court order to each custodian who may have custody of any records subject to the order. The defendant shall provide to the court, within seven days of the motion if made orally or in conjunction with the motion if filed in writing, a list of all agency custodians who may have custody of any records subject to the order. Additionally, the defendant may also provide a copy of the order to any other custodian of records subject to the order. Each custodian that receives a copy of the order shall remove the records that are subject to the order from its records.
  - (e) The provisions of section 24-72-702 (1)(d) to (1)(g) and section 24-72-702 (4) apply to this section.
  - (f) This section does not apply to records that are subject to the procedure set forth in section 18-13-122 (13).
- (2)
- (a) A defendant moving to have his or her criminal justice records sealed under this section shall pay a processing fee of sixty-five dollars to cover the actual costs related to the sealing of the criminal justice records, which may be waived by the court upon a determination of indigency.
  - (b) When the motion to seal the criminal case is filed in state court, the processing fees collected under subsection (2)(a) of this section must be transmitted to the state treasurer and credited to the judicial stabilization cash fund created in section 13-32-101(6).
  - (c) When the motion to seal the criminal case is filed in municipal court, the processing fees collected under subsection (2)(a) of this section must be reported and paid as municipal cost and must be transmitted to the treasurer of the municipality and deposited in the general fund of the municipality pursuant to section 13-10-115.

**Cite as C.R.S. § 24-72-702.5**

**History.** Amended by 2017 Ch. 335, §3, eff. 9/1/2017.

Added by 2016 Ch. 285, §1, eff. 8/10/2016.

**Editor's Note:**

*Section 3 of chapter 285 (SB 16-116), Session Laws of Colorado 2016, provides that the act adding this section applies to the sealing of criminal justice records on or after August 10, 2016.*

**Note:** 2017 Ch. 335, was passed without a safety clause. See Colo. Const. art. V, § 1(3).