

INSTRUCTIONS TO FILE A PETITION TO SEAL ARREST AND CRIMINAL RECORDS OTHER THAN CONVICTIONS

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

- ◆ Any person in interest may petition the District Court to seal any arrest and criminal records information pertaining to the person in interest, except basic identification information, by filing a civil action in the county in which any arrest and/or criminal records are 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.
- ◆ The arrest records may be included in the court case file or you may need to contact the arresting agency.
- ◆ The Court, law enforcement and criminal justice agencies will always have access to the file. The files are not destroyed. However, as provided under the statute, if inquiries are made by anyone other than a criminal justice agency, all agencies may respond that “*no such record exists with respect to such person*”.
- ◆ For additional information, please review Colorado Revised Statute §24-72-702.
- ◆ 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

In order to qualify to have your criminal record sealed, you must meet one of the following requirements:

- You were acquitted;
- Your case was dismissed;
- You completed a diversion agreement pursuant to C.R.S. § 18-1.3-101;
- You have an arrest record, but you were not charged in court and the statute of limitations for the offense for which the you were arrested that has the longest statute of limitations has run; OR
- You have an arrest record, but you were not charged in court, the statute of limitations has not run and you are no longer being investigated by law enforcement for commission of the offense. For further information about specific statutes of limitations, see §16-5-401, C.R.S.

However, even if you meet the above requirements, you cannot have your criminal record sealed if:

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- The record pertains to a dismissal that occurs as part of a plea agreement in a separate case**;
- You still owe restitution, fines, court costs, late fees, or other fees ordered by the court in the case that you are asking to be sealed and the court has not vacated that order.

**Where your record pertains to a dismissal that occurs as part of a plea agreement in a separate case, you may still qualify to have your record sealed if 10 or more years have passed since the final disposition of all criminal proceedings against you and you have no additional criminal charges since the date of the final disposition of all criminal proceedings filed against you.

Other criminal records that cannot be sealed include the following:

- Records pertaining to class 1 or class 2 misdemeanor traffic offense.
- Records pertaining to a class A or class B traffic infraction.
- **NOTE:** If you are trying to seal records for an offense that is not a class 1 or class 2 misdemeanor traffic offense or a class A or Class B traffic infraction, the fact that you are also charged with a class 1 or class 2 misdemeanor traffic offense or a class A or class B traffic infraction as part of the same arrest does not prohibit the court from sealing the records of the additional offense(s).
- Records pertaining to a deferred judgment and sentence for an offense for which the factual basis involved unlawful sexual behavior, as defined in § 16-22-102(9), C.R.S.

- Records pertaining to a deferred judgment and sentence for an offense concerning Driving under the Influence, (DUI), Driving While Ability Impaired (DWAI), or DUI per-se pursuant to § 42-4-1301(1) or (2), C.R.S.
- Records pertaining to deferred judgment and sentence for an offense concerning the holder of a commercial driver's license, or 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 Records process.
- Petitioner: The person or persons filing a Petition to Seal Arrest and Criminal 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.
- Acquitted: The finding of not guilty by a Judge or Jury.
- 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 \$224.00 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.

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

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| <input type="checkbox"/> Records Search Fees | Varies and is payable to the agency |
| <input type="checkbox"/> Copies of Documents (Documents on File) | \$.75 per page or \$1.50 if double-sided |
| <input type="checkbox"/> Copies of Documents (Documents not on File) | \$.25 per page or \$.50 if double-sided |
| <input type="checkbox"/> Certification Fee | \$ 20.00 |

FORMS

To access forms online, go to the website at www.courts.state.co.us and then click "Self Help/Forms" tab. The forms are available in PDF or WORD by selecting **All Court Forms and Instructions - Seal My Case - Sealing of Arrest and Criminal Records**. Please click either PDF or WORD by 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 417 Petition to Seal Arrest and Criminal Records
- JDF 418 Order to Seal Arrest and Criminal Records
- JDF 419 Order and Notice of Hearing (Sealing of Records)
- JDF 435 Order Denying Petition to Seal Arrest and Criminal Record
- 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 Arrest and Criminal Records, you must obtain the proper case report numbers, 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. **No Criminal Justice Information involving a conviction may be sealed under this process. See other instructions for sealing records related to a conviction.** 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.
- Colorado State criminal history. This report may assist you in locating correct dates, arrest numbers, and agency case numbers to include on your Petition.
- 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 315, Lakewood, CO 80215.

Step 2: Complete the appropriate forms.

- Petition to Seal Arrest and Criminal Records (JDF 417).**
 - 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 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 arrest record or court case file you want sealed. You may obtain this information from the arresting agency and the court clerk's office.
 - If you had a case that was dismissed due to a plea agreement in a separate case, provide the case number(s) that are related to the plea agreement.
 - 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 result of the official action you are petitioning to seal.
 - This Petition must be signed in the presence of a Court Clerk or Notary Public.

- Order Denying Petition to Seal Arrest and Criminal Record (JDF 435).**
 - Complete only the caption on this form.
 - The Court will complete this form only if your Petition is denied.

- Order to Seal Arrest and Criminal Records (JDF 418).**
 - 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.

- Order and Notice of Hearing (JDF 419).**
 - Complete all portions of the form.
 - The Court will complete this form only if the Court orders a hearing.

Step 3: 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 \$224.00. If you are requesting to seal multiple cases, you must file a separate Petition to Seal and pay a separate \$ 224.00 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.

- You may be required to provide copies of your Petition to Seal for each of the agencies identified on the Order and Notice of Hearing to the Court.
- The Court may require addressed stamped envelopes for every agency you identified on the Notice and Certificate of Mailing. In addition, provide a self-addressed stamped envelope to receive a copy of the Order.

Step 4: 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 435). This Order will specify the reasons for the denial of the Petition and no hearing will be set.
- If the Petition is granted without a hearing, the Court will send you an Order to Seal Arrest and Criminal Records (JDF 418). The Court will grant the Petition without a hearing only if the Petition is sufficient on its face and pertains to a dismissal that is not the result of a completion of a deferred judgment and sentence or a multi-case disposition.
- In all other circumstances, if the Petition is sufficient on its face and no grounds exist at that time for the Court to deny the Petition, a hearing will be set.
 - You are required to provide the prosecuting attorney, the arresting agency, and any other person or agency that you identified in your Petition with a copy of the Order and Notice of Hearing (JDF 419) as well as the attached Petition. The copy you provide to the prosecution attorney **MUST** be sent by certified mail. You must complete JDF 617 (Certificate of Service) and file it with the Court on or before the hearing date as proof that you provided the required entities/persons with a copy of the Order and Petition. You must attach the certified mail receipts to prove that you sent the forms to the prosecuting attorney by certified mail.
- If an agency files an objection to your Petition, you will receive a copy of that objection.

Step 5: Be prepared for the hearing.

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

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- The Court will either grant or deny the Petition to Seal Arrest and Criminal Records.
- If the Court grants the Petition, the Court may automatically seal the civil action seeking to seal the criminal record.

Step 6: Following the hearing.

After the Order is entered, it is your responsibility to notify the Colorado Bureau of Investigation and those agencies listed on the Order, by providing each agency with a copy of the signed order. Your failure to notify the agencies may result in the Defendant's arrest and criminal 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 records are being sealed.