

HOUSE COMMITTEE OF REFERENCE REPORT

Chairman of Committee

April 11, 2013
Date

Committee on Judiciary.

After consideration on the merits, the Committee recommends the following:

HB13-1251 be amended as follows, and as so amended, be referred to the Committee on Finance with favorable recommendation:

1 Amend printed bill, page 2, strike line 3 and substitute "(1) (g); and **add**
2 (7) as follows:".

3 Page 2, line 11, strike "CLASS 1, 2," and substitute "CLASS 1
4 MISDEMEANOR CONVICTION FOR A CRIME IN TITLE 18, C.R.S.;".

5 Page 2, line 12, strike "OR 3 MISDEMEANOR;".

6 Page 3, after line 8 insert:

7 "(7) (a) IF AN OFFENDER'S MISDEMEANOR CONVICTION IS
8 OVERTURNED ON POST-CONVICTION RELIEF OR APPEAL, THE OFFENDER
9 MAY SUBMIT A WRITTEN REQUEST FOR EXPUNGEMENT TO THE COLORADO
10 BUREAU OF INVESTIGATION. THE REQUEST SHALL INCLUDE THE ITEMS
11 LISTED IN THIS PARAGRAPH (a) AND ANY ADDITIONAL INFORMATION THAT
12 MAY ASSIST THE BUREAU IN LOCATING THE RECORDS OF CONVICTION OR
13 THE BIOLOGICAL SUBSTANCE SAMPLE OR TESTING RESULTS. THE
14 FOLLOWING INFORMATION MUST BE INCLUDED IN THE REQUEST:

15 (I) THE PERSON'S NAME, DATE OF BIRTH, AND MAILING ADDRESS;

16 (II) THE NAME OF THE AGENCY THAT COLLECTED THE BIOLOGICAL
17 SUBSTANCE SAMPLE;

18 (III) THE DATE WHEN THE SAMPLE WAS TAKEN;

19 (IV) A COPY OF THE POST-CONVICTION OR APPELLATE ORDER
20 OVERTURNING THE CONVICTION; AND

21 (V) A DECLARATION THAT, TO THE BEST OF THE PERSON'S
22 KNOWLEDGE, HE OR SHE QUALIFIES FOR EXPUNGEMENT.

1 (b) WITHIN NINETY DAYS AFTER RECEIVING THE REQUEST
2 SUBMITTED PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION, THE
3 COLORADO BUREAU OF INVESTIGATION SHALL DESTROY THE BIOLOGICAL
4 SUBSTANCE SAMPLE COLLECTED AND EXPUNGE THE RESULTS OF THE
5 TESTING OF THE SAMPLE FROM THE FEDERAL COMBINED DNA INDEX
6 SYSTEM AND ANY STATE INDEX SYSTEM.

7 (c) THE COLORADO BUREAU OF INVESTIGATION SHALL SEND
8 NOTIFICATION BY FIRST CLASS MAIL TO THE OFFENDER, EITHER STATING
9 THAT THE BUREAU DESTROYED THE BIOLOGICAL SUBSTANCE SAMPLE AND
10 EXPUNGED THE SAMPLE TEST RESULTS OR STATING WHY THE BUREAU HAS
11 NOT DESTROYED THE SAMPLE AND EXPUNGED THE TEST RESULTS.

12 (d) A DATA BANK OR DATABASE MATCH SHALL NOT BE ADMITTED
13 AS EVIDENCE AGAINST A PERSON IN A CRIMINAL PROSECUTION AND SHALL
14 NOT BE USED AS A BASIS TO IDENTIFY A PERSON IF THE MATCH IS:

15 (I) DERIVED FROM A BIOLOGICAL SUBSTANCE SAMPLE THAT IS
16 REQUIRED TO BE EXPUNGED PURSUANT TO THIS SECTION; AND

17 (II) OBTAINED AFTER THE REQUIRED DATE OF EXPUNGEMENT."

18 Page 1, line 102, strike "MISDEMEANOR." and substitute "CLASS 1
19 MISDEMEANOR IN THE COLORADO CRIMINAL CODE."

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