

**Effective 5/13/2014**

**77-40-102 Definitions.**

As used in this chapter:

- (1) "Administrative finding" means a decision upon a question of fact reached by an administrative agency following an administrative hearing or other procedure satisfying the requirements of due process.
- (2) "Agency" means a state, county, or local government entity that generates or maintains records relating to an investigation, arrest, detention, or conviction for an offense for which expungement may be ordered.
- (3) "Bureau" means the Bureau of Criminal Identification of the Department of Public Safety established in Section 53-10-201.
- (4) "Certificate of eligibility" means a document issued by the bureau stating that the criminal record and all records of arrest, investigation, and detention associated with a case that is the subject of a petition for expungement is eligible for expungement.
- (5) "Conviction" means judgment by a criminal court on a verdict or finding of guilty after trial, a plea of guilty, or a plea of nolo contendere.
- (6) "Department" means the Department of Public Safety established in Section 53-1-103.
- (7) "Drug possession offense" means an offense under:
  - (a) Subsection 58-37-8(2), except any offense under Subsection 58-37-8(2)(b)(i), possession of 100 pounds or more of marijuana, any offense enhanced under Subsection 58-37-8(2)(e), violation in a correctional facility or Subsection 58-37-8(2)(g), driving with a controlled substance illegally in the person's body and negligently causing serious bodily injury or death of another;
  - (b) Subsection 58-37a-5(1), use or possession of drug paraphernalia;
  - (c) Section 58-37b-6, possession or use of an imitation controlled substance; or
  - (d) any local ordinance which is substantially similar to any of the offenses described in this Subsection (7).
- (8) "Expunge" means to seal or otherwise restrict access to the petitioner's record held by an agency when the record includes a criminal investigation, detention, arrest, or conviction.
- (9) "Jurisdiction" means a state, district, province, political subdivision, territory, or possession of the United States or any foreign country.
- (10) "Petitioner" means a person seeking expungement under this chapter.
- (11) "Traffic offense" means all offenses in the following parts and all local ordinances that are substantially similar to the offenses:
  - (a) Title 41, Chapter 6a, Part 3, Traffic-Control Devices;
  - (b) Title 41, Chapter 6a, Part 6, Speed Restrictions;
  - (c) Title 41, Chapter 6a, Part 7, Driving on Right Side of Highway and Passing;
  - (d) Title 41, Chapter 6a, Part 8, Turning and Signaling for Turns;
  - (e) Title 41, Chapter 6a, Part 9, Right-of-Way;
  - (f) Title 41, Chapter 6a, Part 10, Pedestrians' Rights and Duties;
  - (g) Title 41, Chapter 6a, Part 11, Bicycles, Regulation of Operation;
  - (h) Title 41, Chapter 6a, Part 12, Railroad Trains, Railroad Grade Crossings, and Safety Zones;
  - (i) Title 41, Chapter 6a, Part 13, School Buses and School Bus Parking Zones;
  - (j) Title 41, Chapter 6a, Part 14, Stopping, Standing, and Parking;
  - (k) Title 41, Chapter 6a, Part 15, Special Vehicles;
  - (l) Title 41, Chapter 6a, Part 16, Vehicle Equipment;
  - (m) Title 41, Chapter 6a, Part 17, Miscellaneous Rules; and
  - (n) Title 41, Chapter 6a, Part 18, Motor Vehicle Safety Belt Usage Act.

Amended by Chapter 199, 2014 General Session