

**Expungement Amendments**  
 2025 GENERAL SESSION  
 STATE OF UTAH  
**Chief Sponsor: Tiara Auxier**  
 Senate Sponsor:

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**LONG TITLE**

**General Description:**

This bill addresses expungement.

**Highlighted Provisions:**

This bill:

- defines terms for expungement;
- allows the Department of Public Safety to make rules regarding the procedure for notifying the Bureau of Criminal Identification of an order of expungement;
- modifies the list of offenses that are not eligible for automatic expungement;
- allows the Bureau of Criminal Identification to request the vacation of an order for automatic expungement in certain circumstances;
- modifies the requirements for a certificate of eligibility to address registration as a sex offender, kidnap offender, or child abuse offender or a protective order or criminal stalking injunction in effect against the individual;
- modifies venue for a petition seeking expungement of criminal records;
- clarifies that a certificate of eligibility has to be valid at the time that the petition for expungement was filed for a court to grant expungement;
- addresses the effect of an expungement on a civil protective order;
- modifies venue for a petition seeking expungement of juvenile records; and
- makes technical and conforming changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**77-40a-101**, as last amended by Laws of Utah 2024, Chapter 180

**77-40a-104**, as last amended by Laws of Utah 2024, Chapter 180

31 **77-40a-205**, as enacted by Laws of Utah 2024, Chapter 180  
 32 **77-40a-207**, as enacted by Laws of Utah 2024, Chapter 180  
 33 **77-40a-303**, as last amended by Laws of Utah 2024, Chapter 180  
 34 **77-40a-305**, as last amended by Laws of Utah 2024, Chapter 180  
 35 **77-40a-306**, as last amended by Laws of Utah 2024, Chapter 180  
 36 **78B-7-109**, as last amended by Laws of Utah 2020, Chapter 142  
 37 **80-6-1001.2**, as enacted by Laws of Utah 2024, Chapter 194

38

39 *Be it enacted by the Legislature of the state of Utah:*

40 Section 1. Section **77-40a-101** is amended to read:

41 **77-40a-101 . Definitions.**

42 As used in this chapter:

- 43 (1) "Agency" means a state, county, or local government entity that generates or maintains  
 44 records relating to an investigation, arrest, detention, or conviction for an offense for  
 45 which expungement may be ordered.
- 46 (2) "Automatic expungement" means the expungement of records of an investigation,  
 47 arrest, detention, or conviction of an offense without the filing of a petition.
- 48 (3) "Bureau" means the Bureau of Criminal Identification of the Department of Public  
 49 Safety established in Section 53-10-201.
- 50 (4) "Certificate of eligibility" means a document issued by the bureau stating that the  
 51 criminal record and all records of arrest, investigation, and detention associated with a  
 52 case that is the subject of a petition for expungement is eligible for expungement.
- 53 (5) "Civil accounts receivable" means the same as that term is defined in Section  
 54 77-32b-102.
- 55 (6) "Civil judgment of restitution" means the same as that term is defined in Section  
 56 77-32b-102.
- 57 (7) "Civil protective order" means the same as that term is defined in Section 78B-7-102.
- 58 ~~(7)~~ (8) "Clean slate eligible case" means a case that is eligible for automatic expungement  
 59 under Section 77-40a-205.
- 60 ~~(8)~~ (9) "Conviction" means judgment by a criminal court on a verdict or finding of guilty  
 61 after trial, a plea of guilty, or a plea of nolo contendere.
- 62 ~~(9)~~ (10) "Court" means a district court or a justice court.
- 63 ~~(10)~~ (11) "Criminal accounts receivable" means the same as that term is defined in Section  
 64 77-32b-102.

- 65 [(11)] (12) "Criminal protective order" means the same as that term is defined in Section  
66 78B-7-102.
- 67 [(12)] (13) "Criminal stalking injunction" means the same as that term is defined in Section  
68 78B-7-102.
- 69 [(13)] (14) "Department" means the Department of Public Safety established in Section  
70 53-1-103.
- 71 [(14)] (15) "Drug possession offense" means:
- 72 (a) an offense described in Subsection 58-37-8(2), except for:
- 73 (i) an offense under Subsection 58-37-8(2)(b)(i), possession of 100 pounds or more  
74 of marijuana;
- 75 (ii) an offense enhanced under Subsection 58-37-8(2)(e), violation in a correctional  
76 facility; or
- 77 (iii) an offense for driving with a controlled substance illegally in the person's body  
78 and negligently causing serious bodily injury or death of another, as codified  
79 before May 4, 2022, Laws of Utah 2021, Chapter 236, Section 1, Subsection  
80 58-37-8(2)(g);
- 81 (b) an offense described in Subsection 58-37a-5(1), use or possession of drug  
82 paraphernalia;
- 83 (c) an offense described in Section 58-37b-6, possession or use of an imitation  
84 controlled substance; or
- 85 (d) any local ordinance which is substantially similar to any of the offenses described in  
86 this Subsection [(14)] (15).
- 87 [(15)] (16)(a) "Expunge" means to remove a record from public inspection by:
- 88 (i) sealing the record; or  
89 (ii) restricting or denying access to the record.
- 90 (b) "Expunge" does not include the destruction of a record.
- 91 [(16)] (17) "Indigent" means a financial status that results from a court finding that a  
92 petitioner is financially unable to pay the fee to file a petition for expungement under  
93 Section 78A-2-302.
- 94 [(17)] (18) "Jurisdiction" means a state, district, province, political subdivision, territory, or  
95 possession of the United States or any foreign country.
- 96 [(18)] (19)(a) "Minor regulatory offense" means~~[-except as provided in Subsection~~  
97 ~~(18)(e);~~ a class B or C misdemeanor offense or a local ordinance.
- 98 (b) "Minor regulatory offense" includes an offense under Section 76-9-701 or 76-10-105.

- 99 (c) "Minor regulatory offense" does not include:
- 100 (i) any drug possession offense;
- 101 (ii) an offense under Title 41, Chapter 6a, Part 5, Driving Under the Influence and
- 102 Reckless Driving;
- 103 (iii) an offense under Sections 73-18-13 through 73-18-13.6;
- 104 (iv) except as provided in Subsection ~~[(18)(b)]~~ (19)(b), an offense under Title 76,
- 105 Utah Criminal Code; or
- 106 (v) any local ordinance that is substantially similar to an offense listed in Subsections [
- 107 ~~(18)(e)(i)]~~ (19)(c)(i) through (iv).
- 108 ~~[(19)]~~ (20) "Petitioner" means an individual applying for expungement under this chapter.
- 109 ~~[(20)]~~ (21) "Plea in abeyance" means the same as that term is defined in Section 77-2a-1.
- 110 ~~[(21)]~~ (22) "Record" means a book, letter, document, paper, map, plan, photograph, film,
- 111 card, tape, recording, electronic data, or other documentary material, regardless of
- 112 physical form or characteristics, that:
- 113 (a) is contained in the agency's file regarding the arrest, detention, investigation,
- 114 conviction, sentence, incarceration, probation, or parole of an individual; and
- 115 (b) is prepared, owned, received, or retained by an agency, including a court.
- 116 ~~[(22)]~~ (23) "Special certificate" means a document issued as described in Subsection
- 117 77-40a-304(1)(c) by the bureau stating that the criminal record and all records of arrest,
- 118 investigation, and detention associated with the case ~~[that is the subject of a petition for~~
- 119 ~~expungement is eligible for expungement]~~ do not clearly demonstrate whether the case is
- 120 eligible for expungement.
- 121 ~~[(23)]~~ (24)(a) "Traffic offense" means~~[-except as provided in Subsection (23)(b)]:~~
- 122 (i) an infraction or a class C misdemeanor offense under Title 41, Chapter 1a, Motor
- 123 Vehicle Act;
- 124 ~~[(i)]~~ (ii) an infraction, a class B misdemeanor offense, or a class C misdemeanor
- 125 offense under Title 41, Chapter 6a, Traffic Code;
- 126 (iii) an infraction or a class C misdemeanor offense under Title 41, Chapter 12a,
- 127 Financial Responsibility of Motor Vehicle Owners and Operators Act;
- 128 ~~[(ii)]~~ (iv) an infraction, a class B misdemeanor offense, or a class C misdemeanor
- 129 offense under Title 53, Chapter 3, Part 2, Driver Licensing Act;
- 130 ~~[(iii)]~~ (v) an infraction, a class B misdemeanor offense, or a class C misdemeanor
- 131 offense under Title 73, Chapter 18, State Boating Act; and
- 132 ~~[(iv)]~~ (vi) all local ordinances that are substantially similar to an offense listed in

- 133 Subsections ~~[(23)(a)(i)]~~ (24)(a)(i) through (iii).
- 134 (b) "Traffic offense" does not ~~[mean]~~ include:
- 135 (i) an offense under Title 41, Chapter 6a, Part 5, Driving Under the Influence and
- 136 Reckless Driving;
- 137 (ii) an offense under Section 41-12a-302 for operating a motor vehicle without
- 138 owner's or operator's security;
- 139 (iii) an offense under Section 41-12a-303.3 for providing false evidence of owner's or
- 140 operator's security;
- 141 ~~[(ii)]~~ (iv) an offense under Sections 73-18-13 through 73-18-13.6; or
- 142 ~~[(iii)]~~ (v) any local ordinance that is substantially similar to an offense listed in
- 143 Subsection ~~[(23)(b)(i)]~~ (24)(b)(i) or (ii).

144 ~~[(24)]~~ (25) "Traffic offense case" means that each offense in the case is a traffic offense.

145 Section 2. Section **77-40a-104** is amended to read:

146 **77-40a-104 . Department rulemaking authority.**

147 In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

148 department may make rules to:

- 149 (1) implement procedures for processing an automatic expungement;
- 150 (2) implement procedures for applying for certificates of eligibility;
- 151 (3) specify procedures for receiving a certificate of eligibility;
- 152 (4) specify the procedure for notification of an order of expungement under Subsection
- 153 77-40a-306(5)(b);
- 154 ~~[(4)]~~ (5) create forms and determine information necessary to be provided to the bureau; and
- 155 ~~[(5)]~~ (6) implement procedures for the confirmation of an expungement under Subsection
- 156 77-40a-401(4).

157 Section 3. Section **77-40a-205** is amended to read:

158 **77-40a-205 . Automatic expungement of state records for a clean slate case.**

- 159 (1) A court shall issue an order of expungement, without the filing of a petition, for all
- 160 records of the case that are held by the court and the bureau if:
- 161 (a) on and after October 1, 2024, but before January 1, 2026, the individual submitted a
- 162 form requesting expungement of a case as described in Section 77-40a-204;
- 163 (b) the case is eligible for expungement under this section; and
- 164 (c) the prosecuting agency does not object to the expungement of the case as described
- 165 in Subsection (6).
- 166 (2) Except as otherwise provided in Subsection (3), a case is eligible for expungement

167 under this section if:

168 (a)(i) each conviction within the case is a conviction for:

169 (A) a misdemeanor offense for possession of a controlled substance in violation of

170 Subsection 58-37-8(2)(a)(i);

171 (B) a class B misdemeanor offense;

172 (C) a class C misdemeanor offense; or

173 (D) an infraction; and

174 (ii) the following time periods have passed after the day on which the individual is  
175 adjudicated:

176 (A) at least five years for the conviction of a class C misdemeanor offense or an  
177 infraction;

178 (B) at least six years for the conviction of a class B misdemeanor offense; or

179 (C) at least seven years for the conviction of a class A misdemeanor offense for  
180 possession of a controlled substance in violation of Subsection 58-37-8

181 (2)(a)(i); or

182 (b)(i) the case is dismissed as a result of a successful completion of a plea in  
183 abeyance agreement governed by Subsection 77-2a-3(2)(b) or the case is  
184 dismissed without prejudice;

185 (ii) each charge within the case is:

186 (A) a misdemeanor offense for possession of a controlled substance in violation of  
187 Subsection 58-37-8(2)(a)(i);

188 (B) a class B misdemeanor offense;

189 (C) a class C misdemeanor offense; or

190 (D) an infraction; and

191 (iii) the following time periods have passed after the day on which the case is  
192 dismissed:

193 (A) at least five years for a charge in the case for a class C misdemeanor offense  
194 or an infraction;

195 (B) at least six years for a charge in the case for a class B misdemeanor offense; or

196 (C) at least seven years for a charge in the case for a class A misdemeanor offense  
197 for possession of a controlled substance in violation of Subsection 58-37-8

198 (2)(a)(i).

199 (3) A case is not eligible for expungement under this section if:

200 (a) the individual has a total number of convictions in courts of this state that exceed the

- 201 limits under Subsection 77-40a-303(4) or (5) without taking into consideration:
- 202 (i) the exception in Subsection 77-40a-303(7); or
- 203 (ii) any infraction, traffic offense, or minor regulatory offense;
- 204 (b) there is a criminal proceeding for a misdemeanor or felony offense pending in a
- 205 court of this state against the individual, unless the proceeding is for a traffic offense;
- 206 (c) for an individual seeking an automatic expungement on and after January 1, 2025,
- 207 the individual is incarcerated in the state prison or on probation or parole that is
- 208 supervised by the Department of Corrections;
- 209 (d) the case resulted in the individual being found not guilty by reason of insanity;
- 210 (e) the case establishes a criminal accounts receivable that:
- 211 (i) has been entered as a civil accounts receivable or a civil judgment of restitution
- 212 and transferred to the Office of State Debt Collection under Section 77-18-114; or
- 213 (ii) has not been satisfied according to court records; or
- 214 (f) the case resulted in a plea held in abeyance or a conviction for the following offenses:
- 215 (i) any of the offenses listed in Subsection 77-40a-303(2)(a);
- 216 (ii) an offense against the person in violation of Title 76, Chapter 5, Offenses Against
- 217 the Individual;
- 218 (iii) a weapons offense in violation of Title 76, Chapter 10, Part 5, Weapons;
- 219 (iv) sexual battery in violation of Section 76-9-702.1;
- 220 (v) an act of lewdness in violation of Section 76-9-702 or 76-9-702.5;
- 221 (vi) an offense in violation of Title 41, Chapter 6a, Part 5, Driving Under the
- 222 Influence and Reckless Driving;
- 223 (vii) damage to or interruption of a communication device in violation of Section
- 224 76-6-108;
- 225 (viii) a domestic violence offense as defined in Section 77-36-1; [or]
- 226 (ix) driving under the influence of alcohol, drugs, or a combination of both, or with
- 227 specified or unsafe blood alcohol concentration, as codified before February 2,
- 228 2005, Laws of Utah 2005, Chapter 2; or
- 229 [~~(ix)~~] (x) any other offense classified in the Utah Code as a felony or a class A
- 230 misdemeanor other than a class A misdemeanor conviction for possession of a
- 231 controlled substance in violation of Subsection 58-37-8(2)(a)(i).
- 232 (4) A prosecuting agency that has complied with Rule 42 of the Utah Rules of Criminal
- 233 Procedure shall receive notice on a monthly basis for any case prosecuted by that agency
- 234 that appears to be eligible for automatic expungement under this section.

- 235 (5) Within 35 days after the day on which the notice described in Subsection (4) is sent, the  
 236 prosecuting agency shall provide written notice in accordance with Rule 42 of the Utah  
 237 Rules of Criminal Procedure if the prosecuting agency objects to an automatic  
 238 expungement for any of the following reasons:
- 239 (a) the prosecuting agency believes that the case is not eligible for expungement under  
 240 this section after reviewing the agency record;
  - 241 (b) the individual has not paid restitution to the victim as ordered by the court; or
  - 242 (c) the prosecuting agency has a reasonable belief, grounded in supporting facts, that an  
 243 individual involved in the case is continuing to engage in criminal activity within or  
 244 outside of the state.
- 245 (6) If a prosecuting agency provides written notice of an objection for a reason described in  
 246 Subsection (5) within 35 days after the day on which the notice under Subsection (4) is  
 247 sent, the court may not proceed with automatic expungement of the case.
- 248 (7) If 35 days pass after the day on which the notice described in Subsection (4) is sent  
 249 without the prosecuting agency providing written notice of an objection under  
 250 Subsection (5), the court shall proceed with automatic expungement of the case.
- 251 (8) If a court issues an order of expungement under Subsection (1), the court shall:
- 252 (a) expunge all records of the case held by the court in accordance with Section  
 253 77-40a-401; and
  - 254 (b) notify the bureau and the prosecuting agency identified in the case, based on  
 255 information available to the court, of the order of expungement.

256 Section 4. Section **77-40a-207** is amended to read:

257 **77-40a-207 . Automatic expungement by the bureau.**

- 258 (1) Upon receiving notice from a court of an expungement order under this part, the bureau  
 259 shall expunge all records of the case in accordance with Section 77-40a-401.
- 260 (2)(a) Notwithstanding Subsection (1) or Section 77-40a-205, the bureau may request  
 261 that a court vacate an expungement order issued under this part if the bureau  
 262 determines that:
- 263 (i) the order is expunging:
    - 264 (A) a case that was dismissed as a result of a plea held in abeyance; or
    - 265 (B) a conviction of an offense; and
  - 266 (ii) the offense was not eligible for expungement under this part at the time that the  
 267 court issued the order.
- 268 (b) The court shall vacate an expungement order issued under this part if the court



269 determines that the offense was not eligible for expungement under this part at the  
270 time the court issued the order.

271 [~~2~~] (3) The bureau shall forward a copy of the expungement order to the Federal Bureau of  
272 Investigation.

273 [~~3~~] (4) Except for the court and the bureau, an agency is not required to expunge all  
274 records of a case that is automatically expunged under this part.

275 Section 5. Section **77-40a-303** is amended to read:

276 **77-40a-303 . Requirements for a certificate of eligibility to expunge records of a**  
277 **conviction.**

278 (1) Except as otherwise provided by this section, a petitioner is eligible to receive a  
279 certificate of eligibility from the bureau to expunge the records of a conviction if:

280 (a) the petitioner has paid in full all fines and interest ordered by the court related to the  
281 conviction for which expungement is sought;

282 (b) the petitioner has paid in full all restitution ordered by the court under Section  
283 77-38b-205; and

284 (c) the following time periods have passed after the day on which the petitioner was  
285 convicted or released from incarceration, parole, or probation, whichever occurred  
286 last, for the conviction that the petitioner seeks to expunge:

287 (i) 10 years for the conviction of a misdemeanor under Subsection 41-6a-501(2);

288 (ii) 10 years for the conviction of a felony for operating a motor vehicle with any amount of a  
289 controlled substance in an individual's body and causing serious bodily injury or death, as  
290 codified before May 4, 2022, Laws of Utah 2021,

291 Chapter 236, Section 1, Subsection 58-37-8(2)(g);

292 (iii) seven years for the conviction of a felony;

293 (iv) five years for the conviction of a drug possession offense that is a felony;

294 (v) five years for the conviction of a class A misdemeanor;

295 (vi) four years for the conviction of a class B misdemeanor; or

296 (vii) three years for the conviction of a class C misdemeanor or infraction.

297 (2) A petitioner is not eligible to receive a certificate of eligibility from the bureau to  
298 expunge the records of a conviction under Subsection (1) if:

299 (a) except as provided in Subsection (3), the conviction for which expungement is  
300 sought is:

301 (i) a capital felony;

302 (ii) a first degree felony;

- 303 (iii) a felony conviction of a violent felony as defined in Subsection 76-3-203.5  
 304 (1)(c)(i);
- 305 (iv) a felony conviction described in Subsection 41-6a-501(2); or  
 306 (v) an offense, or a combination of offenses, [~~that would require the individual to~~  
 307 ~~register as a sex offender, as defined in Section 77-41-102]~~ that require registration  
 308 as a sex offender, kidnap offender, or child abuse offender under Chapter 41, Sex,  
 309 Kidnap, and Child Abuse Offender Registry, at the time of the application for the  
 310 certificate of eligibility; [or]
- 311 [~~(vi) a registerable child abuse offense as defined in Subsection 77-41-102(1);]~~
- 312 (b) there is a criminal proceeding for a misdemeanor or felony offense pending against  
 313 the petitioner, unless the criminal proceeding is for a traffic offense;
- 314 (c) there is a plea in abeyance for a misdemeanor or felony offense pending against the  
 315 petitioner, unless the plea in abeyance is for a traffic offense;
- 316 (d) the petitioner is currently incarcerated, on parole, or on probation, unless the  
 317 petitioner is on probation or parole for an infraction, a traffic offense, or a minor  
 318 regulatory offense;
- 319 (e) the petitioner intentionally or knowingly provides false or misleading information on  
 320 the application for a certificate of eligibility;
- 321 (f) there is a civil protective order, a criminal protective order, or a criminal stalking  
 322 injunction against the petitioner that is in effect[~~for the case~~]; or
- 323 (g) the bureau determines that the petitioner's criminal history makes the petitioner  
 324 ineligible for a certificate of eligibility under Subsection (4) or (5).
- 325 (3) Subsection (2)(a) does not apply to a conviction for a qualifying sexual offense, as  
 326 defined in Section 76-3-209, if, at the time of the offense, a petitioner who committed  
 327 the offense was at least 14 years old but under 18 years old, unless the petitioner was  
 328 convicted by a district court as an adult in accordance with Title 80, Chapter 6, Part 5, [  
 329 ~~Transfer to District Court]~~ Minor Tried as an Adult.
- 330 (4) Subject to Subsections (6), (7), and (8), a petitioner is not eligible to receive a certificate  
 331 of eligibility if, at the time the petitioner seeks the certificate of eligibility, the bureau  
 332 determines that the petitioner's criminal history, including previously expunged  
 333 convictions, contains any of the following:
- 334 (a) two or more felony convictions other than for drug possession offenses, each of  
 335 which is contained in a separate criminal episode;
- 336 (b) any combination of three or more convictions other than for drug possession offenses

- 337 that include two class A misdemeanor convictions, each of which is contained in a  
338 separate criminal episode;
- 339 (c) any combination of four or more convictions other than for drug possession offenses  
340 that include three class B misdemeanor convictions, each of which is contained in a  
341 separate criminal episode; or
- 342 (d) five or more convictions other than for drug possession offenses of any degree  
343 whether misdemeanor or felony, each of which is contained in a separate criminal  
344 episode.
- 345 (5) Subject to Subsections (7) and (8), a petitioner is not eligible to receive a certificate of  
346 eligibility if, at the time the petitioner seeks the certificate of eligibility, the bureau  
347 determines that the petitioner's criminal history, including previously expunged  
348 convictions, contains any of the following:
- 349 (a) three or more felony convictions for drug possession offenses, each of which is  
350 contained in a separate criminal episode; or
- 351 (b) any combination of five or more convictions for drug possession offenses, each of  
352 which is contained in a separate criminal episode.
- 353 (6) If the petitioner's criminal history contains convictions for both a drug possession  
354 offense and a non-drug possession offense arising from the same criminal episode, the  
355 bureau shall count that criminal episode as a conviction under Subsection (4) if any  
356 non-drug possession offense in that episode:
- 357 (a) is a felony or class A misdemeanor; or
- 358 (b) has the same or a longer waiting period under Subsection (1)(c) than any drug  
359 possession offense in that episode.
- 360 (7) Except as provided in Subsection (8), if at least 10 years have passed after the day on  
361 which the petitioner was convicted or released from incarceration, parole, or probation,  
362 whichever occurred last, for all convictions:
- 363 (a) each numerical eligibility limit under Subsections (4)(a) and (b) shall be increased by  
364 one; and
- 365 (b) each numerical eligibility limit under Subsections (4)(c) and (d) is not applicable if  
366 the highest level of convicted offense in the criminal episode is:
- 367 (i) a class B misdemeanor;
- 368 (ii) a class C misdemeanor;
- 369 (iii) a drug possession offense if none of the non-drug possession offenses in the  
370 criminal episode are a felony or a class A misdemeanor; or

- 371 (iv) an infraction.
- 372 (8) When determining whether a petitioner is eligible for a certificate of eligibility under  
 373 Subsection (4), (5), or (7), the bureau may not consider a petitioner's pending case or  
 374 prior conviction for:
- 375 (a) an infraction;
- 376 (b) a traffic offense;
- 377 (c) a minor regulatory offense; or
- 378 (d) a clean slate eligible case that was automatically expunged.
- 379 (9) If the petitioner received a pardon before May 14, 2013, from the [~~Utah~~]Board of  
 380 Pardons and Parole, the petitioner is entitled to an expungement order for all pardoned  
 381 crimes in accordance with Section 77-27-5.1.
- 382 Section 6. Section **77-40a-305** is amended to read:
- 383 **77-40a-305 . Petition for expungement -- Prosecutorial responsibility -- Hearing.**
- 384 (1)(a) The petitioner shall file a petition for expungement in accordance with Rule 42 of  
 385 the Utah Rules of Criminal Procedure.
- 386 (b) A petitioner shall include the identification number for the certificate of eligibility or  
 387 special certificate described in Subsection 77-40a-304(2)(b)(ii) in the petition for  
 388 expungement, unless the petitioner is not required to obtain a certificate of eligibility  
 389 under Subsection (3) or (4).
- 390 (c) Information on a certificate of eligibility is incorporated into a petition by reference  
 391 to the identification number for the certificate of eligibility.
- 392 (d) A petitioner shall bring a petition for expungement, including a petition for  
 393 expungement for which the petitioner obtained a special certificate:
- 394 (i) in the court where the criminal case was filed; [~~or~~]
- 395 (ii) if the court in which the criminal case was filed no longer exists, in the court that  
 396 would have jurisdiction over the criminal case if the criminal case were filed on  
 397 the day on which the petition is brought; or
- 398 [(ii)] (iii) if charges were never filed, in the district court in the county in which the  
 399 arrest occurred or the citation is issued.
- 400 (2)(a) If a petition for expungement is filed under Subsection (1)(a), the court shall  
 401 obtain a certificate of eligibility or special certificate from the bureau.
- 402 (b) A court may not accept a petition for expungement if the certificate of eligibility or  
 403 special certificate is no longer valid as described in Subsection 77-40a-304(2)(b)(i).
- 404 (3) Notwithstanding Subsection (2), the petitioner may file a petition for expungement of a

- 405 traffic offense case without obtaining a certificate of eligibility if:
- 406 (a)(i) for a traffic offense case with a class C misdemeanor or infraction, at least three  
407 years have passed after the day on which the case was adjudicated or dismissed; or  
408 (ii) for a traffic offense case with a class B misdemeanor, at least four years have  
409 passed after the day on which the case was adjudicated or dismissed;
- 410 (b) there is no traffic offense case pending against the petitioner;
- 411 (c) there is no plea in abeyance for a traffic offense case pending against the petitioner;  
412 and
- 413 (d) the petitioner is not currently on probation for a traffic offense case.
- 414 (4) Notwithstanding Subsection (2), a petitioner may file a petition for expungement of a  
415 record for a conviction related to cannabis possession without a certificate of eligibility  
416 if the petition demonstrates that:
- 417 (a) the petitioner had, at the time of the relevant arrest or citation leading to the  
418 conviction, a qualifying condition, as that term is defined in Section 26B-4-201; and  
419 (b) the possession of cannabis in question was in a form and an amount to medicinally  
420 treat the qualifying condition described in Subsection (4)(a).
- 421 (5)(a) The court shall provide notice of a filing of a petition and certificate of eligibility  
422 or special certificate to the prosecutorial office that handled the court proceedings  
423 within three days after the day on which the petitioner's filing fee is paid or waived.
- 424 (b) If there were no court proceedings, the court shall provide notice of a filing of a  
425 petition and certificate of eligibility or special certificate to the county attorney's  
426 office in the jurisdiction where the arrest occurred.
- 427 (c) If the prosecuting agency with jurisdiction over the arrest, investigation, detention, or  
428 conviction, was a city attorney's office, the county attorney's office in the jurisdiction  
429 where the arrest occurred shall immediately notify the city attorney's office that the  
430 county attorney's office has received a notice of a filing of a petition for expungement.
- 431 (6)(a) Upon receipt of a notice of a filing of a petition for expungement of a conviction  
432 or a charge dismissed in accordance with a plea in abeyance, the prosecuting attorney  
433 shall make a reasonable effort to provide notice to any victim of the conviction or  
434 charge.
- 435 (b) The notice under Subsection (6)(a) shall:
- 436 (i) include a copy of the petition, certificate of eligibility or special certificate,  
437 statutes, and rules applicable to the petition;
- 438 (ii) state that the victim has a right to object to the expungement; and

- 439 (iii) provide instructions for registering an objection with the court.
- 440 (7)(a) The prosecuting attorney may respond to the petition by filing a recommendation  
441 or objection with the court within 35 days after the day on which the notice of the  
442 filing of the petition is sent by the court to the prosecuting attorney.
- 443 (b) If there is a victim of the offense for which expungement is sought, the victim may  
444 respond to the petition by filing a recommendation or objection with the court within  
445 60 days after the day on which the petition for expungement was filed with the court.
- 446 (8)(a) The court may request a written response to the petition from the Division of  
447 Adult Probation and Parole within the Department of Corrections.
- 448 (b) If requested, the response prepared by the Division of Adult Probation and Parole  
449 shall include:
- 450 (i) the reasons probation was terminated; and  
451 (ii) certification that the petitioner has completed all requirements of sentencing and  
452 probation or parole.
- 453 (c) The Division of Adult Probation and Parole shall provide a copy of the response to  
454 the petitioner and the prosecuting attorney.
- 455 (9) The petitioner may respond in writing to any objections filed by the prosecuting  
456 attorney or the victim and the response prepared by the Division of Adult Probation and  
457 Parole within 14 days after the day on which the objection or response is received.
- 458 (10)(a) If the court receives an objection concerning the petition from any party, the  
459 court shall set a date for a hearing and notify the petitioner and the prosecuting  
460 attorney of the date set for the hearing.
- 461 (b) The prosecuting attorney shall notify the victim of the date set for the hearing.
- 462 (c) The petitioner, the prosecuting attorney, the victim, and any other person who has  
463 relevant information about the petitioner may testify at the hearing.
- 464 (d) The court shall review the petition, the certificate of eligibility or special certificate,  
465 and any written responses submitted regarding the petition.
- 466 (11) If no objection is received within 60 days from the day on which the petition for  
467 expungement is filed with the court, the expungement may be granted without a hearing.
- 468 (12)(a) If the petitioner seeks a waiver of the fee required for a petition for expungement  
469 in accordance with Section 78A-2-302, the court shall consider the total number of  
470 cases for which the petitioner has received a certificate of eligibility and is seeking  
471 expungement in determining whether the petitioner is indigent under Subsection  
472 78A-2-302(3)(e) even if the court does not have jurisdiction over a case for which the

473 petitioner is seeking expungement.

474 (b) If a court grants a waiver of the fee required for a petition for expungement in  
475 accordance with Section 78A-2-302, and only upon a request from the petitioner, a  
476 subsequent court shall grant a waiver of a fee for a petition for expungement if the  
477 prior court waived the fee for a petition for expungement within 180 days before the  
478 day on which the petitioner filed the petition for expungement with the subsequent  
479 court.

480 Section 7. Section **77-40a-306** is amended to read:

481 **77-40a-306 . Order of expungement.**

482 (1) If a petition for expungement is filed in accordance with Section 77-40a-305, the court  
483 shall issue an order of expungement if the court finds, by clear and convincing evidence,  
484 that:

485 (a) except as provided in Subsection (1)(b) and Subsection 77-40a-305(3) or (4):

486 (i) the certificate of eligibility is valid at the time the petition for expungement was  
487 filed with the court and contains the information needed for the court to issue an  
488 order for expungement; and

489 (ii) the statutory requirements for expungement have been met;

490 (b) if the petitioner obtained a special certificate from the bureau:

491 (i) the special certificate is valid at the time the petition for expungement was filed  
492 with the court; and

493 (ii) there is sufficient information in the petition for the court to determine that the  
494 statutory requirements for expungement have been met;

495 (c) if the petitioner seeks expungement after a case is dismissed without prejudice or  
496 without condition, the prosecuting attorney provided written consent and has not filed  
497 and does not intend to refile related charges;

498 (d) if the petitioner seeks expungement without a certificate of eligibility for  
499 expungement under Subsection 77-40a-305(4) for a record of conviction related to  
500 cannabis possession:

501 (i) the petitioner had, at the time of the relevant arrest or citation leading to the  
502 conviction, a qualifying condition, as that term is defined in Section 26B-4-201;  
503 and

504 (ii) the possession of cannabis in question was in a form and an amount to  
505 medicinally treat the qualifying condition described in Subsection (1)(d)(i);

506 (e) if an objection is received, the petition for expungement is for a charge dismissed in

507 accordance with a plea in abeyance agreement, and the charge is an offense eligible  
508 to be used for enhancement, there is good cause for the court to grant the  
509 expungement; and

510 (f) the interests of the public would not be harmed by granting the expungement.

511 (2)(a) If the court denies a petition described in Subsection (1)(c) because the  
512 prosecuting attorney intends to refile charges, the petitioner may apply again for a  
513 certificate of eligibility if charges are not refiled within 180 days after the day on  
514 which the court denies the petition.

515 (b) A prosecuting attorney who opposes an expungement of a case dismissed without  
516 prejudice, or without condition, shall have a good faith basis for the intention to refile  
517 the case.

518 (c) A court shall consider the number of times that good faith basis of intention to refile  
519 by the prosecuting attorney is presented to the court in making the court's  
520 determination to grant the petition for expungement described in Subsection (1)(c).

521 (3) If the court grants a petition described in Subsection (1)(e), the court shall make the  
522 court's findings in a written order.

523 (4) A court may not expunge a conviction of an offense for which a certificate of eligibility  
524 may not be, or should not have been, issued under Section 77-40a-302 or 77-40a-303.

525 (5) If the court issues an order of expungement under this section, the court shall:

526 (a) expunge all records of the case as described in Section 77-40a-401;

527 (b) notify the bureau of the order of expungement in a manner specified by the  
528 department; and

529 (c) provide the bureau with the order of expungement and all relevant information  
530 available to the court that the bureau will need to identify an expunged record.

531 (6)(a) The petitioner may request certified copies of an order of expungement within 28  
532 days after the day on which the court issues an order of expungement.

533 (b) If a petitioner makes a request under Subsection (6)(a), the court shall provide the  
534 petitioner with certified copies of the order of expungement.

535 Section 8. Section **78B-7-109** is amended to read:

536 **78B-7-109 . Continuing duty to inform court of other proceedings -- Effect of**  
537 **other proceedings.**

538 (1) Each party has a continuing duty to inform the court of each proceeding for a civil  
539 protective order or a criminal protective order, any civil litigation, each proceeding in  
540 juvenile court, and each criminal case involving either party, including the case name,



541 the file number, and the county and state of the proceeding, if that information is known  
542 by the party.

543 (2)(a) A civil protective order issued under this chapter is in addition to and not in lieu  
544 of any other available civil or criminal proceeding.

545 (b) A petitioner is not barred from seeking a civil protective order because of other  
546 pending proceedings.

547 (c) A court may not delay granting a civil protective order under this chapter because of  
548 the existence of a pending civil action between the parties.

549 (d) If a petitioner seeks a civil protective order based upon facts related to an arrest,  
550 investigation, detention, charging, or conviction of the respondent, the court may  
551 consider the facts when determining whether to issue a civil protective order even if  
552 the records of the arrest, investigation, detention, charging, or conviction are  
553 expunged.

554 (3) A petitioner may omit the petitioner's address from all documents filed with the court  
555 under this chapter, but shall separately provide the court with a mailing address that is  
556 not to be made part of the public record, but that may be provided to a peace officer or  
557 entity for service of process.

558 Section 9. Section **80-6-1001.2** is amended to read:

559 **80-6-1001.2 . Venue for petition seeking expungement.**

560 Notwithstanding Section 78A-6-350 and Title 78B, Chapter 3a, Venue for Civil Actions,  
561 a petitioner shall bring a petition for expungement under this part:

562 (1) in the court [~~where the~~] that presided over the final proceedings in a case if a petition for  
563 delinquency was filed; or

564 (2) if a petition for delinquency was never filed, in the juvenile court in the [~~county~~] judicial  
565 district in which the last arrest occurred or the citation was [issued] resolved.

566 Section 10. **Effective Date.**

567 This bill takes effect on May 7, 2025.