

HB0110S06 compared with HB0110

{Omitted text} shows text that was in HB0110 but was omitted in HB0110S06

inserted text shows text that was not in HB0110 but was inserted into HB0110S06

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1 ~~{Board of Pardons and Parole Amendments}~~ Offender Modifications

2026 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Tyler Clancy

Senate Sponsor: Michael K. McKell



2

3 **LONG TITLE**

4 **General Description:**

5 This bill addresses provisions related to {~~the Board of Pardons and Parole~~} offenders.

6 **Highlighted Provisions:**

7 This bill:

8 ▶ ~~{adjusts provisions related to when and how the Board of Pardons and Parole (the board) provides notice of upcoming parole, pardon, or other hearings regarding an offender to the relevant:}~~

11 • {~~law enforcement agency;~~}

12 • {~~prosecution agency;~~}

13 • {~~court; and~~}

14 • {~~victim;~~}

8 ▶ allows a court to order the Division of Adult Probation and Parole to supervise an individual convicted of class B misdemeanors under certain circumstances;

15 ▶ requires the {~~board~~} Board of Pardons and Parole (board), if considering whether to parole an offender who has previously been paroled and had the offender's parole {~~terminated~~} revoked due to a

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new criminal offense, to consider the facts and circumstances of the new criminal offense in determining whether the offender should be paroled again;

- 19 ▶ ~~{ prohibits the board, when determining whether parole should be granted or terminated for an offender, from considering prison capacity, bed availability, or institutional population levels; }~~
- 22 ▶ ~~{ prohibits the board from paroling an offender who has not completed any ordered treatment or programing while incarcerated; }~~
- 24 ▶ allows the board , with certain exceptions, to only consider a pardon for an offender who has committed an offense that requires the offender to register on the Sex, Kidnap, and Child Abuse Offender Registry (the registry) if:
- 27 • for a sex offender required to register on the registry for 10 years, 10 years have passed from when the sex offender entered the community after the sex offender's conviction; or
- 30 • for a sex offender required to register on the registry for the sex offender's lifetime, 20 years have passed from when the sex offender entered the community after the sex offender's conviction;
- 33 ▶ ~~{ prohibits the board from re-paroling an offender who has been charged with committing a violent felony during the offender's previous parole; }~~
- 35 ▶ ~~{ prohibits an offender from taking possession of a written statement, or a copy of the written statement, from a victim of the offender's offense that is written to the board; }~~
- 23 ▶ does not allow an offender who has committed an offense that requires the offender to register on the registry at the time the offender is sentenced to receive a certificate of eligibility of expungement from the Bureau of Criminal Identification; and
- 37 ▶ adds to the requirements for the board to meet before the board may parole an offender before the offender's minimum term of imprisonment has been met{~~;~~and} .
- 39 ▶ ~~{ provides that an offender is required to have an adequate opportunity to view and examine a victim's written statement to the board in a location determined by the board but requires the board to ensure that the offender cannot reproduce the victim's statement in any manner. }~~

28 Money Appropriated in this Bill:

29 None

30 Other Special Clauses:

31 None

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32 **Utah Code Sections Affected:**

33 AMENDS:

34 **64-14-204 , as renumbered and amended by Laws of Utah 2025, Chapter 214**

35 **77-18-105 , as last amended by Laws of Utah 2025, First Special Session, Chapter 17**

49 ~~**77-27-1 , as last amended by Laws of Utah 2021, Chapters 21, 260**~~

36 **77-27-5** , as last amended by Laws of Utah 2025, Chapters 476, 526

37 **77-27-9** , as last amended by Laws of Utah 2022, Chapter 430

52 ~~**77-27-9.5 , as last amended by Laws of Utah 2024, Chapter 434**~~

53 ~~**77-27-9.7 , as last amended by Laws of Utah 2024, Chapter 434**~~

38 **77-40a-303 , as last amended by Laws of Utah 2025, Chapters 239, 277 and 291**

39 ENACTS:

40 **77-27-5.6** , Utah Code Annotated 1953

41 REPEALS:

42 **77-27-31** , as enacted by Laws of Utah 1980, Chapter 15

43

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

45 **Section 1. Section 64-14-204 is amended to read:**

46 **64-14-204. Supervision of sentenced offenders placed in community -- Rulemaking -- POST certified parole or probation officers and peace officers -- Duties -- Supervision fee -- Coordination with local mental health authority.**

49 (1)

(a) The division, except as otherwise provided by law, shall supervise a sentenced offender placed in the community if the offender:

51 (i)

(A) is placed on probation by a court;

52 (B) is released on parole by the Board of Pardons and Parole; or

53 (C) is accepted for supervision under the terms of the Interstate Compact for the Supervision of Parolees and Probationers; and

55 (ii) has been convicted of:

56 (A) a felony;

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- (B) a class A misdemeanor when an element of the offense is the use or attempted use of physical force against an individual or property;[-or]
- 59 (C) notwithstanding Subsection (1)(a)(ii)(B), a class A misdemeanor if the division is ordered by a court to supervise the offender under Section 77-18-105[.]; or
- 62 (D) a class B misdemeanor if the division is ordered by a court to supervise the offender under Subsection 77-18-105(5)(b)(iii).
- 64 (b) If a sentenced offender participates in substance use treatment or a residential vocational or life skills program, as defined in Section 13-53-102, while under supervision on probation or parole, the division shall monitor the offender's compliance with and completion of the treatment or program.
- 68 (c) The department shall establish standards for:
- 69 (i) the supervision of offenders in accordance with the adult sentencing and supervision length guidelines, as defined in Section 63M-7-401.1, giving priority, based on available resources, to felony offenders and offenders sentenced under Subsection 58-37-8 (2)(b)(ii); and
- 73 (ii) the monitoring described in Subsection (1)(b).
- 74 (2) The division shall apply the graduated and evidence-based responses established in the adult sentencing and supervision length guidelines, as defined in Section 63M-7-401.1, to facilitate a prompt and appropriate response to an individual's violation of the terms of probation or parole, including:
- 78 (a) sanctions to be used in response to a violation of the terms of probation or parole; and
- 79 (b) requesting approval from the court or Board of Pardons and Parole to impose a sanction for an individual's violation of the terms of probation or parole, for a period of incarceration of not more than three consecutive days and not more than a total of six days within a period of 30 days.
- 83 (3) The division shall implement a program of graduated incentives as established in the adult sentencing and supervision length guidelines, as defined in Section 63M-7-401.1 to facilitate the department's prompt and appropriate response to an offender's:
- 86 (a) compliance with the terms of probation or parole; or
- 87 (b) positive conduct that exceeds those terms.
- 88 (4)
- (a) The department shall, in collaboration with the State Commission on Criminal and Juvenile Justice and the Division of Substance Use and Mental Health, create standards and procedures for the collection of information, including cost savings related to recidivism reduction and the reduction

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in the number of inmates, related to the use of the graduated and evidence-based responses and graduated incentives, and offenders' outcomes.

- 94 (b) The collected information shall be provided to the State Commission on Criminal and Juvenile
Justice not less frequently than annually on or before August 31.
- 96 (5) Employees of the division who are POST certified as law enforcement officers or correctional
officers and who are designated as parole and probation officers by the executive director have the
following duties:
- 99 (a) monitoring, investigating, and supervising a parolee's or probationer's compliance with the
conditions of the parole or probation agreement;
- 101 (b) investigating or apprehending any offender who has escaped from the custody of the department or
absconded from supervision by the division;
- 103 (c) supervising any offender during transportation; or
- 104 (d) collecting DNA specimens when the specimens are required under Section 53-10-404.
- 105 (6)
- (a)
- (i) A monthly supervision fee of \$30 shall be collected from each offender on probation or parole.
- 107 (ii) The fee described in Subsection (6)(a)(i) may be suspended or waived by the division upon a
showing by the offender that imposition would create a substantial hardship or if the offender
owes restitution to a victim.
- 110 (b)
- (i) The department shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative
Rulemaking Act, specifying the criteria for suspension or waiver of the supervision fee and the
circumstances under which an offender may request a hearing.
- 114 (ii) In determining whether the imposition of the supervision fee would constitute a substantial
hardship, the division shall consider the financial resources of the offender and the burden that the
fee would impose, with regard to the offender's other obligations.
- 118 (c) The division shall deposit money received from the monthly supervision fee established in this
Subsection (6) into the General Fund as a parole and probation dedicated credit to be used to cover
costs incurred in the collection of the fee and in the development of offender supervision programs.
- 122 (7)

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- (a) For offenders placed on probation under Section 77-18-105 or parole under Subsection 76-3-202(2) (a) on or after October 1, 2015, but before January 1, 2019, the division shall establish a program allowing an offender to earn a reduction credit of 30 days from the offender's period of probation or parole for each month the offender complies with the terms of the offender's probation or parole agreement, including the case action plan.
- 128 (b)
- (i) For offenders placed on probation under Section 77-18-105 or parole under Section 76-3-202 on or after July 1, 2026, the division shall establish a program, consistent with the adult sentencing and supervision length guidelines, as defined in Section 63M-7-401.1, to provide incentives for an offender that maintains eligible employment, as defined in Section 64-13g-101.
- 133 (ii) The program under Subsection (7)(b)(i) may include a credit towards the reduction of the length of supervision for an offender at a rate of up to 30 days for each month that the offender maintains eligible employment, as defined in Section 64-13g-101.
- 137 (iii) A court, or the Board of Pardons and Parole, is not required to grant a request for termination of supervision under the program described in this Subsection (7)(b) if the court, or the Board of Pardons and Parole, finds that:
- 140 (A) the offender presents a substantial risk to public safety;
- 141 (B) termination would prevent the offender from completing risk reduction programming or treatment;
- or
- 143 (C) the eligibility criteria for termination of supervision, as established in the adult sentencing and supervision length guidelines, as defined in Section 63M-7-401.1, have not been met.
- 146 (iv) This Subsection (7)(b) does not prohibit the division, or another supervision services provider, from requesting termination of supervision based on the eligibility criteria in the adult sentencing and supervision length guidelines, as defined in Section 63M-7-401.1.
- 150 (c) The division shall:
- 151 (i) maintain a record of credits earned by an offender under this Subsection (7); and
- 152 (ii) request from the court or the Board of Pardons and Parole the termination of probation or parole not fewer than 30 days prior to the termination date that reflects the credits earned under this Subsection (7).
- 155 (d) This Subsection (7) does not prohibit the division from requesting a termination date earlier than the termination date established by earned credits under Subsection (7)(c).

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- 157 (e) The court or the Board of Pardons and Parole shall terminate an offender's probation or parole
upon completion of the period of probation or parole accrued by time served and credits earned
under this Subsection (7) unless the court or the Board of Pardons and Parole finds that termination
would interrupt the completion of a necessary treatment program, in which case the termination of
probation or parole shall occur when the treatment program is completed.
- 163 (f) The department shall report annually to the State Commission on Criminal and Juvenile Justice on or
before August 31:
- 165 (i) the number of offenders who have earned probation or parole credits under this Subsection (7) in
one or more months of the preceding fiscal year and the percentage of the offenders on probation or
parole during that time that this number represents;
- 169 (ii) the average number of credits earned by those offenders who earned credits;
- 170 (iii) the number of offenders who earned credits by county of residence while on probation or parole;
- 172 (iv) the cost savings associated with sentencing reform programs and practices; and
- 173 (v) a description of how the savings will be invested in treatment and early-intervention programs and
practices at the county and state levels.
- 175 (8)
- (a) The department shall coordinate with a local mental health authority to complete the requirements of
this Subsection (8) for an offender who:
- 177 (i) is a habitual offender as that term is defined in Section 77-18-102;
- 178 (ii) has a mental illness as that term is defined in Section 26B-5-301; and
- 179 (iii) based on a risk and needs assessment:
- 180 (A) is at a high risk of reoffending; and
- 181 (B) has risk factors that may be addressed by available community-based services.
- 182 (b) For an offender described in Subsection (8)(a), at any time clinically appropriate or at least three
months before termination of an offender's parole or expiration of an offender's sentence, the
department shall coordinate with the Department of Health and Human Services and the relevant
local mental health authority to provide applicable clinical assessments and transitional treatment
planning and services for the offender so that the offender may receive appropriate treatment and
support services after the termination of parole or expiration of sentence.
- 189 (c) The local mental health authority may determine whether the offender:
- 190 (i) meets the criteria for civil commitment;

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- 191 (ii) meets the criteria for assisted outpatient treatment; or
192 (iii) would benefit from assignment to an assertive community treatment team or available community-
based services.
- 194 (d) Based on the local mental health authority's determination under Subsection (8)(c), the local mental
health authority shall, as appropriate:
- 196 (i) initiate an involuntary commitment court proceeding;
197 (ii) file a written application for assisted outpatient treatment; or
198 (iii) seek to have the offender assigned to an assertive community treatment team or available
community-based services.
- 200 (e) On or before November 1, 2025, the department shall provide a report to the Law Enforcement and
Criminal Justice Interim Committee regarding any proposed changes to the requirements in this
Subsection (8), including whether the requirements of this Subsection (8) should also apply to any
other category of offenders.

205 Section 2. Section 77-18-105 is amended to read:

206 **77-18-105. Pleas held in abeyance -- Suspension of a sentence -- Probation -- Supervision
-- Terms and conditions of probation -- Time periods for probation -- Bench supervision for
payments on criminal accounts receivable.**

- 209 (1) If a defendant enters a plea of guilty or no contest in conjunction with a plea in abeyance agreement,
the court may hold the plea in abeyance:
- 211 (a) in accordance with Chapter 2a, Pleas in Abeyance; and
212 (b) under the terms of the plea in abeyance agreement.
- 213 (2) If a defendant is convicted, the court:
- 214 (a) shall impose a sentence in accordance with Section 76-3-201; and
215 (b) subject to Subsection (5), may suspend the execution of the sentence and place the defendant:
- 217 (i) on probation under the supervision of the division;
218 (ii) on probation under the supervision of an agency of a local government or a private organization; or
220 (iii) on court probation under the jurisdiction of the sentencing court.
- 221 (3)
- (a) The legal custody of all probationers under the supervision of the division is with the department.
223 (b) The legal custody of all probationers under the jurisdiction of the sentencing court is vested as
ordered by the court.

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- 225 (c) The court has continuing jurisdiction over all probationers.
226 (4)
- (a) Court probation may include an administrative level of services, including notification to the sentencing court of scheduled periodic reviews of the probationer's compliance with conditions.
- 229 (b) Supervised probation services provided by the division, an agency of a local government, or a private organization shall specifically address the defendant's risk of reoffending as identified by a screening or an assessment.
- 232 (c) If a court orders supervised probation and determines that a public probation provider is unavailable or inappropriate to supervise the defendant, the court shall make available to the defendant the list of private probation providers prepared by a criminal justice coordinating council under Section 17E-2-201.
- 236 (5)
- (a) Before ordering supervised probation, the court shall consider the supervision costs to the defendant for each entity that can supervise the defendant.
- 238 (b)
- (i) A court may order an agency of a local government to supervise the probation for an individual convicted of any crime if:
- 240 (A) the agency has the capacity to supervise the individual; and
241 (B) the individual's supervision needs will be met by the agency.
- 242 (ii) A court may only order:
- 243 (A) except as provided in Subsection (5)(b)(iii), the division to supervise the probation for an individual convicted of a class A misdemeanor or any felony; or
- 246 (B) a private organization to supervise the probation for an individual convicted of a class A, B, or C misdemeanor or an infraction.
- 248 (iii) A court may order the division to supervise the probation for an individual convicted of a class B misdemeanor if:
- 250 (A) the individual has previously been convicted of 5 or more class B misdemeanors;
252 (B) the court determines the individual is currently homeless; and
253 (C) the division consents to supervise the individual.
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(c) A court may not order a specific private organization to supervise an individual unless there is only one private organization that can provide the specific supervision services required to meet the individual's supervision needs.

257 (6)

(a) If a defendant is placed on probation, the court may order the defendant as a condition of the defendant's probation:

259 (i) to provide for the support of persons for whose support the defendant is legally liable;

261 (ii) to participate in available treatment programs, including any treatment program in which the defendant is currently participating if the program is acceptable to the court;

264 (iii) be voluntarily admitted to the custody of the Division of Substance Use and Mental Health for treatment at the Utah State Hospital in accordance with Section 77-18-106;

267 (iv) if the defendant is on probation for a felony offense, to serve a period of time as an initial condition of probation that does not exceed one year in a county jail designated by the department, after considering any recommendation by the court as to which jail the court finds most appropriate;

271 (v) to serve a term of home confinement in accordance with Section 77-18-107;

272 (vi) to participate in compensatory service programs, including the compensatory service program described in Section 76-3-410;

274 (vii) to pay for the costs of investigation, probation, or treatment services;

275 (viii) to pay restitution to a victim with interest in accordance with Chapter 38b, Crime Victims Restitution Act; or

277 (ix) to comply with other terms and conditions the court considers appropriate to ensure public safety or increase a defendant's likelihood of success on probation.

279 (b) If a defendant is placed on probation and a condition of the defendant's probation is routine or random drug testing, the defendant shall sign a waiver consistent with the Health Insurance Portability and Accountability Act, 42 U.S.C. Sec. 1320d et seq., allowing the treatment provider conducting the drug testing to notify the defendant's supervising probation officer regarding the results of the defendant's drug testing.

284 (c)

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- (i) Notwithstanding Subsection (6)(a)(iv), the court may modify the probation of a defendant to include a period of time that is served in a county jail immediately before the termination of probation as long as that period of time does not exceed one year.
- 288 (ii) If a defendant is ordered to serve time in a county jail as a sanction for a probation violation, the one-year limitation described in Subsection (6)(a)(iv) or (6)(c)(i) does not apply to the period of time that the court orders the defendant to serve in a county jail under this Subsection (6)(c)(ii).
- 292 (7)
- (a) Except as provided in Subsection (7)(b), probation of an individual placed on probation after December 31, 2018:
- 294 (i) may not exceed the individual's maximum sentence;
- 295 (ii) shall be for a period of time that is in accordance with the adult sentencing and supervision length guidelines, as defined in Section 63M-7-401.1, to the extent the guidelines are consistent with the requirements of the law; and
- 298 (iii) shall be terminated in accordance with the adult sentencing and supervision length guidelines, as defined in Section 63M-7-401.1, to the extent the guidelines are consistent with the requirements of the law.
- 301 (b) Probation of an individual placed on probation after December 31, 2018, whose maximum sentence is one year or less, may not exceed 36 months.
- 303 (c) Probation of an individual placed on probation on or after October 1, 2015, but before January 1, 2019, may be terminated at any time at the discretion of the court or upon completion without violation of 36 months probation in felony or class A misdemeanor cases, 12 months in cases of class B or C misdemeanors or infractions, or as allowed in accordance with Section 64-13-21 regarding earned credits.
- 308 (d) This Subsection (7) does not apply to the probation of an individual convicted of an offense for criminal nonsupport under Section 76-7-201.
- 310 (8)
- (a) Notwithstanding Subsection (7), if there is an unpaid balance of the criminal accounts receivable for the defendant upon termination of the probation period for the defendant under Subsection (7), the court may require the defendant to continue to make payments towards the criminal accounts receivable in accordance with the payment schedule established by the court under Section 77-32b-103.

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- 315 (b) A court may not require the defendant to make payments as described in Subsection (8)(a) beyond
the expiration of the defendant's sentence.
- 317 (c) If the court requires a defendant to continue to pay in accordance with the payment schedule for the
criminal accounts receivable under this Subsection (8) and the defendant defaults on the criminal
accounts receivable, the court shall proceed with an order for a civil judgment of restitution and a
civil accounts receivable for the defendant as described in Section 77-18-114.
- 322 (d)
- (i) Upon a motion from the prosecuting attorney, the victim, or upon the court's own motion, the court
may require a defendant to show cause as to why the defendant's failure to pay in accordance with
the payment schedule should not be treated as contempt of court.
- 326 (ii) A court may hold a defendant in contempt for failure to make payments for a criminal accounts
receivable in accordance with Title 78B, Chapter 6, Part 3, Contempt.
- 329 (e) This Subsection (8) does not apply to the probation of an individual convicted of an offense for
criminal nonsupport under Section 76-7-201.
- 331 (9) When making any decision regarding probation:
- 332 (a) the court shall consider information provided by the Department of Corrections regarding a
defendant's individual case action plan, including any progress the defendant has made in satisfying
the case action plan's completion requirements; and
- 335 (b) the court may not rely solely on an algorithm or a risk assessment tool score.

60 ~~{Section 1. Section 77-27-1 is amended to read: }~~

61 **77-27-1. Definitions.**

As used in this chapter:

- 63 (1) "Appearance" means any opportunity to address the board, a board member, a panel, or hearing
officer, including an interview.
- 65 (2) "Board" means the Board of Pardons and Parole.
- 66 (3)
- (a) "Case action plan" means a document developed by the Department of Corrections that identifies the
program priorities for the treatment of the offender.
- 68 (b) "Case action plan" includes the criminal risk factors as determined by a risk and needs assessment
conducted by the department.

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- (4) "Commission" means the State Commission on Criminal and Juvenile Justice created in Section 63M-7-201.
- 72 (5) "Commutation" is the change from a greater to a lesser punishment after conviction.
- 73 (6) "Criminal accounts receivable" means the same as that term is defined in Section 77-32b-102.
- 75 (7) "Criminal risk factors" means a person's characteristics and behaviors that:
- 76 (a) affect that person's risk of engaging in criminal behavior; and
- 77 (b) are diminished when addressed by effective treatment, supervision, and other support resources resulting in reduced risk of criminal behavior.
- 79 (8)
- (a) "Deliberative process" means the board or any number of the board's individual members together engaging in discussions, whether written or verbal, regarding a parole, a pardon, a commutation, termination of sentence, or fines, fees, or restitution in an individual case.
- 83 (b) "Deliberative process" includes the votes, mental processes, written notes, and recommendations of individual board members and staff.
- 85 (c) "Deliberative process" does not include:
- 86 (i) a hearing where the offender is present;
- 87 (ii) any factual record the board is considering, including records of the offender's criminal convictions, records regarding the offender's current or previous incarceration and supervision, and records regarding the offender's physical or mental health;
- 91 (iii) recommendations regarding the offender's incarceration or supervision from any other individual, governmental entity, or agency;
- 93 (iv) testimony received by the board regarding the offender, whether written or verbal; or
- 95 (v) the board's decision or rationale for the decision.
- 96 (9) "Department" means the Department of Corrections.
- 97 (10) "Expiration" means when the maximum sentence has run.
- 98 (11) "Family" means any individual related to the victim as a spouse, child, sibling, parent, or grandparent, or the victim's legal guardian.
- 100 (12) "Hearing" or "full hearing" means an appearance before the board, a panel, a board member or hearing examiner, at which an offender or inmate is afforded an opportunity to be present and address the board.
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- 106 (13) "Location," in reference to a hearing, means the physical location at which the board, a panel, a
board member, or a hearing examiner is conducting the hearing, regardless of the location of any
person participating by electronic means.
- 107 (14) "Open session" means any hearing, before the board, a panel, a board member, or a hearing
108 examiner, that is open to the public, regardless of the location of any person participating by
109 electronic means.
- 110 (15) "Panel" means members of the board assigned by the chairperson to a particular case.
- 111 (16) "Pardon" means:
- 112 (a) an act of grace that forgives a criminal conviction and restores the rights and privileges forfeited by
or because of the criminal conviction;
- 113 (b) the release of an offender from the entire punishment prescribed for a criminal offense and from
disabilities that are a consequence of the criminal conviction; and
- 114 (c) the reinstatement of any civil rights lost as a consequence of conviction or punishment for a criminal
115 offense.
- 116 (17) "Parole" means a release from imprisonment on prescribed conditions which, if satisfactorily
117 performed by the parolee, enables the parolee to obtain a termination of the parolee's sentence.
- 118 (18) "Payment schedule" means the same as that term is defined in Section 77-32b-102.
- 119 (19) "Pecuniary damages" means the same as that term is defined in Section 77-38b-102.
- 120 (20) "Probation" means an act of grace by the court suspending the imposition or execution of a
121 convicted offender's sentence upon prescribed conditions.
- 122 (21) "Remit" or "remission" means the same as that term is defined in Section 77-32b-102.
- 123 (22) "Reprieve" or "respite" means the temporary suspension of the execution of the sentence.
- 124 (23) "Restitution" means the same as that term is defined in Section 77-38b-102.
- 125 (24) "Termination" means the act of discharging from parole or concluding the sentence of
126 imprisonment before the expiration of the sentence.
- 127 (25) "Victim" means:
- 128 (a) a person against whom the defendant committed a felony or class A misdemeanor offense for which
129 a hearing is held under this chapter; or
- 130 (b) the victim's family if the victim is deceased as a result of the offense for which a hearing is held
131 under this chapter.
- 132 (26) "Violent felony" means the same as that term is defined in Section 76-3-203.5.
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- 134
- 135

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336 Section 3. Section **77-27-5** is amended to read:

337 **77-27-5. Board of Pardons and Parole authority.**

138 (1)

(a) Subject to this chapter and other laws of the state, and except for a conviction for treason or impeachment, the board shall determine by majority decision when and under what conditions an offender's conviction may be pardoned or commuted.

141 (b) The board shall determine by majority decision when and under what conditions an offender committed to serve a sentence at a penal or correctional facility, which is under the jurisdiction of the department, may:

144 (i) be released upon parole;

145 (ii) have a fine or forfeiture remitted;

146 (iii) have the offender's criminal accounts receivable remitted in accordance with Section 77-32b-105 or 77-32b-106;

148 (iv) have the offender's payment schedule modified in accordance with Section 77-32b-103; or

150 (v) have the offender's sentence terminated.

151 (c) The board shall prioritize public safety when making a determination under Subsection (1)(a) or (1)(b).

153 (d)

(i) The board may sit together or in panels to conduct hearings.

154 (ii) The chair shall appoint members to the panels in any combination and in accordance with rules made by the board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

157 (iii) The chair may participate on any panel and when doing so is chair of the panel.

158 (iv) The chair of the board may designate the chair for any other panel.

159 (e)

(i) Except after a hearing before the board, or the board's appointed examiner, in an open session, the board may not:

161 (A) remit a fine or forfeiture for an offender or the offender's criminal accounts receivable;

163 (B) release the offender on parole; or

164 (C) commute, pardon, or terminate an offender's sentence.

165 (ii) An action taken under this Subsection (1) other than by a majority of the board shall be affirmed by a majority of the board.

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- 167 (f) A commutation or pardon may be granted only after a full hearing before the board.
168 ~~{(2)}~~
- ~~{(a) In the case of a hearing, timely prior notice of the time and location of the hearing shall be given to the offender.}~~
- 170 ~~{(b) The county or district attorney's office responsible for prosecution of the case, the sentencing court, and law enforcement officials responsible for the defendant's arrest and conviction shall be notified of any board hearings through the board's website.}~~
- 173 ~~{(c) Whenever possible, the victim or the victim's representative, if designated, shall be notified of original hearings and any hearing after that if notification is requested and current contact information has been provided to the board.}~~
- 176 ~~{(d)}~~
- ~~{(i) Notice to the victim or the victim's representative shall include information provided in Section 77-27-9.5, and any related rules made by the board under that section.}~~
- 179 ~~{(ii) The information under Subsection (2)(d)(i) shall be provided in terms that are reasonable for the lay person to understand.}~~
- 181 ~~{(2)}~~
- ~~{(a) If a hearing is held in accordance with Subsection (1), the board shall provide:}~~
- 182 ~~{(i) timely notice of the time and location of the upcoming hearing to the offender;}~~
- 183 ~~{(ii) timely notice as described in Subsection (2)(b) of an upcoming hearing related to an offender to:}~~
- 185 ~~{(A) the county or district attorney's office responsible for prosecution of the offender's case;}~~
- 187 ~~{(B) the court that sentenced the offender; and}~~
- 188 ~~{(C) the law enforcement agency that initially arrested the offender; and}~~
- 189 ~~{(iii) timely notice to the victim or the victim's representative of the time and location of the upcoming hearing that meets the requirements described in Section 77-27-9.5.}~~
- 192 ~~{(b)}~~
- ~~{(i) Except as provided in Subsection (2)(b)(ii), the board shall provide the notification described in Subsection (2)(a)(ii) at least 30 days before the day on which the hearing will be held to the county or district attorney's office, the court, and the law enforcement agency by:}~~
- 196 ~~{(A) publishing the notification on the board's website;}~~
- 197 ~~{(B) emailing a notification to the applicable attorney's office, court, and law enforcement agency;}~~

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- 199 {~~(C) sending through certified mail a written copy of the notification to the applicable attorney's~~
 ~~office, court, and law enforcement agency; and }~~
- 201 {~~(D) if applicable, sending the notification through a secure electronic portal that the board and the~~
 ~~applicable attorney's office, court, or law enforcement agency share. }~~
- 204 {~~(ii) If the board determines that circumstances require an expedited hearing resulting in the board~~
 ~~being unable to comply with the 30-day requirement described in Subsection (2)(b)(i), the board: }~~
- 207 {~~(A) is not required to comply with the 30-day notification requirement; and }~~
- 208 {~~(B) shall, in addition to the requirements of Subsections (2)(b)(i)(A) through (D), verbally notify the~~
 ~~applicable attorney's office, court, and law enforcement agency as soon as practicable to inform the~~
 ~~attorney's office, court, and law enforcement agency of the upcoming hearing. }~~
- 212 (3)
- (a) A decision by the board is final and not subject for judicial review if the decision is regarding:
- 214 (i) a pardon, parole, commutation, or termination of an offender's sentence;
- 215 (ii) restitution, the modification of an offender's payment schedule for restitution, or an order for
 costs; or
- 217 (iii) the remission of an offender's criminal accounts receivable or a fine or forfeiture.
- 218 (b) Deliberative processes are not public and the board is exempt from Title 52, Chapter 4, Open and
 Public Meetings Act, when the board is engaged in the board's deliberative process.
- 221 (c) [~~Pursuant to~~] In accordance with Subsection 63G-2-103(25)(b)(xii), records of the deliberative
 process are exempt from Title 63G, Chapter 2, Government Records Access and Management Act.
- 224 (d) Unless it will interfere with a constitutional right, deliberative processes are not subject to
 disclosure, including discovery.
- 226 (e) Nothing in this section prevents the obtaining or enforcement of a civil judgment.
- 227 (4)
- (a) This chapter [~~may not be construed as a denial of or limitation of~~] does not deny or limit the
 governor's power to grant respite or reprieves in all cases of convictions for offenses against the
 state, except treason or conviction on impeachment.
- 230 (b) Notwithstanding Subsection (4)(a), respites or reprieves may not extend beyond the next session of
 the board.
- 232 (c) At the next session of the board, the board:
- 233 (i) shall continue or terminate the respite or reprieve; or

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- 234 (ii) may commute the punishment or pardon the offense as provided.
- 235 (d) In the case of conviction for treason, the governor may suspend execution of the sentence until the
case is reported to the Legislature at the Legislature's next session.
- 237 (e) The Legislature shall pardon or commute the sentence or direct the sentence's execution.
- 239 (5)
- (a) In determining when, where, and under what conditions an offender serving a sentence may be
paroled or pardoned, have a fine or forfeiture remitted, have the offender's criminal accounts
receivable remitted, or have the offender's sentence commuted or terminated, the board shall:
- 243 (i) consider whether the offender has made restitution ordered by the court under Section
77-38b-205, or is prepared to pay restitution as a condition of any parole, pardon, remission of
a criminal accounts receivable or a fine or forfeiture, or a commutation or termination of the
offender's sentence;
- 247 (ii) except as provided in Subsection (5)(b), develop and use a list of criteria for making
determinations under this Subsection (5);
- 249 (iii) consider information provided by the department regarding an offender's individual case action
plan;[-and]
- 251 (iv) review an offender's status within 60 days after the day on which the board receives
notice from the department that the offender has completed all of the offender's case action
plan components that relate to activities that can be accomplished while the offender is
imprisoned[-] ; and
- 255 (v) if considering whether to parole an offender who has previously been paroled and had the
parole {terminated} **revoked** due to the commission of a new criminal offense by the offender,
consider the facts and circumstances of the new criminal offense when determining whether the
offender should be paroled again.
- 259 (b) The board shall determine whether to remit an offender's criminal accounts receivable under this
Subsection (5) in accordance with Section 77-32b-105 or 77-32b-106.
- 262 (6) In determining whether parole may be terminated, the board shall consider:
- 263 (a) the offense committed by the parolee; and
- 264 (b) the parole period under Section 76-3-202, and in accordance with Section 77-27-13.
- 265

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(7) For an offender placed on parole after December 31, 2018, the board shall terminate parole in accordance with the adult sentencing and supervision length guidelines, as defined in Section 63M-7-401.1, to the extent the guidelines are consistent with the requirements of the law.

269 (8)

~~{(a)} {f} The{f} When determining whether parole should be granted or terminated for an offender, the~~ board may not{ :

271 (i) ~~{f} {f}~~ rely solely on an algorithm or a risk assessment tool score ~~{f in determining whether~~
parole should be granted or terminated for an offender.~~{f} ;}~~

273 ~~{(ii) consider prison capacity, bed availability, or institutional population levels; or }~~

274 ~~{(iii) parole an offender who has not completed treatment or programming that was ordered to be~~
completed while the offender is incarcerated.}

276 ~~{(b) Subsection (8)(a)(ii) does not apply to decisions on releases made under Section 64-13-38.}~~

278 (9) The board may intervene as a limited-purpose party in a judicial or administrative proceeding, including a criminal action, to seek:

280 (a) correction of an order that has or will impact the board's jurisdiction; or

281 (b) clarification regarding an order that may impact the board's jurisdiction.

282 (10) A motion to intervene brought under Subsection (9)(a) shall be raised within 60 days after the day on which a court enters the order that impacts the board's jurisdiction.

446 Section 4. Section 4 is enacted to read:

447 **77-27-5.6. Pardon timelines for an offender on the Sex, Kidnap, and Child Abuse Offender Registry.**

287 (1) As used in this section:

288 (a) "Division" means the Division of Juvenile Justice and Youth Services.

289 (b) "Minor" means the same as that term is defined in Section 80-1-102.

290 (c) "Registry" means the Sex, Kidnap, and Child Abuse Offender Registry created in Section
53-29-102.

292 (d) "Sex offender" means the same as that term is defined in Section 53-29-101.

293 (2) The board may only consider issuing a pardon to an offender for an offense that requires the
offender to register as a sex offender on the registry if:

295 (a) for an offender who is required to register for 10 years under Subsection 53-29-203(1)(a), 10 years
have passed after the later of:

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- 297 (i) the day on which the offender was placed on probation;
298 (ii) the day on which the offender was released from incarceration to parole;
299 (iii) the day on which the offender's sentence was terminated without parole;
300 (iv) the day on which the offender entered a community-based residential program; or
301 (v) for a minor, the day on which the division's custody of the offender was terminated; or
303 (b) for an offender who is required to register for the offender's lifetime under Subsection 53-29-203(1)
(b), 20 years have passed after the later of:
- 305 (i) the day on which the offender was placed on probation;
306 (ii) the day on which the offender was released from incarceration to parole;
307 (iii) the day on which the offender's sentence was terminated without parole;
308 (iv) the day on which the offender entered a community-based residential program; or
309 (v) for a minor, the day on which the division's custody of the offender was terminated.
- 473 (3) The timelines described in Subsection (2) do not apply to:
474 (a) an individual whose conviction was vacated, reversed, or otherwise set aside; or
475 (b) an individual who was found to be factually innocent by a court after filing a petition for:
477 (i) postconviction relief under Title 78B, Chapter 9, Postconviction Remedies Act; or
478 (ii) a writ of habeas corpus under 28 U.S.C. Sec. 2254.
- 479 Section 5. Section **77-27-9** is amended to read:
480 **77-27-9. Parole proceedings.**
313 (1)
- (a) The Board of Pardons and Parole may parole any offender or terminate the sentence of any offender committed to a penal or correctional facility under the jurisdiction of the Department of Corrections except as provided in Subsection (2).
- 316 (b) The board may not release any offender before the minimum term has been served unless the board;
318 (i) finds mitigating circumstances which justify the release;
319 (ii) finds by clear and convincing evidence that the offender is no longer a threat to public safety; and
321 (iii) [~~unless the board has granted~~] holds a full hearing, in open session, after previous notice of the time and location of the hearing, and recorded the proceedings and decisions of the board.
- 324 (c) The board may not parole any offender or terminate the sentence of any offender unless the board has granted a full hearing, in open session, after previous notice of the time and location of the hearing, and recorded the proceedings and decisions of the board.

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- 328 (d) The release of an offender shall be at the initiative of the board, which shall consider each case as the offender becomes eligible. However, a prisoner may submit the prisoner's own application, subject to the rules of the board promulgated in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- 332 (2)
- (a) An individual sentenced to prison [~~prior to~~ before April 29, 1996, for a first degree felony involving child kidnapping, a violation of Section 76-5-301.1; aggravated kidnapping, a violation of Section 76-5-302; rape of a child, a violation of Section 76-5-402.1; object rape of a child, a violation of Section 76-5-402.3; sodomy upon a child, a violation of Section 76-5-403.1; aggravated sexual abuse of a child, a violation of Section 76-5-404.3; aggravated sexual assault, a violation of Section 76-5-405; or a prior offense as described in Section 76-3-407, may not be eligible for release on parole by the Board of Pardons and Parole until the offender has fully completed serving the minimum mandatory sentence imposed by the court. [] This Subsection (2)(a) supersedes any other provision of law.
- 342 (b) The board may not parole any offender or commute or terminate the sentence of any offender before the offender has served the minimum term for the offense, if the offender was sentenced [~~prior to~~ before April 29, 1996, and if:
- 345 (i) the offender was convicted of forcible sexual abuse, forcible sodomy, rape, aggravated assault, kidnapping, aggravated kidnapping, or aggravated sexual assault as defined in Title 76, Chapter 5, Offenses Against the Individual; and
- 348 (ii) the victim of the offense was under 18 years old at the time the offense was committed.
- 350 (c) For a crime committed on or after April 29, 1996, but before January 1, 2019, the board may parole any offender under Subsections (2)(b)(i) and (ii) for lifetime parole as provided in this section.
- 353 (d) The board may not pardon or parole any offender or commute or terminate the sentence of any offender who is sentenced to life in prison without parole except as provided in Subsection (7).
- 356 (e) [~~On or after April 27, 1992, the~~ The] The board may commute a sentence of death only to a sentence of life in prison without parole.
- 358 (f) The restrictions imposed in Subsections (2)(d) and (e) apply to all cases that come before the Board of Pardons and Parole on or after April 27, 1992.
- 360 (g) The board may not parole any offender convicted of a homicide unless:
- 361 (i) the remains of the victim have been recovered; or

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- 362 (ii) the offender can demonstrate by a preponderance of the evidence that the offender has cooperated in
good faith in efforts to locate the remains.
- 364 (h) Subsection (2)(g) applies to any offender convicted of a homicide after February 25, 2021, or
any offender who was incarcerated in a correctional facility on or after February 25, 2021, for a
homicide offense.
- 367 ~~{(i) The board may not re-parole an offender from a period of incarceration imposed by a conviction
if:}~~
- 369 ~~{(i) the offender has previously been paroled under that conviction; and}~~
- 370 ~~{(ii) the offender's previous parole was revoked because the offender was charged with committing a
violent felony during the time the offender was paroled.}~~
- 372 (3) The board may rescind:
- 373 (a) an inmate's prison release date [~~prior to~~] before the inmate being released from custody; or
- 375 (b) an offender's termination date from parole [~~prior to~~] before the offender being terminated from
parole.
- 377 (4)
- (a) The board may issue subpoenas to compel the attendance of witnesses and the production of
evidence, to administer oaths, and to take testimony for the purpose of any investigation by the
board or any of the board's members or by a designated hearing examiner in the performance of the
board's duties.
- 381 (b) A person who willfully disobeys a properly served subpoena issued by the board is guilty of a class
B misdemeanor.
- 383 (5)
- (a) The board may adopt rules consistent with law for the board's government, meetings and hearings,
the conduct of proceedings before the board, the parole and pardon of offenders, the commutation
and termination of sentences, and the general conditions under which parole may be granted and
revoked.
- 387 (b) The rules shall ensure an adequate opportunity for victims to participate at hearings held under this
chapter, as provided in Section 77-27-9.5.
- 389 (c) The rules may allow the board to establish reasonable and equitable time limits on the presentations
by all participants in hearings held under this chapter.

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(6) The board does not provide counseling or therapy for victims as a part of their participation in any hearing under this chapter.

393 (7) The board may parole a person sentenced to life in prison without parole if the board finds by clear and convincing evidence that the person is permanently incapable of being a threat to the safety of society.

396 ~~{Section 5. Section 77-27-9.5 is amended to read: }~~

397 **77-27-9.5. Victim rights regarding hearings.**

398 [(1) As used in this section, "hearing" means a hearing for a parole grant or revocation, or a rehearing of either of these if the offender is present.]

400 [~~(2)~~] (1)

(a) Except as provided in Subsection [~~(2)(b)~~] (1)(b), when a hearing is held regarding any offense committed by the defendant that involved the victim, the victim may attend the hearing to present the victim's views concerning the decisions to be made regarding the defendant.

404 (b)

(i) The victim may not attend a redetermination or special attention hearing if the offender is not present.

406 (ii) At that redetermination or special attention hearing, the board shall give consideration to any presentation previously given by the victim regarding that offender.

409 [~~(3)~~] (2)

(a)

(i) [The] Except as provided in Subsection (2)(a)(ii), the board shall [send timely] provide notice of the hearing to the victim as provided in [Subsection (3)(e)] Subsections (2)(b) through (e) at least 30 days before the day on which the hearing will be held.

413 (ii) If the board determines that circumstances require an expedited hearing resulting in the board being unable to comply with the 30-day notice requirement described in Subsection (2)(a)(i), the board is not required to comply with the 30-day notice requirement but shall send the notice to the victim as soon as practicable to ensure that the victim has adequate notice of the upcoming hearing.

418 (b) The notice described in Subsection (2)(a) shall be provided in terms that a reasonable lay person can understand and include:

420 (i) the date, time, and location of the hearing;

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- 421 (ii) a clear statement of the reason for the hearing, including all offenses involved;
- 422 (iii) the statutes and rules applicable to the victim's participation in the hearing;
- 423 (iv) the address and telephone number of an office or person the victim may contact for further
explanation of the procedure regarding victim participation in the hearing; and
- 426 (v) specific information about how, when, and where the victim may obtain the results of the hearing.
- 428 (c) The board may notify a victim through the board's website or through the mail or other electronic
means available to the board.
- 430 (d) If the victim requests that a notification occur using a specific method offered by the board, the
board shall make reasonable efforts to accommodate that request.
- 432 (e) If the victim is deceased, or the board is otherwise unable to contact the victim, the board shall make
reasonable efforts to notify the victim's immediate family of the hearing.
- 435 (f) The victim may communicate with the board for consideration of continuance of the hearing if travel
or other significant conflict prohibits the victim's attendance at the hearing.
- 438 ~~[(4)]~~ (3) The victim, or family members if the victim is deceased or unable to attend due to physical
incapacity, may:
- 440 (a) attend the hearing to observe;
- 441 (b) make a statement to the board, or the board's appointed examiner, in person or through a
representative appointed by the victim or the victim's family; and
- 443 (c) remain present for the hearing if the victim appoints another to make a statement on the victim's
behalf.
- 445 ~~[(5)]~~ (4) The statement may be presented:
- 446 (a) as a written statement, which may also be read aloud, if the presenter desires; or
- 447 (b) as an oral statement presented by the person selected under Subsection ~~[(4)]~~ (3).
- 448 ~~[(6)]~~ (5) The victim may be accompanied by a member of his family or another individual, present to
provide emotional support to the victim.
- 450 ~~[(7)]~~ (6) The victim may, upon request, testify outside the presence of the ~~[defendant]~~ offender but a
separate hearing may not be held for this purpose.
- 452 ~~[(8)]~~ (7)
- (a) If a victim does not attend a hearing, the victim may provide a written statement that complies with
board rules.

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(b) If the victim does not offer a verbal or written statement at the time of the hearing, the board shall consider any statement from the victim that was previously provided to the board.

457 (c) The board may not afford a written statement provided by a victim less weight than a verbal statement solely because the statement is written.

459 (8)

(a) If a victim or a family members of a victim provides a written statement:

460 (i) the statement and any copy of the statement shall remain in the care, custody, and control of the board; and

462 (ii) the board may not allow an offender to take possession of the written statement or copy of the written statement.

464 (b) Subject to Subsection (8)(c), before a hearing in which the written statement described in Subsection (8)(a) is relevant, the board shall allow the offender an adequate opportunity to view and examine the statement in a location determined by the board.

468 (c) During any review under Subsection (8)(b), the board shall ensure that the offender does not:

470 (i) reproduce the written statement through any means; or

471 (ii) retain or take possession of the written statement or a copy of the written statement.

473 ~~{Section 6. Section 77-27-9.7 is amended to read: }~~

474 **77-27-9.7. Victim right to notification of release -- Notice by board.**

475 (1)

(a) In accordance with Subsection 77-38-104(1)(p), the board shall notify a victim of the victim's right to be informed, upon request, of other releases of the offender under Section 64-13-14.7.

478 (b) The board may provide the notification to the victim as described in Subsection [77-27-9.5(3) (e)] 77-27-9.5(2)(c).

480 (2) The board may include the notification under Subsection (1) with the notification sent under Subsection 77-27-9.5(3).

482 (3) The board shall coordinate with the Department of Corrections to ensure notice under this section is provided to a victim.

559 Section 6. Section 77-40a-303 is amended to read:

560 **77-40a-303. Requirements for a certificate of eligibility to expunge records of a conviction.**

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

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- 564 (a) the petitioner has paid in full all fines and interest ordered by the court related to the conviction for
which expungement is sought;
- 566 (b) the petitioner has paid in full all restitution ordered by the court under Section 77-38b-205; and
- 568 (c) the following time periods have passed after the day on which the petitioner was convicted or
released from incarceration, parole, or probation, whichever occurred last, for the conviction that the
petitioner seeks to expunge:
- 571 (i) 10 years for the conviction of a misdemeanor under Subsection 41-6a-501(2);
- 572 (ii) 10 years for the conviction of a felony for operating a motor vehicle with any amount of a controlled
substance in an individual's body and causing serious bodily injury or death, as codified before May
4, 2022, Laws of Utah 2021,
575 Chapter 236, Section 1, Subsection 58-37-8(2)(g);
- 576 (iii) seven years for the conviction of a felony;
- 577 (iv) five years for the conviction of a drug possession offense that is a felony;
- 578 (v) five years for the conviction of a class A misdemeanor;
- 579 (vi) four years for the conviction of a class B misdemeanor; or
- 580 (vii) three years for the conviction of a class C misdemeanor or infraction.
- 581 (2) A petitioner is not eligible to receive a certificate of eligibility from the bureau to expunge the
records of a conviction under Subsection (1) if:
- 583 (a) except as provided in Subsection (3), the conviction for which expungement is sought is:
- 585 (i) a capital felony;
- 586 (ii) a first degree felony;
- 587 (iii) a felony conviction of a violent felony as defined in Subsection 76-3-203.5(1)(c)(i);
- 589 (iv) a felony conviction described in Subsection 41-6a-501(2); or
- 590 (v) an offense, or a combination of offenses, that require registration as a sex offender, kidnap offender,
or child abuse offender under Title 53, Chapter 29, Sex, Kidnap, and Child Abuse Registry, at the
time of sentencing or at the time of the application for the certificate of eligibility;
- 594 (b) there is a criminal proceeding for a misdemeanor or felony offense pending against the petitioner,
unless the criminal proceeding is for a traffic offense;
- 596 (c) there is a plea in abeyance for a misdemeanor or felony offense pending against the petitioner,
unless the plea in abeyance is for a traffic offense;
- 598

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- 601 (d) the petitioner is currently incarcerated, on parole, or on probation, unless the petitioner is on
probation or parole for an infraction, a traffic offense, or a minor regulatory offense;
- 603 (e) the petitioner intentionally or knowingly provides false or misleading information on the application
for a certificate of eligibility;
- 605 (f) there is a civil protective order, a criminal protective order, or a criminal stalking injunction against
the petitioner that is in effect; or
- 607 (g) the bureau determines that the petitioner's criminal history makes the petitioner ineligible for a
certificate of eligibility under Subsection (4) or (5).
- 612 (3) Subsection (2)(a) does not apply to a conviction for a qualifying sexual offense, as defined in
Section 76-3-209, if, at the time of the offense, a petitioner who committed the offense was at least
14 years old but under 18 years old, unless the petitioner was convicted by a district court as an
adult in accordance with Title 80, Chapter 6, Part 5, Minor Tried as an Adult.
- 616 (4) Subject to Subsections (6), (7), and (8), a petitioner is not eligible to receive a certificate of
eligibility if, at the time the petitioner seeks the certificate of eligibility, the bureau determines that
the petitioner's criminal history, including previously expunged convictions, contains any of the
following:
- 618 (a) two or more felony convictions other than for drug possession offenses, each of which is contained
in a separate criminal episode;
- 621 (b) any combination of three or more convictions other than for drug possession offenses that include
two class A misdemeanor convictions, each of which is contained in a separate criminal episode;
- 624 (c) any combination of four or more convictions other than for drug possession offenses that include
three class B misdemeanor convictions, each of which is contained in a separate criminal episode; or
- 627 (d) five or more convictions other than for drug possession offenses of any degree whether
misdemeanor or felony, each of which is contained in a separate criminal episode.
- 631 (5) Subject to Subsections (7) and (8), a petitioner is not eligible to receive a certificate of eligibility
if, at the time the petitioner seeks the certificate of eligibility, the bureau determines that the
petitioner's criminal history, including previously expunged convictions, contains any of the
following:
- 633 (a) three or more felony convictions for drug possession offenses, each of which is contained in a
separate criminal episode; or

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- (b) any combination of five or more convictions for drug possession offenses, each of which is contained in a separate criminal episode.
- 635 (6) If the petitioner's criminal history contains convictions for both a drug possession offense and a non-drug possession offense arising from the same criminal episode, the bureau shall count that criminal episode as a conviction under Subsection (4) if any non-drug possession offense in that episode:
- 639 (a) is a felony or class A misdemeanor; or
- 640 (b) has the same or a longer waiting period under Subsection (1)(c) than any drug possession offense in that episode.
- 642 (7) Except as provided in Subsection (8), if at least 10 years have passed after the day on which the petitioner was convicted or released from incarceration, parole, or probation, whichever occurred last, for all convictions:
- 645 (a) each numerical eligibility limit under Subsections (4)(a) and (b) shall be increased by one; and
- 647 (b) each numerical eligibility limit under Subsections (4)(c) and (d) is not applicable if the highest level of convicted offense in the criminal episode is:
- 649 (i) a class B misdemeanor;
- 650 (ii) a class C misdemeanor;
- 651 (iii) a drug possession offense if none of the non-drug possession offenses in the criminal episode are a felony or a class A misdemeanor; or
- 653 (iv) an infraction.
- 654 (8) When determining whether a petitioner is eligible for a certificate of eligibility under Subsection (4), (5), or (7), the bureau may not consider a petitioner's pending case or prior conviction for:
- 657 (a) an infraction;
- 658 (b) a traffic offense;
- 659 (c) a minor regulatory offense; or
- 660 (d) a clean slate eligible case that was automatically expunged.
- 661 (9) If the petitioner received a pardon before May 14, 2013, from the Board of Pardons and Parole, the petitioner is entitled to an expungement order for all pardoned crimes in accordance with Section 77-27-5.1.

664 Section 7. **Repealer.**

This Bill Repeals:

665 This bill repeals:

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666 Section **77-27-31, Short title.**

667 Section 8. **Effective date.**

Effective Date.

This bill takes effect on May 6, 2026.

2-26-26 9:49 AM