

Stephanie Pitcher proposes the following substitute bill:

Expungement Amendments

2026 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Stephanie Pitcher

House Sponsor: Jake Sawyer

LONG TITLE

General Description:

This bill addresses expungement of criminal records.

Highlighted Provisions:

This bill:

- modifies a term related to the expungement of criminal records;
- addresses eligibility for expungement when there is a criminal protective order, a criminal stalking injunction, or a civil protective order; and
- addresses the numerical limits that make a petitioner ineligible to receive a certificate of eligibility for an expungement.

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 2025, Chapters 173, 239

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

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

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

77-40a-101 . Definitions.

As used in this chapter:

- (1) "Agency" means a state, county, or local government entity that generates or maintains records relating to an investigation, arrest, detention, or conviction for an offense for which expungement may be ordered.
- (2) "Automatic expungement" means the expungement of records of an investigation,

- 30 arrest, detention, or conviction of an offense without the filing of a petition.
- 31 (3) "Bureau" means the Bureau of Criminal Identification of the Department of Public
32 Safety established in Section 53-10-201.
- 33 (4) "Certificate of eligibility" means a document issued by the bureau stating that the
34 criminal record and all records of arrest, investigation, and detention associated with a
35 case that is the subject of a petition for expungement is eligible for expungement.
- 36 (5) "Civil accounts receivable" means the same as that term is defined in Section
37 77-32b-102.
- 38 (6) "Civil judgment of restitution" means the same as that term is defined in Section
39 77-32b-102.
- 40 (7) "Civil protective order" means the same as that term is defined in Section 78B-7-102.
- 41 (8) "Clean slate eligible case" means a case that is eligible for automatic expungement
42 under Section 77-40a-205.
- 43 (9) "Conviction" means judgment by a criminal court on a verdict or finding of guilty after
44 trial, a plea of guilty, or a plea of nolo contendere.
- 45 (10) "Court" means a district court or a justice court.
- 46 (11) "Criminal accounts receivable" means the same as that term is defined in Section
47 77-32b-102.
- 48 (12) "Criminal protective order" means the same as that term is defined in Section
49 78B-7-102.
- 50 (13) "Criminal stalking injunction" means the same as that term is defined in Section
51 78B-7-102.
- 52 (14) "Department" means the Department of Public Safety established in Section 53-1-103.
- 53 (15) "Drug possession offense" means:
- 54 (a) an offense described in Subsection 58-37-8(2), except for:
- 55 (i) an offense under Subsection 58-37-8(2)(b)(i), possession of 100 pounds or more
56 of marijuana;
- 57 (ii) an offense enhanced under Subsection 58-37-8(2)(e), violation in a correctional
58 facility; or
- 59 (iii) an offense for driving with a controlled substance illegally in the person's body
60 and negligently causing serious bodily injury or death of another, as codified
61 before May 4, 2022, Laws of Utah 2021, Chapter 236, Section 1, Subsection
62 58-37-8(2)(g);
- 63 (b) an offense described in Subsection 58-37a-5(1), use or possession of drug

- 64 paraphernalia;
- 65 (c) an offense described in Section 58-37b-6, possession or use of an imitation
66 controlled substance; or
- 67 (d) any local ordinance which is substantially similar to any of the offenses described in
68 this Subsection (15).
- 69 (16)(a) "Expunge" means to remove a record from public inspection by:
- 70 (i) sealing the record; or
- 71 (ii) restricting or denying access to the record.
- 72 (b) "Expunge" does not include the destruction of a record.
- 73 (17) "Indigent" means a financial status that results from a court finding that a petitioner is
74 financially unable to pay the fee to file a petition for expungement under Section
75 78A-2-302.
- 76 (18) "Jurisdiction" means a state, district, province, political subdivision, territory, or
77 possession of the United States or any foreign country.
- 78 (19)(a) "Minor regulatory offense" means a class B or C misdemeanor offense or a local
79 ordinance.
- 80 (b) "Minor regulatory offense" includes an offense [~~under Section 76-9-110 or 76-9-1106.~~]
81 for:
- 82 (i) unsanctioned camping on state property as described in Section 76-2-208;
- 83 (ii) public intoxication as described in Section 76-9-110;
- 84 (iii) buying or possessing a tobacco product or an electronic cigarette product as a
85 minor as described in Section 76-9-1106; or
- 86 (iv) allowing a vicious animal to go at large as described in Section 76-13-212.
- 87 (c) "Minor regulatory offense" does not include:
- 88 (i) any drug possession offense;
- 89 (ii) an offense under Title 41, Chapter 6a, Part 5, Driving Under the Influence and
90 Reckless Driving;
- 91 (iii) an offense under Sections 73-18-13 through 73-18-13.6;
- 92 (iv) except as provided in Subsection (19)(b), an offense under Title 76, Utah
93 Criminal Code; or
- 94 (v) any local ordinance that is substantially similar to an offense listed in Subsections
95 (19)(c)(i) through (iv).
- 96 (20) "Petitioner" means an individual applying for expungement under this chapter.
- 97 (21) "Plea in abeyance" means the same as that term is defined in Section 77-2a-1.

- 98 (22) "Record" means a book, letter, document, paper, map, plan, photograph, film, card,
99 tape, recording, electronic data, or other documentary material, regardless of physical
100 form or characteristics, that:
- 101 (a) is contained in the agency's file regarding the arrest, detention, investigation,
102 conviction, sentence, incarceration, probation, or parole of an individual; and
 - 103 (b) is prepared, owned, received, or retained by an agency, including a court.
- 104 (23) "Special certificate" means a document issued as described in Subsection
105 77-40a-304(1)(c) by the bureau stating that the criminal record and all records of arrest,
106 investigation, and detention associated with the case do not clearly demonstrate whether
107 the case is eligible for expungement.
- 108 (24)(a) "Traffic offense" means:
- 109 (i) an infraction or a class C misdemeanor offense under Title 41, Chapter 1a, Motor
110 Vehicle Act;
 - 111 (ii) an infraction, a class B misdemeanor offense, or a class C misdemeanor offense
112 under Title 41, Chapter 6a, Traffic Code;
 - 113 (iii) an infraction or a class C misdemeanor offense under Title 41, Chapter 12a,
114 Financial Responsibility of Motor Vehicle Owners and Operators Act;
 - 115 (iv) an infraction, a class B misdemeanor offense, or a class C misdemeanor offense
116 under Title 53, Chapter 3, Part 2, Driver Licensing Act;
 - 117 (v) an infraction, a class B misdemeanor offense, or a class C misdemeanor offense
118 under Title 73, Chapter 18, State Boating Act; and
 - 119 (vi) all local ordinances that are substantially similar to an offense listed in
120 Subsections (24)(a)(i) through (iii).
- 121 (b) "Traffic offense" does not include:
- 122 (i) an offense under Title 41, Chapter 6a, Part 5, Driving Under the Influence and
123 Reckless Driving;
 - 124 (ii) an offense under Section 41-12a-302 for operating a motor vehicle without
125 owner's or operator's security;
 - 126 (iii) an offense under Section 41-12a-303.3 for providing false evidence of owner's or
127 operator's security;
 - 128 (iv) an offense under Sections 73-18-13 through 73-18-13.6; or
 - 129 (v) any local ordinance that is substantially similar to an offense listed in Subsection
130 (24)(b)(i) or (ii).
- 131 (25) "Traffic offense case" means that each offense in the case is a traffic offense.

132 Section 2. Section **77-40a-303** is amended to read:

133 **77-40a-303 . Requirements for a certificate of eligibility to expunge records of a**
134 **conviction.**

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

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

139 (b) the petitioner has paid in full all restitution ordered by the court under Section
140 77-38b-205; and

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

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

145 (ii) 10 years for the conviction of a felony for operating a motor vehicle with any
146 amount of a controlled substance in an individual's body and causing serious
147 bodily injury or death, as codified before May 4, 2022, Laws of Utah 2021, [
148]Chapter 236, Section 1, Subsection 58-37-8(2)(g);

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

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

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

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

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

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

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

158 (i) a capital felony;

159 (ii) a first degree felony;

160 (iii) a felony conviction of a violent felony as defined in Subsection
161 76-3-203.5(1)(c)(i);

162 (iv) a felony conviction described in Subsection 41-6a-501(2); or

163 (v) an offense, or a combination of offenses, that require registration as a sex
164 offender, kidnap offender, or child abuse offender under Title 53, Chapter 29, Sex,
165 Kidnap, and Child Abuse Registry, at the time of the application for the certificate

- 166 of eligibility;
- 167 (b) there is a criminal proceeding for a misdemeanor or felony offense pending against
168 the petitioner, unless the criminal proceeding is for a traffic offense;
- 169 (c) there is a plea in abeyance for a misdemeanor or felony offense pending against the
170 petitioner, unless the plea in abeyance is for a traffic offense;
- 171 (d) the petitioner is currently incarcerated, on parole, or on probation, unless the
172 petitioner is on probation or parole for an infraction, a traffic offense, or a minor
173 regulatory offense;
- 174 (e) the petitioner intentionally or knowingly provides false or misleading information on
175 the application for a certificate of eligibility;
- 176 ~~[(f) there is a civil protective order, a criminal protective order, or a criminal stalking
177 injunction against the petitioner that is in effect; or]~~
- 178 (f) there is a criminal protective order or a criminal stalking injunction against the
179 petitioner that is in effect;
- 180 (g) there is a civil protective order in effect for the petitioner and the civil protective
181 order was issued after July 1, 2020; or
- 182 ~~[(g)]~~ (h) the bureau determines that the petitioner's criminal history makes the petitioner
183 ineligible for a certificate of eligibility under Subsection (4) or (5).
- 184 (3) Subsection (2)(a) does not apply to a conviction for a qualifying sexual offense, as
185 defined in Section 76-3-209, if, at the time of the offense, a petitioner who committed
186 the offense was at least 14 years old but under 18 years old, unless the petitioner was
187 convicted by a district court as an adult in accordance with Title 80, Chapter 6, Part 5,
188 Minor Tried as an Adult.
- 189 (4) Subject to Subsections (6), (7), and (8), a petitioner is not eligible to receive a certificate
190 of eligibility if, at the time the petitioner seeks the certificate of eligibility, the bureau
191 determines that the petitioner's criminal history, including previously expunged
192 convictions, contains any of the following:
- 193 (a) two or more felony convictions other than for drug possession offenses, each of
194 which is contained in a separate criminal episode;
- 195 (b) any combination of three or more convictions other than for drug possession offenses
196 that include two class A misdemeanor convictions, each of which is contained in a
197 separate criminal episode;
- 198 (c) any combination of four or more convictions other than for drug possession offenses
199 that include three class B misdemeanor convictions, each of which is contained in a

- 200 separate criminal episode; or
- 201 (d) five or more convictions other than for drug possession offenses of any degree
202 whether misdemeanor or felony, each of which is contained in a separate criminal
203 episode.
- 204 (5) Subject to Subsections (7) and (8), a petitioner is not eligible to receive a certificate of
205 eligibility if, at the time the petitioner seeks the certificate of eligibility, the bureau
206 determines that the petitioner's criminal history, including previously expunged
207 convictions, contains any of the following:
- 208 (a) three or more felony convictions for drug possession offenses, each of which is
209 contained in a separate criminal episode; or
- 210 (b) any combination of five or more convictions for drug possession offenses, each of
211 which is contained in a separate criminal episode.
- 212 (6) If the petitioner's criminal history contains convictions for both a drug possession
213 offense and a non-drug possession offense arising from the same criminal episode, the
214 bureau shall count that criminal episode as a conviction under Subsection (4) if any
215 non-drug possession offense in that episode:
- 216 (a) is a felony or class A misdemeanor; or
- 217 (b) has the same or a longer waiting period under Subsection (1)(c) than any drug
218 possession offense in that episode.
- 219 (7) Except as provided in Subsection (8), if at least 10 years have passed after the day on
220 which the petitioner was convicted or released from incarceration, parole, or probation,
221 whichever occurred last, for all convictions:
- 222 (a) each numerical eligibility limit under Subsections (4)(a) and (b) shall be increased by
223 one; and
- 224 (b) each numerical eligibility limit under Subsections (4)(c)[~~and (d)~~] , (4)(d), and (5) is
225 not applicable if the highest level of convicted offense in the criminal episode is:
- 226 (i) a class B misdemeanor;
- 227 (ii) a class C misdemeanor;
- 228 (iii) a drug possession offense if none of the non-drug possession offenses in the
229 criminal episode are a felony or a class A misdemeanor; or
- 230 (iv) an infraction.
- 231 (8) When determining whether a petitioner is eligible for a certificate of eligibility under
232 Subsection (4), (5), or (7), the bureau may not consider a petitioner's pending case or
233 prior conviction for:

- 234 (a) an infraction;
- 235 (b) a traffic offense;
- 236 (c) a minor regulatory offense; or
- 237 (d) a clean slate eligible case that was automatically expunged.
- 238 (9) If the petitioner received a pardon before May 14, 2013, from the Board of Pardons and
- 239 Parole, the petitioner is entitled to an expungement order for all pardoned crimes in
- 240 accordance with Section 77-27-5.1.

241 Section 3. **Effective Date.**

242 This bill takes effect on May 6, 2026.