



Expungement Amendments



Expungement Navigator Project

- Federal Justice Assistance Grant administered by CCJJ
- Expungement Navigator Program Manager hired April 2019



2,800 + individuals
received expungement
navigation assistance



1,500 + cases
successfully expunged
with grant assistance



Expungement Workgroup

(Salt Lake County Criminal
Justice Advisory Council)

- Justice Court Judges
- Administrative Office of the Courts
- Bureau of Criminal Identification
- Salt Lake District Attorney's Office
- Salt Lake Legal Defenders
- Pro Bono Legal Providers
- Clean Slate Utah
- Utah Courts Self Help Center

| Automatic Expungement | Petition-based Expungement |
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| <ul style="list-style-type: none"> • Low-level offenses e.g. Dog at Large, Failure to Register Vehicle | <ul style="list-style-type: none"> • Process takes on average 6 months to complete |
| <ul style="list-style-type: none"> • No action required by individual | <ul style="list-style-type: none"> • 4 step process with complicated tasks to complete |
| <ul style="list-style-type: none"> • Approximate implementation starting January 2022 | <ul style="list-style-type: none"> • \$280 to get one case expunged (\$130 if court fees waived) |
| <ul style="list-style-type: none"> • Prosecuting agency may object with reasonable belief that the individual is continuing to engage in criminal activity | <ul style="list-style-type: none"> • Additional levels of scrutiny: Judicial discretion of harm to public interest, victim notification and ability to be heard |



Petition-Based Expungement Process



Data from Salt Lake County's Expungement Navigation Project indicates that in cases where individuals have applied for and were granted certificates of eligibility, **only 56% of those eligible cases were successfully expunged.**



What the Bill Will NOT Change

- An individual seeking to obtain expungement for a conviction is not eligible until all of the following have occurred:
 - The individual has paid in full all fines and interest ordered by the court related to the conviction
 - The individual has paid in full all restitution ordered by the court
 - The following time periods have elapsed from the date of conviction or from date person was released from incarceration, parole, or probation, *whichever occurred last*:
 - Ten years in the case of a misdemeanor conviction for Driving Under the Influence
 - Seven years in the case of a felony*
 - Five years in the case of any class A misdemeanor or felony drug possession
 - Four years in the case of a class B misdemeanor
 - Three years in the case of any misdemeanor or infraction
 - *Additional restrictions apply



Ineligibility

- An individual is not eligible to receive a certificate of eligibility from the bureau if the conviction for which the expungement is sought is:
 - A capital felony
 - A first degree felony
 - A violent felony
 - A felony automobile homicide
 - A felony DUI
 - A registered sex offense
 - A registered child abuse defense
- An individual is not eligible to receive a certificate of eligibility if the bureau determines that the criminal history*, including previously expunged convictions, contains:
 - More than two felony convictions in separate cases (other than for drug possession offenses)
 - More than three convictions in separate cases (other than for drug possession offenses) that include more than two class A misdemeanor convictions, each of which is in a separate case
 - More than two felony convictions for drug possession offenses, each of which is in a separate case
 - *Eligibility determinations above do not include infractions, traffic offenses, or minor regulatory offenses



Policy Goals

1. Ensure and Protect the Interests of Public Safety
2. Make the Process Less Arduous
3. Resolve Ambiguities and/or Provide Clarification



Ensure and Protect Interests of Public Safety

- Being on probation now limits eligibility for expungement.
- Not expunging records relevant to a case ineligible for expungement.
- Prosecutorial communication about certain expunged offenses.
- Permanent stalking injunctions and protective orders.
- Court denial of a petition due to public safety interest.



Making the Expungement Process Less Arduous

- 44% of those who have certificate of eligibility don't complete the process.
- Expungement process has become a barrier.
- This bill considers:
 - Delivery of certified orders
 - BCI infrastructure (BCI Portal) to notify
 - Class B and C misdemeanors no longer before BoP
 - Prosecutorial notification
 - Lowest level offenses have also created a barrier.



Resolving Ambiguities and Providing Clarification

- Notice to correct prosecuting agency.
- Notice to victims now requires a “reasonable effort.”



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