

PROPOSED EXPUNGEMENT AMENDMENTS

Senator Todd Weiler, Chief Sponsor
Representative Ray Ward, House Sponsor

The Issue

Many thousands of Utahns are eligible to have their criminal records cleared through petition-based expungement but can't navigate or finish the process due to an unnecessarily complicated and burdensome 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.**

Additionally, the Expungement Act contains several areas of ambiguities that cause confusion and uncertainty among prosecutors, the courts, law enforcement agencies, and the Bureau of Criminal Identification (BCI).

What This Bill Does

This bill eliminates unnecessary steps in the petition-based expungement process, provides clarification, and resolves ambiguities. **This bill does not remove any public safety safeguards.** Specifically, this bill:

1) Eliminates Unnecessarily Burdensome and Costly Steps in the Process

- Removes the requirement that applicants pick up the certified orders of expungement and individually deliver a copy of the order to each agency with the relevant records; instead BCI will notify the affected agencies once an order of expungement is received.
- Allows court clerks to use existing BCI infrastructure to download electronic certificates and upload final order.
- No longer requires petitioner to locate contracted city attorneys in private practice.
- Lists Public Intoxication and Minor in Possession of Tobacco as Minor Regulatory Offenses.
- Expands eligibility determinations (so that Board of Pardons are not having to make decisions on non-enhanceable Class B and C misdemeanors, infractions, or misdemeanor drug possession offenses).

2) Protects the Interests of Public Safety

- Allow Prosecutors to communicate interdepartmentally regarding expunged records for Stalking, Domestic Violence, Sex Offenses, and Firearms
- Ensures that records connected to a separate, ineligible case, are not expunged.
- Clarifies that those currently on probation cannot expunge their records.
- Ensures that cases linked to permanent stalking injunctions and protective orders are not expunged.
- If the court denied a petition due to public interest, the person is ineligible for another certificate for that case until 5 years has passed.

3) Resolves Ambiguities and Provides Clarification

- Ensures the correct prosecuting agency is being provided notice.
- Simplifies the process by which prosecutors provide notice to victims.
- Fixes the double negative of "not contrary to the interests of the public" without shifting the burden from the petitioner to the prosecutor.

For additional clarification/information contact Expungement Program Manager Jake Smith at JaSmith@slco.org