

JUVENILE RECORD MODIFICATIONS

2023 GENERAL SESSION

STATE OF UTAH

LONG TITLE**General Description:**

This bill amends provisions related to juvenile records.

Highlighted Provisions:

This bill:

- ▶ addresses the disclosure of juvenile records to public and private employers;
- ▶ amends provisions regarding the inspection of juvenile court records;
- ▶ defines terms related to juvenile records;
- ▶ amends and clarifies provisions regarding the vacatur of an adjudication in the juvenile court;
- ▶ clarifies the release of certain juvenile records;
- ▶ amends provisions regarding a petition for expungement of a juvenile court record with an adjudication, including the notice and hearing requirements for the petition;
- ▶ allows for a petition for expungement of a juvenile court record consisting of nonjudicial adjustments;
- ▶ allows for a petition for expungement of a juvenile court record consisting of records of arrest, investigation, detention, and delinquency petitions;
- ▶ allows for a petition for expungement of records regarding a petition where the allegations of delinquency were found to be not true;
- ▶ allows for automatic expungement of a successful nonjudicial adjustment completed on or after October 1, 2023;
- ▶ provides the requirements for expunging juvenile records;
- ▶ addresses the service and distribution of an expungement order;
- ▶ addresses agency duties regarding expungement orders;
- ▶ addresses records in the custody of the Board of Pardons and Parole, the Department of Corrections, or the Division of Child and Family Services;
- ▶ addresses the effect of an expungement order;
- ▶ provides that certain individuals may view or inspect expunged juvenile records;

- 33 ▶ repeals statutes related to the expungement of juvenile records; and
34 ▶ makes technical and conforming changes.

35 **Money Appropriated in this Bill:**

36 None

37 **Other Special Clauses:**

38 None

39 **Utah Code Sections Affected:**

40 AMENDS:

- 41 **34-52-201**, as last amended by Laws of Utah 2022, Chapter 447
42 **34-52-301**, as enacted by Laws of Utah 2019, Chapter 371
43 **77-38-14**, as last amended by Laws of Utah 2021, Chapter 262
44 **78A-6-209**, as last amended by Laws of Utah 2022, Chapters 335, 430
45 **80-6-1001**, as renumbered and amended by Laws of Utah 2021, Chapter 261
46 **80-6-1002**, as last amended by Laws of Utah 2022, Chapter 334

47 ENACTS:

- 48 **80-6-1004.1**, Utah Code Annotated 1953
49 **80-6-1004.2**, Utah Code Annotated 1953
50 **80-6-1004.3**, Utah Code Annotated 1953
51 **80-6-1004.4**, Utah Code Annotated 1953
52 **80-6-1004.5**, Utah Code Annotated 1953
53 **80-6-1006.1**, Utah Code Annotated 1953

54 RENUMBERS AND AMENDS:

- 55 **80-6-1001.1**, (Renumbered from 80-6-1003, as enacted by Laws of Utah 2021, Chapter
56 261)

57 REPEALS:

- 58 **80-6-1004**, as last amended by Laws of Utah 2022, Chapter 334
59 **80-6-1005**, as renumbered and amended by Laws of Utah 2021, Chapter 261
60 **80-6-1006**, as renumbered and amended by Laws of Utah 2021, Chapter 261

61

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

63 Section 1. Section **34-52-201** is amended to read:

34-52-201. Public employer requirements.

(1) A public employer may not exclude an applicant from an initial interview because of a past criminal conviction or juvenile delinquency adjudication.

(2) A public employer excludes an applicant from an initial interview if the public employer:

(a) requires an applicant to disclose, on an employment application, a criminal conviction or juvenile delinquency adjudication;

(b) requires an applicant to disclose, before an initial interview, a criminal conviction or juvenile delinquency adjudication; or

(c) if no interview is conducted, requires an applicant to disclose, before making a conditional offer of employment, a criminal conviction or juvenile delinquency adjudication.

(3) (a) A public employer may not make any inquiry related to an applicant's expunged criminal or juvenile delinquency history.

(b) An applicant seeking employment from a public employer may answer a question related to an expunged criminal or juvenile delinquency record as though the action underlying the expunged criminal or juvenile delinquency record never occurred.

(4) Subject to Subsections (1) through (3), nothing in this section prevents a public employer from:

(a) asking an applicant for information about an applicant's criminal conviction or juvenile delinquency history during an initial interview or after an initial interview; or

(b) considering an applicant's conviction or juvenile delinquency history when making a hiring decision.

(5) Subsections (1) through (3) do not apply:

(a) if federal, state, or local law, including corresponding administrative rules, requires the consideration of an applicant's criminal conviction or juvenile delinquency history;

(b) to a public employer that is a law enforcement agency;

(c) to a public employer that is part of the criminal or juvenile justice system;

(d) to a public employer seeking a nonemployee volunteer;

(e) to a public employer that works with children or vulnerable adults;

(f) to the Department of Alcoholic Beverage Services created in Section 32B-2-203;

(g) to the State Tax Commission;

(h) to a public employer whose primary purpose is performing financial or fiduciary functions; and

(i) to a public transit district hiring or promoting an individual for a safety sensitive position described in Section 17B-2a-825.

Section 2. Section **34-52-301** is amended to read:

34-52-301. Permitted applicant response regarding expunged criminal or juvenile delinquency history.

An applicant seeking employment from a private employer may answer a question related to an expunged criminal or juvenile delinquency record as though the action underlying the expunged criminal or juvenile delinquency record never occurred.

Section 3. Section **77-38-14** is amended to read:

77-38-14. Notice of expungement petition -- Victim's right to object.

(1) (a) The Department of Corrections or the Juvenile Probation Department shall prepare a document explaining the right of a victim or a victim's representative to object to a petition for expungement under Section 77-40a-305 or 80-6-1004 and the procedures for obtaining notice of the petition.

(b) The department or division shall provide each trial court a copy of the document that has jurisdiction over delinquencies or criminal offenses subject to expungement.

(2) The prosecuting attorney in any case leading to a conviction, a charge dismissed in accordance with a plea in abeyance agreement, or an adjudication subject to expungement shall provide a copy of the document to each person who would be entitled to notice of a petition for expungement under Sections 77-40a-305 and ~~[80-6-1004]~~ 80-6-1004.1.

Section 4. Section **78A-6-209** is amended to read:

78A-6-209. Court records -- Inspection.

(1) The juvenile court and the juvenile court's probation department shall keep records as required by the board and the presiding judge.

(2) A court record shall be open to inspection by:

(a) the parents or guardian of a child, a minor who is at least 18 years old, other parties in the case, the attorneys, and agencies to which custody of a minor has been transferred;

(b) for information relating to adult offenders alleged to have committed a sexual offense, a felony or class A misdemeanor drug offense, or an offense against the person under

Title 76, Chapter 5, Offenses Against the Individual, the State Board of Education for the purpose of evaluating whether an individual should be permitted to obtain or retain a license as an educator or serve as an employee or volunteer in a school, with the understanding that the State Board of Education must provide the individual with an opportunity to respond to any information gathered from the State Board of Education's inspection of the records before the State Board of Education makes a decision concerning licensure or employment;

(c) the Criminal Investigations and Technical Services Division, established in Section 53-10-103, for the purpose of a criminal history background check for the purchase of a firearm and establishing good character for issuance of a concealed firearm permit as provided in Section 53-5-704;

(d) the Division of Child and Family Services for the purpose of Child Protective Services Investigations in accordance with Sections 80-2-602 and 80-2-701 and administrative hearings in accordance with Section 80-2-707;

(e) the Office of Licensing for the purpose of conducting a background check in accordance with Section 62A-2-120;

(f) for information related to a minor who has committed a sexual offense, a felony, or an offense that if committed by an adult would be a misdemeanor, the Department of Health for the purpose of evaluating under the provisions of Subsection 26-39-404(3) whether a licensee should be permitted to obtain or retain a license to provide child care, with the understanding that the department must provide the individual who committed the offense with an opportunity to respond to any information gathered from the Department of Health's inspection of records before the Department of Health makes a decision concerning licensure;

(g) for information related to a minor who has committed a sexual offense, a felony, or an offense that if committed by an adult would be a misdemeanor, the Department of Health to determine whether an individual meets the background screening requirements of Title 26, Chapter 21, Part 2, Clearance for Direct Patient Access, with the understanding that the department must provide the individual who committed the offense an opportunity to respond to any information gathered from the Department of Health's inspection of records before the Department of Health makes a decision under that part; and

(h) for information related to a minor who has committed a sexual offense, a felony, or an offense that if committed by an adult would be a misdemeanor, the Department of Health to

determine whether to grant, deny, or revoke background clearance under Section 26-8a-310 for an individual who is seeking or who has obtained an emergency medical service personnel license under Section 26-8a-302, with the understanding that the Department of Health must provide the individual who committed the offense an opportunity to respond to any information gathered from the Department of Health's inspection of records before the Department of Health makes a determination.

(3) With the consent of the juvenile court, a court record may be inspected by the child, by persons having a legitimate interest in the proceedings, and by persons conducting pertinent research studies.

(4) (a) Except as provided in Subsection (4)(b), if a petition is filed charging a minor who is 14 years old or older with an offense that would be a felony if committed by an adult, the juvenile court shall make available to any person upon request the petition, any adjudication or disposition orders, and the delinquency history summary for the minor.

(b) A juvenile court may close the records described in Subsection (4)(a) to the public if the juvenile court finds, on the record, that the records are closed for good cause.

~~[(4) If a petition is filed charging a minor who is 14 years old or older with an offense that would be a felony if committed by an adult, the juvenile court shall make available to any person upon request the petition, any adjudication or disposition orders, and the delinquency history summary of the minor charged unless the records are closed by the juvenile court upon findings on the record for good cause.]~~

(5) A juvenile probation officer's records and reports of social and clinical studies are not open to inspection, except by consent of the juvenile court, given under rules adopted by the board.

(6) The juvenile court may charge a reasonable fee to cover the costs associated with retrieving a requested record that has been archived.

Section 5. Section **80-6-1001** is amended to read:

80-6-1001. Definitions.

As used in this part:

(1) "Abstract" means a copy or summary of a court's disposition.

(2) (a) "Agency" means a state, county, or local government entity that generates or maintains records ~~[relating to a nonjudicial adjustment or an adjudication]~~ for which

expungement may be ordered under this part.

(b) "Agency" includes a local education agency, as defined in Section 53E-1-102, for purposes of this part.

(3) "Expunge" means to seal or otherwise restrict access to a record that is part of an individual's juvenile record and in the custody of the juvenile court or an agency.

(4) (a) "Juvenile record" means all records for all incidents of delinquency involving an individual that are in the custody of the juvenile court or an agency.

(b) "Juvenile record" does not include a record of an adjudication under Chapter 3, Abuse, Neglect, and Dependency Proceedings, or Chapter 4, Termination and Restoration of Parental Rights.

(5) "Petitioner" means an individual requesting an expungement or vacatur under this part.

~~[(3) "Expunge" means to seal or otherwise restrict access to an individual's record held by a court or an agency when the record relates to a nonjudicial adjustment or an adjudication of an offense in the juvenile court.]~~

Section 6. Section **80-6-1001.1**, which is renumbered from Section 80-6-1003 is renumbered and amended to read:

~~[80-6-1003]~~ 80-6-1001.1. Court records -- Abstracts.

~~[(1) (a) Except as otherwise provided in this part, if a minor's juvenile record is expunged, and upon a court order, all photographs or records under Section 80-6-608 shall be destroyed by an agency.]~~

~~[(b) A record of a minor's fingerprints may not be destroyed by an agency.]~~

~~[(2)] (1)~~ (1) A court or agency with custody of an individual's record related to an offense that the individual is alleged to have committed, or an offense that the individual committed, before the individual was 18 years old may not disclose the record to a federal agency that is responsible for criminal justice research or proceedings unless the court or the agency is required to share the record under state or federal law.

~~[(3)] (2)~~ (2) An abstract of a ~~[juvenile court]~~ record for ~~[an]~~ a minor's adjudication of a traffic offense shall be submitted to the Department of Public Safety as provided in Section 53-3-218.

Section 7. Section **80-6-1002** is amended to read:

80-6-1002. Vacatur of adjudication.

~~(1) [(a) An individual who has been adjudicated under this chapter may petition the juvenile court for vacatur of the individual's juvenile court records and any related records in the custody of an agency if the record relates to:]~~

~~[(i) an adjudication under Section 76-10-1302, 76-10-1304, or 76-10-1313; or]~~

~~[(ii) an adjudication that was based on an offense that the petitioner engaged in while subject to force, fraud, or coercion, as defined in Section 76-5-308.]~~

(a) An individual who has been adjudicated for an offense by the juvenile court may petition the juvenile court for vacatur of the adjudication if the adjudication was for a violation of:

(i) Section 76-5-308, human trafficking for labor if the petitioner engaged in the human trafficking for labor while subject to force, fraud, or coercion;

(ii) Section 76-10-1302, prostitution;

(iii) Section 76-10-1304, aiding prostitution; or

(iv) Section 76-10-1313, sexual solicitation.

(b) The petitioner shall include in the petition the relevant juvenile court incident number and any agencies known or alleged to have any ~~[documents]~~ records related to the offense for which vacatur is being sought.

(c) The petitioner shall include with the petition the original criminal history report obtained from the Bureau of Criminal Identification in accordance with the provisions of Section 53-10-108.

(d) The petitioner shall send a copy of the petition to the ~~[county attorney or, if within a prosecution district, the district attorney]~~ prosecuting attorney.

(2) (a) Upon the filing of a petition, the juvenile court shall:

(i) set a date for a hearing; and

(ii) at least 30 days before the day on which the hearing on the petition is scheduled, notify the prosecuting attorney and any affected agency identified in the juvenile record:

(A) that a petition has been filed; and

(B) of the date of the hearing.

~~[(ii) notify the county attorney or district attorney and the agency with custody of the records at least 30 days prior to the hearing of the pendency of the petition; and]~~

250 ~~[(iii)] notify the county attorney or district attorney and the agency with records the~~
251 ~~petitioner is asking the juvenile court to vacate of the date of the hearing.]~~

252 (b) (i) The juvenile court shall provide a victim with the opportunity to request notice
253 of a petition for vacatur.

254 (ii) ~~[A victim shall receive notice of a petition for vacatur at least 30 days before the~~
255 ~~hearing if, before the entry of vacatur, the victim or, in the case of a child or an individual who~~
256 ~~is incapacitated or deceased, the victim's next of kin or authorized representative,]~~ At least 30
257 days before the day on which the hearing is scheduled, a victim shall receive notice of a
258 petition for vacatur if, before the entry of vacatur, the victim, or the victim's next of kin or
259 authorized representative if the victim is a child or an individual who is incapacitated or
260 deceased, submits a written and signed request for notice to the court in the judicial district in
261 which the crime occurred or judgment was entered.

262 (iii) The notice shall include a copy of the petition and statutes and rules applicable to
263 the petition.

264 ~~[(a)]~~ (c) At the hearing the petitioner, the ~~[county attorney or district attorney]~~
265 prosecuting attorney, a victim, and any other person who may have relevant information about
266 the petitioner may testify. ~~[(3)-(b)]~~

267 ~~[(+)]~~ (3) (a) In deciding whether to grant a petition for vacatur of an adjudication of an
268 offense for human trafficking of labor described in Subsection (1)(a)(i), the juvenile court shall
269 consider whether the petitioner acted subject to force, fraud, or coercion~~[as defined in Section~~
270 ~~76-5-308;]~~ at the time of the conduct giving rise to the adjudication.

271 ~~[(+)]~~ ~~[(A)]~~ (b) If the juvenile court finds by a preponderance of the evidence that the
272 petitioner was subject to force, fraud, or coercion~~[as defined in Section 76-5-308]~~ at the time
273 of the conduct giving rise to the adjudication, the juvenile court shall grant vacatur of the
274 adjudication.

275 ~~[(B)]~~ (c) If the juvenile court does not find sufficient evidence, the juvenile court shall
276 deny vacatur of the adjudication.

277 ~~[(+)]~~ (4) If the petition ~~[is for vacatur of any adjudication under Section 76-10-1302,~~
278 ~~76-10-1304, or 76-10-1313]~~ seeks to vacate an adjudication of an offense described in
279 Subsection (1)(a)(ii) through (iv), the juvenile court shall presumptively grant vacatur of the
280 adjudication unless the petitioner acted as a purchaser of any sexual activity.

~~[(c)] (5) [If vacatur is granted, the juvenile court shall order sealed all of the petitioner's records under the control of the juvenile court and any of the petitioner's records under the control of any other agency or official]~~

(a) Except as provided in Subsection (5)(b), if the juvenile court grants a vacatur of an adjudication for an offense described in Subsection (1)(a), the juvenile court shall order expungement of all records in the petitioner's juvenile record pertaining to the incident identified in the petition, including relevant related records contained in the Management Information System and the Licensing Information System.

~~[(6)] (b) The juvenile court may not [vacate a juvenile court record if the record contains an adjudication of]~~ order the expungement of any record in the petitioner's juvenile record that contains an adjudication for a violation of:

~~[(a)] (i)~~ Section 76-5-202, aggravated murder; or

~~[(b)] (ii)~~ Section 76-5-203, murder.

~~[(4)] (6) (a)~~ The petitioner shall be responsible for service of the order of vacatur and expungement to all affected state, county, and local entities, agencies, and officials.

(b) To avoid destruction or [sealing] expungement of the records in whole or in part, the agency or entity receiving the vacatur and expungement order shall only [vacate] expunge all references to the petitioner's name in the records pertaining to the relevant adjudicated juvenile court incident.

~~[(5)] (7) (a) [Upon the entry of vacatur,]~~ Upon entry of a vacatur and expungement order under this section:

(i) the proceedings in the incident identified in the petition [shall be] are considered never to have occurred; and

(ii) the petitioner may [properly reply accordingly upon any inquiry in the matter] reply to an inquiry on the matter as though the proceedings never occurred.

(b) Upon petition, any record expunged under this section may only be released to or viewed by:

(i) the individual who is the subject of the record; or

(ii) a person named in the petition of vacatur.

~~[(b)] Inspection of the records may thereafter only be permitted by the juvenile court upon petition by the individual who is the subject of the records, and only to persons named in~~

the petition.]

Section 8. Section **80-6-1004.1** is enacted to read:

80-6-1004.1. Petition to expunge adjudication -- Hearing and notice -- Waiver --

Order.

(1) An individual may petition the juvenile court for an order to expunge the individual's juvenile record if:

(a) the individual was adjudicated for an offense in the juvenile court;

(b) the individual has reached 18 years old; and

(c) at least one year has passed from the day on which:

(i) the juvenile court's continuing jurisdiction was terminated; or

(ii) if the individual was committed to secure care, the individual was unconditionally released from the custody of the division.

(2) If a petitioner is 18 years old or older and seeks an expungement under Subsection (1), the petition shall include a criminal history report obtained from the Bureau of Criminal Identification in accordance with Section 53-10-108.

(3) If the juvenile court finds and states on the record the reason why waiver is appropriate, the juvenile court may waive:

(a) the age requirement under Subsection (1)(b) for a petition; or

(b) the one-year requirement under Subsection (1)(c) for a petition.

(4) (a) Upon the filing of a petition described in Subsection (1)(a), the juvenile court shall:

(i) set a date for a hearing; and

(ii) at least 30 days before the day on which the hearing on the petition is scheduled, notify the prosecuting attorney and any affected agency identified in the petitioner's juvenile record:

(A) that the petition has been filed; and

(B) of the date of the hearing.

(b) (i) The juvenile court shall provide a victim with the opportunity to request notice of a petition described in Subsection (1).

(ii) Upon the victim's request under Subsection (4)(b)(i), the victim shall receive notice of the petition at least 30 days before the day on which the hearing is scheduled if, before the

day on which an expungement order is made, the victim, or the victim's next of kin or authorized representative if the victim is a child or an individual who is incapacitated or deceased, submits a written and signed request for notice to the juvenile court in the judicial district in which the offense occurred or judgment is entered.

(iii) The notice described in Subsection (4)(b)(ii) shall include a copy of the petition and any statutes and rules applicable to the petition.

(c) At the hearing, the prosecuting attorney, a victim, and any other individual who may have relevant information about the petitioner may testify.

(d) The juvenile court may waive the hearing for the petition if:

(i) (A) there is no victim; or

(B) if there is a victim, the victim agrees to the waiver; and

(ii) the prosecuting attorney agrees to the waiver.

(5) (a) Except as provided in Subsection (5)(c), the juvenile court may grant a petition described in Subsection (1) and order expungement of the petitioner's juvenile record if the juvenile court finds that the petitioner is rehabilitated to the satisfaction of the court in accordance with Subsection (5)(b).

(b) In deciding whether to grant a petition described in Subsection (1), the juvenile court shall consider:

(i) the nature and seriousness of the conduct for which the petitioner was adjudicated;

(ii) the petitioner's response to programs and treatment;

(iii) the petitioner's behavior subsequent to adjudication;

(iv) the petitioner's reason for seeking the expungement; and

(v) if the petitioner was adjudicated delinquent for a felony within the last seven years and is a restricted person under Subsection 76-10-503(1)(b):

(A) whether the felony was committed against an individual;

(B) whether the expungement poses an unreasonable risk to public safety;

(C) the amount of time that the petitioner has already been a restricted person; and

(D) the petitioner's behavior during the period of time that the petitioner has been as a restricted person.

(c) The juvenile court may not grant a petition described in Subsection (1) and order expungement of the petitioner's juvenile record if:

(i) the petitioner has been convicted of a violent felony within five years before the day on which the petition for expungement is filed;

(ii) the petitioner was adjudicated delinquent for a violent felony within the last ten years and is a restricted person under Subsection 76-10-503(1)(a);

(iii) there are delinquency or criminal proceedings pending against the petitioner;

(iv) (A) the petitioner has not satisfied a judgment of restitution entered by the juvenile court for an adjudication in the petitioner's juvenile record; or

(B) the petitioner has not satisfied restitution that was a condition of a nonjudicial adjustment in the petitioner's juvenile record; or

(v) the petitioner's juvenile record contains an adjudication for a violation of:

(A) Section 76-5-202, aggravated murder; or

(B) Section 76-5-203, murder.

Section 9. Section **80-6-1004.2** is enacted to read:

80-6-1004.2. Petition to expunge nonjudicial adjustment -- Order.

(1) An individual may petition the juvenile court for an order to expunge the individual's juvenile record if:

(a) the individual's juvenile record consists solely of nonjudicial adjustments;

(b) the individual's juvenile record is not eligible for automatic expungement under Section 80-6-1004.5; and

(c) the individual has reached 18 years old.

(2) If a petitioner is 18 years old or older and seeks an expungement under Subsection (1), the petition shall include a criminal history report obtained from the Bureau of Criminal Identification in accordance with Section 53-10-108.

(3) If the juvenile court finds and states on the record the reason why the waiver is appropriate, the juvenile court may waive the age requirement under Subsection (1)(c) for a petition.

(4) Except as provided in Subsection (5), the juvenile court shall grant a petition described in Subsection (1) and order expungement of the petitioner's juvenile record.

(5) The juvenile court may not grant a petition described in Subsection (1) and order expungement of the petitioner's juvenile record if:

(a) the petitioner has been convicted of a violent felony within five years before the day

on which the petition for expungement is filed;

(b) there are delinquency or criminal proceedings pending against the petitioner; or

(c) the petitioner has not satisfied restitution that was a condition of a nonjudicial adjustment in the petitioner's juvenile record.

Section 10. Section **80-6-1004.3** is enacted to read:

80-6-1004.3. Petition to expunge arrest, investigation, detention, or delinquency petition -- Screening -- Order.

(1) An individual may petition the juvenile court for an order to expunge the individual's juvenile record if:

(a) the individual's juvenile record consists solely of records of arrest, investigation, detention, or petitions that did not result in adjudication;

(b) the individual was not adjudicated for an offense; and

(c) the individual has reached 18 years old.

(2) If a petitioner is 18 years old or older and seeks an expungement under Subsection (1), the petition shall include a criminal history report obtained from the Bureau of Criminal Identification in accordance with Section 53-10-108.

(3) If the juvenile court finds and states on the record the reason why the waiver is appropriate, the juvenile court may waive the age requirement under Subsection (1)(c) for a petition.

(4) (a) Upon the filing of a petition described in Subsection (1), the juvenile court shall notify the prosecuting attorney that the petition has been filed.

(b) Within 30 days after the day on which the notification is sent under Subsection (4)(a), the prosecuting attorney shall respond to the petition stating whether the petitioner meets the requirements for expungement under this section.

(5) Except as provided in Subsection (6), the juvenile court shall grant a petition described in Subsection (1) and order expungement of the petitioner's juvenile record if each case identified in the petition:

(a) has been screened by the investigating law enforcement agency and the prosecuting attorney has determined that no charges will be filed against the individual;

(b) resulted in all charges in the case being dismissed with prejudice;

(c) resulted in all charges in the case being dismissed without prejudice or without

condition and the prosecuting attorney consents to the expungement; or

(d) is barred from prosecution by the statute of limitations.

(6) The juvenile court may not grant a petition described in Subsection (1) and order expungement of the petitioner's juvenile record if there are delinquency or criminal proceedings pending against the petitioner.

Section 11. Section **80-6-1004.4** is enacted to read:

80-6-1004.4. Petition to expunge petition not found to be true -- Order.

(1) An individual may petition the juvenile court, at any time, for an order to expunge any record in the individual's juvenile record pertaining to an incident where a petition was filed if:

(a) the incident was presented to the juvenile court for adjudication based upon an admission, plea, or trial;

(b) the juvenile court did not find by beyond a reasonable doubt the allegations in the petition to be true;

(c) at least 30 days have passed since the day on which the juvenile court did not find the allegations in the petition to be true; and

(d) an appeal has not been filed for the petition within the 30-day period described in Subsection (1)(c).

(2) The juvenile court shall grant a petition described in Subsection (1), without a hearing, and order expungement of any record in the petitioner's juvenile record pertaining to the incident.

Section 12. Section **80-6-1004.5** is enacted to read:

80-6-1004.5. Automatic expungement of successful nonjudicial adjustment -- Effect of successful nonjudicial adjustment.

(1) The juvenile court shall issue, without a petition, an order to expunge an individual's record if:

(a) the individual has reached 18 years old;

(b) the individual's juvenile record consists solely of nonjudicial adjustments;

(c) the individual has successfully completed each nonjudicial adjustment; and

(d) all nonjudicial adjustments were completed on or after October 1, 2023.

(2) If an individual's juvenile record consists solely of nonjudicial adjustments that

were completed before October 1, 2023:

(a) any nonjudicial adjustment in the individual's juvenile record is considered to never have occurred if:

(i) the individual has reached 18 years old; and

(ii) the individual has satisfied restitution that was a condition of any nonjudicial adjustment in the individual's juvenile record; and

(b) the individual may reply to any inquiry about a nonjudicial adjustment as though there never was a nonjudicial adjustment.

Section 13. Section **80-6-1006.1** is enacted to read:

80-6-1006.1. Exceptions to expungement order -- Service of expungement order -- Agency Duties -- Effect of expungement -- Access to expunged record.

(1) This section only applies to an expungement order under Section 80-6-1004.1, 80-6-1004.2, 80-6-1004.3, 80-6-1004.4, or 80-6-1004.5.

(2) Notwithstanding any other provision under Section 80-6-1004.1, 80-6-1004.2, 80-6-1004.3, 80-6-1004.4, or 80-6-1004.5, the Board of Pardons and Parole and the Department of Corrections:

(a) may not be required by the juvenile court to seal a record in the possession of the Board of Pardons and Parole or the Department of Corrections; and

(b) may be required by the juvenile court to restrict access to a record if the record is specifically identified in the expungement order as a record in the possession of the Board of Pardons and Parole or the Department of Corrections.

(3) Notwithstanding any other provision under Section 80-6-1004.1, 80-6-1004.2, 80-6-1004.3, 80-6-1004.4, or 80-6-1004.5, the juvenile court may not order the Division of Child and Family Services to expunge a record in an individual's juvenile record that is contained in the Management Information System or the Licensing Information System unless:

(a) the record is unsupported; or

(b) after notice and an opportunity to be heard, the Division of Child and Family Services stipulates in writing to expunging the record.

(4) If the juvenile court issues an expungement order under this part, the juvenile court shall send a copy of the expungement order to any affected agency or official identified in the juvenile record.

498 (5) (a) Except as provided in Subsection (6), upon receipt of an expungement order, an
499 agency shall:

500 (i) to avoid destruction or expungement of records in whole or in part, expunge only
501 the references to the individual's name in the records relating to the individual's adjudication,
502 nonjudicial adjustment, petition, or arrest, investigation, or detention for which expungement
503 was ordered; and

504 (ii) destroy all photographs and records created under Section 80-6-608, except that a
505 record of a minor's fingerprints may not be destroyed by an agency.

506 (b) Except as provided by Subsection (6), an agency that receives a copy of an
507 expungement order shall mail an affidavit to the individual who is the subject of the
508 expungement order, or the individual's attorney, that the agency has complied with the
509 expungement order.

510 (6) The Board of Pardons and Parole and the Department of Corrections:

511 (a) may not disclose records expunged in an expungement order unless required by
512 law;

513 (b) are not required to destroy any photograph or record created under Section
514 80-6-608;

515 (c) may use an expunged record for purposes related to incarceration and supervision
516 of an individual under the jurisdiction of the Board of Pardons and Parole, including for the
517 purpose of making decisions about:

518 (i) the treatment and programming of the individual;

519 (ii) housing of the individual;

520 (iii) applicable guidelines regarding the individual; or

521 (iv) supervision conditions for the individual;

522 (d) are not prohibited from disclosing or sharing any information in an expunged
523 record with another agency that uses the same record management system as the Board of
524 Pardons and Parole or the Department of Corrections; and

525 (e) are not required to mail an affidavit under Subsection (5)(b).

526 (7) Upon entry of an expungement order under this part:

527 (a) an adjudication, a nonjudicial adjustment, a petition, or an arrest, investigation, or
528 detention for which the record is expunged is considered to have never occurred; and

529 (b) the individual, who is the subject of the expungement order, may reply to an inquiry
530 on the matter as though there never was an adjudication, a nonjudicial adjustment, a petition, or
531 an arrest, investigation, or detention.

532 (8) Any record expunged under Section 80-6-1004.1, 80-6-1004.2, 80-6-1004.3,
533 80-6-1004.4, or 80-6-1004.5 may be released to or viewed by the individual who is the subject
534 of the record.

535 Section 14. **Repealer.**

536 This bill repeals:

537 Section **80-6-1004, Requirements to apply to expunge an adjudication.**

538 Section **80-6-1005, Nonjudicial adjustment expungement.**

539 Section **80-6-1006, Effect of an expunged record -- Agency duties.**