

Effective 10/1/2024

77-40a-401 Processing of expungement order -- Written confirmation of expungement -- Effect of an expungement.

- (1) In processing an expungement order, a court and the bureau shall give priority to:
 - (a) first, an expungement order granting a petition for expungement under Part 3, Petition for Expungement;
 - (b) second, an expungement order upon a pardon by the Board of Pardons and Parole as described in Section 77-27-5.1;
 - (c) third, an expungement order upon a plea in abeyance as described in Section 77-2a-3;
 - (d) fourth, an expungement order where an individual submitted a form requesting automatic expungement under Part 2, Automatic Expungement and Deletion; and
 - (e) fifth, an expungement order where the court identified the case as being eligible for automatic expungement under Part 2, Automatic Expungement and Deletion.
- (2) An individual, who receives an expungement order under Section 77-27-5.1, shall pay a processing fee to the bureau, established in accordance with the process in Section 63J-1-504, before the bureau's record may be expunged.
- (3)
 - (a) An agency shall:
 - (i) develop and implement a process to identify an expunged record; and
 - (ii) keep, index, and maintain all expunged records of arrests and convictions.
 - (b) Subsection (3)(a) does not prevent an agency from maintaining or destroying a record in accordance with a retention schedule when the record is an expunged record.
 - (c) An agency is not required to redact an expunged record, or a record referencing an expunged record, that pertains to more than one individual until the agency is required to release the record.
- (4)
 - (a) If an individual who receives an expungement requests confirmation from an agency, the agency shall provide the individual with written confirmation that:
 - (i) the agency has identified all records subject to expungement; and
 - (ii) except as otherwise provided by Sections 77-40a-402 and 77-40a-403, the agency will restrict or deny access to all of the expunged records.
 - (b) The bureau may charge a fee for providing a written confirmation under Subsection (4)(a) in accordance with the process in Section 63J-1-504.
- (5) Upon entry of an expungement order, an individual, who received the expungement, may respond to any inquiry as though the arrest, investigation, detention, prosecution, or conviction did not occur unless otherwise provided by law or ordered by a court to respond differently.
- (6)
 - (a) An expungement order may not restrict an agency's use or dissemination of records in the agency's ordinary course of business until the agency has received a copy of the order.
 - (b) Any action taken by an agency after issuance of the order but prior to the agency's receipt of a copy of the order may not be invalidated by the order.
- (7) An expungement order may not:
 - (a) terminate or invalidate any pending administrative proceedings or actions of which the individual had notice according to the records of the administrative body prior to issuance of the expungement order;
 - (b) affect the enforcement of any order or findings issued by an administrative body pursuant to the administrative body's lawful authority prior to issuance of the expungement order;

- (c) remove any evidence relating to the individual including records of arrest, which the administrative body has used or may use in these proceedings; or
- (d) prevent an agency from maintaining, sharing, or distributing any record required by law.

Amended by Chapter 180, 2024 General Session