

Effective 7/1/2026

77-40a-403 Release and use of expunged records -- Agencies.

- (1)
 - (a) An agency with an expunged record, or any employee of an agency with an expunged record, may not knowingly or intentionally divulge any information contained in the expunged record to any person, or another agency, without a court order unless:
 - (i) specifically authorized by Subsection (4) or Section 77-40a-404; or
 - (ii) subject to Subsection (1)(b), the information in an expunged record is being shared with another agency through a records management system that both agencies use for the purpose of record management.
 - (b) An agency with a records management system may not disclose any information in an expunged record to another agency or person, or allow another agency or person access to an expunged record, if that agency or person does not use the records management system for the purpose of record management.
- (2) The following entities or agencies may receive information contained in expunged records upon specific request:
 - (a) the Board of Pardons and Parole;
 - (b) Peace Officer Standards and Training;
 - (c) federal authorities if required by federal law;
 - (d) the State Board of Education;
 - (e) the Department of Criminal Justice, for purposes of investigating applicants for judicial office; and
 - (f) a research institution or an agency engaged in research regarding the criminal justice system if:
 - (i) the research institution or agency provides a legitimate research purpose for gathering information from the expunged records;
 - (ii) the research institution or agency enters into a data sharing agreement with the court or agency with custody of the expunged records that protects the confidentiality of any identifying information in the expunged records;
 - (iii) any research using expunged records does not include any individual's name or identifying information in any product of that research; and
 - (iv) any product resulting from research using expunged records includes a disclosure that expunged records were used for research purposes.
- (3) Except as otherwise provided by this section or by court order, a person, an agency, or an entity authorized by this section to view expunged records may not reveal or release any information obtained from the expunged records to anyone outside the specific request, including distribution on a public website.
- (4) A prosecuting attorney may communicate with another prosecuting attorney, or another prosecutorial agency, regarding information in an expunged record that includes a conviction, or a charge dismissed as a result of a successful completion of a plea in abeyance agreement, for:
 - (a) stalking as described in Section 76-5-106.5;
 - (b) a domestic violence offense as defined in Section 77-36-1;
 - (c) an offense that would result in the individual being a child abuse offender, a sex offender, or a kidnap offender under Section 53-29-202; or
 - (d) a weapons offense under Title 76, Chapter 11, Weapons.

- (5) Except as provided in Subsection (7), a prosecuting attorney may not use an expunged record for the purpose of a sentencing enhancement or as a basis for charging an individual with an offense that requires a prior conviction.
- (6) The bureau may also use the information in the bureau's index as described in Section 53-5a-303.
- (7) If an individual is charged with a felony, or an offense eligible for enhancement based on a prior conviction, after obtaining an order of expungement, the prosecuting attorney may petition the court in which the individual is charged to open the expunged records upon a showing of good cause.
- (8)
 - (a) For judicial sentencing, a court may order any records expunged under this chapter or Section 77-27-5.1 to be opened and admitted into evidence.
 - (b) The records are confidential and are available for inspection only by the court, parties, counsel for the parties, and any other person who is authorized by the court to inspect the records.
 - (c) At the end of the action or proceeding, the court shall order the records expunged again.
 - (d) Any person authorized by this Subsection (8) to view expunged records may not reveal or release any information obtained from the expunged records to anyone outside the court.
- (9) Records released under this chapter are classified as protected under Section 63G-2-305 and are accessible only as provided under Title 63G, Chapter 2, Part 2, Access to Records, and Subsection 53-10-108(2)(k) for records held by the bureau.

Amended by Chapter 291, 2026 General Session