

EXPUNGEMENT OF RECORDS

1999 GENERAL SESSION

STATE OF UTAH

Sponsor: Brent H. Goodfellow

AN ACT RELATING TO THE CODE OF CRIMINAL PROCEDURE; PROVIDING FOR ONLY THE EXPUNGEMENT OF ALL REFERENCES TO THE PETITIONER IN RECORDS UPON THE GRANTING OF AN EXPUNGEMENT BY THE COURT, BUT NOT THE DESTRUCTION OR SEALING OF THE RECORDS.

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

77-18-14, as enacted by Chapter 143, Laws of Utah 1994

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

Section 1. Section **77-18-14** is amended to read:

77-18-14. Order to expunge -- Distribution of order -- Redaction -- Receipt of order -- Administrative proceedings -- Division requirements.

(1) Except as otherwise provided in this chapter, upon approval of a petition for expungement, the court shall enter an order to expunge all records in the petitioner's case which are in the custody of that court or in the custody of any other court, agency, or official.

(2) The petitioner shall be responsible for service of the order of expungement to all affected state, county, and local entities, agencies, and officials including the court, arresting agency, booking agency, Department of Corrections, and the division.

(3) The division shall forward a copy of the expungement order to the Federal Bureau of Investigation.

(4) ~~[Any]~~ In order to avoid destruction or sealing of the records in whole or in part, any state, county, or local entity, agency, or official receiving an expungement order shall only expunge all [records pertaining to the order except that the entity, agency, or official] references to the petitioner's name. The petitioner, based on good cause, may petition the court to [modify its order to permit redaction of the petitioner's name to avoid destruction or sealing of] expunge the records in whole or in part.

(5) No state, county, or local entity, agency, or official may, after receiving service of an expungement order, divulge information contained in the expunged portion of the record.

(6) (a) An order of expungement shall not restrict an agency's use or dissemination of records in its ordinary course of business until the agency has received service of 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 order of expungement may not:

(a) terminate or invalidate any pending administrative proceedings or actions of which the petitioner 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 its lawful authority prior to issuance of the expungement order; or

(c) remove any evidence relating to the petitioner including records of arrest, which the administrative body has used or may use in these proceedings.

(8) The division shall provide the petitioner with a list of the agencies affected by this subsection with clear written directions regarding the requirements of this section.