

EXPUNGEMENT OF CONVICTIONS AMENDMENTS

2000 GENERAL SESSION

STATE OF UTAH

Sponsor: Katherine M. Bryson

AN ACT RELATING TO THE CODE OF CRIMINAL PROCEDURE; MAKING A TECHNICAL CORRECTION TO A CROSS-REFERENCE.

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

AMENDS:

77-18-12, as last amended by Chapter 170, Laws of Utah 1998

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

Section 1. Section **77-18-12** is amended to read:

77-18-12. Grounds for denial of certificate of eligibility -- Effect of prior convictions.

(1) The division shall issue a certificate of eligibility to a petitioner seeking to obtain expungement for a criminal record unless prior to issuing a certificate of eligibility the division finds, through records of a governmental agency, including national criminal data bases that:

(a) the conviction for which expungement is sought is a capital felony, first degree felony, second degree forcible felony, a conviction involving a sexual act against a minor, any registerable sex offense as defined in Section 77-27-21.5(1)~~(e)~~ (d), or an attempt, solicitation, or conspiracy to commit any offense listed in that subsection;

(b) the petitioner's record includes two or more convictions for any type of offense which would be classified as a felony under Utah law, not arising out of a single criminal episode, regardless of the jurisdiction in which the convictions occurred;

(c) the petitioner has previously obtained expungement in any jurisdiction of a crime which would be classified as a felony in Utah;

(d) the petitioner has previously obtained expungement in any jurisdiction of two or more convictions which would be classified as misdemeanors in Utah unless the convictions would be classified as class B or class C misdemeanors in Utah and 15 years have passed since these misdemeanor convictions;

(e) the petitioner was convicted in any jurisdiction, subsequent to the conviction for which

expungement is sought and within the time periods as provided in Subsection (2), of a crime which would be classified in Utah as a felony, misdemeanor, or infraction;

(f) the person has a combination of three or more convictions not arising out of a single criminal episode including any conviction for an offense which would be classified under Utah law as a class B or class A misdemeanor or as a felony, including any misdemeanor and felony convictions previously expunged, regardless of the jurisdiction in which the conviction or expungement occurred; or

(g) a proceeding involving a crime is pending or being instituted in any jurisdiction against the petitioner.

(2) A conviction may not be included for purposes of Subsection (1)(e), and a conviction may not be considered for expungement until, after the petitioner's release from incarceration, parole, or probation, whichever occurs last and all fines ordered by the court have been satisfied, at least the following period of time has elapsed:

(a) seven years in the case of a felony;

(b) six years in the case of an alcohol-related traffic offense under Title 41, Motor Vehicles;

(c) five years in the case of a class A misdemeanor;

(d) three years in the case of any other misdemeanor or infraction under Title 76, Utah

Criminal Code; or

(e) 15 years in the case of multiple class B or class C misdemeanors.

(3) A petitioner who would not be eligible to receive a certificate of eligibility under Subsection (1) (d) or (f) may receive a certificate of eligibility for one additional expungement if at least 15 years have elapsed since the last of any of the following:

(a) release from incarceration, parole, or probation relating to the most recent conviction; and

(b) any other conviction which would have prevented issuance of a certificate of eligibility under Subsection (1)(e).

(4) If, after reasonable research, a disposition for an arrest on the criminal history file is unobtainable, the division may issue a special certificate giving discretion of eligibility to the court.