

1 **EXPUNGEMENT OF DRIVING UNDER THE**
2 **INFLUENCE CONVICTIONS**

3 2002 GENERAL SESSION

4 STATE OF UTAH

5 **Sponsor: A. Lamont Tyler**

6 **This act modifies provisions relating to expungement of convictions. The act extends the**
7 **period of time that a conviction for an alcohol or drug-related driving offense is not eligible**
8 **for expungement from six to ten years.**

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

10 AMENDS:

11 **77-18-12**, as last amended by Chapter 98, Laws of Utah 2000

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

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

14 **77-18-12. Grounds for denial of certificate of eligibility -- Effect of prior convictions.**

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

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

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

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

27 (d) the petitioner has previously obtained expungement in any jurisdiction of two or more



28 convictions which would be classified as misdemeanors in Utah unless the convictions would be
29 classified as class B or class C misdemeanors in Utah and 15 years have passed since these
30 misdemeanor convictions;

31 (e) the petitioner was convicted in any jurisdiction, subsequent to the conviction for which
32 expungement is sought and within the time periods as provided in Subsection (2), of a crime which
33 would be classified in Utah as a felony, misdemeanor, or infraction;

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

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

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

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

46 (b) [~~six~~] ten years in the case of an [~~alcohol-related~~] alcohol or drug-related traffic offense
47 under Title 41, Motor Vehicles;

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

49 (d) three years in the case of any other misdemeanor or infraction under Title 76, Utah
50 Criminal Code; or

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

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

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

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

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

Legislative Review Note
as of 2-5-02 10:09 AM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel