

28 expungement for a criminal record unless prior to issuing a certificate of eligibility the division
29 finds, through records of a governmental agency, including national criminal data bases that:

- 30 (a) the conviction for which expungement is sought is:
 - 31 (i) a capital felony;
 - 32 (ii) a first degree felony;
 - 33 (iii) a second degree forcible felony;
 - 34 (iv) automobile homicide;
 - 35 (v) a felony violation of Section 41-6a-502;
 - 36 (vi) a conviction involving a sexual act against a minor;
 - 37 (vii) any registerable sex offense as defined in Subsection 77-27-21.5(1)~~(f)~~ (e); or
 - 38 (viii) an attempt, solicitation, or conspiracy to commit any offense listed in Subsection
39 77-27-21.5(1)~~(f)~~ (e);

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

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

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

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

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

57 (g) a proceeding involving a crime is pending or being instituted in any jurisdiction
58 against the petitioner~~[-];~~ or

59 (h) the petitioner has not paid the full amount of restitution ordered by a court for the
60 criminal conviction for which the person is seeking an expungement.

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

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

66 (b) ten years in the case of:

67 (i) a misdemeanor conviction or the equivalent of a misdemeanor conviction as defined
68 in Subsection 41-6a-501(2); or

69 (ii) a felony violation of Subsection 58-37-8(2)(g);

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

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

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

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

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

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

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

Legislative Review Note

as of 1-16-06 6:27 AM

Based on a limited legal review, this legislation has not been determined to have a high probability of being held unconstitutional.

Office of Legislative Research and General Counsel

Fiscal Note
Bill Number SB0150

Expungement Amendments

21-Jan-06

3:03 PM

State Impact

No Fiscal Impact.

Individual and Business Impact

No Fiscal Impact.

Office of the Legislative Fiscal Analyst