

EXPUNGEMENT AMENDMENTS

2008 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: R. Curt Webb

Senate Sponsor: Gregory S. Bell

LONG TITLE

General Description:

This bill amends the Code of Criminal Procedure regarding the expungement time period for multiple ~~class A misdemeanors~~ **misdemeanor offenses** .

Highlighted Provisions:

This bill:

▶ amends the provisions regarding time periods for expungement to specify that in the case of ~~multiple~~ :

▶ **multiple** ~~class A misdemeanors~~ **15** ~~years~~ must elapse before the offenses may be expunged ~~;~~ :

▶ **multiple class B misdemeanors, 12 years must elapse; and**

▶ **multiple class C misdemeanors, six years must elapse** ~~;~~ .

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

77-18-12, as last amended by Laws of Utah 2006, Chapters 50, 189, and 269

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.



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

31 (a) the conviction for which expungement is sought is:

32 (i) a capital felony;

33 (ii) a first degree felony;

34 (iii) a second degree forcible felony;

35 (iv) automobile homicide;

36 (v) a felony violation of Section 41-6a-502;

37 (vi) a conviction involving a sexual act against a minor;

38 (vii) any registerable sex offense as defined in Subsection 77-27-21.5(1)(f); or

39 (viii) an attempt, solicitation, or conspiracy to commit any offense listed in Subsection
40 77-27-21.5(1)(f);

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

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

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

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

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

58 (g) a proceeding involving a crime is pending or being instituted in any jurisdiction

59 against the petitioner; or

60 (h) the petitioner has not paid the full amount of court ordered restitution pursuant to
 61 Section 77-38a-302, or by the Board of Pardons pursuant to Section 77-27-6 on the conviction
 62 for which the person is seeking an expungement.

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

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

68 (b) ten years in the case of:

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

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

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

73 (d) three years in the case of any other misdemeanor or infraction under Title 76, Utah
 74 Criminal Code; [or]

74a **H→ (e) six years in the case of multiple class C misdemeanors;**

75 ~~[(e) 15]~~ **(f) 12 ←H** years in the case of multiple class B **H→ [or class C] ←H**

75a misdemeanors[-]; or

76 **H→ [(f) 20] (g) 15 ←H** years in the case of multiple class A misdemeanors.

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

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

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

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

Legislative Review Note
as of 11-8-07 4:40 PM

Office of Legislative Research and General Counsel

H.B. 90 - Expungement Amendments

Fiscal Note

2008 General Session

State of Utah

State Impact

Enactment of this bill will not require additional appropriations.

Individual, Business and/or Local Impact

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals, businesses, or local governments.
