



30 -- Notice -- Written evaluation -- Objections -- Hearing.

31 (1) (a) A person convicted of a crime may petition the convicting court for an  
32 expungement of the record of conviction as provided in this section.

33 (b) If a person has received a pardon from the Utah Board of Pardons and Parole, the  
34 person is entitled to an expungement of all pardoned crimes, subject to the exceptions under  
35 Subsection 77-18-12(1)(a).

36 (2) (a) The court shall require receipt of a certificate of eligibility issued by the division  
37 under Section 77-18-12.

38 (b) The fee for each certificate of eligibility is \$25. This fee remains in effect until  
39 changed by the division through the process under Section 63-38-3.2.

40 (c) Funds generated under Subsection (2)(b) shall be deposited in the General Fund as a  
41 dedicated credit by the department to cover the costs incurred in providing the information.

42 (3) The petition and certificate of eligibility shall be filed with the court and served upon  
43 the prosecuting attorney and the Department of Corrections.

44 (4) A victim shall receive notice of a petition for expungement if, prior to the entry of  
45 an expungement order, the victim or, in the case of a minor or a person who is incapacitated or  
46 deceased, the victim's next of kin or authorized representative, submits a written and signed  
47 request for notice to the office of the Department of Corrections in the judicial district in which  
48 the crime occurred or judgment was entered.

49 (5) The Department of Corrections shall serve notice of the expungement request by  
50 first-class mail to the victim at the most recent address of record on file with the department.  
51 The notice shall include a copy of the petition, certificate of eligibility, and statutes and rules  
52 applicable to the petition.

53 (6) The court in its discretion may request a written evaluation by Adult Parole and  
54 Probation of the Department of Corrections.

55 (a) The evaluation shall include a recommendation concerning the petition for  
56 expungement.

57 (b) If expungement is recommended, the evaluation shall include certification that the

58 petitioner has completed all requirements of sentencing and probation or parole and state any  
59 rationale that would support or refute consideration for expungement.

60 (c) The conclusions and recommendations contained in the evaluation shall be provided  
61 to the petitioner and the prosecuting attorney.

62 (7) If the prosecuting attorney or a victim submits a written objection to the court  
63 concerning the petition within 30 days after service of the notice, or if the petitioner objects to  
64 the conclusions and recommendations in the evaluation within 15 days after receipt of the  
65 conclusions and recommendations, the court shall set a date for a hearing and notify the  
66 prosecuting attorney for the jurisdiction, the petitioner, and the victim of the date set for the  
67 hearing.

68 (8) Any person who has relevant information about the petitioner may testify at the  
69 hearing.

70 (9) The prosecuting attorney may respond to the court with a recommendation or  
71 objection within 30 days.

72 (10) If an objection is not received under Subsection (7), the expungement may be  
73 granted without a hearing.

74 (11) A court may not expunge a conviction of:

75 (a) a capital felony;

76 (b) a first degree felony;

77 (c) a second degree forcible felony;

78 (d) any sexual act against a minor; or

79 (e) an offense for which a certificate of eligibility may not be issued under Section  
80 77-18-12.

81 Section 2. Section **77-18-12** is amended to read:

82 **77-18-12. Grounds for denial of certificate of eligibility -- Effect of prior**  
83 **convictions.**

84 (1) The division shall issue a certificate of eligibility to a petitioner seeking to obtain  
85 expungement for a criminal record unless prior to issuing a certificate of eligibility the division

86 finds, through records of a governmental agency, including national criminal data bases that:

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

88 (i) a capital felony;

89 (ii) a first degree felony;

90 (iii) a second degree forcible felony;

91 (iv) automobile homicide;

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

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

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

95 (viii) an attempt, solicitation, or conspiracy to commit any offense listed in Subsection  
96 77-27-21.5(1)(f);

97 (b) the petitioner's record includes two or more convictions for any type of offense  
98 ~~[which] that~~ would be ~~[classified as]~~ a felony under Utah law~~[-, not arising]~~ and that do not arise  
99 out of a single criminal episode, regardless of the jurisdiction in which the convictions occurred,  
100 unless the petitioner has received a pardon from the Board of Pardons and Parole for either or  
101 both of the convictions;

102 (c) the petitioner has previously obtained expungement in any jurisdiction of a crime  
103 which would be ~~[classified as]~~ a felony ~~[in]~~ under Utah law;

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

108 (e) the petitioner was convicted in any jurisdiction, subsequent to the conviction for  
109 which expungement is sought and within the time periods ~~[as]~~ provided in Subsection (2), of a  
110 crime ~~[which] that~~ would be ~~[classified in Utah as]~~ a felony, misdemeanor, or infraction under  
111 Utah law;

112 (f) the petitioner has a combination of three or more convictions not arising out of a  
113 single criminal episode, including any conviction for an offense which would be ~~[classified under]~~

114 ~~Utah law as~~ a class B or class A misdemeanor or [as] a felony[;] under Utah law, and including  
115 any misdemeanor and felony convictions previously expunged, regardless of the jurisdiction in  
116 which the conviction or expungement occurred, unless the petitioner has received a pardon from  
117 the Board of Pardons and Parole for one or more of the convictions;

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

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

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

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

128 (b) ten years in the case of:

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

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

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

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

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

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

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

141 (b) any other conviction which would have prevented issuance of a certificate of

142 eligibility under Subsection (1)(e).

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