

**EXPUNGEMENT AMENDMENTS**

2008 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: R. Curt Webb**

Senate Sponsor: Gregory S. Bell

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**LONG TITLE**

**General Description:**

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

**Highlighted Provisions:**

This bill:

▶ amends the provisions regarding time periods for expungement to specify that in the case of multiple class A misdemeanors, 20 years must elapse before the offenses may be expunged.

**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

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*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~~

75 (e) 15 years in the case of multiple class B or class C misdemeanors~~[-]; or~~

76 (f) 20 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**

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**H.B. 90 - Expungement Amendments**

**Fiscal Note**

2008 General Session

State of Utah

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**State Impact**

Enactment of this bill will not require additional appropriations.

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**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.

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