

1 **EXPUNGED RECORDS AMENDMENTS**

2 2012 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Richard A. Greenwood**

5 Senate Sponsor: Stuart C. Reid

6

7 **LONG TITLE**

8 **General Description:**

9 This bill allows a government agency or official to divulge expunged records under
10 certain circumstances.

11 **Highlighted Provisions:**

12 This bill:

- 13 ▶ allows a government agency or official to release expunged information contained
- 14 in a record of arrest, investigation, detention, or conviction as authorized by statute.

15 **Money Appropriated in this Bill:**

16 None

17 **Other Special Clauses:**

18 None

19 **Utah Code Sections Affected:**

20 AMENDS:

21 **77-40-108**, as renumbered and amended by Laws of Utah 2010, Chapter 283

22

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

24 Section 1. Section **77-40-108** is amended to read:

25 **77-40-108. Distribution of order -- Redaction -- Receipt of order --**

26 **Administrative proceedings -- Bureau requirements.**

27 (1) The petitioner shall be responsible for delivering a copy of the order of



28 expungement to all affected agencies and officials including the court, arresting agency,
29 booking agency, Department of Corrections, and the bureau.

30 (2) Unless otherwise provided by law or ordered by a court of competent jurisdiction to
31 respond differently, a person who has received an expungement of an arrest or conviction
32 under this chapter may respond to any inquiry as though the arrest or conviction did not occur.

33 (3) The bureau shall forward a copy of the expungement order to the Federal Bureau of
34 Investigation.

35 (4) An agency receiving an expungement order shall expunge the petitioner's
36 identifying information contained in records in its possession relating to the incident for which
37 expungement is ordered.

38 (5) Unless ordered by a court to do so, or in accordance with Subsection 77-40-109(2),
39 a government agency or official may not divulge [~~identifying~~] expunged information regarding
40 the petitioner contained in a record of arrest, investigation, detention, or conviction after
41 receiving an expungement order.

42 (6) (a) An order of expungement may not restrict an agency's use or dissemination of
43 records in its ordinary course of business until the agency has received a copy of the order.

44 (b) Any action taken by an agency after issuance of the order but prior to the agency's
45 receipt of a copy of the order may not be invalidated by the order.

46 (7) An order of expungement may not:

47 (a) terminate or invalidate any pending administrative proceedings or actions of which
48 the petitioner had notice according to the records of the administrative body prior to issuance of
49 the expungement order;

50 (b) affect the enforcement of any order or findings issued by an administrative body
51 pursuant to its lawful authority prior to issuance of the expungement order; or

52 (c) remove any evidence relating to the petitioner including records of arrest, which the
53 administrative body has used or may use in these proceedings.

54 (8) The bureau shall provide clear written directions to the petitioner along with a list
55 of agencies known to be affected by the order of expungement.

Legislative Review Note
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Office of Legislative Research and General Counsel