

SB0182S01 compared with SB0182

~~{deleted text}~~ shows text that was in SB0182 but was deleted in SB0182S01.

inserted text shows text that was not in SB0182 but was inserted into SB0182S01.

DISCLAIMER: This document is provided to assist you in your comparison of the two bills. Sometimes this automated comparison will not be completely accurate. Therefore, you need to read the actual bill. This automatically generated document could experience abnormalities caused by: limitations of the compare program; bad input data; the timing of the compare; and other potential causes.

Senator Howard A. Stephenson proposes the following substitute bill:

EXPUNGEMENT OF DRUG OFFENSES

2012 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Howard A. Stephenson

House Sponsor: _____

LONG TITLE

General Description:

This bill ~~{provides a special procedure for expunging drug-related}~~creates a committee within the Utah Substance Abuse Advisory Council to study issues related to the expungement of drug-related offenses.

Highlighted Provisions:

This bill:

- ▶ ~~{provides that a petitioner with two or more controlled substance related}~~creates a committee within the Utah Substance Abuse Advisory Council to study issues related to the expungement of drug-related offenses ~~{may petition for an expungement;~~
- ▶ ~~requires the petitioner to apply for and receive a certificate of eligibility;}~~and
- ▶ requires that the ~~{prosecutor, upon receiving a petition for expungement, provide a~~

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~~copy of the petitioner's presentence report and other documentation considered of interest to the court; and~~

~~allows the court, after a hearing, to expunge any or all offenses on the petitioner's record;~~ committee report to the Judiciary, Law Enforcement and Criminal Justice Committee no later than November 30, 2012.

Money Appropriated in this Bill:

None

Other Special Clauses:

~~{None}~~ This bill is repealed November 30, 2012.

~~{Utah Code Sections}~~ Uncodified Material Affected:

ENACTS ~~{~~

~~77-40-114, Utah Code Annotated 1953}~~ UNCODIFIED MATERIAL

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

Section 1. ~~{Section 77-40-114 is enacted to read:~~

~~77-40-114. Provisions regarding drug offenses:~~

~~(1) This section governs the process for petitioners with two or more controlled substance offenses, but none of the offenses listed in Subsection 77-40-105(2), in their criminal history:~~

~~(2) A petitioner may apply for and receive a certificate of eligibility from the bureau if:~~

~~(a) the petitioner's criminal history contains two or more violations of Title 58, Chapter 37, Utah Controlled Substances Act;~~

~~(b) the petitioner's record does not contain any of the offenses listed in Subsection 77-40-105(2);~~

~~(c) the petitioner has completed all rehabilitation and paid all restitution ordered by the court;~~

~~(d) at least five years have elapsed since the petitioner was convicted or released from incarceration, parole, or probation, whichever occurred last; and~~

~~(e) the petitioner pays all fees associated with applying for and receiving a certificate of eligibility.~~

~~(3) The petitioner shall file a petition for expungement and the certificate of eligibility~~

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~~in the district court where the petitioner resides:~~

~~— (4) The petitioner shall deliver a copy of the petition to the prosecutor's office that prosecuted the last offense in the petitioner's criminal history:~~

~~— (5) The prosecutor's office:~~

~~— (a) shall provide to the court the presentence report and any other documentation the office determines necessary; and~~

~~— (b) may file an objection or recommendation regarding the } **Drug Offenses**~~

Expungement Committee -- Creation -- Membership.

(1) In accordance with Subsection 63M-7-302(5), there is created a Drug-Related Offenses Expungement Committee consisting of representatives from:

(a) the Statewide Association of Prosecutors, designated by the Board of Directors of the Statewide Association of Prosecutors;

(b) the Bureau of Criminal Identification, Utah Department of Public Safety, designated by the director of the bureau;

(c) the courts, designated by the Judicial Council;

(d) the Utah Council on Crime Victims, designated by the chair of the council;

(e) the Utah Support Advocates for Recovery Awareness;

(f) the Utah Sentencing Commission, designated by the commission director;

(g) the Utah Board of Pardons and Parole, designated by the chair;

(h) the Division of Substance Abuse and Mental Health, designated by the director of the division; and

(i) the Utah Substance Abuse Advisory Council, designated by the chair.

(2) Other individuals, including legislators, may be invited to participate by a majority of the committee members.

(3) A majority of the members of the task force constitute a quorum.

Section 2. Duties -- Interim report.

(1) The committee shall study and make recommendations regarding whether to allow expungement of drug-related offenses from a person's criminal record, and, if so:

(a) the steps required to expunge drug-related offenses;

(b) which offenses may be expunged;

(c) how many may be expunged; and

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(d) other issues regarding expungement.

~~(6) The court shall:~~

~~—— (a) review the petition, certificate of eligibility, petitioner's criminal history, presentence report, and any other documents received pertaining to the petition for expungement; and~~

~~—— (b) hold a hearing in which it may receive testimony from:~~

~~—— (i) the petitioner;~~

~~—— (ii) the prosecutor; and~~

~~—— (iii) any other person who has relevant information about the petitioner;~~

~~—— (7) The court may issue an order expunging any or all of the offenses on the petitioner's criminal history if the court finds by clear and convincing evidence that:~~

~~—— (a) some or all of the offenses on the petitioner's criminal history were the direct result of an addiction to a controlled substance;~~

~~—— (b) the petitioner has completed all rehabilitation required by the court and is no longer addicted to controlled substances;~~

~~—— (c) the petitioner has demonstrated the ability to obtain and maintain employment; and~~

~~—— (d) the petitioner has become a contributing member of society.~~

Legislative Review Note

~~—— as of 2-7-12 12:45 PM~~

~~Office of Legislative Research and General Counsel; 2) A final report, including any proposed legislation shall be presented to the Judiciary, Law Enforcement and Criminal Justice Committee before November 30, 2012.~~

Section 3. Repeal date.

This bill is repealed November 30, 2012.