

**EXPUNGEMENT AMENDMENTS**

2015 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Eric K. Hutchings**

Senate Sponsor: \_\_\_\_\_

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**LONG TITLE**

**Committee Note:**

The Judiciary Interim Committee recommended this bill.

**General Description:**

This bill makes specific changes regarding the expungement of information in state agency files and creates a statement of legislative intent with regard to expungement.

**Highlighted Provisions:**

This bill:

▶ requires that ~~H→~~ **[the Division of Occupational and Professional Licensing]** an

15a administrative agency ~~←H~~ remove

information regarding expunged convictions from public databases;

▶ creates a statement of legislative intent for expungement; and

▶ provides a stated purpose for expungement.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**58-1-106**, as last amended by Laws of Utah 2008, Chapter 382

**77-40-101**, as enacted by Laws of Utah 2010, Chapter 283

**77-40-108**, as last amended by Laws of Utah 2013, Chapters 20 and 41



59 the division made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking  
60 Act.

61 (3) (a) The division may provide the home address or home telephone number of a  
62 licensee on a list prepared under Subsection (1) upon the request of an individual who provides  
63 proper identification and the reason for the request, in writing, to the division.

64 (b) A request under Subsection (3)(a) is limited to providing information on only one  
65 licensee per request.

66 (c) The division shall provide, by rule, what constitutes proper identification under  
67 Subsection (3)(a).

68 (4) The division shall insure that information expunged in accordance with Title 77,  
69 Chapter 40, Utah Expungement Act, is removed from any ~~H~~→ **state-controlled** ←~~H~~ database  
69a available to the public.

70 Section 2. Section **77-40-101** is amended to read:

71 **77-40-101. Title -- Purpose -- Legislative intent.**

72 (1) This chapter is known as the "Utah Expungement Act."

73 (2) The Legislature recognizes that an individual who has committed a criminal act and  
74 paid his or her debt to society should, under certain circumstances, be able to move forward  
75 and rebuild their life without being hindered by the past.

76 (3) The Legislature, therefore, finds and declares the following:

77 (a) The inability to obtain an expungement can prevent certain individuals from  
78 obtaining gainful employment; however the need for employment should be balanced  
79 appropriately against the desire for public safety.

80 (b) It is the intent of the Legislature that allowing for the expungement of certain  
81 criminal offenses will provide an opportunity to:

82 (i) break the cycle of criminal recidivism;

83 (ii) increase public safety;

84 (iii) assist the growing population of offenders reentering the community to establish a  
85 self-sustaining life through opportunities in employment; and

86 (iv) restore certain civil liberties to offenders to allow them to fully participate in  
87 society.

88 (c) This chapter provides for the expungement of certain arrest and conviction records  
89 under limited circumstances. Obtaining an expungement of these records allows for the

90 removal of a record from public access but does not result in the destruction of the record. An  
 91 expunged record remains available for use in accordance with Sections 77-40-109 and  
 92 77-40-110.

93 (d) This chapter further requires that state agencies remove or redact certain identifying  
 94 information from their public records and maintain that information only for internal record  
 95 keeping purposes to preserve the integrity of the agency's files.

96 Section 3. Section 77-40-108 is amended to read:

97 **77-40-108. Distribution of order -- Redaction -- Receipt of order --**

98 **Administrative proceedings -- Bureau requirements.**

99 (1) (a) A person who receives an order of expungement under this chapter or Section  
 100 77-27-5.1 shall be responsible for delivering a copy of the order of expungement to all affected  
 101 criminal justice agencies and officials including the court, arresting agency, booking agency,  
 102 prosecuting agency, Department of Corrections, and the bureau.

103 (b) A person who receives an order of expungement under Section 77-27-5.1, shall pay  
 104 a processing fee to the bureau, established in accordance with the process in Section 63J-1-504,  
 105 before the bureau's record may be expunged.

106 (2) Unless otherwise provided by law or ordered by a court of competent jurisdiction to  
 107 respond differently, a person who has received an expungement of an arrest or conviction  
 108 under this chapter or Section 77-27-5.1, may respond to any inquiry as though the arrest or  
 109 conviction did not occur.

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

112 (4) ~~H~~→ [An agency] Within 30 days of ~~←H~~ receiving an expungement order  
 112a ~~H~~→ an agency ~~←H~~ shall expunge or redact the petitioner's  
 113 identifying information contained in records in its possession or under its control relating to the  
 114 incident for which expungement is ordered. The agency may retain the ~~H~~→ [~~expunged or redacted~~]  
 114a original ~~←H~~  
 115 information internally in its files, however the information may not be made available to the  
 116 public or any other agency except as allowed under Sections 77-40-109 and 77-40-110.

117 (5) Unless ordered by a court to do so, or in accordance with Subsection 77-40-109(2),  
 118 a government agency or official may not divulge information or records which have been  
 119 expunged regarding the petitioner contained in a record of arrest, investigation, detention,  
 119a ~~H~~→ [~~or~~] ~~←H~~  
 120 conviction ~~H~~→ , or administrative disciplinary action ~~←H~~ after receiving an expungement order.