

**EXPUNGEMENT FOR JUVENILES**

2017 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Dixon M. Pitcher**

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

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**LONG TITLE**

**General Description:**

This bill amends provisions relating to motor vehicle records after expungement of criminal records.

**Highlighted Provisions:**

This bill:

- ▶ modifies provisions relating to records kept following expungement of a person's record of offenses committed while under the age of 21; and
- ▶ makes technical changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**53-3-109**, as last amended by Laws of Utah 2016, Chapter 175

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

Section 1. Section **53-3-109** is amended to read:

**53-3-109. Records -- Access -- Fees -- Rulemaking.**

(1) (a) Except as provided in this section, the division shall classify all records of the



28 division [~~shall be classified and disclosed~~] and, when required, disclose records in accordance  
29 with Title 63G, Chapter 2, Government Records Access and Management Act.

30 (b) The division may only disclose personal identifying information:

31 (i) when the division determines it is in the interest of the public safety to disclose the  
32 information; and

33 (ii) in accordance with the federal Driver's Privacy Protection Act of 1994, 18 U.S.C.  
34 Chapter 123.

35 (c) The division may disclose personal identifying information:

36 (i) to a licensed private investigator holding a valid agency license, with a legitimate  
37 business need;

38 (ii) to an insurer, insurance support organization, or a self-insured entity, or its agents,  
39 employees, or contractors that issues any motor vehicle insurance under Title 31A, Chapter 22,  
40 Part 3, Motor Vehicle Insurance, for use in connection with claims investigation activities,  
41 antifraud activities, rating, or underwriting for any person issued a license certificate under this  
42 chapter; or

43 (iii) to a depository institution as defined in Section [7-1-103](#) for use in accordance with  
44 the federal Driver's Privacy Protection Act of 1994, 18 U.S.C. Chapter 123.

45 (2) (a) ~~[A]~~ The division shall advise a person who receives personal identifying  
46 information [~~shall be advised by the division~~] that the person may not:

47 (i) disclose the personal identifying information from that record to any other person;

48 or

49 (ii) use the personal identifying information from that record for advertising or  
50 solicitation purposes.

51 (b) Any use of personal identifying information by an insurer or insurance support  
52 organization, or by a self-insured entity or its agents, employees, or contractors not authorized  
53 by Subsection (1)(c)(ii) is:

54 (i) an unfair marketing practice under Section [31A-23a-402](#); or

55 (ii) an unfair claim settlement practice under Subsection [31A-26-303](#)(3).

56 (3) (a) Notwithstanding the provisions of Subsection (1)(b), the division or its designee  
57 may disclose portions of a driving record, in accordance with this Subsection (3), to:

58 (i) an insurer as defined under Section [31A-1-301](#), or a designee of an insurer, for

59 purposes of assessing driving risk on the insurer's current motor vehicle insurance  
60 policyholders;

61 (ii) an employer or a designee of an employer, for purposes of monitoring the driving  
62 record and status of current employees who drive as a responsibility of the employee's  
63 employment if the requester demonstrates that the requester has obtained the written consent of  
64 the individual to whom the information pertains; and

65 (iii) an employer or the employer's agents to obtain or verify information relating to a  
66 holder of a commercial driver license that is required under 49 U.S.C. Chapter 313.

67 (b) ~~[A]~~ For a disclosure under Subsection (3)(a)(i), the division shall:

68 (i) include the licensed driver's name, driver license number, date of birth, and an  
69 indication of whether the driver has had a moving traffic violation that is a reportable violation,  
70 as defined under Section 53-3-102 during the previous month;

71 (ii) ~~[be limited]~~ limit the disclosure to the records of drivers who, at the time of the  
72 disclosure, are covered under a motor vehicle insurance policy of the insurer; and

73 (iii) ~~[be made under]~~ disclose in accordance with a contract with the insurer or a  
74 designee of an insurer.

75 (c) ~~[A]~~ For a disclosure under Subsection (3)(a)(ii) or (iii), the division shall:

76 (i) include the licensed driver's name, driver license number, date of birth, and an  
77 indication of whether the driver has had a moving traffic violation that is a reportable violation,  
78 as defined under Section 53-3-102, during the previous month;

79 (ii) ~~[be limited]~~ limit the disclosure to the records of a current employee of an  
80 employer;

81 (iii) ~~[be made under]~~ disclose in accordance with a contract with the employer or a  
82 designee of an employer; and

83 (iv) include an indication of whether the driver has had a change reflected in the  
84 driver's:

85 (A) driving status;

86 (B) license class;

87 (C) medical self-certification status; or

88 (D) medical examiner's certificate under 49 C.F.R. Sec. 391.45.

89 (d) The contract under Subsection (3)(b)(iii) or (c)(iii) shall specify:

- 90 (i) the criteria for searching and compiling the driving records being requested;
- 91 (ii) the frequency of the disclosures;
- 92 (iii) the format of the disclosures, which may be in bulk electronic form; and
- 93 (iv) a reasonable charge for the driving record disclosures under this Subsection (3).

94 (4) The division may:

95 (a) collect fees in accordance with Section [53-3-105](#) for searching and compiling its  
96 files or furnishing a report on the driving record of a person;

97 (b) prepare under the seal of the division and deliver upon request, a certified copy of  
98 any record of the division, and charge a fee under Section [63J-1-504](#) for each document  
99 authenticated; and

100 (c) charge reasonable fees established in accordance with the procedures and  
101 requirements of Section [63J-1-504](#) for disclosing personal identifying information under  
102 Subsection (1)(c).

103 (5) Each certified copy of a driving record furnished in accordance with this section is  
104 admissible in any court proceeding in the same manner as the original.

105 (6) (a) A driving record furnished under this section:

106 (i) may only report on the driving record of a person for a period of 10 years[-]; and

107 (ii) may not contain evidence of a conviction for an offense or the denial, suspension,  
108 or revocation of a person's driver license under Section [53-3-220](#), if:

109 (A) the offense for which the person was convicted or the driving privilege was denied,  
110 suspended, or revoked is described in Section [41-6a-502](#), [41-6a-502.5](#), [41-6a-517](#), [41-6a-520](#),  
111 [41-6a-530](#), or [53-3-223](#);

112 (B) the person was under the age of 21 at the time the offense occurred;

113 (C) the person has not been convicted of or had their driving privilege denied,  
114 suspended, or revoked for a previous offense described in Subsection (6)(a)(ii)(A);

115 (D) the person has not been arrested or convicted for any other offense for which the  
116 division may extend under Subsection [53-3-220](#)(2) the driver license denial, suspension, or  
117 revocation described in Subsection (6)(a)(ii)(A);

118 (E) any restriction periods imposed under Sections [41-6a-529](#) and [41-6a-518.2](#) related  
119 to the offense described in Subsection (6)(a)(ii)(A) have expired; and

120 (F) the person has paid applicable fees required under Subsections [53-3-105](#)(23) and

121 [53-3-105\(24\)](#).

122 (b) The provisions of Subsection (6)(a)(ii) do not apply to:

123 (i) a CDIP or CDL license holder; or

124 (ii) an offense that occurred in a commercial motor vehicle.

125 (c) If a person described in Subsection (6)(a)(ii) is convicted or suspended for a  
126 subsequent offense as described in Subsection (6)(a)(ii)(A), the division shall report on the  
127 driving record of the person evidence of the conviction for an offense or suspension of the  
128 person's driver license under Subsection (6)(a)(ii).

129 ~~[(b)]~~ (d) Subsection (6)(a) does not apply to court or law enforcement reports, reports  
130 of commercial driver license violations, or reports for commercial driver license holders.

131 (7) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
132 division may make rules to designate:

133 (a) what information ~~[shall be included]~~ the division shall include in a report on the  
134 driving record of a person;

135 (b) the form of a report or copy of the report which may include electronic format;

136 (c) the form of a certified copy, as required under Section [53-3-216](#), which may include  
137 electronic format;

138 (d) the form of a signature required under this chapter which may include electronic  
139 format;

140 (e) the form of written request to the division required under this chapter which may  
141 include electronic format;

142 (f) the procedures, requirements, and formats for disclosing personal identifying  
143 information under Subsection (1)(c); and

144 (g) the procedures, requirements, and formats necessary for the implementation of  
145 Subsection (3).

146 (8) (a) It is a class B misdemeanor for a person to knowingly or intentionally access,  
147 use, disclose, or disseminate a record created or maintained by the division or any information  
148 contained in a record created or maintained by the division for a purpose prohibited or not  
149 permitted by statute, rule, regulation, or policy of a governmental entity.

150 (b) A person who discovers or becomes aware of any unauthorized use of records  
151 created or maintained by the division shall inform the commissioner and the division director

152 of the unauthorized use.

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**Legislative Review Note**  
**Office of Legislative Research and General Counsel**