

S.B. 12

EXPUNGEMENT AMENDMENTS

Senator **Daniel W. Thatcher** proposes the following amendments:

1. *Page 1, Lines 15 through 16:*

- 15 ▶ prevents the dissemination of information regarding pardons and expungements by a person
authorized to view expunged records pursuant to statute ;
16 { ~~→ provides for the sealing of records of certain court cases;~~ }

2. *Page 1, Lines 20 through 22:*

- 20 expungement; and =
21 { ~~→ decreases the waiting period after the petition for expungement is filed; and~~ }
22 ▶ allows the court during sentencing in a criminal prosecution to take into account if

3. *Page 11, Lines 311 through 328:*

- 311 { ~~(7) (a) If no objection is received within [60 days from the date the petition for~~
312 ~~expungement was filed with the court] 35 days after receipt by the prosecutor, the~~
313 ~~expungement may be granted without a hearing.~~
314 ~~—— (b) Receipt by the prosecutor may be established by verification of electronic~~
315 ~~transmittal by the court to the prosecutor's inbox, post office mailing stamp, certificate of~~
316 ~~delivery, or personal service.~~
317 ~~—— (c) The time period may be extended for 28 additional days upon the filing of a motion~~
318 ~~and a finding of the court that good cause exists to extend the time period. }~~
319 { ~~(8)~~ } (7) The court shall issue an order of expungement if it finds by clear and convincing
320 evidence that:
321 (a) the petition and certificate of eligibility are sufficient;
322 (b) the statutory requirements have been met;
323 (c) if the petitioner seeks expungement of drug possession offenses allowed under
324 Subsection 77-40-105[~~(5)~~](6), the petitioner is not illegally using controlled substances and is
325 successfully managing any substance addiction; and
326 (d) it is not contrary to the interests of the public to grant the expungement.
327 { ~~(9)~~ } (8) A court may not expunge a conviction of an offense for which a certificate of
328 eligibility may not be or should not have been issued under Section 77-40-104 or 77-40-105.

4. *Page 12, Line 364 through Page 13, Line 378:*

364 (d) prevent ~~{ the Driver License Division }~~ an agency from maintaining, sharing, or
distributing any

365 record required by law.

366 ~~{ (8) Notwithstanding any other provision of the Utah Code, any agency that maintains~~
367 ~~an administrative record relating to an incident for which an order of expungement was issued~~
368 ~~may file with the court an objection to an order of expungement if:~~

369 ~~— (a) the agency files the objection to the order of expungement within 60 days of the~~
370 ~~agency receiving the order of expungement;~~

371 ~~— (b) at the time the petition for expungement was filed with the court, the agency did not~~
372 ~~receive a copy of the petition for expungement that resulted in the issuance of the order of~~
373 ~~expungement; and~~

374 ~~— (c) enforcement of the order of expungement would adversely interfere with the~~
375 ~~agency's ability to perform its regular duties in relation to the incident for which the order of~~
376 ~~expungement was issued;~~

377 ~~— (9) A court shall vacate an order of expungement if the court determines that an~~
378 ~~agency's objection meets the requirements set out in Subsection (8). }~~

5. Page 14, Lines 416 through 420:

416 77-40-112. Penalty.

417 Any person authorized to view expunged records pursuant to Section 77-40-109 who [willfully
violates any prohibition in this chapter] knowingly or

418 intentionally discloses any identifying information from any record of conviction that has been

419 pardoned or expunged, unless allowed by law, is guilty of a class A misdemeanor [unless the

420 prohibition specifically indicates a different penalty].