

## 2nd Sub. S.B. 62 EXPUNGEMENT AMENDMENTS

Representative \_\_\_\_\_ proposes the following amendments:

1. *Page 1, Lines 11 through 12:*

11 This bill:

**► amends definitions:**

12 ► addresses expungement and fines, fees, or interest;

2. *Page 2, Lines 26 through 27:*

26 AMENDS:

**77-40-102, as last amended by Laws of Utah 2017, Chapter 356**

3. *Page 2, Line 31:*

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

= **Section 1. Section 77-40-102 is amended to read:**

= **77-40-102 Definitions.**

As used in this chapter:

(1) "Administrative finding" means a decision upon a question of fact reached by an administrative agency following an administrative hearing or other procedure satisfying the requirements of due process.

(2) "Agency" means a state, county, or local government entity that generates or maintains records relating to an investigation, arrest, detention, or conviction for an offense for which expungement may be ordered.

(3) "Bureau" means the Bureau of Criminal Identification of the Department of Public Safety established in Section 53-10-201.

(4) "Certificate of eligibility" means a document issued by the bureau stating that the criminal record and all records of arrest, investigation, and detention associated with a case that is the subject of a petition for expungement is eligible for expungement.

(5) "Conviction" means judgment by a criminal court on a verdict or finding of guilty after trial, a plea of guilty, or a plea of nolo contendere.

(6) "Department" means the Department of Public Safety established in Section 53-1-103.

(7) "Drug possession offense" means an offense under:

(a) Subsection 58-37-8(2), except any offense under Subsection 58-37-8(2)(b)(i), possession of 100 pounds or more of marijuana, any offense enhanced under Subsection 58-37-8(2)(e), violation in a correctional facility or Subsection 58-37-8(2)(g), driving with a controlled substance illegally in the person's body and negligently causing serious bodily injury or death of another;

(b) Subsection 58-37a-5(1), use or possession of drug paraphernalia;  
(c) Section 58-37b-6, possession or use of an imitation controlled substance; or  
(d) any local ordinance which is substantially similar to any of the offenses described in this Subsection (7).

(8) "Expunge" means to seal or otherwise restrict access to the petitioner's record held by an agency when the record includes ~~{a criminal investigation,}~~ detention, arrest, or conviction.

(9) "Jurisdiction" means a state, district, province, political subdivision, territory, or possession of the United States or any foreign country.

(10) "Minor regulatory offense" means any class B or C misdemeanor offense, as well as any local ordinance, except:

(a) any drug possession offense;  
(b) Title 41, Chapter 6a, Part 5, Driving Under the Influence and Reckless Driving;  
(c) Sections 73-18-13 through 73-18-13.6;  
(d) those defined in Title 76, Utah Criminal Code; or  
(e) any local ordinance that is substantially similar to those offenses listed in Subsections (10)(a) through (d).

(11) "Petitioner" means a person seeking expungement under this chapter.

(12) (a) "Traffic offense" means:

(i) all infractions, class B misdemeanors, and class C misdemeanors in Title 41, Chapter 6a, Traffic Code;

(ii) Title 53, Chapter 3, Part 2, Driver Licensing Act;

(iii) Title 73, Chapter 18, State Boating Act; and

(iv) all local ordinances that are substantially similar to those offenses.

(b) "Traffic offense" does not mean:

(i) Title 41, Chapter 6a, Part 5, Driving Under the Influence and Reckless Driving;

(ii) Sections 73-18-13 through 73-18-13.6; or

(iii) any local ordinance that is substantially similar to the offenses listed in Subsections (12)(b)(i) and (ii).

4. Page 2, Lines 33 through 38:

33 77-40-104. Eligibility for expungement of records of arrest, ~~{investigation,}~~ and  
34 detention -- Requirements.

35 (1) A person who ~~[has been]~~ is arrested or formally charged with an offense may apply  
36 to the bureau for a certificate of eligibility to expunge ~~[all]~~ the records of arrest, ~~{investigation,}~~  
37 and detention ~~[which]~~ that may have been made in the case, subject to the following  
38 conditions:

**Renumber remaining sections accordingly.**