

**JUVENILE RECORD AMENDMENTS**

2022 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: V. Lowry Snow**

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

**LONG TITLE**

**General Description:**

This bill amends provisions related to juvenile records.

**Highlighted Provisions:**

This bill:

- ▶ amends provisions regarding the inspection of juvenile court records;
- ▶ defines terms;
- ▶ addresses the expungement of a juvenile record;
- ▶ amends the requirements for a petition of expungement of a juvenile record;
- ▶ addresses the expungement of a petition for an offense that is found to be incorrect or not true and petitions that are dismissed with prejudice;
- ▶ clarifies the effect of an expungement order in the juvenile court;
- ▶ allows an expunged record to be released or viewed by an individual who is the subject of the expunged record;
- ▶ addresses the retroactivity of Title 80, Chapter 6, Part 10, Juvenile Records and Expungement; and
- ▶ makes technical and conforming changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None



28 **Utah Code Sections Affected:**

29 AMENDS:

30 **78A-6-209**, as last amended by Laws of Utah 2021, Chapter 261

31 **80-6-1001**, as renumbered and amended by Laws of Utah 2021, Chapter 261

32 **80-6-1003**, as enacted by Laws of Utah 2021, Chapter 261

33 **80-6-1004**, as last amended by Laws of Utah 2021, Chapter 231 and renumbered and  
34 amended by Laws of Utah 2021, Chapter 261

35 **80-6-1006**, as renumbered and amended by Laws of Utah 2021, Chapter 261

36 ENACTS:

37 **80-6-1004.5**, Utah Code Annotated 1953

38 **80-6-1005.5**, Utah Code Annotated 1953

39 **80-6-1008**, Utah Code Annotated 1953

40 REPEALS:

41 **80-6-1005**, as renumbered and amended by Laws of Utah 2021, Chapter 261



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

44 Section 1. Section **78A-6-209** is amended to read:

45 **78A-6-209. Court records -- Inspection.**

46 (1) The juvenile court and the juvenile court's probation department shall keep records  
47 as required by the board and the presiding judge.

48 (2) A court record shall be open to inspection by:

49 (a) the parents or guardian of a child, a minor who is at least 18 years old, other parties  
50 in the case, the attorneys, and agencies to which custody of a minor has been transferred;

51 (b) for information relating to adult offenders alleged to have committed a sexual  
52 offense, a felony or class A misdemeanor drug offense, or an offense against the person under  
53 Title 76, Chapter 5, Offenses Against the Person, the State Board of Education for the purpose  
54 of evaluating whether an individual should be permitted to obtain or retain a license as an  
55 educator or serve as an employee or volunteer in a school, with the understanding that the State  
56 Board of Education must provide the individual with an opportunity to respond to any  
57 information gathered from the State Board of Education's inspection of the records before the  
58 State Board of Education makes a decision concerning licensure or employment;

59 (c) the Criminal Investigations and Technical Services Division, established in Section  
60 53-10-103, for the purpose of a criminal history background check for the purchase of a firearm  
61 and establishing good character for issuance of a concealed firearm permit as provided in  
62 Section 53-5-704;

63 (d) the Division of Child and Family Services for the purpose of Child Protective  
64 Services Investigations in accordance with Sections 62A-4a-403 and 62A-4a-409 and  
65 administrative hearings in accordance with Section 62A-4a-1009;

66 (e) the Office of Licensing for the purpose of conducting a background check in  
67 accordance with Section 62A-2-120;

68 (f) for information related to a minor who has committed a sexual offense, a felony, or  
69 an offense that if committed by an adult would be a misdemeanor, the Department of Health  
70 for the purpose of evaluating under the provisions of Subsection 26-39-404(3) whether a  
71 licensee should be permitted to obtain or retain a license to provide child care, with the  
72 understanding that the department must provide the individual who committed the offense with  
73 an opportunity to respond to any information gathered from the Department of Health's  
74 inspection of records before the Department of Health makes a decision concerning licensure;

75 (g) for information related to a minor who has committed a sexual offense, a felony, or  
76 an offense that if committed by an adult would be a misdemeanor, the Department of Health to  
77 determine whether an individual meets the background screening requirements of Title 26,  
78 Chapter 21, Part 2, Clearance for Direct Patient Access, with the understanding that the  
79 department must provide the individual who committed the offense an opportunity to respond  
80 to any information gathered from the Department of Health's inspection of records before the  
81 Department of Health makes a decision under that part; and

82 (h) for information related to a minor who has committed a sexual offense, a felony, or  
83 an offense that if committed by an adult would be a misdemeanor, the Department of Health to  
84 determine whether to grant, deny, or revoke background clearance under Section 26-8a-310 for  
85 an individual who is seeking or who has obtained an emergency medical service personnel  
86 license under Section 26-8a-302, with the understanding that the Department of Health must  
87 provide the individual who committed the offense an opportunity to respond to any information  
88 gathered from the Department of Health's inspection of records before the Department of  
89 Health makes a determination.

90 (3) [~~With the consent of the juvenile court, a~~] A juvenile court record may be inspected  
91 by the child, by persons having a legitimate interest in the proceedings, and by persons  
92 conducting pertinent research studies[~~:-~~] if the juvenile court:

93 (a) finds that there is good cause for the inspection; and

94 (b) provides written consent to the inspection.

95 (4) (a) If a petition is filed charging a minor who is 14 years old or older with an  
96 offense that would be a felony if committed by an adult, the juvenile court [~~shall~~] may make  
97 available to any person upon request the petition, any adjudication or disposition orders, and  
98 the delinquency history summary of the minor charged [~~unless the records are closed by the~~  
99 ~~juvenile court upon findings on the record for good cause.~~] if:

100 (i) notice of the request is provided to the minor and the minor's attorney; and

101 (ii) the juvenile court finds there is good cause to make the records available.

102 (5) A juvenile probation officer's records and reports of social and clinical studies are  
103 not open to inspection, except by consent of the juvenile court, given under rules adopted by  
104 the board.

105 (6) The juvenile court may charge a reasonable fee to cover the costs associated with  
106 retrieving a requested record that has been archived.

107 Section 2. Section **80-6-1001** is amended to read:

108 **80-6-1001. Definitions.**

109 As used in this part:

110 (1) "Abstract" means a copy or summary of a court's disposition.

111 (2) (a) "Agency" means a state, county, or local government entity that generates or  
112 maintains records relating to a nonjudicial adjustment or an adjudication for which  
113 expungement may be ordered under this part.

114 (b) "Agency" includes a local education agency as defined in Section [53E-1-102](#).

115 (3) "Expunge" means to seal or otherwise restrict access to an individual's record held  
116 by a court or an agency when the record relates to a nonjudicial adjustment or an adjudication  
117 of an offense in the juvenile court.

118 (4) "Petitioner" means an individual applying for expungement under this part.

119 Section 3. Section **80-6-1003** is amended to read:

120 **80-6-1003. Court records -- Abstracts.**

121           ~~[(1) (a) Except as otherwise provided in this part, if a minor's juvenile record is~~  
122 ~~expunged, and upon a court order, all photographs or records under Section 80-6-608 shall be~~  
123 ~~destroyed by an agency.]~~

124           ~~[(b) A record of a minor's fingerprints may not be destroyed by an agency.]~~

125           ~~[(2)]~~ (1) A court or agency with custody of an individual's record related to an offense  
126 that the individual is alleged to have committed, or an offense that the individual committed,  
127 before the individual was 18 years old may not disclose the record to a federal agency that is  
128 responsible for criminal justice research or proceedings unless the court or the agency is  
129 required to share the record under state or federal law.

130           ~~[(3)]~~ (2) An abstract of a juvenile court record for an adjudication of a traffic offense  
131 shall be submitted to the Department of Public Safety as provided in Section 53-3-218.

132           Section 4. Section 80-6-1004 is amended to read:

133           **80-6-1004. Petition to expunge records of adjudication, unsuccessful nonjudicial**  
134 **adjustment, or arrest, investigation, or detention -- Notice and hearing on petition --**  
135 **Expungement order -- Service of expungement order.**

136           (1) (a) ~~[Except as provided in Subsection (4), an]~~ An individual who has been  
137 adjudicated by a juvenile court for an offense may petition the juvenile court for an order to  
138 expunge the individual's entire juvenile court record and any related records in the custody of  
139 an agency if:

140           (i) the individual has reached 18 years old; and

141           (ii) at least one year has passed from the date of:

142           (A) termination of the continuing jurisdiction of the juvenile court; or

143           (B) the individual's unconditional release from the custody of the division if the  
144 individual was committed to secure care.

145           ~~[(b) The juvenile court may waive the requirements in Subsection (1)(a) if the juvenile~~  
146 ~~court finds, and states on the record, the reason why the waiver is appropriate.]~~

147           ~~[(c) The petitioner shall include in the petition described in Subsection (1)(a):]~~

148           ~~[(i) any agency known or alleged to have any records related to the offense for which~~  
149 ~~expungement is being sought; and]~~

150           ~~[(ii) the original criminal history report obtained from the Bureau of Criminal~~  
151 ~~Identification in accordance with Section 53-10-108;]~~

152 ~~[(d) The petitioner shall send a copy of the petition described in Subsection (1)(a) to~~  
153 ~~the county attorney or, if within a prosecution district, the district attorney.]~~

154 (b) If an individual's juvenile record consists solely of nonjudicial adjustments and  
155 includes an unsuccessful nonjudicial adjustment, the individual may petition the juvenile court  
156 for an order to expunge the individual's juvenile court record and any related records in the  
157 custody of an agency when the individual has reached 18 years old.

158 (c) If an individual's juvenile record consists solely of arrest, investigation, or detention  
159 records and the individual was not adjudicated for an offense, the individual may petition the  
160 juvenile court for an order to expunge the individual's juvenile court record and any related  
161 records in the custody of an agency if:

162 (i) the individual has reached 18 years old;

163 (ii) there are no delinquency proceedings pending against the individual; and

164 (iii) for the case for which the expungement is sought:

165 (A) charges are screened by the investigating law enforcement agency and the  
166 prosecuting attorney makes a final determination that no charges will be filed against the  
167 individual;

168 (B) all charges contained in the case are dismissed with prejudice;

169 (C) all charges contained in the case are dismissed without prejudice or without  
170 condition and the prosecuting attorney consents to the expungement; or

171 (D) the statute of limitations expires on all charges contained in the case.

172 (2) (a) If a petitioner is 18 years old or older and seeks an expungement under  
173 Subsection (1)(a), the petition shall include a criminal history report obtained from the Bureau  
174 of Criminal Identification in accordance with Section [53-10-108](#).

175 (b) If a petitioner seeks an expungement under Subsection (1)(b) or (c), the petitioner is  
176 not required to include a criminal history report, as described in Subsection (2)(a), with the  
177 petition.

178 (3) The juvenile court may waive the age requirement in Subsection (1)(a), (b), or (c) if  
179 the juvenile court finds and states on the record the reason why the waiver is appropriate.

180 ~~[(e)-(i)]~~ (4) Upon the filing of a petition described in Subsection (1)[(a)], the juvenile  
181 court shall:

182 ~~[(A)]~~ (a) set a date for a hearing; and

183 (b) at least 30 days before the day on which the hearing on the petition is scheduled:

184 ~~[(B)]~~ (i) notify the county attorney or district attorney and the agency with custody of  
 185 the records ~~[at least 30 days before the day on which the hearing of the pendency of the petition~~  
 186 ~~is scheduled, and]~~ that a petition has been filed;

187 (ii) send a copy of the petition to the county attorney or district attorney; and

188 ~~[(C)]~~ (iii) notify the county attorney or district attorney and the agency with custody of  
 189 the records ~~[that the petitioner is asking the court to expunge]~~ of the date of the hearing.

190 ~~[(ii)(A)]~~ (5) (a) The juvenile court shall provide a victim with the opportunity to  
 191 request notice of a petition described in Subsection (1)(a).

192 ~~[(B)]~~ (b) Upon the victim's request under Subsection ~~[(1)(c)(ii)(A)]~~ (5)(a), the victim  
 193 shall receive notice of the petition at least 30 days before the day on which the hearing is  
 194 scheduled if, before the day on which an expungement order is made, the victim or, in the case  
 195 of a child or an individual who is incapacitated or deceased, the victim's next of kin or  
 196 authorized representative submits a written and signed request for notice to the juvenile court  
 197 in the judicial district in which the offense occurred or judgment is entered.

198 ~~[(C)]~~ (c) The notice described in Subsection ~~[(1)(c)(ii)(B)]~~ (5)(b) shall include a copy  
 199 of the petition described in Subsection (1)(a) and any statutes and rules applicable to the  
 200 petition.

201 ~~[(2)]~~ (6) (a) At the hearing described in Subsection ~~[(1)(c)(i)]~~ (4), the county attorney  
 202 or district attorney, a victim, and any other individual who may have relevant information  
 203 about the petitioner may testify.

204 (b) The juvenile court may waive the hearing for the petition described in Subsection  
 205 (1) if:

206 (i) there is no victim or the victim agrees to the waiver if there is a victim; and

207 (ii) the prosecuting attorney agrees to the waiver.

208 ~~[(b)]~~ (7) (a) In deciding whether to grant a petition described in Subsection (1)(a) for  
 209 expungement, the juvenile court shall consider whether the rehabilitation of the petitioner has  
 210 been attained to the satisfaction of the juvenile court, including the petitioner's response to  
 211 programs and treatment~~[-]~~ and the petitioner's behavior subsequent to the adjudication~~[-and the~~  
 212 ~~nature and seriousness of the conduct].~~

213 ~~[(c)(i)]~~ (b) Except as provided in Subsection ~~[(2)(c)(ii)]~~ (8), a juvenile court may grant

214 a petition under Subsection (1)(a) or (b) and order expunged all of the petitioner's records under  
215 the control of the juvenile court and an agency or an official if the juvenile court finds that:

216 [~~(A)~~] (i) the petitioner has not, in the five years preceding the day on which the petition  
217 described in Subsection (1)(a) or (b) is filed, been convicted of a violent felony;

218 [~~(B)~~] (ii) there are no delinquency or criminal proceedings pending against the  
219 petitioner; and

220 [~~(C)~~] (iii) a judgment for restitution entered by the juvenile court on the adjudication,  
221 or any restitution that was a condition of the unsuccessful nonjudicial adjustment, for which the  
222 expungement is sought has been satisfied.

223 (c) Except as provided in Subsection (8), a juvenile court shall grant a petition under  
224 Subsection (1)(c) and order expunged all of the petitioner's records under the control of the  
225 juvenile court and an agency or an official if the juvenile court finds that the petitioner meets  
226 the requirements for expungement described in Subsection (1)(c).

227 [~~(ii)~~ A] (8) (a) The juvenile court may not order the Division of Child and Family  
228 Services to [seal] expunge a petitioner's record that is contained in the Management  
229 Information System created in Section 62A-4a-1003 or the Licensing Information System  
230 created in Section 62A-4a-1005 unless:

231 [~~(A)~~] (i) the record is unsupported; or

232 [~~(B)~~] (ii) after notice and an opportunity to be heard, the Division of Child and Family  
233 Services stipulates in writing to [sealing] expunging the record.

234 [~~(3)~~ (a) ~~The petitioner is responsible for service of the expungement order issued under~~  
235 ~~Subsection (2) to any affected agency or official.]~~

236 [~~(b)~~ ~~To avoid destruction or sealing of the records in whole or in part, the agency or the~~  
237 ~~official receiving the expungement order described in Subsection (3)(a) shall only expunge all~~  
238 ~~references to the petitioner's name in the records pertaining to the petitioner's juvenile court~~  
239 ~~record.]~~

240 (b) The juvenile court may not order the Board of Pardons and Parole to expunge a  
241 petitioner's record unless, after notice and an opportunity to be heard, the Board of Pardons and  
242 Parole stipulates in writing to expunging the record.

243 [~~(4)~~ (a)] (c) The juvenile court may not expunge a record if the record contains an  
244 adjudication of:



- 245 (i) [~~Section 76-5-202;~~] aggravated murder, as described in Section 76-5-202; or  
246 (ii) [~~Section 76-5-203;~~] murder, as described in Section 76-5-203.

247 (9) If the juvenile court issues an expungement order under this section, the juvenile  
248 court is responsible for the service of the expungement order to any affected agency or official.

249 ~~[(b)] (10) This section does not apply to an adjudication under [Part 3, Abuse, Neglect,~~  
250 ~~and Dependency Proceedings, Part 5, Termination of Parental Rights Act, or Part 14,~~  
251 ~~Restoration of Parental Rights Act] Chapter 3, Abuse, Neglect, and Dependency Proceedings,~~  
252 ~~or Chapter 4, Termination and Restoration of Parental Rights.~~

253 Section 5. Section **80-6-1004.5** is enacted to read:

254 **80-6-1004.5. Requirements to expunge record of petition found to be untrue or**  
255 **incorrect -- Expungement order -- Service of expungement order.**

256 (1) If an individual's juvenile record consists solely of a petition with allegations found  
257 to be not true or incorrect by the juvenile court, the individual may petition the juvenile court,  
258 at any time, for an order to expunge the individual's juvenile court record and any related  
259 records in the custody of an agency.

260 (2) Upon the filing of the petition described in Subsection (1), the juvenile court shall,  
261 without a hearing, order expungement of all the petitioner's records under the control of the  
262 juvenile court, an agency, or an official.

263 (3) If the juvenile court issues an expungement order under this section, the juvenile  
264 court is responsible for the service of the expungement order to any affected agency or official.

265 Section 6. Section **80-6-1005.5** is enacted to read:

266 **80-6-1005.5. Automatic expungement of record of successful nonjudicial**  
267 **adjustment -- Process for automatic expungement -- Order and notice of automatic**  
268 **expungement.**

269 (1) The juvenile court shall issue, without a petition, an order to expunge an  
270 individual's juvenile court record and any related records in the custody of an agency that  
271 consists solely of nonjudicial adjustments if:

272 (a) the individual has reached 18 years old; and

273 (b) the individual has successfully completed each nonjudicial adjustment.

274 (2) If the individual, who is eligible for expungement under Subsection (1), turns 18  
275 years old before May 4, 2022, the juvenile court shall order the individual's juvenile court

276 record to be expunged within one year after the day on which the juvenile court identifies the  
277 individual's juvenile court record is eligible for expungement under Subsection (1) or before  
278 May 1, 2025, whichever is earlier.

279 (3) If a juvenile court determines that the requirements for automatic expungement  
280 have been met under Subsection (1), the juvenile court shall:

281 (a) order the petitioner's records described in Subsection (1) that are in the custody of  
282 the juvenile court or any other agency or official, including relevant records contained in the  
283 Management Information System, created in Section 62A-4a-1003, and the Licensing  
284 Information System, created in Section 62A-4a-1005, be expunged; and

285 (b) notify all agencies and officials affected by the expungement order.

286 Section 7. Section **80-6-1006** is amended to read:

287 **80-6-1006. Effect of an expunged record -- Agency duties.**

288 (1) (a) Upon receipt of an expungement order under this part[;]:

289 (i) an agency shall expunge all records described in the expungement order that are  
290 under the control of the agency [~~in accordance with Subsection 80-6-1005(4)(b);~~];

291 [~~(2) Upon the entry of the expungement order under this part:]~~

292 [~~(a) an adjudication or a nonjudicial adjustment in a petitioner's case is considered to~~  
293 ~~have never occurred; and]~~

294 [~~(b) the petitioner may reply to an inquiry on the matter as though there never was an~~  
295 ~~adjudication or nonjudicial adjustment.]~~

296 [~~(3) The following persons may inspect an expunged record upon a petition by an~~  
297 ~~individual who is the subject of the record:]~~

298 [~~(a) the individual who is the subject of the record; and]~~

299 [~~(b) a person that is named in the petition.]~~

300 (ii) an adjudication, a nonjudicial adjustment, a petition, or an arrest, investigation, or  
301 detention for which the record is expunged under this part is considered to have never  
302 occurred; and

303 (iii) the petitioner may reply to an inquiry on the matter as though there never was an  
304 adjudication, a nonjudicial adjustment, a petition, or an arrest, investigation, or detention.

305 (b) Except as provided in Subsection (1)(c), to avoid destruction or sealing of the  
306 records in whole or in part, the agency or the official receiving the expungement order shall

307 expunge only the references to the individual's name in the records relating to the petitioner's  
308 adjudication, nonjudicial adjustment, petition, or arrest, investigation, or detention for which  
309 expungement was ordered.

310 (c) Except as provided in Subsection (1)(d), a minor's juvenile record is expunged, and  
311 upon a court order, all photographs or records under Section 80-6-608 shall be destroyed by an  
312 agency.

313 (d) A record of a minor's fingerprints may not be destroyed by an agency.

314 (2) Records expunged under this part may be released to or viewed by the individual  
315 who is the subject of the record.

316 [~~4~~] (3) An agency named in an expungement order under this part shall mail an  
317 affidavit to the petitioner or the petitioner's attorney verifying the agency has complied with the  
318 expungement order.

319 Section 8. Section **80-6-1008** is enacted to read:

320 **80-6-1008. Retroactive application.**

321 Sections 80-6-1004 through 80-6-1007 of this part apply retroactively to all arrests,  
322 investigations, detentions, nonjudicial adjustments, petitions, and adjudications regardless of  
323 the date on which the arrests, investigations, detentions, nonjudicial adjustments, petitions, or  
324 adjudications were made or entered.

325 Section 9. **Repealer.**

326 This bill repeals:

327 Section **80-6-1005, Nonjudicial adjustment expungement.**