

HB0179S01 compared with HB0179

~~{deleted text}~~ shows text that was in HB0179 but was deleted in HB0179S01.

inserted text shows text that was not in HB0179 but was inserted into HB0179S01.

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Representative V. Lowry Snow proposes the following substitute bill:

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 related to delinquency;
- ▶ clarifies the expungement of a juvenile record in relation to vacatur of an adjudication by the juvenile court;
- ▶ 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;~~

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- clarifies ~~where the allegations were found to be not true;~~
 - ▶ allows for the automatic expungement of successful nonjudicial adjustments completed on or after October 1, 2022;
 - ▶ addresses the effect of a successful nonjudicial adjustment completed before October 1, 2022;
 - ▶ excludes certain records from an expungement order;
 - ▶ addresses distribution of an expungement order;
 - ▶ addresses agency duties in regards to expungement orders;
 - ▶ addresses records in the custody of the Board of Pardons and Parole, the Department of Corrections, or the Division of Child and Family Services;
 - ▶ amends provisions relating to 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~~ This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

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

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

80-6-1002, as renumbered and amended by Laws of Utah 2021, Chapter 261

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

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

ENACTS:

~~80-6-1006~~ **80-6-1004.1**, Utah Code Annotated 1953

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80-6-1004.2, Utah Code Annotated 1953

80-6-1004.3, Utah Code Annotated 1953

REPEALS:

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

~~{ENACTS}~~ REPEALS AND REENACTS:

~~{80-6-1004.5, Utah Code Annotated 1953~~

~~—— 80-6-1005.5, Utah Code Annotated 1953~~

~~—— 80-6-1008, Utah Code Annotated 1953~~

REPEALS:

~~—— 80-6-1005}~~ 80-6-1006, as renumbered and amended by Laws of Utah 2021, Chapter 261

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

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

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

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

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

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

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

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

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

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

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

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

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

(3) ~~{}~~ With the consent of the juvenile court, a ~~{}~~ A juvenile court record may be inspected by the child, by persons having a legitimate interest in the proceedings, and by persons conducting pertinent research studies.

(4) ~~{}~~ ~~H~~ ~~fif~~ Unless the records are closed by the juvenile court ~~f~~

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~~_____ (a) finds that there is; upon findings on the record for good cause; for the inspection; and~~

~~_____ (b) provides written consent to the inspection.~~

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

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

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

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

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

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

80-6-1001. Definitions.

As used in this part:

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

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

(b) "Agency" includes a local education agency, as defined in Section 53E-1-102, for purposes of this part.

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

~~_____ (4);] a record in the custody of the juvenile court or an agency.~~

(4) (a) "Juvenile record" means all records for all incidents of delinquency involving an individual that are in the custody of the juvenile court or an agency.

(b) "Juvenile record" does not include any record of an adjudication under Chapter 3,

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Abuse, Neglect, and Dependency Proceedings, or Chapter 4, Termination and Restoration of Parental Rights.

(5) "Petitioner" means an individual applying for expungement or vacatur under this part.

Section 3. Section 80-6-1002 is amended to read:

80-6-1002. Vacatur of adjudications.

(1) (a) An individual who has been adjudicated under this chapter may petition the juvenile court for vacatur of ~~[the individual's juvenile court records and any related records in the custody of an agency if the record relates to]~~ the adjudication if the adjudication was for:

~~[(i) an adjudication under Section 76-10-1302, 76-10-1304, or 76-10-1313; or~~

~~(ii)]]~~

(i) an offense for:

(A) prostitution, as described in Section 76-10-1302;

(B) aiding prostitution, as described in Section 76-10-1304; or

(C) sexual solicitation, as described in Section 76-10-1313; or

(ii) [an adjudication that was based on an offense] an offense for human trafficking under Section 76-5-308 that the petitioner engaged in while subject to force, fraud, or coercion [as defined in Section 76-5-308].

(b) The petitioner shall include in the petition the relevant juvenile court incident number and any agencies known or alleged to have any documents related to the offense for which vacatur is being sought.

(c) The petitioner shall include with the petition the original criminal history report obtained from the Bureau of Criminal Identification in accordance with the provisions of Section 53-10-108.

(d) The petitioner shall send a copy of the petition to the county attorney or, if within a prosecution district, the district attorney.

(2) (a) Upon the filing of a petition, the juvenile court shall:

(i) set a date for a hearing;

(ii) notify the county attorney or district attorney and the agency with custody of the records at least 30 days prior to the hearing of the pendency of the petition; and

(iii) notify the county attorney or district attorney and the agency with records the

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petitioner is asking the juvenile court to vacate of the date of the hearing.

(b) (i) The juvenile court shall provide a victim with the opportunity to request notice of a petition for vacatur.

(ii) A victim shall receive notice of a petition for vacatur at least 30 days before the hearing if, before the entry of vacatur, the victim or, in the case of a child or an individual who is incapacitated or deceased, the victim's next of kin or authorized representative, submits a written and signed request for notice to the court in the judicial district in which the crime occurred or judgment was entered.

(iii) The notice shall include a copy of the petition and statutes and rules applicable to the petition.

(3) (a) At the hearing the petitioner, the county attorney or district attorney, a victim, and any other person who may have relevant information about the petitioner may testify.

(b) (i) In deciding whether to grant a petition for vacatur of adjudication of an offense for human trafficking under Section 76-5-307, the juvenile court shall consider whether the petitioner acted subject to force, fraud, or coercion ~~[as defined in Section 76-5-308]~~ at the time of the conduct giving rise to the adjudication.

(ii) (A) If the juvenile court finds by a preponderance of the evidence that the petitioner was subject to force, fraud, or coercion ~~[as defined in Section 76-5-308]~~ at the time of the conduct giving rise to the adjudication, the juvenile court shall grant vacatur.

(B) If the court does not find sufficient evidence, the juvenile court shall deny vacatur.

(iii) If the petition is for vacatur of any adjudication for an offense under Section 76-10-1302, 76-10-1304, or 76-10-1313, the juvenile court shall presumptively grant vacatur unless the petitioner acted as a purchaser of any sexual activity.

(c) If vacatur is granted, the juvenile court shall order ~~[sealed all of the petitioner's records under the control of the juvenile court and any of the petitioner's records under the control of any other agency or official]~~ expungement of all records in the petitioner's juvenile record pertaining to the incident identified in the petition, including relevant related records contained in the Management Information System created by Section 62A-4a-1003 and the Licensing Information System created by Section 62A-4a-1005.

(4) (a) The petitioner shall be responsible for service of the order of vacatur to all affected state, county, and local entities, agencies, and officials.

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(b) To avoid destruction or ~~[sealing]~~ expungement of the records in whole or in part, the agency or entity receiving the vacatur order shall only vacate all references to the petitioner's name in the records pertaining to the relevant adjudicated juvenile court incident.

(5) (a) Upon the entry of vacatur, the proceedings in the incident identified in the petition shall be considered never to have occurred and the petitioner may properly reply accordingly upon any inquiry in the matter.

(b) Inspection of the records may thereafter only be permitted by the juvenile court upon petition by the individual who is the subject of the records, and only to persons named in the petition.

(6) The juvenile court may not vacate ~~[a juvenile court record]~~ any record in a petitioner's juvenile record if the record contains an adjudication of:

(a) Section 76-5-202, aggravated murder; or

(b) Section 76-5-203, murder.

Section ~~{3}~~4. Section **80-6-1003** is amended to read:

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

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

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

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

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

Section ~~{4}~~5. Section **80-6-1004** is amended to read:

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

~~(1) (a) {}~~ Hearing.

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

~~[(i) the individual has reached 18 years old; and]~~

~~[(ii) at least one year has passed from the date of:]~~

~~[(A) termination of the continuing jurisdiction of the juvenile court; or]~~

~~[(B) the individual's unconditional release from the custody of the division if the individual was committed to secure care:]~~

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

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

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

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

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

~~{b} If an individual's juvenile record consists solely of nonjudicial adjustments and includes an unsuccessful nonjudicial adjustment, the} 1) An individual may petition the juvenile court for an order to expunge the individual's juvenile {court record and any related records in the custody of an agency when the individual has reached 18 years old:~~

~~{c} If an individual's juvenile record consists solely of arrest, investigation, or detention records and} record if:~~

~~{a} (i) the individual was { not} adjudicated for an offense {, the individual may petition} in the juvenile court { for an order to expunge the individual's juvenile court record and any related records in the custody of an agency if:}:~~

~~{ii} the individual has reached 18 years old; {~~

~~{ii} there are no delinquency proceedings pending against the individual} and~~

~~{iii} at least one year has passed from the day on which:~~

~~{A} the juvenile court's continuing jurisdiction was terminated; or~~

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(B) if the individual was committed to secure care, the individual was unconditionally released from the custody of the division;

(b) (i) the individual's juvenile record consists solely of nonjudicial adjustments;

(ii) the individual's juvenile record is not eligible for automatic expungement under Section 80-6-1004.3; and

(iii) ~~for the case for which the expungement is sought;~~

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

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

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

~~— (D) the statute of limitations expires on all charges contained in the case;~~

~~— (2) (a) ~~the individual has reached 18 years old; or~~~~

(c) (i) the individual's juvenile record consists solely of records of arrest, investigation, detention, or petitions that did not result in adjudication;

(ii) the individual was not adjudicated for an offense; and

(iii) the individual has reached 18 years old.

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

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

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

~~[(c) (i)] (4) Upon the filing of a petition ~~[described in]~~ under Subsection (1) ~~{(a)}~~, the juvenile court shall:~~

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

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

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~~[(B)] (i)~~ notify the county attorney or district attorney and the agency with custody of the records ~~{}~~ at least 30 days before the day on which the hearing of the pendency of the petition is scheduled; and prosecuting attorney and any affected agency, which the juvenile court can identify from the juvenile record, that a petition has been filed~~;~~

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

~~[(C)] (iii)(i)~~ notify the county attorney or district attorney and the agency with custody of the records ~~{}~~ that the petitioner is asking the court to expunge prosecuting attorney and any affected agency, which the juvenile court can identify from the juvenile record, of the date of the hearing.

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

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

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

~~[(2)] (6) (a)~~ At the hearing described in Subsection ~~{}~~ ~~(1)(e)(i)~~ ~~{}~~ ~~(4)~~, the county attorney or district attorney for a petition under Subsection (1)(a), the prosecuting attorney, a victim, and any other individual who may have relevant information about the petitioner may testify.

(b) The juvenile court may waive the hearing for the petition ~~described in~~ under Subsection (1)(a) if:

(i) (A) there is no victim; or

(B) if there is a victim, the victim agrees to the waiver ~~if there is a victim~~; and

(ii) the prosecuting attorney agrees to the waiver.

~~{(b)}~~ (7) (a) Upon the filing of a petition under Subsection (1)(c), the juvenile court

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shall notify the prosecuting attorney that a petition has been filed.

(b) Within 30 days from the day on which the notification is sent under Subsection (7)(a), the prosecuting attorney shall respond to the petition stating whether the petitioner meets the requirements for expungement under Subsection 80-6-1004.1(3)(b).

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

~~[(c) (i) {} (b) Except as provided in Subsection {} (2)(c)(ii) {} (8), a juvenile court may {} grant a petition under Subsection (1)(a) or (b) and order expunged all of the petitioner's records under the control of the juvenile court and an agency or an official if the juvenile court finds that:]~~

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

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

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

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

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

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

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

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

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

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

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

~~[(i) ~~{ }~~ Section 76-5-202, ~~{ }~~ aggravated murder ~~{, as described in Section 76-5-202};~~ or]~~

~~[(ii) ~~{ }~~ Section 76-5-203, ~~{ }~~ murder, as described in Section 76-5-203.]~~

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

~~— [(b) (10) murder.]~~

~~[(b) This section does not apply to an adjudication under ~~{ }~~ Part 3, Abuse, Neglect, and Dependency Proceedings, Part 5, Termination of Parental Rights Act, or Part 14, Restoration of Parental Rights Act ~~{ }~~ Chapter 3, Abuse, Neglect, and Dependency Proceedings, or Chapter 4, Termination and Restoration of Parental Rights;~~

~~— Section 5}].]~~

Section 6. Section ~~80-6-1004.~~{5}1 is enacted to read:

~~80-6-1004.~~{5}1. ~~{ Requirements}~~ Order of expungement for petition to expunge ~~{record of petition found to be untrue or incorrect == Expungement order == Service of expungement order.~~

~~— (1) If an individual's} records of adjudication, nonjudicial adjustment, or arrest, investigation, detention, or unadjudicated petitions.~~

~~(1) (a) Except as provided in Subsection (1)(c), the juvenile court may grant a petition under Subsection 80-6-1004(1)(a) and order expungement of the petitioner's juvenile record ~~{consists solely of a petition with allegations found to be not true or incorrect;} if the juvenile~~~~

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court finds:

(i) the petitioner has not been convicted of a violent felony within five years from the day on which the petition for expungement is filed;

(ii) there are no delinquency or criminal proceedings pending against the petitioner;

and

(iii) (A) a judgment for restitution entered by the juvenile court, the individual may petition the juvenile court, at any time, for an order to expunge the individual's juvenile court record and any related records in the custody of an agency.

(2) Upon the filing of the petition described in Subsection (1) on any adjudication in the petitioner's juvenile record has been satisfied; or

(B) restitution that was a condition of any nonjudicial adjustment in the petitioner's juvenile record has been satisfied.

(b) In deciding whether to grant a petition for expungement under Subsection (1)(a), the juvenile court shall, without a hearing, order expungement of all the petitioner's records under the control; consider whether the rehabilitation of the petitioner has been attained to the satisfaction of the juvenile court, an agency, or an official.

(3) If; including the petitioner's response to programs and treatment and the petitioner's behavior subsequent to the adjudication.

(c) The juvenile court may not expunge a petitioner's juvenile record if the petitioner's juvenile record contains an adjudication of:

(i) aggravated murder, as described in Section 76-5-202; or

(ii) murder, as described in Section 76-5-202.

(2) The juvenile court shall grant a petition under Subsection 80-6-1004(1)(b) and order expungement of the petitioner's juvenile record if the juvenile court issues an expungement order under this section, finds:

(a) the petitioner has not been convicted of a violent felony within five years from the day on which the petition for expungement is filed;

(b) there are no delinquency or criminal proceedings pending against the petitioner;

and

(c) restitution that was a condition of any nonjudicial adjustment in the petitioner's juvenile record has been satisfied.

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(3) The juvenile court shall grant a petition under Subsection 80-6-1004(1)(c) and order expungement of the petitioner's juvenile record if the juvenile court ~~is responsible for the service of;~~ finds that:

(a) there are no delinquency or criminal proceedings pending against the petitioner; and

(b) each case identified in the petition:

(i) has been screened by the investigating law enforcement agency and the prosecuting attorney has determined that no charges will be filed against the individual;

(ii) resulted in all charges in the case being dismissed with prejudice;

(iii) resulted in all charges in the case being dismissed without prejudice or without condition and the prosecuting attorney consents to the expungement ~~order to any affected agency or official.~~

~~Section 6}; or~~

(iv) is barred from prosecution by the statute of limitations.

Section 7. Section ~~{80-6-1005}~~80-6-1004.~~{5}~~2 is enacted to read:

~~{80-6-1005}~~80-6-1004.~~{5}~~2. ~~{ Automatic expungement of } **Petition to expunge record of {successful nonjudicial adjustment -- Process for automatic expungement -- Order and notice of automatic}**petition found to be untrue -- **Order of** expungement.~~

~~(1) {The}~~An individual may petition the juvenile court ~~{ shall issue}, at any time, {without a petition,}~~for an order to expunge ~~{an individual's juvenile court record and any related records in the custody of an agency that consists solely of nonjudicial adjustments if:~~

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

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

~~—— (2) If the individual, who is eligible for expungement under Subsection (1), turns 18 years old before May 4, 2022, the juvenile court shall order ~~{any record in the individual's juvenile {court record to be expunged within one year after}~~record pertaining to an incident where a petition was filed if:~~

(a) the juvenile court does not find, by beyond a reasonable doubt, the allegations in the petition to be true;

(b) at least 30 days have passed from the day on which the juvenile court ~~{identifies the individual's juvenile court record is eligible}~~does not find the allegations in the petition to be true; and

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(c) no appeal is filed for the petition within the 30-day period described in Subsection (1)(b).

(2) Upon the filing of a petition for expungement ~~under Subsection (1) or before May 1, 2025, whichever is earlier:~~

~~— (3) If a juvenile court determines that the requirements for automatic expungement have been met under~~described in Subsection (1), the juvenile court shall ~~—~~

~~(1), without a (1) hearing,~~ order expungement of any record in the petitioner's ~~records~~ described in Subsection (1) that are in the custody of the juvenile court or any other agency or official, including relevant records contained in the Management Information System, created in Section 62A-4a-1003, and the Licensing Information System, created in Section 62A-4a-1005, be expunged; and

~~— (b) notify all agencies and officials affected by the expungement order:~~

~~— Section 7}juvenile record pertaining to the incident.~~

Section 8. Section ~~{80-6-1006}~~80-6-1004.3 is ~~{amended}~~enacted to read:

~~{80-6-1006}~~80-6-1004. ~~— Effect of an expunged record -- Agency duties.~~

~~— (1) (a) Upon receipt of an expungement order under this part{,}:~~

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

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

~~— [(a) an adjudication or a}~~3. Automatic expungement of record of successful nonjudicial adjustment -- Effect of successful nonjudicial adjustment completed before effective date.

(1) The juvenile court shall issue, without a petition, an order to expunge an individual's juvenile record if:

(a) the individual has reached 18 years old;

(b) the individual's juvenile record consists solely of nonjudicial adjustments;

(c) the individual has successfully completed each nonjudicial adjustment; and

(d) all nonjudicial adjustments were completed on or after October 1, 2022.

(2) If an individual's juvenile record consists solely of nonjudicial adjustments that were completed before October 1, 2022:

(a) any nonjudicial adjustment in {a}the petitioner's {case}juvenile record is

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~~considered to have never occurred; and~~

~~— [(b) the petitioner; never have occurred if:~~

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

~~(ii) restitution that was a condition of any nonjudicial adjustment in the petitioner's juvenile record has been satisfied; and~~

~~(b) the individual may reply to ~~{an}~~ any inquiry ~~{on the matter}~~ about a nonjudicial adjustment as though there never was ~~{an adjudication or}~~ a nonjudicial adjustment. ~~{}~~~~

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

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

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

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

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

~~— (b) Except as provided in Subsection (1)(c), to avoid destruction or sealing of the records in whole or in part, the agency or the official receiving the expungement order shall expunge only the references to the individual's name in the records relating to the petitioner's adjudication, nonjudicial adjustment, petition, or arrest, investigation, or detention for which expungement was ordered.~~

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

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

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

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

~~— Section 8}~~

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Section 9. Section ~~{80-6-1008}~~80-6-1006 is ~~{enacted}~~repealed and reenacted to read:

~~80-6-1008. Retroactive application.~~

~~Sections 80-6-1004 through 80-6-1007 of this part apply retroactively to all arrests, investigations, detentions}~~80-6-1006. Exceptions to expungement -- Service of expungement order -- Agencies' duties -- Effect of expungement -- Access to expunged record.

(1) (a) Notwithstanding any other provision of this part, the Board of Pardons and Parole and the Department of Corrections:

(i) may not be required by the juvenile court to expunge a record in the possession of the Board of Pardons and Parole or the Department of Corrections; and

(ii) may be required by the juvenile court to restrict access to records if the records are specifically identified in the expungement order as records in the possession of the Board of Pardons and Parole or the Department of Corrections.

(b) Notwithstanding any other provision of this part, the juvenile court may not order the Division of Child and Family Services to expunge any record in an individual's juvenile record that is contained in the Management Information System or the Licensing Information System unless:

(i) the record is unsupported; or

(ii) after notice and an opportunity to be heard, the Division of Child and Family Services stipulates in writing to expunging the record.

(2) If the juvenile court issues an expungement order under this part, the juvenile court shall send a copy of the expungement order to any affected agency or official that the juvenile court can identify from the juvenile record.

(3) (a) Except as provided in Subsection (4), upon receipt of an expungement order under this part, an agency shall:

(i) to avoid destruction or sealing of records in whole or in part, expunge only the references to the individual's name in the records relating to the petitioner's adjudication, nonjudicial ~~{adjustments}~~adjustment, ~~{petitions, and adjudications regardless of the date on which the arrests, investigations, detentions,}~~petition, or arrest, investigation, or detention for which expungement was ordered; and

(ii) except as provided by Subsection (3)(b), destroy all photographs and records under

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Section 80-6-608.

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

(c) Except as provided by Subsection (4), an agency that receives a copy of the expungement order shall mail an affidavit to the petitioner or the petitioner's attorney verifying that the agency has complied with the expungement order.

(4) The Board of Pardons and Parole and the Department of Corrections:

(a) may not disclose records expunged in an expungement order unless required by law;

(b) are not required to destroy any photograph or record under Section 80-6-608;

(c) may use an expunged record under this part for purposes related to incarceration and supervision of a petitioner under the jurisdiction of the Board of Pardons and Parole, including for the purpose of making decisions about:

(i) the treatment and programming of the petitioner;

(ii) housing of the petitioner;

(iii) applicable guidelines regarding the petitioner; or

(iv) supervision conditions for the petitioner;

(d) are not prohibited by this part from disclosing or sharing any information in an expunged record with another agency that uses the same record management system as the Board of Pardons and Parole or the Department of Corrections; and

(e) are not required to mail an affidavit under Subsection (3)(c).

(5) Upon entry of an expungement order under this part:

(a) an adjudication, a nonjudicial ~~adjustments~~ adjustment, ~~petitions, or adjudications~~ were made or entered.

~~Section 9~~a petition, or an arrest, investigation, or detention for which the record is expunged under this part is considered to have never occurred; and

(b) the individual, who is the subject of the expungement order, may reply to an inquiry on the matter as though there never was an adjudication, a nonjudicial adjustment, a petition, or an arrest, investigation, or detention.

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

Section 10. Repealer.

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This bill repeals:

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

Section 11. Effective date.

This bill takes effect on October 1, 2022.