

Representative James A. Dunnigan proposes the following substitute bill:

EXPUNGEMENT FEE AMENDMENTS

2022 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: James A. Dunnigan

Senate Sponsor: Kirk A. Cullimore

LONG TITLE

General Description:

This bill amends provisions related to fees for expungements.

Highlighted Provisions:

This bill:

- ▶ creates sunset dates regarding the suspension of certain expungement fees;
- ▶ suspends fees for the issuance of a certificate of eligibility or a special certificate of eligibility from the Bureau of Criminal Identification for an expungement until June 30, 2023;
- ▶ suspends fees for a petition for expungement until June 30, 2023;
- ▶ creates a reporting requirement for expungement data; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

This bill appropriates in fiscal year 2023:

- ▶ to General Fund Restricted - Court Security Account, as a one-time appropriation:
 - from the General Fund, One-time, \$62,700;
- ▶ to General Fund Restricted - Children's Legal Defense, as a one-time appropriation:
 - from the General Fund, One-time, \$10,500;
- ▶ to Civil Fees Judges' Retirement Trust Fund, as a one-time appropriation:



- 26 • from the General Fund, One-time, \$31,400; and
- 27 ▸ to Department of Public Safety - Bureau of Criminal Identification -
- 28 Non-Government/Other Services, as a one-time appropriation:
- 29 • from the General Fund, One-time, \$400,000.

30 **Other Special Clauses:**

31 This bill provides a coordination clause.

32 **Utah Code Sections Affected:**

33 AMENDS:

- 34 **53-10-202.5**, as last amended by Laws of Utah 2017, Chapter 286
- 35 **63I-1-277**, as renumbered and amended by Laws of Utah 2008, Chapter 382
- 36 **63I-1-278**, as last amended by Laws of Utah 2020, Chapter 154
- 37 **77-40-103**, as last amended by Laws of Utah 2020, Chapters 12 and 218
- 38 **77-40-106**, as last amended by Laws of Utah 2017, Chapter 356
- 39 **77-40-107**, as last amended by Laws of Utah 2021, Chapter 206
- 40 **78A-2-301**, as last amended by Laws of Utah 2021, Chapters 157 and 262
- 41 **78A-2-301.5**, as last amended by Laws of Utah 2013, Chapter 245

42 ENACTS:

- 43 **77-40-117**, Utah Code Annotated 1953

44 **Utah Code Sections Affected by Coordination Clause:**

- 45 **63I-1-277**, as renumbered and amended by Laws of Utah 2008, Chapter 382
- 46 **77-40-106**, as last amended by Laws of Utah 2017, Chapter 356
- 47 **77-40-117**, Utah Code Annotated 1953
- 48 **77-40a-107**, Utah Code Annotated 1953
- 49 **77-40a-304**, Utah Code Annotated 1953



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

52 Section 1. Section **53-10-202.5** is amended to read:

53 **53-10-202.5. Bureau services -- Fees.**

54 The bureau shall collect fees for the following services:

- 55 (1) applicant fingerprint card as determined by Section **53-10-108**;
- 56 (2) bail enforcement licensing as determined by Section **53-11-115**;

- 57 (3) concealed firearm permit as determined by Section [53-5-707](#);
- 58 (4) provisional concealed firearm permit as determined by Section [53-5-707.5](#);
- 59 (5) ~~[application for and issuance of]~~ a certificate of eligibility for expungement as
- 60 determined by Section [77-40-106](#);
- 61 (6) firearm purchase background check as determined by Section [76-10-526](#);
- 62 (7) name check as determined by Section [53-10-108](#);
- 63 (8) private investigator licensing as determined by Section [53-9-111](#); and
- 64 (9) right of access as determined by Section [53-10-108](#).

65 Section 2. Section **63I-1-277** is amended to read:

66 **63I-1-277. Repeal dates, Title 77.**

67 Subsection [77-40-106\(5\)](#), regarding the suspension of issuance fees for certificates of

68 eligibility, is repealed on July 1, 2023.

69 Section 3. Section **63I-1-278** is amended to read:

70 **63I-1-278. Repeal dates, Title 78A and Title 78B.**

71 (1) Subsections [78A-2-301\(4\)](#) and [78A-2-301.5\(12\)](#), regarding the suspension of filing

72 fees for petitions for expungement, are repealed on July 1, 2023.

73 ~~[(1)]~~ (2) Section [78B-3-421](#), regarding medical malpractice arbitration agreements, is

74 repealed July 1, 2029.

75 ~~[(2)]~~ (3) Title 78B, Chapter 6, Part 2, Alternative Dispute Resolution Act, is repealed

76 July 1, 2026.

77 ~~[(3)]~~ (4) Title 78B, Chapter 12, Part 4, Advisory Committee, which creates the Child

78 Support Guidelines Advisory Committee, is repealed July 1, 2026.

79 Section 4. Section **77-40-103** is amended to read:

80 **77-40-103. Petition for expungement procedure overview.**

81 The process for a petition for the expungement of records under this chapter regarding

82 the arrest, investigation, detention, and conviction of a petitioner is as follows:

83 (1) The petitioner shall apply to the bureau for a certificate of eligibility for

84 expungement and pay the application fee established by the department.

85 (2) Once the eligibility process is complete, the bureau shall:

86 (a) notify the petitioner[-]; and

87 (b) if the petitioner is qualified to receive a certificate of eligibility for expungement,

88 issue a certificate of eligibility.

89 ~~[(3) If the petitioner is qualified to receive a certificate of eligibility for expungement,~~
90 ~~the petitioner shall pay the issuance fee established by the department.]~~

91 ~~[(4)]~~ (3) (a) The petitioner shall file the certificate of eligibility with a petition for
92 expungement in the court in which the proceedings occurred.

93 (b) If there were no court proceedings, or the court no longer exists, the petitioner may
94 file the petition in the district court where the arrest occurred.

95 (c) If a petitioner files a certificate of eligibility electronically, the petitioner or the
96 petitioner's attorney shall keep the original certificate until the proceedings are concluded.

97 (d) If the petitioner files the original certificate of eligibility with the petition, the clerk
98 or the court shall scan and return the original certificate to the petitioner or the petitioner's
99 attorney, who shall keep the original certificate until the proceedings are concluded.

100 ~~[(5)]~~ (4) Notwithstanding ~~[Subsections (3) and (4)]~~ Subsection (3), if the petitioner is
101 not qualified to receive a certificate of eligibility for expungement, the petitioner may file a
102 petition without a certificate to obtain expungement for a record of conviction related to
103 cannabis possession if the petition demonstrates that:

104 (a) the petitioner had, at the time of the relevant arrest or citation leading to the
105 conviction, a qualifying condition, as that term is defined in Section [26-61a-102](#); and

106 (b) the possession of cannabis in question was in a form and an amount to medicinally
107 treat the condition described in Subsection ~~[(5)]~~ (4)(a).

108 ~~[(6)]~~ (5) (a) The petitioner shall deliver a copy of the petition and certificate of
109 eligibility to the prosecutorial office that handled the court proceedings.

110 (b) If there were no court proceedings, the petitioner shall deliver the copy of the
111 petition and certificate to the county attorney's office in the jurisdiction where the arrest
112 occurred.

113 ~~[(7)]~~ (6) If the prosecutor or the victim files an objection to the petition, the court shall
114 set a hearing and notify the prosecutor and the victim of the date set for the hearing.

115 ~~[(8)]~~ (7) If the court requests a response from the Division of Adult Probation and
116 Parole and a response is received, the petitioner may file a written reply in accordance with
117 Section [77-40-107](#).

118 ~~[(9)]~~ (8) A court may grant an expungement without a hearing if no objection is

119 received.

120 ~~[(10)]~~ (9) Upon receipt of an order of expungement, the petitioner shall deliver copies
121 to all government agencies in possession of records relating to the expunged matter.

122 Section 5. Section **77-40-106** is amended to read:

123 **77-40-106. Application for certificate of eligibility -- Fees.**

124 (1) (a) A petitioner seeking to obtain an expungement for a criminal record shall apply
125 for a certificate of eligibility from the bureau.

126 (b) A petitioner who intentionally or knowingly provides any false or misleading
127 information to the bureau when applying for a certificate of eligibility is guilty of a class B
128 misdemeanor and subject to prosecution under Section [76-8-504.6](#).

129 (c) Regardless of whether the petitioner is prosecuted, the bureau may deny a
130 certificate of eligibility to anyone who knowingly provides false information on an application.

131 (2) (a) The bureau shall perform a check of records of governmental agencies,
132 including national criminal data bases, to determine whether a petitioner is eligible to receive a
133 certificate of eligibility under this chapter.

134 (b) For purposes of determining eligibility under this chapter, the bureau may review
135 records of arrest, investigation, detention and conviction that have been previously expunged,
136 regardless of the jurisdiction in which the expungement occurred.

137 (c) If the petitioner meets all of the criteria under Section [77-40-104](#) or [77-40-105](#), the
138 bureau shall issue a certificate of eligibility to the petitioner which shall be valid for a period of
139 90 days from the date the certificate is issued.

140 (d) If, after reasonable research, a disposition for an arrest on the criminal history file is
141 unobtainable, the bureau may issue a special certificate giving determination of eligibility to
142 the court.

143 (3) (a) The bureau shall charge application and issuance fees for a certificate of
144 eligibility or special certificate in accordance with the process in Section [63J-1-504](#).

145 (b) The application fee shall be paid at the time the petitioner submits an application
146 for a certificate of eligibility to the bureau.

147 (c) If the bureau determines that the issuance of a certificate of eligibility or special
148 certificate is appropriate, the petitioner will be charged an additional fee for the issuance of a
149 certificate of eligibility or special certificate unless Subsection (3)(d) applies.

150 (d) An issuance fee may not be assessed against a petitioner who qualifies for a
151 certificate of eligibility under Section 77-40-104 unless the charges were dismissed pursuant to
152 a plea in abeyance agreement under Title 77, Chapter 2a, Pleas in Abeyance, or a diversion
153 agreement under Title 77, Chapter 2, Prosecution, Screening, and Diversion.

154 (e) Funds generated under this Subsection (3) shall be deposited in the General Fund as
155 a dedicated credit by the department to cover the costs incurred in determining eligibility.

156 (4) The bureau shall provide clear written directions to the petitioner along with a list
157 of agencies known to be affected by an order of expungement.

158 (5) (a) The requirement for a petitioner to pay an issuance fee for a certificate of
159 eligibility or a special certificate of eligibility under Subsection (3) is suspended from May 4,
160 2022, to June 30, 2023.

161 (b) The bureau may not charge a fee for the issuance of a certificate of eligibility or a
162 special certificate of eligibility during the time period described in Subsection (5)(a).

163 Section 6. Section 77-40-107 is amended to read:

164 **77-40-107. Petition for expungement -- Prosecutorial responsibility -- Hearing --**
165 **Standard of proof -- Exception.**

166 (1) The petitioner shall file a petition for expungement and, except as provided in
167 Subsection 77-40-103~~(5)~~(4), the certificate of eligibility in the court specified in Section
168 77-40-103 and deliver a copy of the petition and certificate to the prosecuting agency. If the
169 certificate is filed electronically, the petitioner or the petitioner's attorney shall keep the original
170 certificate until the proceedings are concluded. If the original certificate is filed with the
171 petition, the clerk of the court shall scan it and return it to the petitioner or the petitioner's
172 attorney, who shall keep it until the proceedings are concluded.

173 (2) (a) Upon receipt of a petition for expungement of a conviction or a charge
174 dismissed in accordance with a plea in abeyance, the prosecuting attorney shall provide notice
175 of the expungement request by first-class mail to the victim at the most recent address of record
176 on file.

177 (b) The notice shall:

178 (i) include a copy of the petition, certificate of eligibility, statutes, and rules applicable
179 to the petition;

180 (ii) state that the victim has a right to object to the expungement; and

181 (iii) provide instructions for registering an objection with the court.

182 (3) The prosecuting attorney and the victim, if applicable, may respond to the petition
183 by filing a recommendation or objection with the court within 35 days after receipt of the
184 petition.

185 (4) (a) The court may request a written response to the petition from the Division of
186 Adult Probation and Parole within the Department of Corrections.

187 (b) If requested, the response prepared by the Division of Adult Probation and Parole
188 shall include:

189 (i) the reasons probation was terminated; and

190 (ii) certification that the petitioner has completed all requirements of sentencing and
191 probation or parole.

192 (c) The Division of Adult Probation and Parole shall provide a copy of the response to
193 the petitioner and the prosecuting attorney.

194 (5) The petitioner may respond in writing to any objections filed by the prosecutor or
195 the victim and the response prepared by the Division of Adult Probation and Parole within 14
196 days after receipt.

197 (6) (a) If the court receives an objection concerning the petition from any party, the
198 court shall set a date for a hearing and notify the petitioner and the prosecuting attorney of the
199 date set for the hearing. The prosecuting attorney shall notify the victim of the date set for the
200 hearing.

201 (b) The petitioner, the prosecuting attorney, the victim, and any other person who has
202 relevant information about the petitioner may testify at the hearing.

203 (c) The court shall review the petition, the certificate of eligibility, and any written
204 responses submitted regarding the petition.

205 (7) If no objection is received within 60 days from the date the petition for
206 expungement is filed with the court, the expungement may be granted without a hearing.

207 (8) The court shall issue an order of expungement if the court finds by clear and
208 convincing evidence that:

209 (a) the petition and, except as provided under Subsection 77-40-103[(5)](4), certificate
210 of eligibility are sufficient;

211 (b) the statutory requirements have been met;

212 (c) if the petitioner seeks expungement after a case is dismissed without prejudice or
213 without condition, the prosecutor provided written consent and has not filed and does not
214 intend to refile related charges;

215 (d) if the petitioner seeks expungement of drug possession offenses allowed under
216 Subsection 77-40-105(7), the petitioner is not illegally using controlled substances and is
217 successfully managing any substance addiction;

218 (e) if the petitioner seeks expungement without a certificate of eligibility for
219 expungement under Subsection 77-40-103~~(5)~~(4) for a record of conviction related to cannabis
220 possession:

221 (i) the petitioner had, at the time of the relevant arrest or citation leading to the
222 conviction, a qualifying condition, as that term is defined in Section 26-61a-102; and

223 (ii) the possession of cannabis in question was in a form and an amount to medicinally
224 treat the condition described in Subsection (8)(e)(i);

225 (f) if an objection is received, the petition for expungement is for a charge dismissed in
226 accordance with a plea in abeyance agreement, and the charge is an offense eligible to be used
227 for enhancement, there is good cause for the court to grant the expungement; and

228 (g) it is not contrary to the interests of the public to grant the expungement.

229 (9) (a) If the court denies a petition described in Subsection (8)(c) because the
230 prosecutor intends to refile charges, the person seeking expungement may again apply for a
231 certificate of eligibility if charges are not refiled within 180 days of the day on which the court
232 denies the petition.

233 (b) A prosecutor who opposes an expungement of a case dismissed without prejudice
234 or without condition shall have a good faith basis for the intention to refile the case.

235 (c) A court shall consider the number of times that good faith basis of intention to
236 refile by the prosecutor is presented to the court in making the court's determination to grant
237 the petition for expungement described in Subsection (8)(c).

238 (10) If the court grants a petition described in Subsection (8)(e), the court shall make
239 the court's findings in a written order.

240 (11) A court may not expunge a conviction of an offense for which a certificate of
241 eligibility may not be or should not have been issued under Section 77-40-104 or 77-40-105.

242 Section 7. Section 77-40-117 is enacted to read:

243 77-40-117. Expungement data requirements -- Report.

244 (1) No later than November 1 of each year, the Administrative Office of the Courts
245 shall submit a written report to the Executive Offices and Criminal Justice Appropriations
246 Subcommittee and the Judiciary Interim Committee regarding expungement data for the
247 preceding fiscal year, including:

248 (a) the number of petitions filed for expungement in the district, justice, and juvenile
249 courts;

250 (b) the number of petitions granted for expungement in the district, justice, and
251 juvenile courts;

252 (c) the number of orders issued for an automatic expungement by the district, justice,
253 and juvenile courts;

254 (d) the total number of individuals for whom at least one automatic expungement order
255 was issued by the district, justice, or juvenile court; and

256 (e) the total number of individuals for whom at least one petition-based expungement
257 order was issued by the district, justice, or juvenile court.

258 (2) No later than November 1 of each year, the bureau shall submit a written report to
259 the Executive Offices and Criminal Justice Appropriations Subcommittee and the Judiciary
260 Interim Committee regarding expungement data for the preceding fiscal year, including:

261 (a) the number of applications for expungement received by the bureau;

262 (b) the number of certificates of eligibility issued by the bureau; and

263 (c) the number of orders for expungement received by the bureau.

264 Section 8. Section **78A-2-301** is amended to read:

265 **78A-2-301. Civil fees of the courts of record -- Courts complex design.**

266 (1) (a) The fee for filing any civil complaint or petition invoking the jurisdiction of a
267 court of record not governed by another subsection is \$375.

268 (b) The fee for filing a complaint or petition is:

269 (i) \$90 if the claim for damages or amount in interpleader exclusive of court costs,
270 interest, and attorney fees is \$2,000 or less;

271 (ii) \$200 if the claim for damages or amount in interpleader exclusive of court costs,
272 interest, and attorney fees is greater than \$2,000 and less than \$10,000;

273 (iii) \$375 if the claim for damages or amount in interpleader is \$10,000 or more;

274 (iv) \$325 if the petition is filed under Title 30, Chapter 3, Divorce, or Title 30, Chapter
275 4, Separate Maintenance;

276 (v) \$35 for a motion for temporary separation order filed under Section 30-3-4.5;

277 (vi) \$125 if the petition is for removal from the Sex Offender and Kidnap Offender
278 Registry under Section 77-41-112; and

279 (vii) \$35 if the petition is for guardianship and the prospective ward is the biological or
280 adoptive child of the petitioner.

281 (c) The fee for filing a small claims affidavit is:

282 (i) \$60 if the claim for damages or amount in interpleader exclusive of court costs,
283 interest, and attorney fees is \$2,000 or less;

284 (ii) \$100 if the claim for damages or amount in interpleader exclusive of court costs,
285 interest, and attorney fees is greater than \$2,000, but less than \$7,500; and

286 (iii) \$185 if the claim for damages or amount in interpleader exclusive of court costs,
287 interest, and attorney fees is \$7,500 or more.

288 (d) The fee for filing a counter claim, cross claim, complaint in intervention, third party
289 complaint, or other claim for relief against an existing or joined party other than the original
290 complaint or petition is:

291 (i) \$55 if the claim for relief exclusive of court costs, interest, and attorney fees is
292 \$2,000 or less;

293 (ii) \$165 if the claim for relief exclusive of court costs, interest, and attorney fees is
294 greater than \$2,000 and less than \$10,000;

295 (iii) \$170 if the original petition is filed under Subsection (1)(a), the claim for relief is
296 \$10,000 or more, or the party seeks relief other than monetary damages; and

297 (iv) \$130 if the original petition is filed under Title 30, Chapter 3, Divorce, or Title 30,
298 Chapter 4, Separate Maintenance.

299 (e) The fee for filing a small claims counter affidavit is:

300 (i) \$50 if the claim for relief exclusive of court costs, interest, and attorney fees is
301 \$2,000 or less;

302 (ii) \$70 if the claim for relief exclusive of court costs, interest, and attorney fees is
303 greater than \$2,000, but less than \$7,500; and

304 (iii) \$120 if the claim for relief exclusive of court costs, interest, and attorney fees is

305 \$7,500 or more.

306 (f) The fee for depositing funds under Section 57-1-29 when not associated with an
307 action already before the court is determined under Subsection (1)(b) based on the amount
308 deposited.

309 (g) The fee for filing a petition is:

310 (i) \$240 for trial de novo of an adjudication of the justice court or of the small claims
311 department; and

312 (ii) \$80 for an appeal of a municipal administrative determination in accordance with
313 Section 10-3-703.7.

314 (h) The fee for filing a notice of appeal, petition for appeal of an interlocutory order, or
315 petition for writ of certiorari is \$240.

316 (i) The fee for filing a petition for expungement is \$150.

317 (j) (i) Fifteen dollars of the fees established by Subsections (1)(a) through (i) shall be
318 allocated to and between the Judges' Contributory Retirement Trust Fund and the Judges'
319 Noncontributory Retirement Trust Fund, as provided in Title 49, Chapter 17, Judges'
320 Contributory Retirement Act, and Title 49, Chapter 18, Judges' Noncontributory Retirement
321 Act.

322 (ii) Four dollars of the fees established by Subsections (1)(a) through (i) shall be
323 allocated by the state treasurer to be deposited into the restricted account, Children's Legal
324 Defense Account, as provided in Section 51-9-408.

325 (iii) Three dollars of the fees established under Subsections (1)(a) through (e), (1)(g),
326 and (1)(s) shall be allocated to and deposited with the Dispute Resolution Account as provided
327 in Section 78B-6-209.

328 (iv) Thirty dollars of the fees established by Subsections (1)(a), (1)(b)(iii) and (iv),
329 (1)(d)(iii) and (iv), (1)(g)(ii), (1)(h), and (1)(i) shall be allocated by the state treasurer to be
330 deposited into the restricted account, Court Security Account, as provided in Section
331 78A-2-602.

332 (v) Twenty dollars of the fees established by Subsections (1)(b)(i) and (ii), (1)(d)(ii)
333 and (1)(g)(i) shall be allocated by the state treasurer to be deposited into the restricted account,
334 Court Security Account, as provided in Section 78A-2-602.

335 (k) The fee for filing a judgment, order, or decree of a court of another state or of the

336 United States is \$35.

337 (l) The fee for filing a renewal of judgment in accordance with Section 78B-6-1801 is
338 50% of the fee for filing an original action seeking the same relief.

339 (m) The fee for filing probate or child custody documents from another state is \$35.

340 (n) (i) The fee for filing an abstract or transcript of judgment, order, or decree of the
341 State Tax Commission is \$30.

342 (ii) The fee for filing an abstract or transcript of judgment of a court of law of this state
343 or a judgment, order, or decree of an administrative agency, commission, board, council, or
344 hearing officer of this state or of its political subdivisions other than the State Tax
345 Commission, is \$50.

346 (o) The fee for filing a judgment by confession without action under Section
347 78B-5-205 is \$35.

348 (p) The fee for filing an award of arbitration for confirmation, modification, or
349 vacation under Title 78B, Chapter 11, Utah Uniform Arbitration Act, that is not part of an
350 action before the court is \$35.

351 (q) The fee for filing a petition or counter-petition to modify a domestic relations order
352 other than a protective order or stalking injunction is \$100.

353 (r) The fee for filing any accounting required by law is:

354 (i) \$15 for an estate valued at \$50,000 or less;

355 (ii) \$30 for an estate valued at \$75,000 or less but more than \$50,000;

356 (iii) \$50 for an estate valued at \$112,000 or less but more than \$75,000;

357 (iv) \$90 for an estate valued at \$168,000 or less but more than \$112,000; and

358 (v) \$175 for an estate valued at more than \$168,000.

359 (s) The fee for filing a demand for a civil jury is \$250.

360 (t) The fee for filing a notice of deposition in this state concerning an action pending in
361 another state under Utah Rules of Civil Procedure, Rule 30 is \$35.

362 (u) The fee for filing documents that require judicial approval but are not part of an
363 action before the court is \$35.

364 (v) The fee for a petition to open a sealed record is \$35.

365 (w) The fee for a writ of replevin, attachment, execution, or garnishment is \$50 in
366 addition to any fee for a complaint or petition.

367 (x) (i) The fee for a petition for authorization for a minor to marry required by Section
368 30-1-9 is \$5.

369 (ii) The fee for a petition for emancipation of a minor provided in Title 80, Chapter 7,
370 Emancipation, is \$50.

371 (y) The fee for a certificate issued under Section 26-2-25 is \$8.

372 (z) The fee for a certified copy of a document is \$4 per document plus 50 cents per
373 page.

374 (aa) The fee for an exemplified copy of a document is \$6 per document plus 50 cents
375 per page.

376 (bb) The Judicial Council shall, by rule, establish a schedule of fees for copies of
377 documents and forms and for the search and retrieval of records under Title 63G, Chapter 2,
378 Government Records Access and Management Act. Fees under Subsection (1)(bb) and (cc)
379 shall be credited to the court as a reimbursement of expenditures.

380 (cc) The Judicial Council may, by rule, establish a reasonable fee to allow members of
381 the public to conduct a limited amount of searches on the Xchange database without having to
382 pay a monthly subscription fee.

383 (dd) There is no fee for services or the filing of documents not listed in this section or
384 otherwise provided by law.

385 (ee) Except as provided in this section, all fees collected under this section are paid to
386 the General Fund. Except as provided in this section, all fees shall be paid at the time the clerk
387 accepts the pleading for filing or performs the requested service.

388 (ff) The filing fees under this section may not be charged to the state, the state's
389 agencies, or political subdivisions filing or defending any action. In judgments awarded in
390 favor of the state, its agencies, or political subdivisions, except the Office of Recovery
391 Services, the court shall order the filing fees and collection costs to be paid by the judgment
392 debtor. The sums collected under this Subsection (1)(ff) shall be applied to the fees after credit
393 to the judgment, order, fine, tax, lien, or other penalty and costs permitted by law.

394 (2) (a) (i) From March 17, 1994, until June 30, 1998, the state court administrator shall
395 transfer all revenues representing the difference between the fees in effect after May 2, 1994,
396 and the fees in effect before February 1, 1994, as dedicated credits to the Division of Facilities
397 Construction and Management Capital Projects Fund.

398 (ii) (A) Except as provided in Subsection (2)(a)(ii)(B), the Division of Facilities
399 Construction and Management shall use up to \$3,750,000 of the revenue deposited into the
400 Capital Projects Fund under this Subsection (2)(a) to design and take other actions necessary to
401 initiate the development of a courts complex in Salt Lake City.

402 (B) If the Legislature approves funding for construction of a courts complex in Salt
403 Lake City in the 1995 Annual General Session, the Division of Facilities Construction and
404 Management shall use the revenue deposited into the Capital Projects Fund under this
405 Subsection (2)(a)(ii) to construct a courts complex in Salt Lake City.

406 (C) After the courts complex is completed and all bills connected with its construction
407 have been paid, the Division of Facilities Construction and Management shall use any money
408 remaining in the Capital Projects Fund under this Subsection (2)(a)(ii) to fund the Vernal
409 District Court building.

410 (iii) The Division of Facilities Construction and Management may enter into
411 agreements and make expenditures related to this project before the receipt of revenues
412 provided for under this Subsection (2)(a)(iii).

413 (iv) The Division of Facilities Construction and Management shall:

414 (A) make those expenditures from unexpended and unencumbered building funds
415 already appropriated to the Capital Projects Fund; and

416 (B) reimburse the Capital Projects Fund upon receipt of the revenues provided for
417 under this Subsection (2).

418 (b) After June 30, 1998, the state court administrator shall ensure that all revenues
419 representing the difference between the fees in effect after May 2, 1994, and the fees in effect
420 before February 1, 1994, are transferred to the Division of Finance for deposit in the restricted
421 account.

422 (c) The Division of Finance shall deposit all revenues received from the state court
423 administrator into the restricted account created by this section.

424 (d) (i) From May 1, 1995, until June 30, 1998, the state court administrator shall
425 transfer \$7 of the amount of a fine or bail forfeiture paid for a violation of Title 41, Motor
426 Vehicles, in a court of record to the Division of Facilities Construction and Management
427 Capital Projects Fund. The division of money pursuant to Section 78A-5-110 shall be
428 calculated on the balance of the fine or bail forfeiture paid.

429 (ii) After June 30, 1998, the state court administrator or a municipality shall transfer \$7
430 of the amount of a fine or bail forfeiture paid for a violation of Title 41, Motor Vehicles, in a
431 court of record to the Division of Finance for deposit in the restricted account created by this
432 section. The division of money pursuant to Section 78A-5-110 shall be calculated on the
433 balance of the fine or bail forfeiture paid.

434 (3) (a) There is created within the General Fund a restricted account known as the State
435 Courts Complex Account.

436 (b) The Legislature may appropriate money from the restricted account to the state
437 court administrator for the following purposes only:

438 (i) to repay costs associated with the construction of the court complex that were
439 funded from sources other than revenues provided for under this Subsection (3)(b)(i); and

440 (ii) to cover operations and maintenance costs on the court complex.

441 (4) (a) The requirement of a fee for filing a petition for expungement under Subsection
442 (1)(i) is suspended from May 4, 2022, to June 30, 2023.

443 (b) An individual may not be charged a fee for filing a petition for expungement during
444 the time period described in Subsection (4)(a).

445 Section 9. Section 78A-2-301.5 is amended to read:

446 **78A-2-301.5. Civil fees for justice courts.**

447 (1) The fee for filing a small claims affidavit is:

448 (a) \$60 if the claim for damages or amount in interpleader exclusive of justice court
449 costs, interest, and attorney fees is \$2,000 or less;

450 (b) \$100 if the claim for damages or amount in interpleader exclusive of justice court
451 costs, interest, and attorney fees is greater than \$2,000, but less than \$7,500; and

452 (c) \$185 if the claim for damages or amount in interpleader exclusive of justice court
453 costs, interest, and attorney fees is \$7,500 or more.

454 (2) The fee for filing a small claims counter affidavit is:

455 (a) \$50 if the claim for relief exclusive of justice court costs, interest, and attorney fees
456 is \$2,000 or less;

457 (b) \$70 if the claim for relief exclusive of justice court costs, interest, and attorney fees
458 is greater than \$2,000, but less than \$7,500; and

459 (c) \$120 if the claim for relief exclusive of justice court costs, interest, and attorney

460 fees is \$7,500 or more.

461 (3) The fee for filing a petition for expungement is \$135.

462 (4) The fee for a petition to open a sealed record is \$35.

463 (5) The fee for a writ of replevin, attachment, execution, or garnishment is \$50 in
464 addition to any fee for a complaint or petition.

465 (6) The fee for filing a notice of appeal to a court of record is \$10. This fee covers all
466 services of the justice court on appeal but does not satisfy the trial de novo filing fee in the
467 court of record.

468 (7) The fee for a certified copy of a document is \$4 per document plus 50 cents per
469 page.

470 (8) The fee for an exemplified copy of a document is \$6 per document plus 50 cents
471 per page.

472 (9) The fee schedule adopted by the Judicial Council for copies of documents and
473 forms and for the search and retrieval of records under Title 63G, Chapter 2, Government
474 Records Access and Management Act, shall apply.

475 (10) There is no fee for services or the filing of documents not listed in this section or
476 otherwise provided by law.

477 (11) The filing fees under this section may not be charged to the state, its agencies, or
478 political subdivisions filing or defending any action. In judgments awarded in favor of the
479 state, its agencies, or political subdivisions, except the Office of Recovery Services, the court
480 shall order the filing fees and collection costs to be paid by the judgment debtor. The sums
481 collected under this Subsection (11) shall be applied to the fees after credit to the judgment,
482 order, fine, tax, lien, or other penalty and costs permitted by law.

483 (12) (a) The requirement of a fee for filing a petition for expungement under
484 Subsection (3) is suspended from May 4, 2022, to June 30, 2023.

485 (b) An individual may not be charged a fee for filing a petition for expungement during
486 the time period described in Subsection (12)(a).

487 **Section 10. FY 2023 Appropriations.**

488 The following sums of money are appropriated for the fiscal year beginning July 1,
489 2022, and ending June 30, 2023. These are additions to amounts otherwise appropriated for
490 fiscal year 2023.

491 Subsection 1(a). **Restricted Fund and Account Transfers.**

492 The Legislature authorizes the State Division of Finance to transfer the following
493 amounts between the following funds or accounts as indicated. Expenditures and outlays from
494 the funds to which the money is transferred must be authorized by an appropriation.

495 ITEM 1

496 To General Fund Restricted - Court Security Account

497 From General Fund, One-time \$62,700

498 Schedule of Programs:

499 General Fund Restricted - Court Security Account \$62,700

500 ITEM 2

501 To General Fund Restricted - Children's Legal Defense

502 From General Fund, One-time \$10,500

503 Schedule of Programs:

504 General Fund Restricted - Children's Legal Defense \$10,500

505 ITEM 3

506 To Civil Fees Judges' Retirement Trust Fund

507 From General Fund, One-time \$31,400

508 Schedule of Programs:

509 Civil Fees Judges' Retirement Trust Fund \$31,400

510 Subsection 1(b). **Operating and Capital Budgets.**

511 Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the
512 Legislature appropriates the following sums of money from the funds or accounts indicated for
513 the use and support of the government of the state of Utah.

514 ITEM 4

515 To Department of Public Safety - Bureau of Criminal Identification

516 From General Fund, One-time \$400,000

517 Schedule of Programs:

518 Non-Government/Other Services \$400,000

519 Section 11. **Coordinating H.B. 392 with S.B. 35 -- Substantive and technical**
520 **amendment.**

521 If this H.B. 392 and S.B. 35, Expungement Modifications, both pass and become law,

522 the Legislature intends that the Office of Legislative Research and General Counsel prepare the
523 Utah Code database for publication by:

524 (1) changing the reference to Subsection [77-40-106\(5\)](#) in Section [63I-1-277](#) in H.B.

525 392 to Subsection [77-40a-304\(5\)](#); and

526 (2) renumbering Section [77-40-117](#) enacted by H.B. 392 to Section [77-40a-107](#).