

HB0392S01 compared with HB0392

~~text~~ shows text that was in HB0392 but was deleted in HB0392S01.

text shows text that was not in HB0392 but was inserted into HB0392S01.

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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: _____

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:

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

Other Special Clauses:

~~{ None }~~ This bill provides a coordination clause.

Utah Code Sections Affected:

AMENDS:

53-10-202.5, as last amended by Laws of Utah 2017, Chapter 286

63I-1-277, as renumbered and amended by Laws of Utah 2008, Chapter 382

63I-1-278, as last amended by Laws of Utah 2020, Chapter 154

77-40-103, as last amended by Laws of Utah 2020, Chapters 12 and 218

77-40-106, as last amended by Laws of Utah 2017, Chapter 356

77-40-107, as last amended by Laws of Utah 2021, Chapter 206

78A-2-301, as last amended by Laws of Utah 2021, Chapters 157 and 262

78A-2-301.5, as last amended by Laws of Utah 2013, Chapter 245

ENACTS:

77-40-117, Utah Code Annotated 1953

Utah Code Sections Affected by Coordination Clause:

63I-1-277, as renumbered and amended by Laws of Utah 2008, Chapter 382

77-40-106, as last amended by Laws of Utah 2017, Chapter 356

77-40-117, Utah Code Annotated 1953

77-40a-107, Utah Code Annotated 1953

77-40a-304, Utah Code Annotated 1953

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

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

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

The bureau shall collect fees for the following services:

- (1) applicant fingerprint card as determined by Section 53-10-108;
- (2) bail enforcement licensing as determined by Section 53-11-115;
- (3) concealed firearm permit as determined by Section 53-5-707;
- (4) provisional concealed firearm permit as determined by Section 53-5-707.5;
- (5) ~~[application for and issuance of]~~ a certificate of eligibility for expungement as determined by Section 77-40-106;
- (6) firearm purchase background check as determined by Section 76-10-526;
- (7) name check as determined by Section 53-10-108;
- (8) private investigator licensing as determined by Section 53-9-111; and
- (9) right of access as determined by Section 53-10-108.

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

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

Subsection 77-40-106(5), regarding the suspension of issuance fees for certificates of eligibility, is repealed on July 1, 2023.

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

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

(1) Subsections 78A-2-301(4) and 78A-2-301.5(12), regarding the suspension of filing fees for petitions for expungement, are repealed on July 1, 2023.

~~(1)~~ (2) Section 78B-3-421, regarding medical malpractice arbitration agreements, is repealed July 1, 2029.

~~(2)~~ (3) Title 78B, Chapter 6, Part 2, Alternative Dispute Resolution Act, is repealed July 1, 2026.

~~(3)~~ (4) Title 78B, Chapter 12, Part 4, Advisory Committee, which creates the Child Support Guidelines Advisory Committee, is repealed July 1, 2026.

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

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

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

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

(1) The petitioner shall apply to the bureau for a certificate of eligibility for expungement and pay the application fee established by the department.

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

(a) notify the petitioner[-]; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(3) (a) The bureau shall charge application and issuance fees for a certificate of

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eligibility or special certificate in accordance with the process in Section 63J-1-504.

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

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

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

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

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

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

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

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

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

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

(2) (a) Upon receipt of a petition for expungement of a conviction or a charge dismissed in accordance with a plea in abeyance, the prosecuting attorney shall provide notice

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of the expungement request by first-class mail to the victim at the most recent address of record on file.

(b) The notice shall:

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

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

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

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

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

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

(i) the reasons probation was terminated; and

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

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

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

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

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

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

(7) If no objection is received within 60 days from the date the petition for

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expungement is filed with the court, the expungement may be granted without a hearing.

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

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

(b) the statutory requirements have been met;

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

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

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

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

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

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

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

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

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

(c) A court shall consider the number of times that good faith basis of intention to refile by the prosecutor is presented to the court in making the court's determination to grant

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the petition for expungement described in Subsection (8)(c).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(iii) \$120 if the claim for relief exclusive of court costs, interest, and attorney fees is \$7,500 or more.

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

(g) The fee for filing a petition is:

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

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

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

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

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

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

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

(iv) Thirty dollars of the fees established by Subsections (1)(a), (1)(b)(iii) and (iv), (1)(d)(iii) and (iv), (1)(g)(ii), (1)(h), and (1)(i) shall be allocated by the state treasurer to be

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deposited into the restricted account, Court Security Account, as provided in Section 78A-2-602.

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

(k) The fee for filing a judgment, order, or decree of a court of another state or of the United States is \$35.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(t) The fee for filing a notice of deposition in this state concerning an action pending in

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another state under Utah Rules of Civil Procedure, Rule 30 is \$35.

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

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

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

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

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

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

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

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

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

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

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

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

(ff) The filing fees under this section may not be charged to the state, the state's agencies, or political subdivisions filing or defending any action. In judgments awarded in favor of the state, its agencies, or political subdivisions, except the Office of Recovery Services, the court shall order the filing fees and collection costs to be paid by the judgment

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debtor. The sums collected under this Subsection (1)(ff) shall be applied to the fees after credit to the judgment, order, fine, tax, lien, or other penalty and costs permitted by law.

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

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

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

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

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

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

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

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

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

(c) The Division of Finance shall deposit all revenues received from the state court

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administrator into the restricted account created by this section.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(c) \$120 if the claim for relief exclusive of justice court costs, interest, and attorney fees is \$7,500 or more.

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

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

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

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

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

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

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

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

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

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

HB0392S01 compared with HB0392

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

Section 10. **FY 2023 Appropriations.**

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

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

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

ITEM 1

To General Fund Restricted - Court Security Account

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

Schedule of Programs:

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

ITEM 2

To General Fund Restricted - Children's Legal Defense

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

Schedule of Programs:

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

ITEM 3

To Civil Fees Judges' Retirement Trust Fund

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

Schedule of Programs:

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

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

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

ITEM 4

To Department of Public Safety - Bureau of Criminal Identification

HB0392S01 compared with HB0392

From General Fund, One-time

\$400,000

Schedule of Programs:

Non-Government/Other Services

\$400,000

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

If this H.B. 392 and S.B. 35, Expungement Modifications, both pass and become law, the Legislature intends that the Office of Legislative Research and General Counsel prepare the Utah Code database for publication by:

(1) changing the reference to Subsection 77-40-106(5) in Section 63I-1-277 in H.B. 392 to Subsection 77-40a-304(5); and

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