

- 26           • for an individual seeking an automatic expungement on and after January 1,  
27 2025, prohibiting an automatic expungement if the individual is incarcerated in  
28 the state prison or on probation or parole that is supervised by the Department of  
29 Corrections; and
- 30           • prohibiting an automatic expungement if there is a criminal proceeding pending  
31 in this state against the individual for a misdemeanor or felony offense, unless  
32 the proceeding is for a traffic offense;
- 33           ▶ provides that the court and Bureau of Criminal Identification are the only agencies  
34 that expunge records affected by an automatic expungement order;
- 35           ▶ clarifies the certificate of eligibility process;
- 36           ▶ allows for the waiver of an issuance fee for a certificate of eligibility or a special  
37 certificate if a court finds that the individual filing the petition for expungement is  
38 indigent;
- 39           ▶ requires a court to consider the total number of cases for which an individual has  
40 received a certificate of expungement when determining whether the individual is  
41 indigent;
- 42           ▶ requires a subsequent court to waive a filing fee for a petition for expungement if a  
43 prior court found the individual to be indigent within 180 days before the filing of  
44 the petition for expungement;
- 45           ▶ clarifies the distribution of an expungement order based on a petition and the  
46 expungement of records affected by an expungement order based on a petition;
- 47           ▶ establishes the priority in how expungement orders are processed by a court and the  
48 Bureau of Criminal Identification;
- 49           ▶ requires an agency to develop and implement a process to identify expunged records  
50 and keep, index, and maintain all expunged records of arrest;
- 51           ▶ clarifies the effect of an expungement;
- 52           ▶ addresses the waiver of a fee for a petition for expungement when the individual has  
53 previously received a waiver for a petition for expungement from a prior court;
- 54           ▶ requires a court to find an individual indigent if the individual submits an affidavit  
55 of indigency demonstrating that the individual has an income at or below ~~Ĥ~~→ [250] 175 ←Ĥ % of  
56 the United States poverty level;

1483 (a) "Convicted" means:

1484 (i) a conviction by entry of a plea of guilty or nolo contendere, guilty with a mental  
1485 condition, no contest; and

1486 (ii) a conviction of any crime or offense.

1487 (b) "Indigent" means ~~[an individual who is financially unable to pay fees and costs or~~  
1488 ~~give security]~~ a financial status that results from a court finding that a petitioner is financially  
1489 unable to pay the fee, a cost, or give security.

1490 (c) "Prisoner" means an individual who has been convicted of a crime and is  
1491 incarcerated for that crime or is being held in custody for trial or sentencing.

1492 (2) An individual may institute, prosecute, defend, or appeal any cause in a court in this  
1493 state without prepayment of fees and costs or security if:

1494 (a) the individual submits an affidavit demonstrating that the individual is indigent[-];

1495 or

1496 (b) the individual is seeking a waiver of the fee for a petition for expungement and the  
1497 individual provides the court with proof that another court granted a waiver for a petition for  
1498 expungement as described in Subsection 77-40a-305(12)(b).

1499 (3) A court shall find an individual indigent if the individual's affidavit under  
1500 Subsection (2) demonstrates:

1501 (a) if the cause is not a petition for expungement, the individual has an income level at  
1502 or below 150% of the United States poverty level as defined by the most recent poverty income  
1503 guidelines published by the United States Department of Health and Human Services;

1504 (b) if the cause is a petition for expungement, the individual has an income level at or  
1505 below ~~150~~ [250] 175 ~~150~~ % of the United States poverty level as defined by the most recent  
1505a poverty income

1506 guidelines published by the United States Department of Health and Human Services;

1507 ~~[(b)]~~ (c) the individual receives benefits from a means-tested government program,  
1508 including Temporary Assistance to Needy Families, Supplemental Security Income, the  
1509 Supplemental Nutrition Assistance Program, or Medicaid;

1510 ~~[(c)]~~ (d) the individual receives legal services from a nonprofit provider or a pro bono  
1511 attorney through the Utah State Bar; or

1512 ~~[(d)]~~ (e) the individual has insufficient income or other means to pay the necessary fees  
1513 and costs or security without depriving the individual, or the individual's family, of food,