

Representative Karianne Lisonbee proposes the following substitute bill:

AMENDMENTS TO EXPUNGEMENT

2024 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Karianne Lisonbee

Senate Sponsor: _____

LONG TITLE

General Description:

This bill addresses the expungement of records.

Highlighted Provisions:

This bill:

- ▶ addresses background checks performed by agencies in this state;
- ▶ repeals sunset dates regarding issuance and filing fees for expungement;
- ▶ repeals language relating to the suspension of issuance fees for certificates of eligibility for expungement and filing fees for petitions for expungement;
- ▶ allows a court to issue an order of expungement for a plea in abeyance when the defendant has completed a problem solving court program and the court dismisses the case against the defendant;
- ▶ defines terms related to expungement;
- ▶ clarifies automatic deletion of a traffic offense;
- ▶ amends provisions related to the automatic expungement of a case, including:
 - requiring an individual to submit a form to receive an automatic expungement on and after October 1, 2024, and before October 1, 2027;
 - providing that a court automatically expunge cases that are eligible for expungement on and after October 1, 2027;



- 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 $\hat{H} \rightarrow [250] \underline{175} \leftarrow \hat{H}$ % of
56 the United States poverty level;

- 57 ▶ requires the Administrative Office of the Courts to include a warning on an affidavit
- 58 of indigency;
- 59 ▶ clarifies the expungement of records regarding protective orders, stalking
- 60 injunctions, and juvenile records;
- 61 ▶ repeals a statute regarding the time periods for expungement or deletion and
- 62 identifying and processing clean slate eligible cases; and
- 63 ▶ makes technical and conforming changes.

64 **Money Appropriated in this Bill:**

65 None

66 **Other Special Clauses:**

67 This bill provides a special effective date.

68 **Utah Code Sections Affected:**

69 AMENDS:

- 70 **53-10-108**, as last amended by Laws of Utah 2023, Chapter 328
- 71 **63I-1-277**, as last amended by Laws of Utah 2022, Chapter 384 and last amended by
- 72 Coordination Clause, Laws of Utah 2022, Chapter 384
- 73 **63I-1-278**, as last amended by Laws of Utah 2022, Chapters 188, 318, 384, and 423
- 74 **77-2a-3**, as last amended by Laws of Utah 2023, Chapters 113, 415
- 75 **77-40a-101**, as last amended by Laws of Utah 2023, Chapter 265
- 76 **77-40a-104**, as last amended by Laws of Utah 2023, Chapter 265
- 77 **77-40a-201**, as renumbered and amended by Laws of Utah 2022, Chapter 250
- 78 **77-40a-202**, as renumbered and amended by Laws of Utah 2022, Chapter 250
- 79 **77-40a-301**, as enacted by Laws of Utah 2022, Chapter 250
- 80 **77-40a-302**, as last amended by Laws of Utah 2023, Chapter 265
- 81 **77-40a-303**, as last amended by Laws of Utah 2023, Chapter 265
- 82 **77-40a-304**, as last amended by Laws of Utah 2023, Chapter 265
- 83 **77-40a-305**, as last amended by Laws of Utah 2023, Chapters 265, 330
- 84 **77-40a-306**, as last amended by Laws of Utah 2023, Chapter 330
- 85 **77-40a-401**, as last amended by Laws of Utah 2023, Chapter 265
- 86 **77-40a-402**, as last amended by Laws of Utah 2023, Chapter 265
- 87 **77-40a-403**, as last amended by Laws of Utah 2023, Chapter 265

- 88 [77-40a-404](#), as last amended by Laws of Utah 2023, Chapter 265
- 89 [78A-2-302](#), as last amended by Laws of Utah 2023, Chapter 184
- 90 [78A-7-209.5](#), as enacted by Laws of Utah 2022, Chapter 276
- 91 [78B-7-1001](#), as enacted by Laws of Utah 2022, Chapter 270
- 92 [78B-7-1004](#), as enacted by Laws of Utah 2022, Chapter 270
- 93 [80-6-1001](#), as last amended by Laws of Utah 2023, Chapter 115
- 94 [80-6-1006.1](#), as enacted by Laws of Utah 2023, Chapter 115

95 ENACTS:

- 96 [77-40a-204](#), Utah Code Annotated 1953
- 97 [77-40a-205](#), Utah Code Annotated 1953
- 98 [77-40a-206](#), Utah Code Annotated 1953
- 99 [77-40a-207](#), Utah Code Annotated 1953
- 100 [77-40a-307](#), Utah Code Annotated 1953

101 REPEALS:

- 102 [77-40a-203](#), as renumbered and amended by Laws of Utah 2022, Chapter 250

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

105 Section 1. Section **53-10-108** is amended to read:

106 **53-10-108. Restrictions on access, use, and contents of division records -- Limited**
107 **use of records for employment purposes -- Challenging accuracy of records -- Usage fees**
108 **-- Missing children records -- Penalty for misuse of records.**

109 (1) As used in this section:

110 (a) "Clone" means to copy a subscription or subscription data from a rap back system,
111 including associated criminal history record information, from a qualified entity to another
112 qualified entity.

113 (b) "FBI Rap Back System" means the rap back system maintained by the Federal
114 Bureau of Investigation.

115 (c) "Rap back system" means a system that enables authorized entities to receive
116 ongoing status notifications of any criminal history reported on individuals whose fingerprints
117 are registered in the system.

118 (d) "Volunteer Employee Criminal History System" or "VECHS" means a system that

119 allows the bureau and the Federal Bureau of Investigation to provide criminal history record
120 information to a qualifying entity, including a non-governmental qualifying entity.

121 (e) "WIN Database" means the Western Identification Network Database that consists
122 of eight western states sharing one electronic fingerprint database.

123 (2) Except as provided in Subsection (17), dissemination of information from a
124 criminal history record, including information obtained from a fingerprint background check,
125 name check, warrant of arrest information, or information from division files, is limited to:

126 (a) criminal justice agencies for purposes of administration of criminal justice and for
127 employment screening by criminal justice agencies;

128 (b) (i) agencies or individuals pursuant to a specific agreement with a criminal justice
129 agency to provide services required for the administration of criminal justice; and

130 (ii) the agreement shall specifically authorize access to data, limit the use of the data to
131 purposes for which given, and ensure the security and confidentiality of the data;

132 (c) a qualifying entity for employment background checks for the qualifying entity's
133 own employees or volunteers and individuals who have applied for employment with or to
134 serve as a volunteer for the qualifying entity;

135 (d) noncriminal justice agencies or individuals for any purpose authorized by statute,
136 executive order, court rule, court order, or local ordinance;

137 (e) agencies or individuals for the purpose of obtaining required clearances connected
138 with foreign travel or obtaining citizenship;

139 (f) agencies or individuals for the purpose of a preplacement adoptive study, in
140 accordance with the requirements of Sections [78B-6-128](#) and [78B-6-130](#);

141 (g) private security agencies through guidelines established by the commissioner for
142 employment background checks for their own employees and prospective employees;

143 (h) state agencies for the purpose of conducting a background check for the following
144 individuals:

145 (i) employees;

146 (ii) applicants for employment;

147 (iii) volunteers; and

148 (iv) contract employees;

149 (i) governor's office for the purpose of conducting a background check on the

150 following individuals:

151 (i) cabinet members;

152 (ii) judicial applicants; and

153 (iii) members of boards, committees, and commissions appointed by the governor;

154 (j) the office of the lieutenant governor for the purpose of conducting a background
155 check on an individual applying to be a notary public under Section 46-1-3;

156 (k) agencies and individuals as the commissioner authorizes for the express purpose of
157 research, evaluative, or statistical activities pursuant to an agreement with a criminal justice
158 agency; and

159 (l) other agencies and individuals as the commissioner authorizes and finds necessary
160 for protection of life and property and for offender identification, apprehension, and
161 prosecution pursuant to an agreement.

162 (3) An agreement under Subsection (2)(k) shall specifically authorize access to data,
163 limit the use of data to research, evaluative, or statistical purposes, preserve the anonymity of
164 individuals to whom the information relates, and ensure the confidentiality and security of the
165 data.

166 (4) (a) Before requesting information, a qualifying entity under Subsection (2)(c), state
167 agency, or other agency or individual described in Subsections (2)(d) through (j) shall obtain a
168 signed waiver from the person whose information is requested.

169 (b) The waiver shall notify the signee:

170 (i) that a criminal history background check will be conducted;

171 (ii) who will see the information; and

172 (iii) how the information will be used.

173 (c) A qualifying entity under Subsection (2)(c), state agency, or other agency or
174 individual described in Subsections (2)(d) through (g) that submits a request for a noncriminal
175 justice name based background check of local databases to the bureau shall provide to the
176 bureau:

177 (i) personal identifying information for the subject of the background check; and

178 (ii) the fee required by Subsection (15).

179 (d) A qualifying entity under Subsection (2)(c), state agency, or other agency or
180 individual described in Subsections (2)(d) through (g) that submits a request for a WIN

181 database check and a nationwide background check shall provide to the bureau:

182 (i) personal identifying information for the subject of the background check;

183 (ii) a fingerprint card for the subject of the background check; and

184 (iii) the fee required by Subsection (15).

185 (e) Information received by a qualifying entity under Subsection (2)(c), state agency, or
186 other agency or individual described in Subsections (2)(d) through (j) may only be:

187 (i) available to individuals involved in the hiring or background investigation of the job
188 applicant, employee, notary applicant, or as authorized under federal or state law;

189 (ii) used for the purpose of assisting in making an employment appointment, selection,
190 or promotion decision or for considering a notary applicant under Section 46-1-3; and

191 (iii) used for the purposes disclosed in the waiver signed in accordance with Subsection
192 (4)(b).

193 (f) An individual who disseminates or uses information obtained from the division
194 under Subsections (2)(c) through (j) for purposes other than those specified under Subsection
195 (4)(e), in addition to any penalties provided under this section, is subject to civil liability.

196 (g) (i) A qualifying entity under Subsection (2)(c), state agency, or other agency or
197 individual described in Subsections (2)(d) through (j) that obtains background check
198 information shall provide the subject of the background check an opportunity to:

199 (A) request a copy of the information received; and

200 (B) respond to and challenge the accuracy of any information received.

201 (ii) An individual who is the subject of a background check and who receives a copy of
202 the information described in Subsection (4)(g)(i) may use the information only for the purpose
203 of reviewing, responding to, or challenging the accuracy of the information.

204 (h) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
205 division may make rules to implement this Subsection (4).

206 (i) The division or the division's employees are not liable for defamation, invasion of
207 privacy, negligence, or any other claim in connection with the contents of information
208 disseminated under Subsections (2)(c) through (j).

209 (5) (a) Except as provided in Subsection (5)(b), (c), (d), or (e), or as otherwise
210 authorized under state law, criminal history record information obtained from division files
211 may be used only for the purposes for which the information was provided.

212 (b) A criminal history provided to an agency under Subsection (2)(f) may be provided
213 by the agency to the individual who is the subject of the history, another licensed child-placing
214 agency, or the attorney for the adoptive parents for the purpose of facilitating an adoption.

215 (c) A criminal history of a defendant provided to a criminal justice agency under
216 Subsection (2)(a) may also be provided by the prosecutor to a defendant's defense counsel,
217 upon request during the discovery process, for the purpose of establishing a defense in a
218 criminal case.

219 (d) A public transit district, as described in Title 17B, Chapter 2a, Part 8, Public
220 Transit District Act, that is under contract with a state agency to provide services may, for the
221 purposes of complying with Subsection 26B-6-410(5), provide a criminal history record to the
222 state agency or the agency's designee.

223 (e) Criminal history record information obtained from a national source may be
224 disseminated if the dissemination is authorized by a policy issued by the Criminal Justice
225 Information Services Division or other federal law.

226 (6) (a) A qualifying entity under Subsection (2)(c) may submit fingerprints to the
227 bureau and the Federal Bureau of Investigation for a local and national background check
228 under the provisions of the National Child Protection Act of 1993, 42 U.S.C. Sec. 5119 et seq.

229 (b) A qualifying entity under Subsection (2)(c) that submits fingerprints under
230 Subsection (6)(a):

231 (i) shall meet all VECHS requirements for using VECHS; and

232 (ii) may only submit fingerprints for an employee, volunteer, or applicant who has
233 resided in Utah for the seven years before the day on which the qualifying entity submits the
234 employee's, volunteer's, or applicant's fingerprints.

235 (7) (a) This section does not preclude the use of the division's central computing
236 facilities for the storage and retrieval of criminal history record information.

237 (b) This information shall be stored so the information cannot be modified, destroyed,
238 or accessed by unauthorized agencies or individuals.

239 (8) Direct access through remote computer terminals to criminal history record
240 information in the division's files is limited to those agencies authorized by the commissioner
241 under procedures designed to prevent unauthorized access to this information.

242 (9) (a) The commissioner shall establish procedures to allow an individual right of

243 access to review and receive a copy of the individual's criminal history report.

244 (b) A processing fee for the right of access service, including obtaining a copy of the
245 individual's criminal history report under Subsection (9)(a) shall be set in accordance with
246 Section 63J-1-504.

247 (c) (i) The commissioner shall establish procedures for an individual to challenge the
248 completeness and accuracy of criminal history record information contained in the division's
249 computerized criminal history files regarding that individual.

250 (ii) These procedures shall include provisions for amending any information found to
251 be inaccurate or incomplete.

252 (10) The private security agencies as provided in Subsection (2)(g):

253 (a) shall be charged for access; and

254 (b) shall be registered with the division according to rules made by the division under
255 Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

256 (11) Before providing information requested under this section, the division shall give
257 priority to a criminal justice agency's needs.

258 (12) (a) It is a class B misdemeanor for a person to knowingly or intentionally access,
259 use, disclose, or disseminate a record created, maintained, or to which access is granted by the
260 division or any information contained in a record created, maintained, or to which access is
261 granted by the division for a purpose prohibited or not permitted by statute, rule, regulation, or
262 policy of a governmental entity.

263 (b) A person who discovers or becomes aware of any unauthorized use of records
264 created or maintained, or to which access is granted by the division shall inform the
265 commissioner and the director of the bureau of the unauthorized use.

266 (13) (a) Subject to Subsection (13)(b), a qualifying entity or an entity described in
267 Subsection (2) may request that the division register fingerprints taken for the purpose of
268 conducting current and future criminal background checks under this section with:

269 (i) the WIN Database rap back system, or any successor system;

270 (ii) the FBI Rap Back System; or

271 (iii) a system maintained by the division.

272 (b) A qualifying entity or an entity described in Subsection (2) may only make a
273 request under Subsection (13)(a) if the entity:

274 (i) has the authority through state or federal statute or federal executive order;
275 (ii) obtains a signed waiver from the individual whose fingerprints are being registered;
276 and

277 (iii) establishes a privacy risk mitigation strategy to ensure that the entity only receives
278 notifications for individuals with whom the entity maintains an authorizing relationship.

279 (14) The division is authorized to submit fingerprints to the FBI Rap Back System to
280 be retained in the FBI Rap Back System for the purpose of being searched by future
281 submissions to the FBI Rap Back System, including latent fingerprint searches.

282 (15) (a) The division shall impose fees set in accordance with Section [63J-1-504](#) for
283 the applicant fingerprint card, name check, and to register fingerprints under Subsection
284 (13)(a).

285 (b) Funds generated under this Subsection (15) shall be deposited into the General
286 Fund as a dedicated credit by the department to cover the costs incurred in providing the
287 information.

288 (c) The division may collect fees charged by an outside agency for services required
289 under this section.

290 (16) For the purposes of conducting a criminal background check authorized under
291 Subsection (2)(h), (i), or (j), the Division of Human Resource Management, in accordance with
292 Title 63A, Chapter 17, Utah State Personnel Management Act, and the governor's office shall
293 have direct access to criminal background information maintained under Chapter 10, Part 2,
294 Bureau of Criminal Identification.

295 (17) (a) Except as provided in Subsection (18), if an individual has an active FBI Rap
296 Back System subscription with a qualifying entity, the division may, upon request from another
297 qualifying entity, clone the subscription to the requesting qualifying entity if:

298 (i) the requesting qualifying entity requests the clone:

299 (A) for the purpose of evaluating whether the individual should be permitted to obtain
300 or retain a license for, or serve as an employee or volunteer in a position in which the
301 individual is responsible for, the care, treatment, training, instruction, supervision, or recreation
302 of children, the elderly, or individuals with disabilities; or

303 (B) for the same purpose as the purpose for which the original qualifying entity
304 requested the criminal history record information;

305 (ii) the requesting qualifying entity is expressly authorized by statute to obtain criminal
306 history record information for the individual who is the subject of the request;

307 (iii) before requesting the clone, the requesting qualifying entity obtains a signed
308 waiver, containing the information described in Subsection (4)(b), from the individual who is
309 the subject of the request;

310 (iv) the requesting qualifying entity or the individual pays any applicable fees set by the
311 division in accordance with Section [63J-1-504](#); and

312 (v) the requesting qualifying entity complies with the requirements described in
313 Subsection (4)(g).

314 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
315 division may make rules regulating the process described in this Subsection (17).

316 (18) (a) Subsection (17) does not apply unless the Federal Bureau of Investigation
317 approves the use of the FBI Rap Back System for the purpose described in Subsection
318 (17)(a)(i) under the conditions described in Subsection (17).

319 (b) Subsection (17) does not apply to the extent that implementation of the provisions
320 of Subsection (17) are contrary to the requirements of the Child Care and Development Block
321 Grant, 42 U.S.C. Secs. 9857-9858r or any other federal grant.

322 (19) (a) Information received by a qualifying entity under Subsection (17) may only be
323 disclosed and used as described in Subsection (4)(e).

324 (b) A person who disseminates or uses information received under Subsection (17) for
325 a purpose other than those described in Subsection (4)(e) is subject to the penalties described in
326 this section and is also subject to civil liability.

327 (c) A qualifying entity is not liable for defamation, invasion of privacy, negligence, or
328 any other claim in connection with the contents of information disseminated under Subsection
329 (17).

330 (20) (a) As used in this section, "agency" means the same as that term is defined in
331 Section [77-40a-101](#).

332 (b) The division is the only agency in this state that is authorized to conduct a
333 background check for a qualifying entity described in Subsection (2).

334 (c) Except as provided in Subsections (16) and (20)(b), an agency may not conduct a
335 background check for a qualifying entity described in Subsection (2).

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

337 **63I-1-277. Repeal dates: Title 77.**

338 [~~Subsection 77-40a-304(5), regarding the suspension of issuance fees for certificates of~~
339 ~~eligibility, is repealed on July 1, 2023.~~] Reserved.

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

341 **63I-1-278. Repeal dates: Title 78A and Title 78B.**

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

344 [(2)] (1) Section **78B-3-421**, regarding medical malpractice arbitration agreements, is
345 repealed July 1, 2029.

346 [(3)] (2) Subsection **78A-7-106(6)**, regarding the transfer of a criminal action involving
347 a domestic violence offense from the justice court to the district court, is repealed on July 1,
348 2024.

349 [(4)] (3) Section **78B-4-518**, regarding the limitation on employer liability for an
350 employee convicted of an offense, is repealed on July 1, 2025.

351 [(5)] (4) Title 78B, Chapter 6, Part 2, Alternative Dispute Resolution Act, is repealed
352 July 1, 2026.

353 [(6)] (5) Title 78B, Chapter 12, Part 4, Advisory Committee, which creates the Child
354 Support Guidelines Advisory Committee, is repealed July 1, 2026.

355 [(7)] (6) Section **78B-22-805**, regarding the Interdisciplinary Parental Representation
356 Pilot Program, is repealed December 31, 2024.

357 Section 4. Section **77-2a-3** is amended to read:

358 **77-2a-3. Manner of entry of plea -- Powers of court -- Expungement.**

359 (1) (a) Acceptance of any plea in anticipation of a plea in abeyance agreement shall be
360 done in full compliance with the Utah Rules of Criminal Procedure, Rule 11.

361 (b) In cases charging offenses for which bail may be forfeited, a plea in abeyance
362 agreement may be entered into without a personal appearance before a magistrate.

363 (2) A plea in abeyance agreement may provide that the court may, upon finding that the
364 defendant has successfully completed the terms of the agreement:

365 (a) reduce the degree of the offense, [~~and enter judgment of conviction and impose~~
366 ~~sentence for a lower degree of offense; or~~] enter a judgment of conviction for the lower degree

367 of the offense, and impose a sentence for the lower degree of the offense;

368 (b) allow withdrawal of the defendant's plea and order the dismissal of the case[-]; or

369 (c) issue an order of expungement for all records of the offense if:

370 (i) the defendant successfully completes a problem solving court program that is

371 certified by the Judicial Council; and

372 (ii) the court allows the withdrawal of the defendant's plea and orders the dismissal of

373 the case.

374 (3) (a) Upon finding that a defendant has successfully completed the terms of a plea in

375 abeyance agreement and only as provided in the plea in abeyance agreement or as agreed to by

376 all parties, the court may [~~reduce the degree of the offense or dismiss the case only as provided~~

377 ~~in the plea in abeyance agreement or as agreed to by all parties.];~~

378 (i) reduce the degree of the offense, enter a judgment of conviction for the lower degree

379 of the offense, and impose a sentence for the lower degree of the offense;

380 (ii) allow withdrawal of the defendant's plea and order the dismissal of the case; or

381 (iii) issue an order of expungement for all records of the offense if:

382 (A) the defendant successfully completes a problem solving court program that is

383 certified by the Judicial Council; and

384 (B) the court allows the withdrawal of the defendant's plea and orders the dismissal of

385 the case.

386 (b) Upon sentencing a defendant for any lesser offense in accordance with a plea in

387 abeyance agreement, the court may not invoke Section 76-3-402 to further reduce the degree of

388 the offense.

389 (4) The court may require the Department of Corrections to assist in the administration

390 of the plea in abeyance agreement as if the defendant were on probation to the court under

391 Section 77-18-105.

392 (5) The terms of a plea in abeyance agreement may include:

393 (a) an order that the defendant pay a nonrefundable plea in abeyance fee, with a

394 surcharge based on the amount of the plea in abeyance fee, both of which shall be allocated in

395 the same manner as if paid as a fine for a criminal conviction under Section 78A-5-110 and a

396 surcharge under Title 51, Chapter 9, Part 4, Criminal Conviction Surcharge Allocation, and

397 which may not exceed in amount the maximum fine and surcharge which could have been

398 imposed upon conviction and sentencing for the same offense;

399 (b) an order that the defendant pay the costs of any remedial or rehabilitative program
400 required by the terms of the agreement; and

401 (c) an order that the defendant comply with any other conditions that could have been
402 imposed as conditions of probation upon conviction and sentencing for the same offense.

403 (6) (a) The terms of a plea in abeyance shall include:

404 (i) a specific amount of restitution that the defendant will pay, as agreed to by the
405 defendant and the prosecuting attorney;

406 (ii) a certification from the prosecuting attorney that:

407 (A) the prosecuting attorney has consulted with all victims, including the Utah Office
408 for Victims of Crime; and

409 (B) all victims, including the Utah Office for Victims of Crime, are not seeking
410 restitution; or

411 (iii) an agreement between the parties that restitution will be determined by the court at
412 a subsequent hearing in accordance with Section [77-38b-205](#).

413 (b) At a subsequent hearing described in Subsection (6)(a)(iii), the court shall order the
414 defendant, as a modified term of the plea in abeyance, to pay restitution to all victims for the
415 entire amount of pecuniary damages that are proximately caused by the criminal conduct of the
416 defendant.

417 (c) The court shall collect, receive, process, and distribute payments for restitution to
418 the victim, unless otherwise provided by law or by the plea in abeyance agreement.

419 (d) If the defendant does not successfully complete the terms of the plea in abeyance,
420 the court shall enter an order for restitution, in accordance with Chapter 38b, Crime Victims
421 Restitution Act, upon entering a sentence for the defendant.

422 (7) (a) A court may not hold a plea in abeyance without the consent of both the
423 prosecuting attorney and the defendant.

424 (b) A decision by a prosecuting attorney not to agree to a plea in abeyance is final.

425 (8) (a) If the terms of a plea in abeyance agreement allow a court to issue an order of
426 expungement as described in Subsection (2)(c), the prosecuting attorney shall make a
427 reasonable effort to provide notice to any victim of the offense of the terms of the plea in
428 abeyance agreement.

- 429 (b) The notice under Subsection (8)(a) shall:
- 430 (i) state that the victim has a right to object to the expungement; and
- 431 (ii) provide instructions for registering an objection with the court.
- 432 (c) If there is a victim of the offense, the victim may file an objection with the court
- 433 before the court makes a finding as to whether the defendant successfully completed the terms
- 434 of the plea in abeyance agreement as described in Subsection (3).
- 435 (d) The defendant may respond, in writing, to any objection filed by the victim within
- 436 14 days after the day on which the objection is received by the court.
- 437 [~~(8)~~ (9) No plea may be held in abeyance in any case involving:
- 438 (a) a sexual offense against an individual who is under 14 years old; or
- 439 (b) a driving under the influence violation under Section [41-6a-502](#), [41-6a-502.5](#),
- 440 [41-6a-517](#), [41-6a-520](#), [41-6a-520.1](#), [41-6a-521.1](#), [76-5-102.1](#), or [76-5-207](#).
- 441 (10) If the court issues an order of expungement under Subsection (3)(a)(iii):
- 442 (a) the court shall notify the Bureau of Criminal Identification of the order of
- 443 expungement; and
- 444 (b) the Bureau of Criminal Identification shall notify all agencies affected by the order
- 445 of expungement as described in Section [77-40a-307](#).
- 446 (11) (a) Upon receiving notice from the court of an expungement order as described in
- 447 Subsection (10), the Bureau of Criminal Identification shall notify any agency, as defined in
- 448 Section [77-40a-101](#), affected by the expungement order.
- 449 (b) For purposes of Subsection (11)(a), the Bureau of Criminal Identification may not
- 450 notify the Board of Pardons and Parole of an expungement order if the individual has never
- 451 been:
- 452 (i) sentenced to prison in this state; or
- 453 (ii) under the jurisdiction of the Board of Pardons and Parole.
- 454 (c) The Bureau of Criminal Identification shall forward a copy of the expungement
- 455 order to the Federal Bureau of Investigation.
- 456 (12) The defendant may deliver copies of the expungement to any agency, as defined in
- 457 Section [77-40a-101](#), affected by the order of expungement.
- 458 (13) If an agency receives an expungement order under this part, the agency shall
- 459 expunge all records for the case in accordance with Section [77-40a-401](#).

460 Section 5. Section ~~77-40a-101~~ is amended to read:

461 **77-40a-101. Definitions.**

462 As used in this chapter:

463 ~~[(1)]~~ "Agency" means a state, county, or local government entity that generates or
464 maintains records relating to an investigation, arrest, detention, or conviction for an offense for
465 which expungement may be ordered.

466 (1) "Automatic expungement" means the expungement of records of an investigation,
467 arrest, detention, or conviction of an offense without the filing of a petition.

468 (2) "Bureau" means the Bureau of Criminal Identification of the Department of Public
469 Safety established in Section ~~53-10-201~~.

470 (3) "Civil accounts receivable" means the same as that term is defined in Section
471 77-32b-102.

472 (4) "Civil judgment of restitution" means the same as that term is defined in Section
473 77-32b-102.

474 ~~[(3)]~~ (5) "Certificate of eligibility" means a document issued by the bureau stating that
475 the criminal record and all records of arrest, investigation, and detention associated with a case
476 that is the subject of a petition for expungement is eligible for expungement.

477 ~~[(4)(a) "Clean slate eligible case" means, except as provided in Subsection (4)(c), a~~
478 ~~case:]~~

479 ~~[(i) where each conviction within the case is:]~~

480 ~~[(A) a misdemeanor conviction for possession of a controlled substance in violation of~~
481 ~~Subsection ~~58-37-8(2)(a)(i);]~~~~

482 ~~[(B) a class B or class C misdemeanor conviction; or]~~

483 ~~[(C) an infraction conviction;]~~

484 ~~[(ii) that involves an individual:]~~

485 ~~[(A) whose total number of convictions in Utah state courts, not including infractions,~~
486 ~~traffic offenses, or minor regulatory offenses, does not exceed the limits described in~~
487 ~~Subsections ~~77-40a-303(4)~~ and (5) without taking into consideration the exception in~~
488 ~~Subsection ~~77-40a-303(7)~~; and]~~

489 ~~[(B) against whom no criminal proceedings are pending in the state; and]~~

490 ~~[(iii) for which the following time periods have elapsed from the day on which the case~~

491 is adjudicated:]

492 [~~(A) at least five years for a class C misdemeanor or an infraction;~~]

493 [~~(B) at least six years for a class B misdemeanor; and~~]

494 [~~(C) at least seven years for a class A conviction for possession of a controlled~~

495 ~~substance in violation of Subsection 58-37-8(2)(a)(i).]~~

496 [~~(b) "Clean slate eligible case" includes a case:~~]

497 [~~(i) that is dismissed as a result of a successful completion of a plea in abeyance~~

498 ~~agreement governed by Subsection 77-2a-3(2)(b) if:~~]

499 [~~(A) except as provided in Subsection (4)(c), each charge within the case is a~~

500 ~~misdemeanor for possession of a controlled substance in violation of Subsection~~

501 ~~58-37-8(2)(a)(i), a class B or class C misdemeanor, or an infraction;]~~

502 [~~(B) the individual involved meets the requirements of Subsection (4)(a)(ii); and]~~

503 [~~(C) the time periods described in Subsections (4)(a)(iii)(A) through (C) have elapsed~~

504 ~~from the day on which the case is dismissed; or]~~

505 [~~(ii) where charges are dismissed without prejudice if each conviction, or charge that~~

506 ~~was dismissed, in the case would otherwise meet the requirements under Subsection (4)(a) or~~

507 ~~(b)(i).]~~

508 [~~(c) "Clean slate eligible case" does not include a case:~~]

509 [~~(i) where the individual is found not guilty by reason of insanity;]~~

510 [~~(ii) where the case establishes a criminal accounts receivable, as defined in Section~~

511 ~~77-32b-102, that:]~~

512 [~~(A) has been entered as a civil accounts receivable or a civil judgment of restitution;~~

513 ~~as those terms are defined in Section 77-32b-102, and transferred to the Office of State Debt~~

514 ~~Collection under Section 77-18-114; or]~~

515 [~~(B) has not been satisfied according to court records; or]~~

516 [~~(iii) that resulted in one or more pleas held in abeyance or convictions for the~~

517 ~~following offenses:]~~

518 [~~(A) any of the offenses listed in Subsection 77-40a-303(2)(a);]~~

519 [~~(B) an offense against the person in violation of Title 76, Chapter 5, Offenses Against~~

520 ~~the Individual;]~~

521 [~~(C) a weapons offense in violation of Title 76, Chapter 10, Part 5, Weapons;]~~

522 ~~[(D) sexual battery in violation of Section 76-9-702.1;]~~
523 ~~[(E) an act of lewdness in violation of Section 76-9-702 or 76-9-702.5;]~~
524 ~~[(F) an offense in violation of Title 41, Chapter 6a, Part 5, Driving Under the Influence~~
525 ~~and Reckless Driving;]~~
526 ~~[(G) damage to or interruption of a communication device in violation of Section~~
527 ~~76-6-108;]~~
528 ~~[(H) a domestic violence offense as defined in Section 77-36-1; or]~~
529 ~~[(I) any other offense classified in the Utah Code as a felony or a class A misdemeanor~~
530 ~~other than a class A misdemeanor conviction for possession of a controlled substance in~~
531 ~~violation of Subsection 58-37-8(2)(a)(i).]~~
532 (6) "Clean slate eligible case" means a case that is eligible for automatic expungement
533 under Section 77-40a-205.
534 ~~[(5)]~~ (7) "Conviction" means judgment by a criminal court on a verdict or finding of
535 guilty after trial, a plea of guilty, or a plea of nolo contendere.
536 (8) "Court" means a district court or a justice court.
537 (9) "Criminal accounts receivable" means the same as that term is defined in Section
538 77-32b-102.
539 ~~[(6)]~~ (10) "Criminal protective order" means the same as that term is defined in Section
540 78B-7-102.
541 ~~[(7)]~~ (11) "Criminal stalking injunction" means the same as that term is defined in
542 Section 78B-7-102.
543 ~~[(8)]~~ (12) "Department" means the Department of Public Safety established in Section
544 53-1-103.
545 ~~[(9)]~~ (13) "Drug possession offense" means [an offense under]:
546 (a) an offense described in Subsection 58-37-8(2), except for:
547 (i) [any] an offense under Subsection 58-37-8(2)(b)(i), possession of 100 pounds or
548 more of marijuana;
549 (ii) [any] an offense enhanced under Subsection 58-37-8(2)(e), violation in a
550 correctional facility; or
551 (iii) an offense for driving with a controlled substance illegally in the person's body and
552 negligently causing serious bodily injury or death of another, as codified before May 4, 2022,

553 Laws of Utah 2021, Chapter 236, Section 1, Subsection [58-37-8\(2\)\(g\)](#);

554 (b) an offense described in Subsection [58-37a-5\(1\)](#), use or possession of drug
555 paraphernalia;

556 (c) an offense described in Section [58-37b-6](#), possession or use of an imitation
557 controlled substance; or

558 (d) any local ordinance which is substantially similar to any of the offenses described
559 in this Subsection ~~[(9)]~~ (13).

560 ~~[(10)]~~ (14) (a) "Expunge" means to ~~[seal or otherwise restrict access to the individual's~~
561 ~~record held by an agency when the record includes a criminal investigation, detention, arrest, or~~
562 ~~conviction.]~~ remove a record from public inspection by:

563 (i) sealing the record; or

564 (ii) restricting or denying access to the record.

565 (b) "Expunge" does not include the destruction of a record.

566 (15) "Indigent" means a financial status that results from a court finding that a
567 petitioner is financially unable to pay the fee to file a petition for expungement under Section
568 [78A-2-302](#).

569 ~~[(11)]~~ (16) "Jurisdiction" means a state, district, province, political subdivision,
570 territory, or possession of the United States or any foreign country.

571 ~~[(12)]~~ (17) (a) "Minor regulatory offense" means, except as provided in Subsection
572 ~~[(12)(c)]~~ (17)(c), a class B or C misdemeanor offense or a local ordinance.

573 (b) "Minor regulatory offense" includes an offense under Section [76-9-701](#) or
574 [76-10-105](#).

575 (c) "Minor regulatory offense" does not include:

576 (i) any drug possession offense;

577 (ii) an offense under Title 41, Chapter 6a, Part 5, Driving Under the Influence and
578 Reckless Driving;

579 (iii) an offense under Sections [73-18-13](#) through [73-18-13.6](#);

580 (iv) except as provided in Subsection ~~[(12)(b)]~~ (17)(b), an offense under Title 76, Utah
581 Criminal Code; or

582 (v) any local ordinance that is substantially similar to an offense listed in Subsections
583 ~~[(12)(c)(i)]~~ (17)(c)(i) through (iv).

584 ~~[(13)]~~ (18) "Petitioner" means an individual applying for expungement under this
585 chapter.

586 ~~[(14)]~~ (19) "Plea in abeyance" means the same as that term is defined in Section
587 77-2a-1.

588 (20) "Record" means a book, letter, document, paper, map, plan, photograph, film,
589 card, tape, recording, electronic data, or other documentary material, regardless of physical
590 form or characteristics, that:

591 (a) is contained in the agency's file regarding the arrest, detention, investigation,
592 conviction, sentence, incarceration, probation, or parole of an individual; and

593 (b) is prepared, owned, received, or retained by an agency, including a court.

594 ~~[(15)]~~ (21) (a) "Traffic offense" means, except as provided in Subsection ~~[(15)(b)]~~
595 (21)(b):

596 (i) an infraction, a class B misdemeanor offense, or a class C misdemeanor offense
597 under Title 41, Chapter 6a, Traffic Code;

598 (ii) an infraction, a class B misdemeanor offense, or a class C misdemeanor offense
599 under Title 53, Chapter 3, Part 2, Driver Licensing Act;

600 (iii) an infraction, a class B misdemeanor offense, or a class C misdemeanor offense
601 under Title 73, Chapter 18, State Boating Act; and

602 (iv) all local ordinances that are substantially similar to an offense listed in Subsections
603 ~~[(15)(a)(i)]~~ (21)(a)(i) through (iii).

604 (b) "Traffic offense" does not mean:

605 (i) an offense under Title 41, Chapter 6a, Part 5, Driving Under the Influence and
606 Reckless Driving;

607 (ii) an offense under Sections 73-18-13 through 73-18-13.6; or

608 (iii) any local ordinance that is substantially similar to an offense listed in Subsection
609 ~~[(15)(b)(i)]~~ (21)(b)(i) or (ii).

610 ~~[(16)]~~ (22) "Traffic offense case" means that each offense in the case is a traffic
611 offense.

612 Section 6. Section **77-40a-104** is amended to read:

613 **77-40a-104. Department rulemaking authority.**

614 In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

615 department may make rules to:

- 616 (1) implement procedures for processing an automatic expungement;
- 617 (2) implement procedures for applying for certificates of eligibility;
- 618 (3) specify procedures for receiving a certificate of eligibility;
- 619 (4) create forms and determine information necessary to be provided to the bureau; and
- 620 (5) implement procedures for the confirmation of an expungement under Subsection
- 621 ~~[77-40a-403(2)]~~ 77-40a-401(4).

622 Section 7. Section **77-40a-201** is amended to read:

623 **Part 2. Automatic Expungement and Deletion**

624 **77-40a-201. General provisions for automatic expungement and deletion.**

625 ~~[(1)(a) Except as provided in Subsection (1)(b) and subject to Section 77-40a-203, this~~
 626 ~~section governs the process for the automatic expungement of all records in:]~~

627 ~~[(i) except as provided in Subsection (2)(e), a case that resulted in an acquittal on all~~
 628 ~~charges;]~~

629 ~~[(ii) except as provided in Subsection (3)(e), a case that is dismissed with prejudice; or]~~

630 ~~[(iii) a case that is a clean slate eligible case.]~~

631 ~~[(b) This section does not govern automatic expungement of a traffic offense.]~~

632 ~~[(2)(a) Except as provided in Subsection (2)(e), the process for automatic~~
 633 ~~expungement of records for a case that resulted in an acquittal on all charges is as described in~~
 634 ~~Subsections (2)(b) through (d).]~~

635 ~~[(b) If a court determines that the requirements for automatic expungement have been~~
 636 ~~met, a district court or justice court shall:]~~

637 ~~[(i) issue, without a petition, an expungement order; and]~~

638 ~~[(ii) based on information available, notify the bureau and the prosecuting agency~~
 639 ~~identified in the case of the order of expungement.]~~

640 ~~[(c) The bureau, upon receiving notice from the court, shall notify the law enforcement~~
 641 ~~agencies identified in the case of the order of expungement.]~~

642 ~~[(d) For a case resulting in an acquittal on all charges on or before May 1, 2020, that is~~
 643 ~~automatically expunged under this Subsection (2), a law enforcement agency shall expunge~~
 644 ~~records for the case within one year after the day on which the law enforcement agency~~
 645 ~~receives notice from the bureau.]~~

646 ~~[(e) For purposes of this section, a case that resulted in acquittal on all charges does not~~
647 ~~include a case that resulted in an acquittal because the individual is found not guilty by reason~~
648 ~~of insanity.]~~

649 ~~[(3) (a) The process for an automatic expungement of a case that is dismissed with~~
650 ~~prejudice is as described in Subsections (3)(b) through (d).]~~

651 ~~[(b) If a court determines that the requirements for automatic expungement have been~~
652 ~~met, a district court or justice court shall:]~~

653 ~~[(i) issue, without a petition, an expungement order; and]~~

654 ~~[(ii) based on information available, notify the bureau and the prosecuting agency~~
655 ~~identified in the case of the order of expungement.]~~

656 ~~[(c) The bureau, upon receiving notice from the court, shall notify the law enforcement~~
657 ~~agencies identified in the case of the order of expungement.]~~

658 ~~[(d) For a case dismissed on or before May 1, 2020, that is automatically expunged~~
659 ~~under this Subsection (3), a law enforcement agency shall expunge records for the case within~~
660 ~~one year after the day on which the law enforcement agency receives notice from the bureau.]~~

661 ~~[(e) For purposes of this Subsection (3), a case that is dismissed with prejudice does~~
662 ~~not include a case that is dismissed with prejudice as a result of successful completion of a plea~~
663 ~~in abeyance agreement governed by Subsection ~~77-2a-3~~(2)(b).]~~

664 ~~[(4) (a) The process for the automatic expungement of a clean slate eligible case is as~~
665 ~~described in Subsections (4)(b) through (g) and in accordance with any rules made by the~~
666 ~~Judicial Council or the Supreme Court.]~~

667 ~~[(b) A prosecuting agency, that has complied with Rule 42 of the Utah Rules of~~
668 ~~Criminal Procedure, shall receive notice on a monthly basis for any case prosecuted by that~~
669 ~~agency that appears to be a clean slate eligible case.]~~

670 ~~[(c) Within 35 days of the day on which the notice described in Subsection (4)(b) is~~
671 ~~sent, the prosecuting agency shall provide written notice in accordance with any rules made by~~
672 ~~the Judicial Council or the Supreme Court if the prosecuting agency objects to an automatic~~
673 ~~expungement for any of the following reasons:]~~

674 ~~[(i) after reviewing the agency record, the prosecuting agency believes that the case~~
675 ~~does not meet the definition of a clean slate eligible case;]~~

676 ~~[(ii) the individual has not paid court-ordered restitution to the victim; or]~~

677 ~~[(iii) the prosecuting agency has a reasonable belief, grounded in supporting facts, that~~
678 ~~an individual with a clean slate eligible case is continuing to engage in criminal activity within~~
679 ~~or outside of the state.]~~

680 ~~[(d) (i) If a prosecuting agency provides written notice of an objection for a reason~~
681 ~~described in Subsection (4)(c) within 35 days of the day on which the notice described in~~
682 ~~Subsection (4)(b) is sent, the court may not proceed with automatic expungement.]~~

683 ~~[(ii) If 35 days pass from the day on which the notice described in Subsection (4)(b) is~~
684 ~~sent without the prosecuting agency providing written notice of an objection for a reason~~
685 ~~described in Subsection (4)(c), the court may proceed with automatic expungement.]~~

686 ~~[(e) If a court determines that the requirements for automatic expungement have been~~
687 ~~met, a district court or justice court shall:]~~

688 ~~[(i) issue, without a petition, an expungement order, and]~~

689 ~~[(ii) based on information available, notify the bureau and the prosecuting agency~~
690 ~~identified in the case of the order of expungement.]~~

691 ~~[(f) The bureau, upon receiving notice from the court, shall notify the law enforcement~~
692 ~~agencies identified in the case of the order of expungement.]~~

693 ~~[(g) For a clean slate case adjudicated or dismissed on or before May 1, 2020, that is~~
694 ~~automatically expunged under this Subsection (4), a law enforcement agency shall expunge~~
695 ~~records for the case within one year after the day on which the law enforcement agency~~
696 ~~receives notice from the bureau.]~~

697 ~~[(5)] (1) Nothing in this section precludes an individual from filing a petition for~~
698 ~~expungement of records that are eligible for automatic expungement or deletion under this~~
699 ~~section if an automatic expungement or deletion has not occurred pursuant to this section.~~

700 ~~[(6)] (2) An automatic expungement performed under this [section] part does not~~
701 ~~preclude a person from requesting access to expunged records in accordance with Section~~
702 ~~77-40a-403 or 77-40a-404.~~

703 ~~[(7)] (3) (a) The Judicial Council and the Supreme Court shall make rules to govern the~~
704 ~~process for automatic expungement.~~

705 ~~(b) The rules under Subsection [(7)(a)] (3)(a) may authorize:~~

706 ~~(i) a presiding judge of a district court to issue an expungement order for any case~~
707 ~~when the requirements for automatic expungement are met; and~~

708 (ii) a presiding judge of a justice court to issue an expungement order for any justice
709 court case within the presiding judge's judicial district when the requirements for automatic
710 expungement are met.

711 (4) An individual does not have a cause of action for damages as a result of the failure
712 to:

713 (a) identify an individual's case as eligible for automatic expungement or deletion
714 under this part; or

715 (b) automatically expunge or delete the records of a case that is eligible under this part.

716 Section 8. Section **77-40a-202** is amended to read:

717 **77-40a-202. Automatic deletion for traffic offense by a court.**

718 (1) [~~Subject to Section 77-40a-203;~~] A court shall delete all records for the following
719 traffic offenses [shall be deleted] without a court order or notice to the prosecuting agency:

720 (a) a traffic offense case that resulted in an acquittal on all charges;

721 (b) a traffic offense case that is dismissed with prejudice, except for a case that is
722 dismissed with prejudice as a result of successful completion of a plea in abeyance agreement
723 governed by Subsection ~~77-2a-3~~(2)(b); or

724 (c) a traffic offense case for which the following time periods have elapsed from the
725 day on which the case is adjudicated:

726 (i) at least five years for a class C misdemeanor or an infraction; or

727 (ii) at least six years for a class B misdemeanor.

728 (2) For a traffic offense case that results in an acquittal, is dismissed, or is adjudicated
729 on or after May 1, 2020, the court shall delete all records for the traffic offense upon
730 identification.

731 (3) For a traffic offense case that results in an acquittal, is dismissed, or is adjudicated
732 before May 1, 2020, the court shall delete all records for the traffic offense within one year of
733 the day on which the case is identified as eligible for deletion.

734 [~~(2) The Judicial Council shall make rules to provide an ongoing process for~~
735 ~~identifying and deleting records on all traffic offenses described in Subsection (1).]~~

736 Section 9. Section **77-40a-204** is enacted to read:

737 **77-40a-204. Request for automatic expungement of a case -- Automatic**
738 **expungement before October 1, 2024, and on and after October 1, 2027.**

739 (1) (a) On and after October 1, 2024, but before October 1, 2027, an individual must
740 submit the necessary form to the court to receive an expungement of a case that is eligible
741 under this part.

742 (b) If a form is submitted as described in Subsection (1), the court shall determine
743 whether the individual has a case that qualifies for expungement in accordance with Sections
744 77-40a-205 and 77-40a-206.

745 (2) A court shall automatically expunge a case in accordance with this part if the court
746 identified the case as being eligible for automatic expungement before October 1, 2024, and the
747 requirements for automatic expungement were met under this part.

748 (3) On and after October 1, 2027, a court shall automatically expunge a case in
749 accordance with this part if the court identifies the case as being eligible for automatic
750 expungement.

751 (4) A court shall make reasonable efforts, within available funding, to expunge a case
752 under Subsection (3) as quickly as practicable with the goal of:

753 (a) expunging a case that resulted in an acquittal on all charges on or after May 1,
754 2020, 60 days after acquittal;

755 (b) expunging a case that resulted in a dismissal with prejudice, other than a case that is
756 dismissed with prejudice as a result of successful completion of a plea in abeyance agreement
757 governed by Subsection 77-2a-3(2)(b), on or after May 1, 2020, 180 days after:

758 (i) for a case in which no appeal was filed, the day on which the entire case against the
759 individual is dismissed with prejudice; or

760 (ii) for a case in which an appeal was filed, the day on which a court issues a final
761 nonappealable order;

762 (c) expunging a clean slate eligible case that is adjudicated or dismissed on or after
763 May 1, 2020, and is not a traffic offense within 30 days of the court determining that the
764 requirements for expungement have been satisfied under Section 77-40a-206; and

765 (d) expunging a case adjudicated or dismissed before May 1, 2020, within one year of
766 the day on which the case is identified as eligible for automatic expungement.

767 Section 10. Section **77-40a-205** is enacted to read:

768 **77-40a-205. Automatic expungement of state records for a clean slate case.**

769 (1) A court shall issue an order of expungement, without the filing of a petition, for all

770 records of the case that are held by the court and the bureau if:

771 (a) on and after October 1, 2024, but before October 1, 2027, the individual submitted
772 a form requesting expungement of a case as described in Section [77-40a-204](#);

773 (b) the case is eligible for expungement under this section; and

774 (c) the prosecuting agency does not object to the expungement of the case as described
775 in Subsection (6).

776 (2) Except as otherwise provided in Subsection (3), a case is eligible for expungement
777 under this section if:

778 (a) (i) each conviction within the case is a conviction for:

779 (A) a misdemeanor offense for possession of a controlled substance in violation of
780 Subsection [58-37-8\(2\)\(a\)\(i\)](#);

781 (B) a class B misdemeanor offense;

782 (C) a class C misdemeanor offense; or

783 (D) an infraction; and

784 (ii) the following time periods have passed after the day on which the individual is
785 adjudicated:

786 (A) at least five years for the conviction of a class C misdemeanor offense or an
787 infraction;

788 (B) at least six years for the conviction of a class B misdemeanor offense; or

789 (C) at least seven years for the conviction of a class A misdemeanor offense for
790 possession of a controlled substance in violation of Subsection [58-37-8\(2\)\(a\)\(i\)](#); or

791 (b) (i) the case is dismissed as a result of a successful completion of a plea in abeyance
792 agreement governed by Subsection [77-2a-3\(2\)\(b\)](#) or the case is dismissed without prejudice;

793 (ii) each charge within the case is:

794 (A) a misdemeanor offense for possession of a controlled substance in violation of
795 Subsection [58-37-8\(2\)\(a\)\(i\)](#);

796 (B) a class B misdemeanor offense;

797 (C) a class C misdemeanor offense; or

798 (D) an infraction; and

799 (iii) the following time periods have passed after the day on which the case is
800 dismissed:

- 801 (A) at least five years for a charge in the case for a class C misdemeanor offense or an
802 infraction;
- 803 (B) at least six years for a charge in the case for a class B misdemeanor offense; or
804 (C) at least seven years for a charge in the case for a class A misdemeanor offense for
805 possession of a controlled substance in violation of Subsection 58-37-8(2)(a)(i).
- 806 (3) A case is not eligible for expungement under this section if:
- 807 (a) the individual has a total number of convictions in courts of this state that exceed
808 the limits under Subsection 77-40a-303(4) or (5) without taking into consideration:
- 809 (i) the exception in Subsection 77-40a-303(7); or
810 (ii) any infraction, traffic offense, or minor regulatory offense;
- 811 (b) there is a criminal proceeding for a misdemeanor or felony offense pending in a
812 court of this state against the individual, unless the proceeding is for a traffic offense;
- 813 (c) for an individual seeking an automatic expungement on and after January 1, 2025,
814 the individual is incarcerated in the state prison or on probation or parole that is supervised by
815 the Department of Corrections;
- 816 (d) the case resulted in the individual being found not guilty by reason of insanity;
817 (e) the case establishes a criminal accounts receivable that:
- 818 (i) has been entered as a civil accounts receivable or a civil judgment of restitution and
819 transferred to the Office of State Debt Collection under Section 77-18-114; or
- 820 (ii) has not been satisfied according to court records; or
- 821 (f) the case resulted in a plea held in abeyance or a conviction for the following
822 offenses:
- 823 (i) any of the offenses listed in Subsection 77-40a-303(2)(a);
824 (ii) an offense against the person in violation of Title 76, Chapter 5, Offenses Against
825 the Individual;
- 826 (iii) a weapons offense in violation of Title 76, Chapter 10, Part 5, Weapons;
827 (iv) sexual battery in violation of Section 76-9-702.1;
828 (v) an act of lewdness in violation of Section 76-9-702 or 76-9-702.5;
829 (vi) an offense in violation of Title 41, Chapter 6a, Part 5, Driving Under the Influence
830 and Reckless Driving;
- 831 (vii) damage to or interruption of a communication device in violation of Section

832 [76-6-108](#);

833 (viii) a domestic violence offense as defined in Section [77-36-1](#); or

834 (ix) any other offense classified in the Utah Code as a felony or a class A misdemeanor

835 other than a class A misdemeanor conviction for possession of a controlled substance in

836 violation of Subsection [58-37-8\(2\)\(a\)\(i\)](#).

837 (4) A prosecuting agency that has complied with Rule 42 of the Utah Rules of Criminal

838 Procedure shall receive notice on a monthly basis for any case prosecuted by that agency that

839 appears to be eligible for automatic expungement under this section.

840 (5) Within 35 days after the day on which the notice described in Subsection (4) is

841 sent, the prosecuting agency shall provide written notice in accordance with Rule 42 of the

842 Utah Rules of Criminal Procedure if the prosecuting agency objects to an automatic

843 expungement for any of the following reasons:

844 (a) the prosecuting agency believes that the case is not eligible for expungement under

845 this section after reviewing the agency record;

846 (b) the individual has not paid restitution to the victim as ordered by the court; or

847 (c) the prosecuting agency has a reasonable belief, grounded in supporting facts, that an

848 individual involved in the case is continuing to engage in criminal activity within or outside of

849 the state.

850 (6) If a prosecuting agency provides written notice of an objection for a reason

851 described in Subsection (5) within 35 days after the day on which the notice under Subsection

852 (4) is sent, the court may not proceed with automatic expungement of the case.

853 (7) If 35 days pass after the day on which the notice described in Subsection (4) is sent

854 without the prosecuting agency providing written notice of an objection under Subsection (5),

855 the court shall proceed with automatic expungement of the case.

856 (8) If a court issues an order of expungement under Subsection (1), the court shall:

857 (a) expunge all records held by the court of the case in accordance with Section

858 [77-40a-401](#); and

859 (b) notify the bureau and the prosecuting agency identified in the case, based on

860 information available to the court, of the order of expungement.

861 Section 11. Section **77-40a-206** is enacted to read:

862 **77-40a-206. Automatic expungement of state records for a case resulting in an**

863 **acquittal or dismissal with prejudice.**

864 (1) A court shall issue an order of expungement, without the filing of a petition, for all
865 records of the case that are held by the court and the bureau if:

866 (a) on and after October 1, 2024, but before October 1, 2027, the individual submitted
867 a form requesting expungement of a case as described in Section [77-40a-204](#); and

868 (b) the case is eligible for expungement under this section.

869 (2) Except as provided in Subsection (3), a case is eligible for expungement under this
870 section if:

871 (a) (i) the case resulted in an acquittal on all charges; and

872 (ii) at least 60 days have passed after the day on which the case resulted in an acquittal;

873 or

874 (b) (i) the case is dismissed with prejudice; and

875 (ii) at least 180 days have passed after the day on which:

876 (A) for a case in which no appeal was filed, the entire case against the individual is
877 dismissed with prejudice; or

878 (B) for a case in which an appeal was filed, a court issues a final nonappealable order.

879 (3) A case is not eligible for expungement under Subsection (2) if:

880 (a) the case resulted in an acquittal because the individual is found not guilty by reason
881 of insanity; or

882 (b) the case is dismissed with prejudice as a result of successful completion of a plea in
883 abeyance agreement governed by Subsection [77-2a-3\(2\)\(b\)](#).

884 (4) If a court issues an order of expungement under Subsection (1), the court shall:

885 (a) expunge all records held by the court of the case as described in Section
886 [77-40a-401](#); and

887 (b) notify the bureau and the prosecuting agency identified in the case, based on
888 information available to the court, of the order of expungement.

889 Section 12. Section **77-40a-207** is enacted to read:

890 **77-40a-207. Automatic expungement by the bureau.**

891 (1) Upon receiving notice from a court of an expungement order under this part, the
892 bureau shall expunge all records for the case in accordance with Section [77-40a-401](#).

893 (2) The bureau shall forward a copy of the expungement order to the Federal Bureau of

894 Investigation.

895 (3) Except for the court and the bureau, an agency is not required to expunge all
896 records for a case that is automatically expunged under this part.

897 Section 13. Section **77-40a-301** is amended to read:

898 **77-40a-301. Application for certificate of eligibility for expungement -- Penalty**
899 **for false or misleading information on application.**

900 (1) If an individual seeks to expunge the individual's criminal record in regard to an
901 arrest, investigation, detention, or conviction, the individual shall:

902 (a) except as provided in Subsection 77-40a-305(3) or (4), apply to the bureau for a
903 certificate of eligibility for expungement of the criminal record and pay the application fee as
904 described in Section 77-40a-304;

905 [~~(b) if the individual is qualified to receive a certificate of eligibility, pay the issuance~~
906 ~~fee for the certificate of eligibility as described in Section 77-40a-304, and]~~

907 (b) except as provided in Subsections 77-40a-304(3) and (7), pay the issuance fee for
908 the certificate of eligibility as described in Section 77-40a-304; and

909 (c) file a petition for expungement in accordance with Section 77-40a-305.

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

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

915 Section 14. Section **77-40a-302** is amended to read:

916 **77-40a-302. Requirements for certificate of eligibility to expunge records of**
917 **arrest, investigation, and detention.**

918 (1) Except as provided in Subsection (2), if a petitioner is arrested or charged with an
919 offense, the petitioner is eligible to receive a certificate of eligibility from the bureau to
920 expunge records of the arrest, investigation, and detention in the case for the offense if:

921 (a) the following time periods have passed:

922 (i) at least 30 days have passed after the day on which the individual is arrested or
923 charged for the offense;

924 (ii) at least three years have passed after the day on which the petitioner was convicted

925 of the traffic offense if there is a conviction in the case for a traffic offense that is a class C
926 misdemeanor or an infraction; or

927 (iii) at least four years have passed after the day on which the petitioner was convicted

928 of the traffic offense if there is a conviction in the case for a traffic offense that is a class B
929 misdemeanor; and

930 (b) one of the following occurs:

931 (i) an investigating law enforcement agency and the prosecuting attorney have screened
932 the case and determined that no charges will be filed against the petitioner;

933 (ii) all charges in the case are dismissed with prejudice;

934 (iii) if a charge in the case is dismissed without prejudice or without condition:

935 (A) the prosecuting attorney consents in writing to the issuance of a certificate of
936 eligibility; or

937 (B) at least 180 days have passed after the day on which the charge is dismissed;

938 (iv) the petitioner is acquitted at trial on all of the charges in the case; or

939 (v) the statute of limitations expires on all of the charges in the case~~[-and].~~

940 ~~[(c)(i) there is a conviction in the case for a traffic offense that is a class C~~
941 ~~misdemeanor or an infraction, at least three years have passed after the day on which the~~
942 ~~petitioner was convicted of the traffic offense; or]~~

943 ~~[(ii) there is a conviction in the case for a traffic offense that is a class B misdemeanor;~~
944 ~~at least four years have passed after the day on which the petitioner was convicted of the traffic~~
945 ~~offense.]~~

946 (2) A petitioner is not eligible for a certificate of eligibility under Subsection (1) if:

947 (a) there is a criminal proceeding for a misdemeanor or felony offense pending against
948 the petitioner, unless the criminal proceeding is for a traffic offense;

949 (b) there is a plea in abeyance for a misdemeanor or felony offense pending against the
950 petitioner, unless the plea in abeyance is for a traffic offense;

951 (c) the petitioner is currently incarcerated, on parole, or on probation, unless the
952 petitioner is on probation or parole for an infraction, a traffic offense, or a minor regulatory
953 offense; or

954 (d) there is a criminal protective order or a criminal stalking injunction in effect for the
955 case.

956 Section 15. Section 77-40a-303 is amended to read:

957 **77-40a-303. Requirements for a certificate of eligibility to expunge records of a**
958 **conviction.**

959 (1) Except as otherwise provided by this section, a petitioner is eligible to receive a
960 certificate of eligibility from the bureau to expunge the records of a conviction if:

961 (a) the petitioner has paid in full all fines and interest ordered by the court related to the
962 conviction for which expungement is sought;

963 (b) the petitioner has paid in full all restitution ordered by the court under Section
964 77-38b-205; and

965 (c) the following time periods have passed after the day on which the petitioner was
966 convicted or released from incarceration, parole, or probation, whichever occurred last, for the
967 conviction that the petitioner seeks to expunge:

968 (i) 10 years for the conviction of a misdemeanor under Subsection 41-6a-501(2);

969 (ii) 10 years for the conviction of a felony for operating a motor vehicle with any
970 amount of a controlled substance in an individual's body and causing serious bodily injury or
971 death, as codified before May 4, 2022, Laws of Utah 2021,

972 Chapter 236, Section 1, Subsection 58-37-8(2)(g);

973 (iii) seven years for the conviction of a felony;

974 (iv) five years for the conviction of a drug possession offense that is a felony;

975 (v) five years for the conviction of a class A misdemeanor;

976 (vi) four years for the conviction of a class B misdemeanor; or

977 (vii) three years for the conviction of a class C misdemeanor or infraction.

978 (2) A petitioner is not eligible to receive a certificate of eligibility from the bureau to
979 expunge the records of a conviction under Subsection (1) if:

980 (a) except as provided in Subsection (3), the conviction for which expungement is
981 sought is:

982 (i) a capital felony;

983 (ii) a first degree felony;

984 (iii) a felony conviction of a violent felony as defined in Subsection

985 76-3-203.5(1)(c)(i);

986 (iv) a felony conviction described in Subsection 41-6a-501(2);

987 (v) an offense, or a combination of offenses, that would require the individual to
988 register as a sex offender, as defined in Section 77-41-102; or

989 (vi) a registerable child abuse offense as defined in Subsection 77-43-102(2);

990 (b) there is a criminal proceeding for a misdemeanor or felony offense pending against
991 the petitioner, unless the criminal proceeding is for a traffic offense;

992 (c) there is a plea in abeyance for a misdemeanor or felony offense pending against the
993 petitioner, unless the plea in abeyance is for a traffic offense;

994 (d) the petitioner is currently incarcerated, on parole, or on probation, unless the
995 petitioner is on probation or parole for an infraction, a traffic offense, or a minor regulatory
996 offense;

997 (e) the petitioner intentionally or knowingly provides false or misleading information
998 on the application for a certificate of eligibility;

999 (f) there is a criminal protective order or a criminal stalking injunction in effect for the
1000 case; or

1001 (g) the bureau determines that the petitioner's criminal history makes the petitioner
1002 ineligible for a certificate of eligibility under Subsection (4) or (5).

1003 (3) Subsection (2)(a) does not apply to a conviction for a qualifying sexual offense, as
1004 defined in Section 76-3-209, if, at the time of the offense, a petitioner who committed the
1005 offense was at least 14 years old but under 18 years old, unless the petitioner was convicted by
1006 a district court as an adult in accordance with Title 80, Chapter 6, Part 5, Transfer to District
1007 Court.

1008 (4) Subject to Subsections (6), (7), and (8), a petitioner is not eligible to receive a
1009 certificate of eligibility if, at the time the petitioner seeks the certificate of eligibility, the
1010 bureau determines that the petitioner's criminal history, including previously expunged
1011 convictions, contains any of the following:

1012 (a) two or more felony convictions other than for drug possession offenses, each of
1013 which is contained in a separate criminal episode;

1014 (b) any combination of three or more convictions other than for drug possession
1015 offenses that include two class A misdemeanor convictions, each of which is contained in a
1016 separate criminal episode;

1017 (c) any combination of four or more convictions other than for drug possession

1018 offenses that include three class B misdemeanor convictions, each of which is contained in a
1019 separate criminal episode; or

1020 (d) five or more convictions other than for drug possession offenses of any degree
1021 whether misdemeanor or felony, each of which is contained in a separate criminal episode.

1022 (5) Subject to Subsections (7) and (8), a petitioner is not eligible to receive a certificate
1023 of eligibility if, at the time the petitioner seeks the certificate of eligibility, the bureau
1024 determines that the petitioner's criminal history, including previously expunged convictions,
1025 contains any of the following:

1026 (a) three or more felony convictions for drug possession offenses, each of which is
1027 contained in a separate criminal episode; or

1028 (b) any combination of five or more convictions for drug possession offenses, each of
1029 which is contained in a separate criminal episode.

1030 (6) If the petitioner's criminal history contains convictions for both a drug possession
1031 offense and a non-drug possession offense arising from the same criminal episode, the bureau
1032 shall count that criminal episode as a conviction under Subsection (4) if any non-drug
1033 possession offense in that episode:

1034 (a) is a felony or class A misdemeanor; or

1035 (b) has the same or a longer waiting period under Subsection (1)(c) than any drug
1036 possession offense in that episode.

1037 (7) Except as provided in Subsection (8), if at least 10 years have passed after the day
1038 on which the petitioner was convicted or released from incarceration, parole, or probation,
1039 whichever occurred last, for all convictions:

1040 (a) each numerical eligibility limit under Subsections (4)(a) and (b) shall be increased
1041 by one; and

1042 (b) each numerical eligibility limit under Subsections (4)(c) and (d) is not applicable if
1043 the highest level of convicted offense in the criminal episode is:

1044 (i) a class B misdemeanor;

1045 (ii) a class C misdemeanor;

1046 (iii) a drug possession offense if none of the non-drug possession offenses in the
1047 criminal episode are a felony or a class A misdemeanor; or

1048 (iv) an infraction.

1049 (8) When determining whether a petitioner is eligible for a certificate of eligibility
 1050 under Subsection (4), (5), or (7), the bureau may not consider a petitioner's pending case or
 1051 prior conviction for:

1052 (a) an infraction;

1053 (b) a traffic offense;

1054 (c) a minor regulatory offense; or

1055 (d) a clean slate eligible case that was automatically expunged [~~in accordance with~~
 1056 ~~Section 77-40a-201~~].

1057 (9) If the petitioner received a pardon before May 14, 2013, from the Utah Board of
 1058 Pardons and Parole, the petitioner is entitled to an expungement order for all pardoned crimes
 1059 in accordance with Section ~~77-27-5.1~~.

1060 Section 16. Section ~~77-40a-304~~ is amended to read:

1061 **~~77-40a-304. Certificate of eligibility process -- Issuance of certificate -- Fees.~~**

1062 (1) (a) When a petitioner applies for a certificate of eligibility as described in
 1063 Subsection ~~77-40a-301(1)~~;

1064 (i) the bureau shall perform a check of records of governmental agencies, including
 1065 national criminal data bases, to determine whether the petitioner is eligible to receive a
 1066 certificate of eligibility under this chapter.

1067 (ii) the petitioner shall pay an application fee at the time the petitioner submits an
 1068 application for a certificate of eligibility to the bureau; and

1069 (b) For purposes of determining eligibility under this chapter, the bureau may review
 1070 records of arrest, investigation, detention, and conviction that have been previously expunged,
 1071 regardless of the jurisdiction in which the expungement occurred.

1072 [~~(c) Once the eligibility process is complete, the bureau shall notify the petitioner.~~]

1073 [~~(d) If the petitioner meets all of the criteria under Section ~~77-40a-302~~ or ~~77-40a-303~~.~~]

1074 [~~(i) the bureau shall issue a certificate of eligibility that is valid for a period of 180 days~~
 1075 ~~from the day on which the certificate is issued;~~]

1076 [~~(ii) the bureau shall provide a petitioner with an identification number for the~~
 1077 ~~certificate of eligibility; and]~~

1078 [~~(iii) the petitioner shall pay the issuance fee established by the department as~~
 1079 ~~described in Subsection (2).~~]

1080 ~~[(e)]~~ (c) If ~~[, after reasonable research,]~~ a disposition for an arrest on the criminal
1081 history file is unobtainable after reasonable research, the bureau may issue a special certificate
1082 giving determination of eligibility to the court, except that the bureau may not issue the special
1083 certificate if:

1084 (i) there is a criminal proceeding for a misdemeanor or felony offense pending against
1085 the petitioner, unless the criminal proceeding is for a traffic offense;

1086 (ii) there is a plea in abeyance for a misdemeanor or felony offense pending against the
1087 petitioner, unless the plea in abeyance is for a traffic offense; or

1088 (iii) the petitioner is currently incarcerated, on parole, or on probation, unless the
1089 petitioner is on probation or parole for an infraction, a traffic offense, or a minor regulatory
1090 offense.

1091 (2) (a) Once the eligibility process is complete, the bureau shall notify the petitioner.

1092 (b) If the petitioner meets all of the criteria under Section [77-40a-302](#) or [77-40a-303](#)
1093 and the bureau determines that the issuance of a certificate of eligibility or special certificate is
1094 appropriate:

1095 (i) the bureau shall issue a certificate of eligibility or special certificate that is valid for
1096 a period of 180 days from the day on which the certificate is issued;

1097 (ii) the bureau shall provide a petitioner with an identification number for the
1098 certificate of eligibility or special certificate; and

1099 (iii) except as provided in Subsection (3), the petitioner shall pay an additional fee for
1100 the issuance of a certificate of eligibility or special certificate.

1101 ~~[(2) (a) The bureau shall charge application and issuance fees for a certificate of~~
1102 ~~eligibility or special certificate in accordance with the process in Section [63J-1-504](#).]~~

1103 ~~[(b) The application fee shall be paid at the time the petitioner submits an application~~
1104 ~~for a certificate of eligibility to the bureau.]~~

1105 ~~[(c) If the bureau determines that the issuance of a certificate of eligibility or special~~
1106 ~~certificate is appropriate, the petitioner will be charged an additional fee for the issuance of a~~
1107 ~~certificate of eligibility or special certificate unless Subsection (2)(d) applies.]~~

1108 ~~[(d) An issuance fee may not be assessed against a petitioner who]~~

1109 (3) The bureau shall issue a certificate of eligibility or special certificate without
1110 requiring the payment of the issuance fee if the petitioner:

1111 (a) qualifies for a certificate of eligibility under Section 77-40a-302 unless the charges
1112 were dismissed pursuant to a plea in abeyance agreement under Title 77, Chapter 2a, Pleas in
1113 Abeyance, or a diversion agreement under Title 77, Chapter 2, Prosecution, Screening, and
1114 Diversion[-]; or

1115 (b) indicates on the application for a certificate of eligibility that the petitioner
1116 reasonably believes, as of the date of the application, that the fee to file a petition for
1117 expungement is likely to be waived by a court because the petitioner is indigent.

1118 ~~[(c) Funds generated under this Subsection (2) shall be deposited in the General Fund~~
1119 ~~as a dedicated credit by the department to cover the costs incurred in determining eligibility.]~~

1120 ~~[(3)]~~ (4) The bureau shall include on the certificate of eligibility all information that is
1121 needed for the court to issue a valid expungement order.

1122 ~~[(4)]~~ (5) The bureau shall provide clear written instructions to the petitioner that
1123 explain:

1124 (a) the process for a petition for expungement; and

1125 (b) what is required of the petitioner to complete the process for a petition for
1126 expungement.

1127 (6) If a petitioner indicates on the application for a certificate of eligibility that a court
1128 is likely to waive the fee for a petition for expungement as described in Subsection (3)(b), the
1129 bureau shall:

1130 (a) inform the petitioner that the petitioner will be required to pay an issuance fee
1131 before an agency will expunge the offense if a court does not waive the fee for a petition for
1132 expungement; and

1133 (b) provide the petitioner with the form for waiving a court fee for a petition for
1134 expungement.

1135 (7) If the bureau issues a certificate of eligibility or a special certificate without
1136 requiring payment of the issuance fee as described in Subsection (3)(b), the bureau shall charge
1137 the petitioner the issuance fee upon the bureau's receipt of an order deciding a petition for
1138 expungement unless the court communicates to the bureau that the fee to file the petition for
1139 expungement was waived because the petitioner is indigent.

1140 (8) (a) If the petitioner qualifies for a waiver of the issuance fee under Subsection (7)
1141 and the expungement order grants the petition for expungement, the bureau shall process the

1142 expungement order in accordance with Section [77-40a-401](#) as if the petitioner paid the issuance
1143 fee.

1144 (b) If the petitioner does not qualify for a waiver of the issuance fee under Subsection
1145 (7) and the expungement order grants the petition for expungement, the bureau may not notify
1146 other agencies affected by the expungement order as described in Section [77-40a-401](#) until the
1147 petitioner pays the issuance fee.

1148 (c) If the bureau issues a certificate of eligibility or special certificate without requiring
1149 payment of the issuance fee under Subsection (3)(b), the bureau may not charge the petitioner
1150 an issuance fee on the grounds that the validity of the certificate described in (2)(b)(i) has
1151 expired.

1152 (9) The bureau shall charge application and issuance fees for a certificate of eligibility
1153 or special certificate in accordance with the process in Section [63J-1-504](#).

1154 (10) The department shall deposit funds generated by application and issuance fees
1155 under this section into the General Fund as a dedicated credit by the department to cover the
1156 costs incurred in determining eligibility for expungement.

1157 Section 17. Section **77-40a-305** is amended to read:

1158 **77-40a-305. Petition for expungement -- Prosecutorial responsibility -- Hearing.**

1159 (1) (a) The petitioner shall file a petition for expungement, in accordance with the Utah
1160 Rules of Criminal Procedure, that includes the identification number for the certificate of
1161 eligibility described in Subsection [~~[77-40a-304\(1\)\(d\)\(ii\)](#)~~ [77-40a-304\(2\)\(b\)\(ii\)](#)].

1162 (b) Information on a certificate of eligibility is incorporated into a petition by reference
1163 to the identification number for the certificate of eligibility.

1164 (2) (a) If a petition for expungement is filed under Subsection (1)(a), the court shall
1165 obtain a certificate of eligibility from the bureau.

1166 (b) A court may not accept a petition for expungement if the certificate of eligibility is
1167 no longer valid as described in Subsection [~~[77-40a-304\(1\)\(d\)\(i\)](#)~~ [77-40a-304\(2\)\(b\)\(i\)](#)].

1168 (3) Notwithstanding Subsection (2), the petitioner may file a petition for expungement
1169 of a traffic offense case without obtaining a certificate of eligibility if:

1170 (a) (i) for a traffic offense case with a class C misdemeanor or infraction, at least three
1171 years have passed after the day on which the petitioner was convicted; or

1172 (ii) for a traffic offense case with a class B misdemeanor, at least four years have

1173 passed after the day on which the petitioner was convicted;

1174 (b) there is no traffic offense case pending against the petitioner;

1175 (c) there is no plea in abeyance for a traffic offense case pending against the petitioner;

1176 and

1177 (d) the petitioner is not currently on probation for a traffic offense case.

1178 (4) Notwithstanding Subsection (2), a petitioner may file a petition for expungement of
1179 a record for a conviction related to cannabis possession without a certificate of eligibility if the
1180 petition demonstrates that:

1181 (a) the petitioner had, at the time of the relevant arrest or citation leading to the
1182 conviction, a qualifying condition, as that term is defined in Section [26B-4-201](#); and

1183 (b) the possession of cannabis in question was in a form and an amount to medicinally
1184 treat the qualifying condition described in Subsection (4)(a).

1185 (5) (a) The court shall provide notice of a filing of a petition and certificate of
1186 eligibility to the prosecutorial office that handled the court proceedings within three days after
1187 the day on which the petitioner's filing fee is paid or waived.

1188 (b) If there were no court proceedings, the court shall provide notice of a filing of a
1189 petition and certificate of eligibility to the county attorney's office in the jurisdiction where the
1190 arrest occurred.

1191 (c) If the prosecuting agency with jurisdiction over the arrest, investigation, detention,
1192 or conviction, was a city attorney's office, the county attorney's office in the jurisdiction where
1193 the arrest occurred shall immediately notify the city attorney's office that the county attorney's
1194 office has received a notice of a filing of a petition for expungement.

1195 (6) (a) Upon receipt of a notice of a filing of a petition for expungement of a conviction
1196 or a charge dismissed in accordance with a plea in abeyance, the prosecuting attorney shall
1197 make a reasonable effort to provide notice to any victim of the conviction or charge.

1198 (b) The notice under Subsection (6)(a) shall:

1199 (i) include a copy of the petition, certificate of eligibility, statutes, and rules applicable
1200 to the petition;

1201 (ii) state that the victim has a right to object to the expungement; and

1202 (iii) provide instructions for registering an objection with the court.

1203 (7) (a) The prosecuting attorney may respond to the petition by filing a

1204 recommendation or objection with the court within 35 days after the day on which the notice of
1205 the filing of the petition is sent by the court to the prosecuting attorney.

1206 (b) If there is a victim of the offense for which expungement is sought, the victim may
1207 respond to the petition by filing a recommendation or objection with the court within 60 days
1208 after the day on which the petition for expungement was filed with the court.

1209 (8) (a) The court may request a written response to the petition from the Division of
1210 Adult Probation and Parole within the Department of Corrections.

1211 (b) If requested, the response prepared by the Division of Adult Probation and Parole
1212 shall include:

1213 (i) the reasons probation was terminated; and

1214 (ii) certification that the petitioner has completed all requirements of sentencing and
1215 probation or parole.

1216 (c) The Division of Adult Probation and Parole shall provide a copy of the response to
1217 the petitioner and the prosecuting attorney.

1218 (9) The petitioner may respond in writing to any objections filed by the prosecuting
1219 attorney or the victim and the response prepared by the Division of Adult Probation and Parole
1220 within 14 days after the day on which the objection or response is received.

1221 (10) (a) If the court receives an objection concerning the petition from any party, the
1222 court shall set a date for a hearing and notify the petitioner and the prosecuting attorney of the
1223 date set for the hearing.

1224 (b) The prosecuting attorney shall notify the victim of the date set for the hearing.

1225 (c) The petitioner, the prosecuting attorney, the victim, and any other person who has
1226 relevant information about the petitioner may testify at the hearing.

1227 (d) The court shall review the petition, the certificate of eligibility, and any written
1228 responses submitted regarding the petition.

1229 (11) If no objection is received within 60 days from the day on which the petition for
1230 expungement is filed with the court, the expungement may be granted without a hearing.

1231 (12) (a) If the petitioner seeks a waiver of the fee required for a petition for
1232 expungement in accordance with Section 78A-2-302, the court shall consider the total number
1233 of cases for which the petitioner has received a certificate of eligibility and is seeking
1234 expungement in determining whether the petitioner is indigent under Subsection

1235 78A-2-302(3)(e) even if the court does not have jurisdiction over a case for which the
1236 petitioner is seeking expungement.

1237 (b) If a court grants a waiver of the fee required for a petition for expungement in
1238 accordance with Section 78A-2-302, and only upon a request from the petitioner, a subsequent
1239 court shall grant a waiver of a fee for a petition for expungement if the prior court waived the
1240 fee for a petition for expungement within 180 days before the day on which the petitioner filed
1241 the petition for expungement with the subsequent court.

1242 Section 18. Section 77-40a-306 is amended to read:

1243 **77-40a-306. Order of expungement.**

1244 (1) If a petition is filed in accordance with Section 77-40a-305, the court shall issue an
1245 order of expungement if the court finds, by clear and convincing evidence, that:

1246 (a) except as provided in Subsection 77-40a-305(3) or (4), the petition and certificate
1247 of eligibility are sufficient;

1248 (b) the statutory requirements have been met;

1249 (c) if the petitioner seeks expungement after a case is dismissed without prejudice or
1250 without condition, the prosecuting attorney provided written consent and has not filed and does
1251 not intend to refile related charges;

1252 (d) if the petitioner seeks expungement without a certificate of eligibility for
1253 expungement under Subsection 77-40a-305(4) for a record of conviction related to cannabis
1254 possession:

1255 (i) the petitioner had, at the time of the relevant arrest or citation leading to the
1256 conviction, a qualifying condition, as that term is defined in Section 26B-4-201; and

1257 (ii) the possession of cannabis in question was in a form and an amount to medicinally
1258 treat the qualifying condition described in Subsection (1)(d)(i);

1259 (e) if an objection is received, the petition for expungement is for a charge dismissed in
1260 accordance with a plea in abeyance agreement, and the charge is an offense eligible to be used
1261 for enhancement, there is good cause for the court to grant the expungement; and

1262 (f) the interests of the public would not be harmed by granting the expungement.

1263 (2) (a) If the court denies a petition described in Subsection (1)(c) because the
1264 prosecuting attorney intends to refile charges, the petitioner may apply again for a certificate of
1265 eligibility if charges are not refiled within 180 days after the day on which the court denies the

1266 petition.

1267 (b) A prosecuting attorney who opposes an expungement of a case dismissed without
1268 prejudice, or without condition, shall have a good faith basis for the intention to refile the case.

1269 (c) A court shall consider the number of times that good faith basis of intention to
1270 refile by the prosecuting attorney is presented to the court in making the court's determination
1271 to grant the petition for expungement described in Subsection (1)(c).

1272 (3) If the court grants a petition described in Subsection (1)(e), the court shall make the
1273 court's findings in a written order.

1274 (4) A court may not expunge a conviction of an offense for which a certificate of
1275 eligibility may not be, or should not have been, issued under Section 77-40a-302 or
1276 77-40a-303.

1277 (5) If a court grants a petition for expungement, the court shall:

1278 (a) expunge all records of the case as described in Section 77-40a-401; and

1279 (b) notify the bureau of the order of expungement.

1280 Section 19. Section 77-40a-307 is enacted to read:

1281 **77-40a-307. Distribution of expungement order based on a petition to all agencies.**

1282 (1) (a) Upon receiving notice from the court of an expungement order as described in
1283 Subsection 77-40a-306(5), the bureau shall notify all agencies affected by the expungement
1284 order.

1285 (b) For purposes of Subsection (1)(a), the bureau may not notify the Board of Pardons
1286 and Parole of an expungement order if the individual has never been:

1287 (i) sentenced to prison in this state; or

1288 (ii) under the jurisdiction of the Board of Pardons and Parole.

1289 (c) The bureau shall forward a copy of the expungement order to the Federal Bureau of
1290 Investigation.

1291 (2) A petitioner may deliver copies of the expungement to all agencies affected by the
1292 order of expungement.

1293 (3) If an agency receives an expungement order under this part, the agency shall
1294 expunge all records for the case in accordance with Section 77-40a-401.

1295 Section 20. Section 77-40a-401 is amended to read:

1296 **Part 4. Expungement of Criminal Records**

1297 **77-40a-401. Distribution of order -- Processing of expungement order -- Written**
1298 **confirmation of expungement -- Effect of an expungement.**

1299 ~~[(1) (a) The bureau, upon receiving notice from the court, shall notify all criminal~~
1300 ~~justice agencies affected by the expungement order.]~~

1301 ~~[(b) For purposes of Subsection (1)(a), the bureau may not notify the Board of Pardons~~
1302 ~~and Parole of an expungement order if the individual has never been:]~~

1303 ~~[(i) sentenced to prison in this state; or]~~

1304 ~~[(ii) under the jurisdiction of the Board of Pardons and Parole.]~~

1305 ~~[(c) A petitioner may deliver copies of the expungement to all criminal justice agencies~~
1306 ~~affected by the order of expungement.]~~

1307 ~~[(d) An individual, who receives an expungement order under Section 77-27-5.1, shall~~
1308 ~~pay a processing fee to the bureau, established in accordance with the process in Section~~
1309 ~~63J-1-504, before the bureau's record may be expunged.]~~

1310 ~~[(2) Unless otherwise provided by law or ordered by a court to respond differently, an~~
1311 ~~individual or agency who has received an expungement of an arrest or conviction under this~~
1312 ~~chapter or Section 77-27-5.1 may respond to any inquiry as though the arrest or conviction did~~
1313 ~~not occur.]~~

1314 ~~[(3) The bureau shall forward a copy of the expungement order to the Federal Bureau~~
1315 ~~of Investigation.]~~

1316 ~~[(4) An agency receiving an expungement order shall expunge the individual's~~
1317 ~~identifying information contained in records in the agency's possession relating to the incident~~
1318 ~~for which expungement is ordered.]~~

1319 ~~[(5) Unless ordered by a court to do so, or in accordance with Section 77-40a-403, a~~
1320 ~~government agency or official may not divulge information or records that have been~~
1321 ~~expunged.]~~

1322 (1) In processing an expungement order, a court and the bureau shall give priority to:

1323 (a) first, an expungement order granting a petition for expungement as described in
1324 Section 77-40a-306;

1325 (b) second, an expungement order where an individual submitted a form requesting
1326 automatic expungement under Part 2, Automatic Expungement and Deletion; and

1327 (c) third, an expungement order where the court identified the case as being eligible for

1328 automatic expungement under Part 2, Automatic Expungement and Deletion.

1329 (2) An individual, who receives an expungement order under Section 77-27-5.1, shall
1330 pay a processing fee to the bureau, established in accordance with the process in Section
1331 63J-1-504, before the bureau's record may be expunged.

1332 (3) An agency shall:

1333 (a) develop and implement a process to identify an expunged record; and

1334 (b) keep, index, and maintain all expunged records of arrests and convictions.

1335 (4) (a) If an individual who receives an expungement requests confirmation from an
1336 agency, the agency shall provide the individual with written confirmation that:

1337 (i) the agency has identified all records subject to expungement; and

1338 (ii) except as otherwise provided by Sections 77-40a-402 and 77-40a-403, the agency
1339 will restrict or deny access to all of the expunged records.

1340 (b) The bureau may charge a fee for providing a written confirmation under Subsection
1341 (4)(a) in accordance with the process in Section 63J-1-504.

1342 (5) Upon entry of an expungement order, an individual, who received the
1343 expungement, may respond to any inquiry as though the conviction did not occur unless
1344 otherwise provided by law or ordered by a court to respond differently.

1345 (6) (a) An expungement order may not restrict an agency's use or dissemination of
1346 records in the agency's ordinary course of business until the agency has received a copy of the
1347 order.

1348 (b) Any action taken by an agency after issuance of the order but prior to the agency's
1349 receipt of a copy of the order may not be invalidated by the order.

1350 (7) An expungement order may not:

1351 (a) terminate or invalidate any pending administrative proceedings or actions of which
1352 the individual had notice according to the records of the administrative body prior to issuance
1353 of the expungement order;

1354 (b) affect the enforcement of any order or findings issued by an administrative body
1355 pursuant to the administrative body's lawful authority prior to issuance of the expungement
1356 order;

1357 (c) remove any evidence relating to the individual including records of arrest, which
1358 the administrative body has used or may use in these proceedings; or

1359 (d) prevent an agency from maintaining, sharing, or distributing any record required by
1360 law.

1361 Section 21. Section **77-40a-402** is amended to read:

1362 **77-40a-402. Distribution for order for vacatur.**

1363 (1) An individual who receives an order for vacatur under Subsection [78B-9-108\(2\)](#)
1364 shall be responsible for delivering a copy of the order for vacatur to all affected [~~criminal~~
1365 ~~justice agencies and officials~~] agencies.

1366 (2) To complete delivery of the order for vacatur to the bureau, the individual shall
1367 complete and attach to the order for vacatur an application for a certificate of eligibility for
1368 expungement, including identifying information and fingerprints, in accordance with Section
1369 [77-40a-301](#).

1370 (3) Except as otherwise provided in this section, the bureau shall treat the order for
1371 vacatur and attached certificate of eligibility for expungement the same as a valid order for
1372 expungement under Section [77-40a-401](#).

1373 (4) Unless otherwise provided by law or ordered by a court to respond differently, an
1374 individual who has received a vacatur of conviction under Subsection [78B-9-108\(2\)](#) may
1375 respond to any inquiry as though the conviction did not occur.

1376 (5) The bureau shall forward a copy of the order for vacatur to the Federal Bureau of
1377 Investigation.

1378 (6) An agency receiving an order for vacatur shall expunge the individual's identifying
1379 information contained in records in the agency's possession relating to the incident for which
1380 vacatur is ordered.

1381 (7) [~~A government~~] An agency or official may not divulge information contained in a
1382 record of arrest, investigation, detention, or conviction after receiving an order for vacatur to
1383 any person or agency, except for:

1384 (a) the individual for whom vacatur was ordered; or

1385 (b) Peace Officer Standards and Training, in accordance with Section [53-6-203](#) and
1386 Subsection [~~77-40a-403(4)(b)~~] [77-40a-403\(2\)\(b\)](#).

1387 (8) The bureau may not count vacated convictions against any future expungement
1388 eligibility.

1389 Section 22. Section **77-40a-403** is amended to read:

1390 **77-40a-403. Release and use of expunged records.**

1391 ~~[(1)(a) The bureau, after receiving an expungement order, shall keep, index, and~~
1392 ~~maintain all expunged records of arrests and convictions.]~~

1393 ~~[(b) Any agency, other than the bureau, receiving an expungement order shall develop~~
1394 ~~and implement a process to identify and maintain an expunged record.]~~

1395 ~~[(2)(a) An agency shall provide an individual who receives an expungement with~~
1396 ~~written confirmation that the agency has expunged all records of the offense for which the~~
1397 ~~individual received the expungement if the individual requests confirmation from the agency.]~~

1398 ~~[(b) The bureau may charge a fee for providing a written confirmation under~~
1399 ~~Subsection (2)(a) in accordance with the process in Section [63J-1-504](#).]~~

1400 ~~[(3)]~~ (1) (a) ~~[An employee of the bureau, or any agency with an expunged record, may~~
1401 ~~not] An agency with an expunged record, or any employee of an agency with an expunged~~
1402 ~~record, may not knowingly or intentionally divulge any information contained in the expunged~~
1403 ~~record to any person, or another agency, without a court order unless:~~

1404 (i) specifically authorized by statute; or

1405 (ii) subject to Subsection ~~[(3)(b)]~~ (1)(b), the information in an expunged record is
1406 being shared with another agency through a records management system that both agencies use
1407 for the purpose of record management.

1408 (b) An agency with a records management system may not disclose any information in
1409 an expunged record with another agency or person that does not use the records management
1410 system for the purpose of record management.

1411 ~~[(4)]~~ (2) The following entities or agencies may receive information contained in
1412 expunged records upon specific request:

1413 (a) the Board of Pardons and Parole;

1414 (b) Peace Officer Standards and Training;

1415 (c) federal authorities if required by federal law;

1416 (d) the State Board of Education;

1417 (e) the Commission on Criminal and Juvenile Justice, for purposes of investigating
1418 applicants for judicial office; and

1419 (f) a research institution or an agency engaged in research regarding the criminal justice
1420 system if:

- 1421 (i) the research institution or agency provides a legitimate research purpose for
1422 gathering information from the expunged records;
- 1423 (ii) the research institution or agency enters into a data sharing agreement with the
1424 court or agency with custody of the expunged records that protects the confidentiality of any
1425 identifying information in the expunged records;
- 1426 (iii) any research using expunged records does not include any individual's name or
1427 identifying information in any product of that research; and

1428 (iv) any product resulting from research using expunged records includes a disclosure
1429 that expunged records were used for research purposes.

1430 [(5)] (3) Except as otherwise provided by this section or by court order, a person, an
1431 agency, or an entity authorized by this section to view expunged records may not reveal or
1432 release any information obtained from the expunged records to anyone outside the specific
1433 request, including distribution on a public website.

1434 [(6)] (4) A prosecuting attorney may communicate with another prosecuting attorney,
1435 or another prosecutorial agency, regarding information in an expunged record that includes a
1436 conviction, or a charge dismissed as a result of a successful completion of a plea in abeyance
1437 agreement, for:

- 1438 (a) stalking as described in Section 76-5-106.5;
- 1439 (b) a domestic violence offense as defined in Section 77-36-1;
- 1440 (c) an offense that would require the individual to register as a sex offender, as defined
1441 in Section 77-41-102; or
- 1442 (d) a weapons offense under Title 76, Chapter 10, Part 5, Weapons.

1443 [(7)] (5) Except as provided in Subsection [(9)] (7), a prosecuting attorney may not use
1444 an expunged record for the purpose of a sentencing enhancement or as a basis for charging an
1445 individual with an offense that requires a prior conviction.

1446 [(8)] (6) The bureau may also use the information in the bureau's index as provided in
1447 Section 53-5-704.

1448 [(9)] (7) If ~~after obtaining an expungement,~~ an individual is charged with a felony or
1449 an offense eligible for enhancement based on a prior conviction ~~[- the state]~~ after obtaining an
1450 expungement, the prosecuting attorney may petition the court to open the expunged records
1451 upon a showing of good cause.

1452 [~~(H)~~] (8) (a) For judicial sentencing, a court may order any records expunged under
1453 this chapter or Section [77-27-5.1](#) to be opened and admitted into evidence.

1454 (b) The records are confidential and are available for inspection only by the court,
1455 parties, counsel for the parties, and any other person who is authorized by the court to inspect
1456 them.

1457 (c) At the end of the action or proceeding, the court shall order the records expunged
1458 again.

1459 (d) Any person authorized by this Subsection [~~(H)~~] (8) to view expunged records may
1460 not reveal or release any information obtained from the expunged records to anyone outside the
1461 court.

1462 [~~(H)~~] (9) Records released under this chapter are classified as protected under Section
1463 [63G-2-305](#) and are accessible only as provided under Title 63G, Chapter 2, Part 2, Access to
1464 Records, and Subsection [53-10-108\(2\)\(k\)](#) for records held by the bureau.

1465 Section 23. Section **77-40a-404** is amended to read:

1466 **77-40a-404. Confirmation of expungement -- Access to expunged records by**
1467 **individuals.**

1468 (1) An individual who receives an expungement may request a written confirmation
1469 from an agency under Subsection [~~77-40a-403(2)~~] [77-40a-401\(4\)](#) to confirm that the agency
1470 has expunged all records of the offense for which the individual received the expungement.

1471 (2) The following individuals may view or obtain an expunged record under this
1472 chapter or Section [77-27-5.1](#):

1473 (a) the petitioner or an individual who receives an automatic expungement under
1474 [~~Section 77-40a-201~~] Part 2, Automatic Expungement and Deletion;

1475 (b) a law enforcement officer, who was involved in the case, for use solely in the
1476 officer's defense of a civil action arising out of the officer's involvement with the petitioner in
1477 that particular case; and

1478 (c) a party to a civil action arising out of the expunged incident if the information is
1479 kept confidential and utilized only in the action.

1480 Section 24. Section **78A-2-302** is amended to read:

1481 **78A-2-302. Waiver of fees, costs, and security -- Indigent litigants -- Affidavit.**

1482 (1) As used in Sections [78A-2-302](#) through [78A-2-309](#):

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~~ 175 % 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,

1514 shelter, clothing, or other necessities.

1515 (4) An affidavit demonstrating that an individual is indigent under Subsection [~~(3)~~(~~d~~)

1516 (3)(e) shall contain complete information on the individual's:

1517 (a) identity and residence;

1518 (b) amount of income, including any government financial support, alimony, or child
1519 support;

1520 (c) assets owned, including real and personal property;

1521 (d) business interests;

1522 (e) accounts receivable;

1523 (f) securities, checking and savings account balances;

1524 (g) debts; and

1525 (h) monthly expenses.

1526 (5) If the individual under Subsection (3) is a prisoner, the prisoner shall disclose the
1527 amount of money held in the prisoner's trust account at the time the affidavit under Subsection
1528 (2) is executed in accordance with Section [78A-2-305](#).

1529 (6) An affidavit of indigency under this section shall state the following:

1530 I, (insert name), do solemnly swear or affirm that due to my poverty I am unable to bear
1531 the expenses of the action or legal proceedings which I am about to commence or the appeal
1532 which I am about to take, and that I believe I am entitled to the relief sought by the action, legal
1533 proceedings, or appeal.

1534 (7) The Administrative Office of the Courts shall include on a form for an affidavit of
1535 indigency the following warning: "It is a crime for anyone to intentionally or knowingly
1536 provide false or misleading information to the court when seeking a waiver of a court fee."

1537 Section 25. Section [78A-7-209.5](#) is amended to read:

1538 **78A-7-209.5. Presiding judge -- Associate presiding judge -- Election -- Powers --**
1539 **Duties.**

1540 (1) (a) In judicial districts having more than one justice court judge, the justice court
1541 judges shall elect one judge of the district to the office of presiding judge.

1542 (b) The presiding judge shall receive an additional \$2,000 per annum as compensation
1543 from the Justice Court Technology, Security, and Training Account described in Section
1544 [78A-7-301](#) for the period served as presiding judge.

1545 (2) (a) In judicial districts having more than two justice court judges, the justice court
1546 judges may elect one judge of the district to the office of associate presiding judge.

1547 (b) The associate presiding judge shall receive an additional \$1,000 per annum as
1548 compensation from the Justice Court Technology, Security, and Training Account described in
1549 Section 78A-7-301 for the period served as associate presiding judge.

1550 (3) The presiding judge has the following authority and responsibilities, consistent with
1551 the policies of the Judicial Council:

1552 (a) working with each justice court judge in the district to implement policies and rules
1553 of the Judicial Council;

1554 (b) exercising powers and performing administrative duties as authorized by the
1555 Judicial Council;

1556 (c) if there is no other appointed justice court judge in that court available, assigning a
1557 justice court judge to hear a case in which a judge has been disqualified in accordance with
1558 rules of the Supreme Court;

1559 (d) if a justice court judge of the district cannot perform the justice court judge's duties
1560 in a case or cases due to illness, death, or other incapacity, and the governing body has not
1561 appointed a temporary justice court judge in accordance with Section 78A-7-208:

1562 (i) assigning, on an emergency basis, a justice court judge to hear a case or cases; and

1563 (ii) facilitating judicial coverage with the appointing municipal or county authority
1564 until a temporary justice court judge can be appointed, in accordance with Section 78A-7-208,
1565 or a new justice court judge is formally appointed and takes office, in accordance with Section
1566 78A-7-202; and

1567 (e) entering orders of expungement in cases expunged in accordance with [~~Section~~
1568 ~~77-40a-201~~] Title 77, Chapter 40a, Part 2, Automatic Expungement and Deletion.

1569 (4) (a) When the presiding judge is unavailable, the associate presiding judge shall
1570 assume the responsibilities of the presiding judge.

1571 (b) The associate presiding judge shall perform other duties assigned by the presiding
1572 judge.

1573 Section 26. Section 78B-7-1001 is amended to read:

1574 **78B-7-1001. Definitions.**

1575 As used in this part:

1576 (1) (a) [~~Except as provided in Subsection (1)(b), "agency"~~] "Agency" means, except as
1577 provided in Subsection (1)(b), a state, county, or local government entity that generates or
1578 maintains records relating to a civil order for which expungement may be ordered.

1579 (b) "Agency" does not include the Division of Child and Family Services created in [
1580]Section 80-2-201.

1581 (2) "Civil order" means:

1582 (a) an ex parte civil protective order;

1583 (b) an ex parte civil stalking injunction;

1584 (c) a civil protective order; or

1585 (d) a civil stalking injunction.

1586 [~~(3) "Expunge" means to seal or otherwise restrict access to an individual's record held~~
1587 ~~by an agency when the record includes a civil order.]~~

1588 (3) (a) "Expunge" means to remove a record from public inspection by:

1589 (i) sealing the record; or

1590 (ii) restricting or denying access to the record.

1591 (b) "Expunge" does not include the destruction of a record.

1592 (4) "Petitioner" means an individual petitioning for expungement of a civil order under
1593 this part.

1594 Section 27. Section **78B-7-1004** is amended to read:

1595 **78B-7-1004. Distribution and effect of order of expungement -- Penalty.**

1596 (1) An individual who receives an order of expungement under Section **78B-7-1003**
1597 shall be responsible for delivering a copy of the order of expungement to any affected agency.

1598 [~~(2) Upon receipt of an order of expungement as described in Subsection (1), an agency~~
1599 ~~shall expunge all records described in the expungement order that are under the control of the~~
1600 ~~agency.]~~

1601 (2) If an agency receives an expungement order as described in Subsection (1), the
1602 agency shall expunge all records affected by the expungement order.

1603 (3) Upon entry of an expungement order by a court under Section **78B-7-1003**:

1604 (a) the civil order is considered to never have occurred; and

1605 (b) the petitioner may reply to an inquiry on the matter as though there was never a
1606 civil order.

1607 (4) (a) Unless ordered by a court to do so, an agency or official may not divulge
1608 information or records that have been expunged under this part.

1609 (b) An expungement order may not restrict an agency's use or dissemination of records
1610 in the agency's ordinary course of business until the agency has received a copy of the
1611 expungement order.

1612 (c) Any action taken by an agency after issuance of the expungement order but before
1613 the agency's receipt of a copy of the expungement order may not be invalidated by the order.

1614 (5) An expungement order under this part may not:

1615 (a) terminate or invalidate any pending administrative proceedings or actions of which
1616 the individual had notice according to the records of the administrative body before issuance of
1617 the expungement order;

1618 (b) affect the enforcement of any order or findings issued by an administrative body
1619 pursuant to the administrative body's lawful authority prior to issuance of the expungement
1620 order; or

1621 (c) prevent an agency from maintaining, sharing, or distributing any record required by
1622 law.

1623 (6) An employee or agent of an agency that is prohibited from disseminating
1624 information from an expunged record under this section who knowingly or intentionally
1625 discloses identifying information from the expunged record, unless allowed by law, is guilty of
1626 a class A misdemeanor.

1627 (7) Records expunged under this part may be released to, or viewed by, the following
1628 individuals:

1629 (a) the petitioner; or

1630 (b) parties to a civil action arising out of the expunged civil order, providing the
1631 information is kept confidential and utilized only in the action.

1632 (8) This part does not preclude a court from considering the same circumstances or
1633 evidence for which an expunged civil order was issued in any proceeding that occurs after the
1634 civil order is expunged.

1635 Section 28. Section **80-6-1001** is amended to read:

1636 **80-6-1001. Definitions.**

1637 As used in this part:

- 1638 (1) "Abstract" means a copy or summary of a court's disposition.
- 1639 (2) (a) "Agency" means a state, county, or local government entity that generates or
1640 maintains records for which expungement may be ordered under this part.
- 1641 (b) "Agency" includes a local education agency, as defined in Section [53E-1-102](#), for
1642 purposes of this part.
- 1643 (3) (a) "Expunge" means [~~to seal or otherwise restrict access to a record that is part of~~
1644 ~~an individual's juvenile record and in the custody of the juvenile court or an agency]~~ to remove
1645 a juvenile record from public inspection by:
- 1646 (i) sealing the juvenile record; or
- 1647 (ii) restricting or denying access to the juvenile record.
- 1648 (b) "Expunge" does not include the destruction of a juvenile record.
- 1649 (4) (a) "Juvenile record" means all records for all incidents of delinquency involving an
1650 individual that are in the custody of the juvenile court or an agency.
- 1651 (b) "Juvenile record" does not include a record of an adjudication under Chapter 3,
1652 Abuse, Neglect, and Dependency Proceedings, or Chapter 4, Termination and Restoration of
1653 Parental Rights.
- 1654 (5) "Petitioner" means an individual requesting an expungement or vacatur under this
1655 part.
- 1656 Section 29. Section **80-6-1006.1** is amended to read:
- 1657 **80-6-1006.1. Exceptions to expungement order -- Distribution of expungement**
1658 **order -- Agency duties -- Effect of expungement -- Access to expunged record.**
- 1659 (1) This section applies to an expungement order under Section [80-6-1004.1](#),
1660 [80-6-1004.2](#), [80-6-1004.3](#), [80-6-1004.4](#), or [80-6-1004.5](#).
- 1661 (2) The juvenile court may not order:
- 1662 (a) the Board of Pardons and Parole and the Department of Corrections to seal a record
1663 in the possession of the Board of Pardons and Parole or the Department of Corrections, except
1664 that the juvenile court may order the Board of Pardons and Parole and the Department of
1665 Corrections to restrict access to a record if the record is specifically identified in the
1666 expungement order as a record in the possession of the Board of Pardons and Parole or the
1667 Department of Corrections; or
- 1668 (b) the Division of Child and Family Services to expunge a record in an individual's

1669 juvenile record that is contained in the Management Information System or the Licensing
1670 Information System unless:

- 1671 (i) the record is unsupported; or
- 1672 (ii) after notice and an opportunity to be heard, the Division of Child and Family
1673 Services stipulates in writing to expunging the record.

1674 (3) (a) If the juvenile court issues an expungement order, the juvenile court shall send a
1675 copy of the expungement order to any affected agency or official identified in the juvenile
1676 record.

1677 (b) An individual who is the subject of an expungement order may deliver copies of the
1678 expungement order to all agencies and officials affected by the expungement order.

1679 (4) (a) Upon receipt of an expungement order, an agency shall:

1680 (i) ~~[to avoid destruction or expungement of records in whole or in part, expunge only~~
1681 ~~the references to the individual's name in the records relating to the individual's adjudication,~~
1682 ~~nonjudicial adjustment, petition, arrest, investigation, or detention for which expungement is~~
1683 ~~ordered]~~ expunge all records affected by the expungement order; and

1684 (ii) destroy all photographs and records created under Section 80-6-608, except that a
1685 record of a minor's fingerprints may not be destroyed by an agency.

1686 (b) An agency that receives a copy of an expungement order shall mail an affidavit to
1687 the individual who is the subject of the expungement order, or the individual's attorney, that the
1688 agency has complied with the expungement order.

1689 (5) Notwithstanding Subsection (4), the Board of Pardons and Parole and the
1690 Department of Corrections:

1691 (a) may not disclose records expunged in an expungement order unless required by
1692 law;

1693 (b) are not required to destroy any photograph or record created under Section
1694 80-6-608;

1695 (c) may use an expunged record for purposes related to incarceration and supervision
1696 of an individual under the jurisdiction of the Board of Pardons and Parole, including for the
1697 purpose of making decisions about:

- 1698 (i) the treatment and programming of the individual;
- 1699 (ii) housing of the individual;

- 1700 (iii) applicable guidelines regarding the individual; or
1701 (iv) supervision conditions for the individual;
1702 (d) are not prohibited from disclosing or sharing any information in an expunged
1703 record with another agency that uses the same record management system as the Board of
1704 Pardons and Parole or the Department of Corrections; and
1705 (e) are not required to mail an affidavit under Subsection (4)(b).
1706 (6) Upon entry of an expungement order:
1707 (a) an adjudication, a nonjudicial adjustment, a petition, an arrest, an investigation, or a
1708 detention for which the record is expunged is considered to have never occurred; and
1709 (b) the individual, who is the subject of the expungement order, may reply to an inquiry
1710 on the matter as though there never was an adjudication, a nonjudicial adjustment, a petition,
1711 an arrest, an investigation, or a detention.
1712 (7) A record expunged under Section [80-6-1004.1](#), [80-6-1004.2](#), [80-6-1004.3](#),
1713 [80-6-1004.4](#), or [80-6-1004.5](#) may be released to, or viewed by, the individual who is the subject
1714 of the record.

1715 **Section 30. Repealer.**

1716 This bill repeals:

1717 Section [77-40a-203](#), **Time periods for expungement or deletion -- Identification and**
1718 **processing of clean slate eligible cases.**

1719 **Section 31. Effective date.**

1720 This bill takes effect on October 1, 2024.