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AMENDMENTS TO EXPUNGEMENT

2024 GENERAL SESSION STATE OF UTAH

Chief Sponsor: Karianne Lisonbee

Senate Sponsor: Michael S. Kennedy

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LONG TITLE

4 General Description:

5 This bill addresses the expungement of records.

6 Highlighted Provisions:

- 7 This bill:
- 8 repeals sunset dates regarding issuance and filing fees for expungement;
- 9 repeals language relating to the suspension of issuance fees for certificates of eligibility
- 10 for expungement and filing fees for petitions for expungement;
- 11 creates a sunset date for an expungement working group;
- 12 reates an expungement working group to study issues related to automatic
- 13 expungement;

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- 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;
- 17 defines terms related to expungement;

on and after January 1, 2026;

- 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, but before January 1, 2026;
- providing that a court automatically expunge cases that are eligible for expungement
- for an individual seeking an automatic expungement on and after January 1, 2025,
- 25 prohibiting an automatic expungement if the individual is incarcerated in the state prison or on
- 26 probation or parole that is supervised by the Department of Corrections; and
- prohibiting an automatic expungement if there is a criminal proceeding pending in

28 this state against the individual for a misdemeanor or felony offense, unless the proceeding is

- 29 for a traffic offense;
- provides that the court and Bureau of Criminal Identification are the only agencies that expunge records affected by an automatic expungement order;
- clarifies the certificate of eligibility process;
- allows for the waiver of an issuance fee for a certificate of eligibility or a special
- certificate if a court finds that the individual filing the petition for expungement is indigent;
- requires a court to consider the total number of cases for which an individual has
- 36 received a certificate of expungement when determining whether the individual is indigent;
- requires a subsequent court to waive a filing fee for a petition for expungement if a prior
- 38 court found the individual to be indigent within 180 days before the filing of the petition for
- 39 expungement;
- clarifies the distribution of an expungement order based on a petition and the
- 41 expungement of records affected by an expungement order based on a petition;
- establishes the priority of expungement orders that are processed by a court and the
- 43 Bureau of Criminal Identification;
- requires an agency to develop and implement a process to identify expunged records and
- 45 keep, index, and maintain all expunged records of arrest;
- Larifies the effect of an expungement;
- → addresses the waiver of a fee for a petition for expungement when the individual has
- 48 previously received a waiver for a petition for expungement from a prior court;
- requires the Administrative Office of the Courts to include a warning on an affidavit of
- 50 indigency;
- clarifies the expungement of records regarding protective orders, stalking injunctions,
- 52 and juvenile records;
- repeals a statute regarding the time periods for expungement or deletion and identifying
- and processing clean slate eligible cases; and
- 55 ► makes technical and conforming changes.
- 56 Money Appropriated in this Bill:
- 57 None
- 58 Other Special Clauses:
- This bill provides a special effective date.
- This bill provides a coordination clause.
- 61 Utah Code Sections Affected:

- 62 AMENDS: 63 **63I-1-277** (Effective 10/01/24), as last amended by Laws of Utah 2022, Chapter 384 and 64 last amended by Coordination Clause, Laws of Utah 2022, Chapter 384 65 **63I-1-278** (Effective 10/01/24), as last amended by Laws of Utah 2022, Chapters 188, 66 318, 384, and 423 67 **63I-2-263** (Effective 10/01/24), as last amended by Laws of Utah 2023, Chapters 33, 68 139, 212, 354, and 530 69 77-2a-3 (Effective 10/01/24), as last amended by Laws of Utah 2023, Chapters 113, 415 70 **77-40a-101** (Effective 10/01/24), as last amended by Laws of Utah 2023, Chapter 265 71 **77-40a-104** (Effective 10/01/24), as last amended by Laws of Utah 2023, Chapter 265 72 **77-40a-201** (Effective 10/01/24), as renumbered and amended by Laws of Utah 2022, 73 Chapter 250 74 77-40a-202 (Effective 10/01/24), as renumbered and amended by Laws of Utah 2022, 75 Chapter 250 76 77-40a-301 (Effective 10/01/24), as enacted by Laws of Utah 2022, Chapter 250 77 77-40a-302 (Effective 10/01/24), as last amended by Laws of Utah 2023, Chapter 265 78 **77-40a-303** (Effective 10/01/24), as last amended by Laws of Utah 2023, Chapter 265 79 **77-40a-304** (Effective 10/01/24), as last amended by Laws of Utah 2023, Chapter 265 80 77-40a-305 (Effective 10/01/24), as last amended by Laws of Utah 2023, Chapters 265, 81 330 82 77-40a-306 (Effective 10/01/24), as last amended by Laws of Utah 2023, Chapter 330 83 77-40a-401 (Effective 10/01/24), as last amended by Laws of Utah 2023, Chapter 265 84 **77-40a-402** (Effective 10/01/24), as last amended by Laws of Utah 2023, Chapter 265 85 **77-40a-403** (Effective 10/01/24), as last amended by Laws of Utah 2023, Chapter 265 86 **77-40a-404** (Effective 10/01/24), as last amended by Laws of Utah 2023, Chapter 265 87 **78A-2-302** (Effective 10/01/24), as last amended by Laws of Utah 2023, Chapter 184 88 **78A-7-209.5** (Effective 10/01/24), as enacted by Laws of Utah 2022, Chapter 276 89 **78B-7-1001** (Effective 10/01/24), as enacted by Laws of Utah 2022, Chapter 270 90 **78B-7-1004** (Effective 10/01/24), as enacted by Laws of Utah 2022, Chapter 270 91 **80-6-1001** (Effective 10/01/24), as last amended by Laws of Utah 2023, Chapter 115 92 **80-6-1006.1** (Effective 10/01/24), as enacted by Laws of Utah 2023, Chapter 115 93 **ENACTS**:
 - 3 -

63M-7-221 (Effective 05/01/24), Utah Code Annotated 1953

77-40a-204 (Effective 10/01/24), Utah Code Annotated 1953

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96	77-40a-205 (Effective 10/01/24), Utah Code Annotated 1953
97	77-40a-206 (Effective 10/01/24), Utah Code Annotated 1953
98	77-40a-207 (Effective 10/01/24), Utah Code Annotated 1953
99	77-40a-307 (Effective 10/01/24), Utah Code Annotated 1953
100	REPEALS:
101	77-40a-203 (Effective 10/01/24), as renumbered and amended by Laws of Utah 2022,
102	Chapter 250
103	Utah Code Sections affected by Coordination Clause:
104	77-40a-301, as enacted by Laws of Utah 2022, Chapter 250
105	77-40a-304, as last amended by Laws of Utah 2023, Chapter 265
106	77-40a-306, as last amended by Laws of Utah 2023, Chapter 330
107	77-40a-401, as last amended by Laws of Utah 2023, Chapter 265
108	78A-2-302, as last amended by Laws of Utah 2023, Chapter 184
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110	Be it enacted by the Legislature of the state of Utah:
111	Section 1. Section 63I-1-277 is amended to read:
112	63I-1-277 (Effective 10/01/24). Repeal dates: Title 77.
113	[Subsection 77-40a-304(5), regarding the suspension of issuance fees for
114	certificates of eligibility, is repealed on July 1, 2023.] Reserved.
115	Section 2. Section 63I-1-278 is amended to read:
116	63I-1-278 (Effective 10/01/24). Repeal dates: Title 78A and Title 78B.
117	[(1) Subsections 78A-2-301(4) and 78A-2-301.5(12), regarding the suspension of filing
118	fees for petitions for expungement, are repealed on July 1, 2023.]
119	[(2)] (1) Section 78B-3-421, regarding medical malpractice arbitration agreements, is
120	repealed July 1, 2029.
121	[(3)] (2) Subsection 78A-7-106(6), regarding the transfer of a criminal action involving a
122	domestic violence offense from the justice court to the district court, is repealed on July
123	1, 2024.
124	[(4)] (3) Section 78B-4-518, regarding the limitation on employer liability for an employee
125	convicted of an offense, is repealed on July 1, 2025.
126	[(5)] (4) Title 78B, Chapter 6, Part 2, Alternative Dispute Resolution Act, is repealed July 1,
127	2026.
128	[(6)] (5) Title 78B, Chapter 12, Part 4, Advisory Committee, which creates the Child

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

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130 [(7)] (6) Section 78B-22-805, regarding the Interdisciplinary Parental Representation Pilot

- Program, is repealed December 31, 2024.
- Section 3. Section **63I-2-263** is amended to read:
- 133 **63I-2-263** (Effective 10/01/24). Repeal dates: Title 63A to Title 63N.
- 134 (1) Title 63A, Chapter 2, Part 5, Educational Interpretation and Translation Services
- Procurement Advisory Council is repealed July 1, 2025.
- 136 (2) Section 63A-17-303 is repealed July 1, 2023.
- 137 (3) Section 63A-17-806 is repealed June 30, 2026.
- 138 (4) Title 63C, Chapter 22, Digital Wellness, Citizenship, and Safe Technology Commission
- is repealed July 1, 2023.
- 140 (5) Section 63H-7a-303 is repealed July 1, 2024.
- 141 (6) Subsection 63H-7a-403(2)(b), regarding the charge to maintain the public safety
- communications network, is repealed July 1, 2033.
- 143 (7) Subsection 63J-1-602.2(45), which lists appropriations to the State Tax Commission for
- property tax deferral reimbursements, is repealed July 1, 2027.
- 145 (8) Section 63M-7-221, establishing an expungement working group, is repealed on April
- 146 <u>30, 2025.</u>
- [(8)] (9) Subsection 63N-2-213(12)(a), relating to claiming a tax credit in the same taxable
- 148 year as the targeted business income tax credit, is repealed December 31, 2024.
- 149 [(9)] (10) Title 63N, Chapter 2, Part 3, Targeted Business Income Tax Credit in an
- Enterprise Zone, is repealed December 31, 2024.
- 151 Section 4. Section **63M-7-221** is enacted to read:
- 63M-7-221 (Effective 05/01/24). Expungement working group.
- 153 (1) As used in this section:
- (a) "Agency" means the same as that term is defined in Section 77-40a-101.
- (b) "Automatic expungement" means the same as that term is defined in Section
- 156 77-40a-101.
- 157 (2) The commission shall establish a working group to:
- (a) study the challenges of implementing automatic expungement under Title 77,
- 159 Chapter 40a, Part 2, Automatic Expungement and Deletion;
- (b) determine the time and resources that an agency would need to implement automatic
- expungement under Title 77, Chapter 40a, Part 2, Automatic Expungement and
- 162 <u>Deletion;</u>
- (c) determine whether an investment in technology is needed or could be helpful in

164	implementing automatic expungement under Title 77, Chapter 40a, Part 2, Automatic
165	Expungement and Deletion; and
166	(d) consider possible statutory changes to improve the implementation of automatic
167	expungement under Title 77, Chapter 40a, Part 2, Automatic Expungement and
168	<u>Deletion.</u>
169	(3) The working group described in Subsection (2) shall consist of:
170	(a) at least one representative of:
171	(i) the Bureau of Criminal Identification established in Section 53-10-201;
172	(ii) the Administrative Office of the Courts;
173	(iii) a local law enforcement agency; and
174	(iv) an advocacy group that represents or assists individuals with expungement; and
175	(b) any other individual or organization recommended by the executive director of the
176	commission.
177	(4) On or before November 1, 2024, the commission shall provide a written report to the
178	Judiciary Interim Committee describing:
179	(a) the information gathered by the working group under Subsection (2); and
180	(b) any recommendations for statutory changes with respect to the information gathered
181	by the working group under Subsection (2).
182	Section 5. Section 77-2a-3 is amended to read:
183	77-2a-3 (Effective 10/01/24). Manner of entry of plea Powers of court
184	Expungement.
185	(1) (a) Acceptance of any plea in anticipation of a plea in abeyance agreement shall be
186	done in full compliance with the Utah Rules of Criminal Procedure, Rule 11.
187	(b) In cases charging offenses for which bail may be forfeited, a plea in abeyance
188	agreement may be entered into without a personal appearance before a magistrate.
189	(2) A plea in abeyance agreement may provide that the court may, upon finding that the
190	defendant has successfully completed the terms of the agreement:
191	(a) reduce the degree of the offense[-and enter judgment of conviction and impose
192	sentence for a lower degree of offense; or], enter a judgment of conviction for the
193	lower degree of the offense, and impose a sentence for the lower degree of the
194	offense;
195	(b) allow withdrawal of the defendant's plea and order the dismissal of the case[-]; or
196	(c) issue an order of expungement for all records of the offense if:
197	(i) the defendant successfully completes a problem solving court program that is

198	certified by the Judicial Council; and
199	(ii) the court allows the withdrawal of the defendant's plea and orders the dismissal of
200	the case.
201	(3) (a) Upon finding that a defendant has successfully completed the terms of a plea in
202	abeyance agreement and only as provided in the plea in abeyance agreement or as
203	agreed to by all parties, the court may [reduce the degree of the offense or dismiss the
204	case only as provided in the plea in abeyance agreement or as agreed to by all parties.] :
205	(i) reduce the degree of the offense, enter a judgment of conviction for the lower
206	degree of the offense, and impose a sentence for the lower degree of the offense;
207	(ii) allow withdrawal of the defendant's plea and order the dismissal of the case; or
208	(iii) issue an order of expungement for all records of the offense if:
209	(A) the defendant successfully completes a problem solving court program that is
210	certified by the Judicial Council; and
211	(B) the court allows the withdrawal of the defendant's plea and orders the
212	dismissal of the case.
213	(b) Upon sentencing a defendant for any lesser offense in accordance with a plea in
214	abeyance agreement, the court may not invoke Section 76-3-402 to further reduce the
215	degree of the offense.
216	(4) The court may require the Department of Corrections to assist in the administration of
217	the plea in abeyance agreement as if the defendant were on probation to the court under
218	Section 77-18-105.
219	(5) The terms of a plea in abeyance agreement may include:
220	(a) an order that the defendant pay a nonrefundable plea in abeyance fee, with a
221	surcharge based on the amount of the plea in abeyance fee, both of which shall be
222	allocated in the same manner as if paid as a fine for a criminal conviction under
223	Section 78A-5-110 and a surcharge under Title 51, Chapter 9, Part 4, Criminal
224	Conviction Surcharge Allocation, and which may not exceed in amount the
225	maximum fine and surcharge which could have been imposed upon conviction and
226	sentencing for the same offense;
227	(b) an order that the defendant pay the costs of any remedial or rehabilitative program
228	required by the terms of the agreement; and
229	(c) an order that the defendant comply with any other conditions that could have been
230	imposed as conditions of probation upon conviction and sentencing for the same
231	offense.

(6) (a) The terms of a plea in abeyance shall include:
(i) a specific amount of restitution that the defendant will pay, as agreed to by the
defendant and the prosecuting attorney;
(ii) a certification from the prosecuting attorney that:
(A) the prosecuting attorney has consulted with all victims, including the Utah
Office for Victims of Crime; and
(B) all victims, including the Utah Office for Victims of Crime, are not seeking
restitution; or
(iii) an agreement between the parties that restitution will be determined by the court
at a subsequent hearing in accordance with Section 77-38b-205.
(b) At a subsequent hearing described in Subsection (6)(a)(iii), the court shall order the
defendant, as a modified term of the plea in abeyance, to pay restitution to all victims
for the entire amount of pecuniary damages that are proximately caused by the
criminal conduct of the defendant.
(c) The court shall collect, receive, process, and distribute payments for restitution to the
victim, unless otherwise provided by law or by the plea in abeyance agreement.
(d) If the defendant does not successfully complete the terms of the plea in abeyance, the
court shall enter an order for restitution, in accordance with Chapter 38b, Crime
Victims Restitution Act, upon entering a sentence for the defendant.
(7) (a) A court may not hold a plea in abeyance without the consent of both the
prosecuting attorney and the defendant.
(b) A decision by a prosecuting attorney not to agree to a plea in abeyance is final.
(8) No plea may be held in abeyance in any case involving:
(a) a sexual offense against an individual who is under 14 years old; or
(b) a driving under the influence violation under Section 41-6a-502, 41-6a-502.5,
41-6a-517, 41-6a-520, 41-6a-520.1, 41-6a-521.1, 76-5-102.1, or 76-5-207.
(9) (a) If the terms of a plea in abeyance agreement allow a court to issue an order of
expungement as described in Subsection (2)(c), the prosecuting attorney shall make a
reasonable effort to provide notice to any victim of the offense of the terms of the
plea in abeyance agreement.
(b) The notice under Subsection (9)(a) shall:
(i) state that the victim has a right to object to the expungement; and
(ii) provide instructions for registering an objection with the court.
(c) If there is a victim of the offense, the victim may file an objection with the court

266	before the court makes a finding as to whether the defendant successfully completed
267	the terms of the plea in abeyance agreement as described in Subsection (3).
268	(d) The defendant may respond, in writing, to any objection filed by the victim within 14
269	days after the day on which the objection is received by the court.
270	(10) If the court issues an order of expungement under Subsection (3)(a)(iii), the court shall:
271	(a) expunge all records of the case as described in Section 77-40a-401; and
272	(b) notify the Bureau of Criminal Identification of the order of expungement.
273	(11) (a) Upon receiving notice from the court of an expungement order as described in
274	Subsection (10), the Bureau of Criminal Identification shall notify any agency, as
275	defined in Section 77-40a-101, affected by the expungement order.
276	(b) For purposes of Subsection (11)(a), the Bureau of Criminal Identification may not
277	notify the Board of Pardons and Parole of an expungement order if the individual has
278	never been:
279	(i) sentenced to prison in this state; or
280	(ii) under the jurisdiction of the Board of Pardons and Parole.
281	(c) The Bureau of Criminal Identification shall forward a copy of the expungement order
282	to the Federal Bureau of Investigation.
283	(12) The defendant may deliver copies of the expungement to any agency, as defined in
284	Section 77-40a-101, affected by the order of expungement.
285	(13) If an agency receives an expungement order under this part, the agency shall expunge
286	all records for the case in accordance with Section 77-40a-401.
287	Section 6. Section 77-40a-101 is amended to read:
288	77-40a-101 (Effective 10/01/24). Definitions.
289	As used in this chapter:
290	(1) "Agency" means a state, county, or local government entity that generates or maintains
291	records relating to an investigation, arrest, detention, or conviction for an offense for
292	which expungement may be ordered.
293	(2) "Automatic expungement" means the expungement of records of an investigation,
294	arrest, detention, or conviction of an offense without the filing of a petition.
295	[(2)] (3) "Bureau" means the Bureau of Criminal Identification of the Department of Public
296	Safety established in Section 53-10-201.
297	[(3)] (4) "Certificate of eligibility" means a document issued by the bureau stating that the
298	criminal record and all records of arrest, investigation, and detention associated with a
299	case that is the subject of a petition for expungement is eligible for expungement.

300	(5) "Civil accounts receivable" means the same as that term is defined in Section
301	<u>77-32b-102.</u>
302	(6) "Civil judgment of restitution" means the same as that term is defined in Section
303	<u>77-32b-102.</u>
304	[(4) (a) "Clean slate eligible case" means, except as provided in Subsection (4)(c), a case:]
305	[(i) where each conviction within the case is:]
306	[(A) a misdemeanor conviction for possession of a controlled substance in violation of
307	Subsection 58-37-8(2)(a)(i);]
308	[(B) a class B or class C misdemeanor conviction; or]
309	[(C) an infraction conviction;]
310	[(ii) that involves an individual:]
311	[(A) whose total number of convictions in Utah state courts, not including infractions,
312	traffic offenses, or minor regulatory offenses, does not exceed the limits described in
313	Subsections 77-40a-303(4) and (5) without taking into consideration the exception in
314	Subsection 77-40a-303(7); and]
315	[(B) against whom no criminal proceedings are pending in the state; and]
316	[(iii) for which the following time periods have elapsed from the day on which the case is
317	adjudicated:]
318	[(A) at least five years for a class C misdemeanor or an infraction;]
319	[(B) at least six years for a class B misdemeanor; and]
320	[(C) at least seven years for a class A conviction for possession of a controlled substance
321	in violation of Subsection 58-37-8(2)(a)(i).]
322	[(b) "Clean slate eligible case" includes a case:]
323	[(i) that is dismissed as a result of a successful completion of a plea in abeyance agreement
324	governed by Subsection 77-2a-3(2)(b) if:]
325	[(A) except as provided in Subsection (4)(c), each charge within the case is a misdemeanor
326	for possession of a controlled substance in violation of Subsection 58-37-8(2)(a)(i), a
327	class B or class C misdemeanor, or an infraction;]
328	[(B) the individual involved meets the requirements of Subsection (4)(a)(ii); and]
329	[(C) the time periods described in Subsections (4)(a)(iii)(A) through (C) have elapsed from
330	the day on which the case is dismissed; or]
331	[(ii) where charges are dismissed without prejudice if each conviction, or charge that was
332	dismissed, in the case would otherwise meet the requirements under Subsection (4)(a) or
333	(b)(i).]

334	[(c) "Clean slate eligible case" does not include a case:]
335	[(i) where the individual is found not guilty by reason of insanity;]
336	[(ii) where the case establishes a criminal accounts receivable, as defined in Section
337	77-32b-102, that:]
338	[(A) has been entered as a civil accounts receivable or a civil judgment of restitution, as
339	those terms are defined in Section 77-32b-102, and transferred to the Office of State
340	Debt Collection under Section 77-18-114; or]
341	[(B) has not been satisfied according to court records; or]
342	[(iii) that resulted in one or more pleas held in abeyance or convictions for the following
343	offenses:]
344	[(A) any of the offenses listed in Subsection 77-40a-303(2)(a);]
345	[(B) an offense against the person in violation of Title 76, Chapter 5, Offenses Against the
346	Individual;]
347	[(C) a weapons offense in violation of Title 76, Chapter 10, Part 5, Weapons;]
348	[(D) sexual battery in violation of Section 76-9-702.1;]
349	[(E) an act of lewdness in violation of Section 76-9-702 or 76-9-702.5;]
350	[(F) an offense in violation of Title 41, Chapter 6a, Part 5, Driving Under the Influence and
351	Reckless Driving;]
352	[(G) damage to or interruption of a communication device in violation of Section
	76-6-108;]
353	[(H) a domestic violence offense as defined in Section 77-36-1; or]
354	[(I) any other offense classified in the Utah Code as a felony or a class A misdemeanor
355	other than a class A misdemeanor conviction for possession of a controlled substance in
356	violation of Subsection 58-37-8(2)(a)(i).]
357	(7) "Clean slate eligible case" means a case that is eligible for automatic expungement
358	under Section 77-40a-205.
359	[(5)] (8) "Conviction" means judgment by a criminal court on a verdict or finding of guilty
360	after trial, a plea of guilty, or a plea of nolo contendere.
361	(9) "Court" means a district court or a justice court.
362	(10) "Criminal accounts receivable" means the same as that term is defined in Section
363	<u>77-32b-102.</u>
364	[(6)] (11) "Criminal protective order" means the same as that term is defined in Section
365	78B-7-102.
366	[(7)] (12) "Criminal stalking injunction" means the same as that term is defined in Section

367	78B-7-102.
368	[(8)] (13) "Department" means the Department of Public Safety established in Section
369	53-1-103.
370	[(9)] (14) "Drug possession offense" means[-an offense under]:
371	(a) <u>an offense described in Subsection 58-37-8(2)</u> , except <u>for</u> :
372	(i) [any] an offense under Subsection 58-37-8(2)(b)(i), possession of 100 pounds or
373	more of marijuana;
374	(ii) [any] an offense enhanced under Subsection 58-37-8(2)(e), violation in a
375	correctional facility; or
376	(iii) an offense for driving with a controlled substance illegally in the person's body
377	and negligently causing serious bodily injury or death of another, as codified
378	before May 4, 2022, Laws of Utah 2021, Chapter 236, Section 1, Subsection
379	58-37-8(2)(g);
380	(b) an offense described in Subsection 58-37a-5(1), use or possession of drug
381	paraphernalia;
382	(c) an offense described in Section 58-37b-6, possession or use of an imitation
383	controlled substance; or
384	(d) any local ordinance which is substantially similar to any of the offenses described in
385	this Subsection $[(9)]$ (14).
386	[(10)] (15) (a) "Expunge" means to [seal or otherwise restrict access to the individual's
387	record held by an agency when the record includes a criminal investigation,
388	detention, arrest, or conviction.] remove a record from public inspection by:
389	(i) sealing the record; or
390	(ii) restricting or denying access to the record.
391	(b) "Expunge" does not include the destruction of a record.
392	(16) "Indigent" means a financial status that results from a court finding that a petitioner is
393	financially unable to pay the fee to file a petition for expungement under Section
394	<u>78A-2-302.</u>
395	[(11)] (17) "Jurisdiction" means a state, district, province, political subdivision, territory, or
396	possession of the United States or any foreign country.
397	[(12)] (18) (a) "Minor regulatory offense" means, except as provided in Subsection [
398	(12)(e)] (18)(c), a class B or C misdemeanor offense or a local ordinance.
399	(b) "Minor regulatory offense" includes an offense under Section 76-9-701 or 76-10-105.
400	(c) "Minor regulatory offense" does not include:

401	(i) any drug possession offense;
402	(ii) an offense under Title 41, Chapter 6a, Part 5, Driving Under the Influence and
403	Reckless Driving;
404	(iii) an offense under Sections 73-18-13 through 73-18-13.6;
405	(iv) except as provided in Subsection [(12)(b)] (18)(b), an offense under Title 76,
406	Utah Criminal Code; or
407	(v) any local ordinance that is substantially similar to an offense listed in Subsections
408	$\frac{(12)(c)(i)}{(18)(c)(i)}$ through (iv).
409	[(13)] (19) "Petitioner" means an individual applying for expungement under this chapter.
410	[(14)] (20) "Plea in abeyance" means the same as that term is defined in Section 77-2a-1.
411	(21) "Record" means a book, letter, document, paper, map, plan, photograph, film, card,
412	tape, recording, electronic data, or other documentary material, regardless of physical
413	form or characteristics, that:
414	(a) is contained in the agency's file regarding the arrest, detention, investigation,
415	conviction, sentence, incarceration, probation, or parole of an individual; and
416	(b) is prepared, owned, received, or retained by an agency, including a court.
417	[(15)] (22) (a) "Traffic offense" means, except as provided in Subsection $[(15)(b)]$ (22)(b):
418	(i) an infraction, a class B misdemeanor offense, or a class C misdemeanor offense
419	under Title 41, Chapter 6a, Traffic Code;
420	(ii) an infraction, a class B misdemeanor offense, or a class C misdemeanor offense
421	under Title 53, Chapter 3, Part 2, Driver Licensing Act;
422	(iii) an infraction, a class B misdemeanor offense, or a class C misdemeanor offense
423	under Title 73, Chapter 18, State Boating Act; and
424	(iv) all local ordinances that are substantially similar to an offense listed in
425	Subsections $[(15)(a)(i)]$ $(22)(a)(i)$ through (iii).
426	(b) "Traffic offense" does not mean:
427	(i) an offense under Title 41, Chapter 6a, Part 5, Driving Under the Influence and
428	Reckless Driving;
429	(ii) an offense under Sections 73-18-13 through 73-18-13.6; or
430	(iii) any local ordinance that is substantially similar to an offense listed in Subsection [
431	(15)(b)(i)] (22)(b)(i) or (ii).
432	[(16)] (23) "Traffic offense case" means that each offense in the case is a traffic offense.
433	Section 7. Section 77-40a-104 is amended to read:
434	77-40a-104 (Effective 10/01/24) Department rulemaking authority

435	In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
436	the department may make rules to:
437	(1) implement procedures for processing an automatic expungement;
438	(2) implement procedures for applying for certificates of eligibility;
439	(3) specify procedures for receiving a certificate of eligibility;
440	(4) create forms and determine information necessary to be provided to the bureau; and
441	(5) implement procedures for the confirmation of an expungement under Subsection [
442	77-40a-403(2)] <u>77-40a-401(4)</u> .
443	Section 8. Section 77-40a-201 is amended to read:
444	Part 2. Automatic Expungement and Deletion
445	77-40a-201 (Effective 10/01/24). General provisions for automatic expungement
446	and deletion.
447	[(1) (a) Except as provided in Subsection (1)(b) and subject to Section 77-40a-203, this
448	section governs the process for the automatic expungement of all records in:]
449	[(i) except as provided in Subsection (2)(e), a case that resulted in an acquittal on all
450	charges;]
451	[(ii) except as provided in Subsection (3)(e), a case that is dismissed with prejudice; or]
452	[(iii) a case that is a clean slate eligible case.]
453	[(b) This section does not govern automatic expungement of a traffic offense.]
454	[(2) (a) Except as provided in Subsection (2)(e), the process for automatic expungement of
455	records for a case that resulted in an acquittal on all charges is as described in
456	Subsections (2)(b) through (d).]
457	[(b) If a court determines that the requirements for automatic expungement have been met,
458	a district court or justice court shall:]
459	[(i) issue, without a petition, an expungement order; and]
460	[(ii) based on information available, notify the bureau and the prosecuting agency
461	identified in the case of the order of expungement.]
462	[(e) The bureau, upon receiving notice from the court, shall notify the law enforcement
463	agencies identified in the case of the order of expungement.]
464	[(d) For a case resulting in an acquittal on all charges on or before May 1, 2020, that is
465	automatically expunged under this Subsection (2), a law enforcement agency shall
466	expunge records for the case within one year after the day on which the law enforcement
467	agency receives notice from the bureau.

468	(e) For purposes of this section, a case that resulted in acquittal on all charges does not
469	include a case that resulted in an acquittal because the individual is found not guilty by
470	reason of insanity.]
471	[(3) (a) The process for an automatic expungement of a case that is dismissed with
472	prejudice is as described in Subsections (3)(b) through (d).]
473	[(b) If a court determines that the requirements for automatic expungement have been met,
474	a district court or justice court shall:]
475	[(i) issue, without a petition, an expungement order; and]
476	[(ii) based on information available, notify the bureau and the prosecuting agency
477	identified in the case of the order of expungement.]
478	[(c) The bureau, upon receiving notice from the court, shall notify the law enforcement
479	agencies identified in the case of the order of expungement.]
480	[(d) For a case dismissed on or before May 1, 2020, that is automatically expunged under
481	this Subsection (3), a law enforcement agency shall expunge records for the case within
482	one year after the day on which the law enforcement agency receives notice from the
483	bureau.]
484	[(e) For purposes of this Subsection (3), a case that is dismissed with prejudice does not
485	include a case that is dismissed with prejudice as a result of successful completion of a
486	plea in abeyance agreement governed by Subsection 77-2a-3(2)(b).]
487	[(4) (a) The process for the automatic expungement of a clean slate eligible case is as
488	described in Subsections (4)(b) through (g) and in accordance with any rules made by
489	the Judicial Council or the Supreme Court.]
490	[(b) A prosecuting agency, that has complied with Rule 42 of the Utah Rules of Criminal
491	Procedure, shall receive notice on a monthly basis for any case prosecuted by that
492	agency that appears to be a clean slate eligible case.]
493	[(c) Within 35 days of the day on which the notice described in Subsection (4)(b) is sent,
494	the prosecuting agency shall provide written notice in accordance with any rules made
495	by the Judicial Council or the Supreme Court if the prosecuting agency objects to an
496	automatic expungement for any of the following reasons:]
497	[(i) after reviewing the agency record, the prosecuting agency believes that the case does
498	not meet the definition of a clean slate eligible case;]
499	[(ii) the individual has not paid court-ordered restitution to the victim; or]
500	[(iii) the prosecuting agency has a reasonable belief, grounded in supporting facts, that an
501	individual with a clean slate eligible case is continuing to engage in criminal activity

502	within or outside of the state.]
503	[(d) (i) If a prosecuting agency provides written notice of an objection for a reason
504	described in Subsection (4)(c) within 35 days of the day on which the notice described
505	in Subsection (4)(b) is sent, the court may not proceed with automatic expungement.]
506	[(ii) If 35 days pass from the day on which the notice described in Subsection (4)(b) is sent
507	without the prosecuting agency providing written notice of an objection for a reason
508	described in Subsection (4)(c), the court may proceed with automatic expungement.]
509	[(e) If a court determines that the requirements for automatic expungement have been met,
510	a district court or justice court shall:]
511	[(i) issue, without a petition, an expungement order; and]
512	[(ii) based on information available, notify the bureau and the prosecuting agency
513	identified in the case of the order of expungement.]
514	[(f) The bureau, upon receiving notice from the court, shall notify the law enforcement
515	agencies identified in the case of the order of expungement.]
516	[(g) For a clean slate case adjudicated or dismissed on or before May 1, 2020, that is
517	automatically expunged under this Subsection (4), a law enforcement agency shall
518	expunge records for the case within one year after the day on which the law enforcement
519	agency receives notice from the bureau.]
520	[(5)] (1) Nothing in this section precludes an individual from filing a petition for
521	expungement of records that are eligible for automatic expungement or deletion under
522	this section if an automatic expungement or deletion has not occurred pursuant to this
523	section.
524	[(6)] (2) An automatic expungement performed under this [section] part does not preclude a
525	person from requesting access to expunged records in accordance with Section
526	77-40a-403 or 77-40a-404.
527	[(7)] <u>(3)</u> (a) The Judicial Council and the Supreme Court shall make rules to govern the
528	process for automatic expungement.
529	(b) The rules under Subsection $[(7)(a)]$ (3)(a) may authorize:
530	(i) a presiding judge of a district court to issue an expungement order for any case
531	when the requirements for automatic expungement are met; and
532	(ii) a presiding judge of a justice court to issue an expungement order for any justice
533	court case within the presiding judge's judicial district when the requirements for
534	automatic expungement are met.
535	(4) An individual does not have a cause of action for damages as a result of the failure to:

536	(a) identify an individual's case as eligible for automatic expungement or deletion under
537	this part; or
538	(b) automatically expunge or delete the records of a case that is eligible under this part.
539	Section 9. Section 77-40a-202 is amended to read:
540	77-40a-202 (Effective 10/01/24). Automatic deletion for traffic offense by a court.
541	(1) [Subject to Section 77-40a-203,] A court shall delete all records for the following traffic
542	offenses[-shall be deleted] without a court order or notice to the prosecuting agency:
543	(a) a traffic offense case that resulted in an acquittal on all charges;
544	(b) a traffic offense case that is dismissed with prejudice, except for a case that is
545	dismissed with prejudice as a result of successful completion of a plea in abeyance
546	agreement governed by Subsection 77-2a-3(2)(b); or
547	(c) a traffic offense case for which the following time periods have elapsed from the day
548	on which the case is adjudicated:
549	(i) at least five years for a class C misdemeanor or an infraction; or
550	(ii) at least six years for a class B misdemeanor.
551	(2) For a traffic offense case that results in an acquittal, is dismissed, or is adjudicated on or
552	after May 1, 2020, the court shall delete all records for the traffic offense upon
553	identification.
554	(3) For a traffic offense case that results in an acquittal, is dismissed, or is adjudicated
555	before May 1, 2020, the court shall delete all records for the traffic offense within one
556	year of the day on which the case is identified as eligible for deletion.
557	[(2) The Judicial Council shall make rules to provide an ongoing process for identifying
558	and deleting records on all traffic offenses described in Subsection (1).]
559	Section 10. Section 77-40a-204 is enacted to read:
560	77-40a-204 (Effective 10/01/24). Request for automatic expungement of a case
561	Automatic expungement before October 1, 2024, and on and after January 1, 2026.
562	(1) (a) On and after October 1, 2024, but before January 1, 2026, an individual must
563	submit the necessary form to the court to receive an expungement of a case that is
564	eligible under this part.
565	(b) If a form is submitted as described in Subsection (1), the court shall determine
566	whether the individual has a case that qualifies for expungement in accordance with
567	Sections 77-40a-205 and 77-40a-206.
568	(2) A court shall automatically expunge a case in accordance with this part if the court
569	identified the case as being eligible for automatic expungement before October 1, 2024,

570	and the requirements for automatic expungement were met under this part.
571	(3) On and after January 1, 2026, a court shall automatically expunge a case in accordance
572	with this part if the court identifies the case as being eligible for automatic expungement.
573	(4) A court shall make reasonable efforts, within available funding, to expunge a case under
574	Subsection (3) as quickly as practicable with the goal of:
575	(a) expunging a case that resulted in an acquittal on all charges on or after May 1, 2020,
576	60 days after acquittal;
577	(b) expunging a case that resulted in a dismissal with prejudice, other than a case that is
578	dismissed with prejudice as a result of successful completion of a plea in abeyance
579	agreement governed by Subsection 77-2a-3(2)(b), on or after May 1, 2020, 180 days
580	after:
581	(i) for a case in which no appeal was filed, the day on which the entire case against
582	the individual is dismissed with prejudice; or
583	(ii) for a case in which an appeal was filed, the day on which a court issues a final
584	nonappealable order;
585	(c) expunging a clean slate eligible case that is adjudicated or dismissed on or after May
586	1, 2020, and is not a traffic offense within 30 days of the court determining that the
587	requirements for expungement have been satisfied under Section 77-40a-205; and
588	(d) expunging a case adjudicated or dismissed before May 1, 2020, within one year of
589	the day on which the case is identified as eligible for automatic expungement.
590	Section 11. Section 77-40a-205 is enacted to read:
591	77-40a-205 (Effective 10/01/24). Automatic expungement of state records for a
592	clean slate case.
593	(1) A court shall issue an order of expungement, without the filing of a petition, for all
594	records of the case that are held by the court and the bureau if:
595	(a) on and after October 1, 2024, but before January 1, 2026, the individual submitted a
596	form requesting expungement of a case as described in Section 77-40a-204;
597	(b) the case is eligible for expungement under this section; and
598	(c) the prosecuting agency does not object to the expungement of the case as described
599	in Subsection (6).
600	(2) Except as otherwise provided in Subsection (3), a case is eligible for expungement
601	under this section if:
602	(a) (i) each conviction within the case is a conviction for:
603	(A) a misdemeanor offense for possession of a controlled substance in violation (

604	Subsection $58-37-8(2)(a)(i)$;
605	(B) a class B misdemeanor offense;
606	(C) a class C misdemeanor offense; or
607	(D) an infraction; and
608	(ii) the following time periods have passed after the day on which the individual is
609	adjudicated:
610	(A) at least five years for the conviction of a class C misdemeanor offense or an
611	infraction;
612	(B) at least six years for the conviction of a class B misdemeanor offense; or
613	(C) at least seven years for the conviction of a class A misdemeanor offense for
614	possession of a controlled substance in violation of Subsection 58-37-8
615	(2)(a)(i); or
616	(b) (i) the case is dismissed as a result of a successful completion of a plea in
617	abeyance agreement governed by Subsection 77-2a-3(2)(b) or the case is
618	dismissed without prejudice;
619	(ii) each charge within the case is:
620	(A) a misdemeanor offense for possession of a controlled substance in violation of
621	Subsection 58-37-8(2)(a)(i);
622	(B) a class B misdemeanor offense;
623	(C) a class C misdemeanor offense; or
624	(D) an infraction; and
625	(iii) the following time periods have passed after the day on which the case is
626	dismissed:
627	(A) at least five years for a charge in the case for a class C misdemeanor offense
628	or an infraction;
629	(B) at least six years for a charge in the case for a class B misdemeanor offense; or
630	(C) at least seven years for a charge in the case for a class A misdemeanor offense
631	for possession of a controlled substance in violation of Subsection 58-37-8
632	(2)(a)(i).
633	(3) A case is not eligible for expungement under this section if:
634	(a) the individual has a total number of convictions in courts of this state that exceed the
635	limits under Subsection 77-40a-303(4) or (5) without taking into consideration:
636	(i) the exception in Subsection 77-40a-303(7); or
637	(ii) any infraction, traffic offense, or minor regulatory offense;

638	<u>(b</u>	there is a criminal proceeding for a misdemeanor or felony offense pending in a
639		court of this state against the individual, unless the proceeding is for a traffic offense;
640	<u>(c)</u>	for an individual seeking an automatic expungement on and after January 1, 2025,
641		the individual is incarcerated in the state prison or on probation or parole that is
642		supervised by the Department of Corrections;
643	<u>(d</u>	the case resulted in the individual being found not guilty by reason of insanity;
644	<u>(e)</u>	the case establishes a criminal accounts receivable that:
645		(i) has been entered as a civil accounts receivable or a civil judgment of restitution
646		and transferred to the Office of State Debt Collection under Section 77-18-114; or
647		(ii) has not been satisfied according to court records; or
648	<u>(f)</u>	the case resulted in a plea held in abeyance or a conviction for the following offenses:
649		(i) any of the offenses listed in Subsection 77-40a-303(2)(a);
650		(ii) an offense against the person in violation of Title 76, Chapter 5, Offenses Against
651		the Individual;
652		(iii) a weapons offense in violation of Title 76, Chapter 10, Part 5, Weapons;
653		(iv) sexual battery in violation of Section 76-9-702.1;
654		(v) an act of lewdness in violation of Section 76-9-702 or 76-9-702.5;
655		(vi) an offense in violation of Title 41, Chapter 6a, Part 5, Driving Under the
656		Influence and Reckless Driving;
657		(vii) damage to or interruption of a communication device in violation of Section
658		<u>76-6-108;</u>
659		(viii) a domestic violence offense as defined in Section 77-36-1; or
660		(ix) any other offense classified in the Utah Code as a felony or a class A
661		misdemeanor other than a class A misdemeanor conviction for possession of a
662		controlled substance in violation of Subsection 58-37-8(2)(a)(i).
663	<u>(4)</u> <u>A</u>	prosecuting agency that has complied with Rule 42 of the Utah Rules of Criminal
664	<u>Pr</u>	ocedure shall receive notice on a monthly basis for any case prosecuted by that agency
665	<u>th</u> :	at appears to be eligible for automatic expungement under this section.
666	(5) W	ithin 35 days after the day on which the notice described in Subsection (4) is sent, the
667	pr	osecuting agency shall provide written notice in accordance with Rule 42 of the Utah
668	Rı	ales of Criminal Procedure if the prosecuting agency objects to an automatic
669	ex	pungement for any of the following reasons:
670	<u>(a)</u>	the prosecuting agency believes that the case is not eligible for expungement under
671		this section after reviewing the agency record:

672	(b) the individual has not paid restitution to the victim as ordered by the court; or
673	(c) the prosecuting agency has a reasonable belief, grounded in supporting facts, that an
674	individual involved in the case is continuing to engage in criminal activity within or
675	outside of the state.
676	(6) If a prosecuting agency provides written notice of an objection for a reason described in
677	Subsection (5) within 35 days after the day on which the notice under Subsection (4) is
678	sent, the court may not proceed with automatic expungement of the case.
679	(7) If 35 days pass after the day on which the notice described in Subsection (4) is sent
680	without the prosecuting agency providing written notice of an objection under
681	Subsection (5), the court shall proceed with automatic expungement of the case.
682	(8) If a court issues an order of expungement under Subsection (1), the court shall:
683	(a) expunge all records of the case held by the court in accordance with Section
684	77-40a-401; and
685	(b) notify the bureau and the prosecuting agency identified in the case, based on
686	information available to the court, of the order of expungement.
687	Section 12. Section 77-40a-206 is enacted to read:
688	77-40a-206 (Effective 10/01/24). Automatic expungement of state records for a
689	case resulting in an acquittal or dismissal with prejudice.
690	(1) A court shall issue an order of expungement, without the filing of a petition, for all
691	records of the case that are held by the court and the bureau if:
692	(a) on and after October 1, 2024, but before January 1, 2026, the individual submitted a
693	form requesting expungement of a case as described in Section 77-40a-204; and
694	(b) the case is eligible for expungement under this section.
695	(2) Except as provided in Subsection (3), a case is eligible for expungement under this
696	section if:
697	(a) (i) the case resulted in an acquittal on all charges; and
698	(ii) at least 60 days have passed after the day on which the case resulted in an
699	acquittal; or
700	(b) (i) the case is dismissed with prejudice; and
701	(ii) at least 180 days have passed after the day on which:
702	(A) for a case in which no appeal was filed, the entire case against the individual
703	is dismissed with prejudice; or
704	(B) for a case in which an appeal was filed, a court issues a final nonappealable

- 706 (3) A case is not eligible for expungement under Subsection (2) if:
- 707 (a) the case resulted in an acquittal because the individual is found not guilty by reason 708 of insanity; or
- 709 (b) the case is dismissed with prejudice as a result of successful completion of a plea in 710 abeyance agreement governed by Subsection 77-2a-3(2)(b).
- 711 (4) If a court issues an order of expungement under Subsection (1), the court shall:
- 712 (a) expunge all records of the case held by the court as described in Section 77-40a-401; 713 and
- 714 (b) notify the bureau and the prosecuting agency identified in the case, based on information available to the court, of the order of expungement.
- Section 13. Section **77-40a-207** is enacted to read:
- 717 <u>77-40a-207</u> (Effective 10/01/24). Automatic expungement by the bureau.
- 718 (1) Upon receiving notice from a court of an expungement order under this part, the bureau shall expunge all records of the case in accordance with Section 77-40a-401.
- 720 (2) The bureau shall forward a copy of the expungement order to the Federal Bureau of 721 Investigation.
- 722 (3) Except for the court and the bureau, an agency is not required to expunge all records of a case that is automatically expunged under this part.
- 724 The following section is affected by a coordination clause at the end of this bill.
- 725 Section 14. Section **77-40a-301** is amended to read:
- 77-40a-301 (Effective 10/01/24). Application for certificate of eligibility for expungement -- Penalty for false or misleading information on application.
- 728 (1) If an individual seeks to expunge the individual's criminal record in regard to an arrest, 729 investigation, detention, or conviction, the individual shall:
- 730 (a) except as provided in Subsection 77-40a-305(3) or (4), apply to the bureau for a certificate of eligibility for expungement of the criminal record and pay the application fee as described in Section 77-40a-304;
- [(b) if the individual is qualified to receive a certificate of eligibility, pay the issuance fee for the certificate of eligibility as described in Section 77-40a-304; and]
- 735 (b) except as provided in Subsections 77-40a-304(3) and (7), pay the issuance fee for the certificate of eligibility as described in Section 77-40a-304; and
- 737 (c) file a petition for expungement in accordance with Section 77-40a-305.
- 738 (2) (a) An individual who intentionally or knowingly provides any false or misleading 739 information to the bureau when applying for a certificate of eligibility is guilty of a

740	class B misdemeanor and subject to prosecution under Section 76-8-504.6.
741	(b) Regardless of whether the individual is prosecuted, the bureau may deny a certificate
742	of eligibility to anyone who knowingly provides false information on an application.
743	Section 15. Section 77-40a-302 is amended to read:
744	77-40a-302 (Effective 10/01/24). Requirements for certificate of eligibility to
745	expunge records of arrest, investigation, and detention.
746	(1) Except as provided in Subsection (2), if a petitioner is arrested or charged with an
747	offense, the petitioner is eligible to receive a certificate of eligibility from the bureau to
748	expunge records of the arrest, investigation, and detention in the case for the offense if:
749	(a) the following time periods have passed:
750	(i) at least 30 days have passed after the day on which the [individual] petitioner is
751	arrested or charged for the offense;
752	(ii) at least three years have passed after the day on which the petitioner was
753	convicted of the traffic offense if there is a conviction in the case for a traffic
754	offense that is a class C misdemeanor or an infraction; and
755	(iii) at least four years have passed after the day on which the petitioner was
756	convicted of the traffic offense if there is a conviction in the case for a traffic
757	offense that is a class B misdemeanor; and
758	(b) one of the following occurs:
759	(i) an investigating law enforcement agency and the prosecuting attorney have
760	screened the case and determined that no charges will be filed against the
761	petitioner;
762	(ii) all charges in the case are dismissed with prejudice;
763	(iii) if a charge in the case is dismissed without prejudice or without condition:
764	(A) the prosecuting attorney consents in writing to the issuance of a certificate of
765	eligibility; or
766	(B) at least 180 days have passed after the day on which the charge is dismissed;
767	(iv) the petitioner is acquitted at trial on all of the charges in the case; or
768	(v) the statute of limitations expires on all of the charges in the case[; and] .
769	[(c) (i) there is a conviction in the case for a traffic offense that is a class C
770	misdemeanor or an infraction, at least three years have passed after the day on which
771	the petitioner was convicted of the traffic offense; or]
772	[(ii) there is a conviction in the case for a traffic offense that is a class B misdemeanor,
773	at least four years have passed after the day on which the petitioner was convicted of

774

the traffic offense.]

775	(2) A petitioner is not eligible for a certificate of eligibility under Subsection (1) if:
776	(a) there is a criminal proceeding for a misdemeanor or felony offense pending against
777	the petitioner, unless the criminal proceeding is for a traffic offense;
778	(b) there is a plea in abeyance for a misdemeanor or felony offense pending against the
779	petitioner, unless the plea in abeyance is for a traffic offense;
780	(c) the petitioner is currently incarcerated, on parole, or on probation, unless the
781	petitioner is on probation or parole for an infraction, a traffic offense, or a minor
782	regulatory offense; or
783	(d) there is a criminal protective order or a criminal stalking injunction in effect for the
784	case.
785	Section 16. Section 77-40a-303 is amended to read:
786	77-40a-303 (Effective 10/01/24). Requirements for a certificate of eligibility to
787	expunge records of a conviction.
788	(1) Except as otherwise provided by this section, a petitioner is eligible to receive a
789	certificate of eligibility from the bureau to expunge the records of a conviction if:
790	(a) the petitioner has paid in full all fines and interest ordered by the court related to the
791	conviction for which expungement is sought;
792	(b) the petitioner has paid in full all restitution ordered by the court under Section
793	77-38b-205; and
794	(c) the following time periods have passed after the day on which the petitioner was
795	convicted or released from incarceration, parole, or probation, whichever occurred
796	last, for the conviction that the petitioner seeks to expunge:
797	(i) 10 years for the conviction of a misdemeanor under Subsection 41-6a-501(2);
798	(ii) 10 years for the conviction of a felony for operating a motor vehicle with any amount of a
799	controlled substance in an individual's body and causing serious bodily injury or death, as
800	codified before May 4, 2022, Laws of Utah 2021,
801	Chapter 236, Section 1, Subsection 58-37-8(2)(g);
802	(iii) seven years for the conviction of a felony;
803	(iv) five years for the conviction of a drug possession offense that is a felony;
804	(v) five years for the conviction of a class A misdemeanor;
805	(vi) four years for the conviction of a class B misdemeanor; or
806	(vii) three years for the conviction of a class C misdemeanor or infraction.
807	(2) A petitioner is not eligible to receive a certificate of eligibility from the bureau to

808	expunge the records of a conviction under Subsection (1) if:	
809	(a) except as provided in Subsection (3), the conviction for which expungement	i is
810	sought is:	
811	(i) a capital felony;	
812	(ii) a first degree felony;	
813	(iii) a felony conviction of a violent felony as defined in Subsection 76-3-2	03.5
814	(1)(c)(i);	
815	(iv) a felony conviction described in Subsection 41-6a-501(2);	
816	(v) an offense, or a combination of offenses, that would require the individual	ıal to
817	register as a sex offender, as defined in Section 77-41-102; or	
818	(vi) a registerable child abuse offense as defined in Subsection 77-43-102(2	2);
819	(b) there is a criminal proceeding for a misdemeanor or felony offense pending	against
820	the petitioner, unless the criminal proceeding is for a traffic offense;	
821	(c) there is a plea in abeyance for a misdemeanor or felony offense pending aga	inst the
822	petitioner, unless the plea in abeyance is for a traffic offense;	
823	(d) the petitioner is currently incarcerated, on parole, or on probation, unless the	2
824	petitioner is on probation or parole for an infraction, a traffic offense, or a n	ninor
825	regulatory offense;	
826	(e) the petitioner intentionally or knowingly provides false or misleading inform	nation on
827	the application for a certificate of eligibility;	
828	(f) there is a criminal protective order or a criminal stalking injunction in effect	for the
829	case; or	
830	(g) the bureau determines that the petitioner's criminal history makes the petition	ner
831	ineligible for a certificate of eligibility under Subsection (4) or (5).	
832	(3) Subsection (2)(a) does not apply to a conviction for a qualifying sexual offense,	as
833	defined in Section 76-3-209, if, at the time of the offense, a petitioner who com	nitted
834	the offense was at least 14 years old but under 18 years old, unless the petitioner	was
835	convicted by a district court as an adult in accordance with Title 80, Chapter 6,	Part 5,
836	Transfer to District Court.	
837	(4) Subject to Subsections (6), (7), and (8), a petitioner is not eligible to receive a co	ertificate
838	of eligibility if, at the time the petitioner seeks the certificate of eligibility, the b	ureau
839	determines that the petitioner's criminal history, including previously expunged	
840	convictions, contains any of the following:	
841	(a) two or more felony convictions other than for drug possession offenses, each	n of

842		which is contained in a separate criminal episode;
843		(b) any combination of three or more convictions other than for drug possession offenses
844		that include two class A misdemeanor convictions, each of which is contained in a
845		separate criminal episode;
846		(c) any combination of four or more convictions other than for drug possession offenses
847		that include three class B misdemeanor convictions, each of which is contained in a
848		separate criminal episode; or
849		(d) five or more convictions other than for drug possession offenses of any degree
850		whether misdemeanor or felony, each of which is contained in a separate criminal
851		episode.
852	(5)	Subject to Subsections (7) and (8), a petitioner is not eligible to receive a certificate of
853		eligibility if, at the time the petitioner seeks the certificate of eligibility, the bureau
854		determines that the petitioner's criminal history, including previously expunged
855		convictions, contains any of the following:
856		(a) three or more felony convictions for drug possession offenses, each of which is
857		contained in a separate criminal episode; or
858		(b) any combination of five or more convictions for drug possession offenses, each of
859		which is contained in a separate criminal episode.
860	(6)	If the petitioner's criminal history contains convictions for both a drug possession
861		offense and a non-drug possession offense arising from the same criminal episode, the
862		bureau shall count that criminal episode as a conviction under Subsection (4) if any
863		non-drug possession offense in that episode:
864		(a) is a felony or class A misdemeanor; or
865		(b) has the same or a longer waiting period under Subsection (1)(c) than any drug
866		possession offense in that episode.
867	(7)	Except as provided in Subsection (8), if at least 10 years have passed after the day on
868		which the petitioner was convicted or released from incarceration, parole, or probation,
869		whichever occurred last, for all convictions:
870		(a) each numerical eligibility limit under Subsections (4)(a) and (b) shall be increased by
871		one; and
872		(b) each numerical eligibility limit under Subsections (4)(c) and (d) is not applicable if
873		the highest level of convicted offense in the criminal episode is:
874		(i) a class B misdemeanor;
875		(ii) a class C misdemeanor:

876	(iii) a drug possession offense if none of the non-drug possession offenses in the
877	criminal episode are a felony or a class A misdemeanor; or
878	(iv) an infraction.
879	(8) When determining whether a petitioner is eligible for a certificate of eligibility under
880	Subsection (4), (5), or (7), the bureau may not consider a petitioner's pending case or
881	prior conviction for:
882	(a) an infraction;
883	(b) a traffic offense;
884	(c) a minor regulatory offense; or
885	(d) a clean slate eligible case that was automatically expunged[-in-accordance with
886	Section 77-40a-201].
887	(9) If the petitioner received a pardon before May 14, 2013, from the Utah Board of
888	Pardons and Parole, the petitioner is entitled to an expungement order for all pardoned
889	crimes in accordance with Section 77-27-5.1.
890	The following section is affected by a coordination clause at the end of this bill.
891	Section 17. Section 77-40a-304 is amended to read:
892	77-40a-304 (Effective 10/01/24). Certificate of eligibility process Issuance of
893	certificate Fees.
894	(1) (a) When a petitioner applies for a certificate of eligibility as described in Subsection
895	77-40a-301(1)[,] <u>:</u>
896	(i) the petitioner shall pay an application fee at the time the petitioner submits an
897	application for a certificate of eligibility to the bureau; and
898	(ii) the bureau shall perform a check of records of governmental agencies, including
899	national criminal data bases, to determine whether the petitioner is eligible to
900	receive a certificate of eligibility under this chapter.
901	(b) For purposes of determining eligibility under this chapter, the bureau may review
902	records of arrest, investigation, detention, and conviction that have been previously
903	expunged, regardless of the jurisdiction in which the expungement occurred.
904	[(e) Once the eligibility process is complete, the bureau shall notify the petitioner.]
905	[(d) If the petitioner meets all of the criteria under Section 77-40a-302 or 77-40a-303:]
906	[(i) the bureau shall issue a certificate of eligibility that is valid for a period of 180 days
907	from the day on which the certificate is issued;]
908	[(ii) the bureau shall provide a petitioner with an identification number for the
909	certificate of eligibility: and]

910	[(iii) the petitioner shall pay the issuance fee established by the department as described
911	in Subsection (2).]
912	[(e)] (c) If[, after reasonable research,] a disposition for an arrest on the criminal history
913	file is unobtainable after reasonable research, the bureau may issue a special
914	certificate giving determination of eligibility to the court, except that the bureau may
915	not issue the special certificate if:
916	(i) there is a criminal proceeding for a misdemeanor or felony offense pending
917	against the petitioner, unless the criminal proceeding is for a traffic offense;
918	(ii) there is a plea in abeyance for a misdemeanor or felony offense pending against
919	the petitioner, unless the plea in abeyance is for a traffic offense; or
920	(iii) the petitioner is currently incarcerated, on parole, or on probation, unless the
921	petitioner is on probation or parole for an infraction, a traffic offense, or a minor
922	regulatory offense.
923	(2) (a) Once the eligibility process is complete, the bureau shall notify the petitioner.
924	(b) If the petitioner meets all of the criteria under Section 77-40a-302 or 77-40a-303 and
925	the bureau determines that the issuance of a certificate of eligibility or special
926	certificate is appropriate:
927	(i) the bureau shall issue a certificate of eligibility or special certificate that is valid
928	for a period of 180 days from the day on which the certificate is issued;
929	(ii) the bureau shall provide a petitioner with an identification number for the
930	certificate of eligibility or special certificate; and
931	(iii) except as provided in Subsection (3), the petitioner shall pay an additional fee for
932	the issuance of a certificate of eligibility or special certificate.
933	[(2) (a) The bureau shall charge application and issuance fees for a certificate of eligibility
934	or special certificate in accordance with the process in Section 63J-1-504.]
935	[(b) The application fee shall be paid at the time the petitioner submits an application for a
936	certificate of eligibility to the bureau.]
937	[(e) If the bureau determines that the issuance of a certificate of eligibility or special
938	certificate is appropriate, the petitioner will be charged an additional fee for the issuance
939	of a certificate of eligibility or special certificate unless Subsection (2)(d) applies.]
940	[(d) An issuance fee may not be assessed against a petitioner who-]
941	(3) The bureau shall issue a certificate of eligibility or special certificate without requiring
942	the payment of the issuance fee if the petitioner:
943	(a) qualifies for a certificate of eligibility under Section 77-40a-302 unless the charges

944	were dismissed pursuant to a plea in abeyance agreement under Title 77, Chapter 2a
945	Pleas in Abeyance, or a diversion agreement under Title 77, Chapter 2, Prosecution,
946	Screening, and Diversion[-] ; or
947	(b) indicates on the application for a certificate of eligibility that the petitioner
948	reasonably believes, as of the date of the application, that the fee to file a petition fo
949	expungement is likely to be waived by a court because the petitioner is indigent.
950	[(e) Funds generated under this Subsection (2) shall be deposited in the General Fund as
951	a dedicated credit by the department to cover the costs incurred in determining
952	eligibility.]
953	[(3)] (4) The bureau shall include on [the] <u>a</u> certificate of eligibility all information that is
954	needed for the court to issue a valid expungement order.
955	[(4)] (5) The bureau shall provide clear written instructions to the petitioner that explain:
956	(a) the process for a petition for expungement; and
957	(b) what is required of the petitioner to complete the process for a petition for
958	expungement.
959	(6) If a petitioner indicates on the application for a certificate of eligibility that a court is
960	likely to waive the fee for a petition for expungement as described in Subsection (3)(b),
961	the bureau shall:
962	(a) inform the petitioner that the petitioner will be required to pay an issuance fee before
963	an agency will expunge the offense if a court does not waive the fee for a petition for
964	expungement; and
965	(b) provide the petitioner with the form for waiving a court fee for a petition for
966	<u>expungement.</u>
967	(7) If the bureau issues a certificate of eligibility or a special certificate without requiring
968	payment of the issuance fee as described in Subsection (3)(b), the bureau shall charge
969	the petitioner the issuance fee upon the bureau's receipt of an order deciding a petition
970	for expungement unless the court communicates to the bureau that the fee to file the
971	petition for expungement was waived because the petitioner is indigent.
972	(8) (a) If the petitioner qualifies for a waiver of the issuance fee under Subsection (7)
973	and the expungement order grants the petition for expungement, the bureau shall
974	process the expungement order in accordance with Section 77-40a-401 as if the
975	petitioner paid the issuance fee.
976	(b) If the petitioner does not qualify for a waiver of the issuance fee under Subsection
977	(7) and the expungement order grants the petition for expungement, the bureau may

978	not process the expungement order as described in Section 77-40a-401, or notify
979	other agencies affected by the expungement order as described in Section 77-40a-307,
980	until the petitioner pays the issuance fee.
981	(c) If the bureau issues a certificate of eligibility or special certificate without requiring
982	payment of the issuance fee under Subsection (3)(b), the bureau may not charge the
983	petitioner an issuance fee on the grounds that the validity of the certificate described
984	in (2)(b)(i) has expired.
985	(9) The bureau shall charge application and issuance fees for a certificate of eligibility or
986	special certificate in accordance with the process in Section 63J-1-504.
987	(10) The department shall deposit funds generated by application and issuance fees under
988	this section into the General Fund as a dedicated credit by the department to cover the
989	costs incurred in determining eligibility for expungement.
990	Section 18. Section 77-40a-305 is amended to read:
991	77-40a-305 (Effective 10/01/24). Petition for expungement Prosecutorial
992	responsibility Hearing.
993	(1) (a) The petitioner shall file a petition for expungement, in accordance with the Utah
994	Rules of Criminal Procedure, that includes the identification number for the
995	certificate of eligibility described in Subsection [77-40a-304(1)(d)(ii)] 77-40a-304
996	(2)(b)(ii).
997	(b) Information on a certificate of eligibility is incorporated into a petition by reference
998	to the identification number for the certificate of eligibility.
999	(2) (a) If a petition for expungement is filed under Subsection (1)(a), the court shall
1000	obtain a certificate of eligibility from the bureau.
1001	(b) A court may not accept a petition for expungement if the certificate of eligibility is
1002	no longer valid as described in Subsection $[77-40a-304(1)(d)(i)]$ $[77-40a-304(2)(b)(i)]$.
1003	(3) Notwithstanding Subsection (2), the petitioner may file a petition for expungement of a
1004	traffic offense case without obtaining a certificate of eligibility if:
1005	(a) (i) for a traffic offense case with a class C misdemeanor or infraction, at least
1006	three years have passed after the day on which the petitioner was convicted; or
1007	(ii) for a traffic offense case with a class B misdemeanor, at least four years have
1008	passed after the day on which the petitioner was convicted;
1009	(b) there is no traffic offense case pending against the petitioner;
1010	(c) there is no plea in abeyance for a traffic offense case pending against the petitioner;
1011	and

1012 (d) the petitioner is not currently on probation for a traffic offense case. 1013 (4) Notwithstanding Subsection (2), a petitioner may file a petition for expungement of a 1014 record for a conviction related to cannabis possession without a certificate of eligibility 1015 if the petition demonstrates that: 1016 (a) the petitioner had, at the time of the relevant arrest or citation leading to the 1017 conviction, a qualifying condition, as that term is defined in Section 26B-4-201; and 1018 (b) the possession of cannabis in question was in a form and an amount to medicinally 1019 treat the qualifying condition described in Subsection (4)(a). 1020 (5) (a) The court shall provide notice of a filing of a petition and certificate of eligibility 1021 to the prosecutorial office that handled the court proceedings within three days after 1022 the day on which the petitioner's filing fee is paid or waived. 1023 (b) If there were no court proceedings, the court shall provide notice of a filing of a 1024 petition and certificate of eligibility to the county attorney's office in the jurisdiction 1025 where the arrest occurred. 1026 (c) If the prosecuting agency with jurisdiction over the arrest, investigation, detention, or 1027 conviction, was a city attorney's office, the county attorney's office in the jurisdiction 1028 where the arrest occurred shall immediately notify the city attorney's office that the 1029 county attorney's office has received a notice of a filing of a petition for expungement. 1030 (6) (a) Upon receipt of a notice of a filing of a petition for expungement of a conviction 1031 or a charge dismissed in accordance with a plea in abeyance, the prosecuting attorney 1032 shall make a reasonable effort to provide notice to any victim of the conviction or 1033 charge. 1034 (b) The notice under Subsection (6)(a) shall: 1035 (i) include a copy of the petition, certificate of eligibility, statutes, and rules 1036 applicable to the petition; 1037 (ii) state that the victim has a right to object to the expungement; and 1038 (iii) provide instructions for registering an objection with the court. 1039 (7) (a) The prosecuting attorney may respond to the petition by filing a recommendation 1040 or objection with the court within 35 days after the day on which the notice of the 1041 filing of the petition is sent by the court to the prosecuting attorney. 1042 (b) If there is a victim of the offense for which expungement is sought, the victim may 1043 respond to the petition by filing a recommendation or objection with the court within 1044 60 days after the day on which the petition for expungement was filed with the court.

(8) (a) The court may request a written response to the petition from the Division of

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1046	Adult Probation and Parole within the Department of Corrections.
1047	(b) If requested, the response prepared by the Division of Adult Probation and Parole
1048	shall include:
1049	(i) the reasons probation was terminated; and
1050	(ii) certification that the petitioner has completed all requirements of sentencing and
1051	probation or parole.
1052	(c) The Division of Adult Probation and Parole shall provide a copy of the response to
1053	the petitioner and the prosecuting attorney.
1054	(9) The petitioner may respond in writing to any objections filed by the prosecuting
1055	attorney or the victim and the response prepared by the Division of Adult Probation and
1056	Parole within 14 days after the day on which the objection or response is received.
1057	(10) (a) If the court receives an objection concerning the petition from any party, the
1058	court shall set a date for a hearing and notify the petitioner and the prosecuting
1059	attorney of the date set for the hearing.
1060	(b) The prosecuting attorney shall notify the victim of the date set for the hearing.
1061	(c) The petitioner, the prosecuting attorney, the victim, and any other person who has
1062	relevant information about the petitioner may testify at the hearing.
1063	(d) The court shall review the petition, the certificate of eligibility, and any written
1064	responses submitted regarding the petition.
1065	(11) If no objection is received within 60 days from the day on which the petition for
1066	expungement is filed with the court, the expungement may be granted without a hearing.
1067	(12) (a) If the petitioner seeks a waiver of the fee required for a petition for
1068	expungement in accordance with Section 78A-2-302, the court shall consider the
1069	total number of cases for which the petitioner has received a certificate of eligibility
1070	and is seeking expungement in determining whether the petitioner is indigent under
1071	Subsection 78A-2-302(3)(e) even if the court does not have jurisdiction over a case
1072	for which the petitioner is seeking expungement.
1073	(b) If a court grants a waiver of the fee required for a petition for expungement in
1074	accordance with Section 78A-2-302, and only upon a request from the petitioner, a
1075	subsequent court shall grant a waiver of a fee for a petition for expungement if the
1076	prior court waived the fee for a petition for expungement within 180 days before the
1077	day on which the petitioner filed the petition for expungement with the subsequent
1078	court.
1079	The following section is affected by a coordination clause at the end of this bill.

1080	Section 19. Section 77-40a-306 is amended to read:
1081	77-40a-306 (Effective 10/01/24). Order of expungement.
1082	(1) If a petition is filed in accordance with Section 77-40a-305, the court shall issue an
1083	order of expungement if the court finds, by clear and convincing evidence, that:
1084	(a) except as provided in Subsection 77-40a-305(3) or (4), the petition and certificate of
1085	eligibility are sufficient;
1086	(b) the statutory requirements have been met;
1087	(c) if the petitioner seeks expungement after a case is dismissed without prejudice or
1088	without condition, the prosecuting attorney provided written consent and has not filed
1089	and does not intend to refile related charges;
1090	(d) if the petitioner seeks expungement without a certificate of eligibility for
1091	expungement under Subsection 77-40a-305(4) for a record of conviction related to
1092	cannabis possession:
1093	(i) the petitioner had, at the time of the relevant arrest or citation leading to the
1094	conviction, a qualifying condition, as that term is defined in Section 26B-4-201;
1095	and
1096	(ii) the possession of cannabis in question was in a form and an amount to
1097	medicinally treat the qualifying condition described in Subsection (1)(d)(i);
1098	(e) if an objection is received, the petition for expungement is for a charge dismissed in
1099	accordance with a plea in abeyance agreement, and the charge is an offense eligible
1100	to be used for enhancement, there is good cause for the court to grant the
1101	expungement; and
1102	(f) the interests of the public would not be harmed by granting the expungement.
1103	(2) (a) If the court denies a petition described in Subsection (1)(c) because the
1104	prosecuting attorney intends to refile charges, the petitioner may apply again for a
1105	certificate of eligibility if charges are not refiled within 180 days after the day on
1106	which the court denies the petition.
1107	(b) A prosecuting attorney who opposes an expungement of a case dismissed without
1108	prejudice, or without condition, shall have a good faith basis for the intention to refile
1109	the case.
1110	(c) A court shall consider the number of times that good faith basis of intention to refile
1111	by the prosecuting attorney is presented to the court in making the court's
1112	determination to grant the petition for expungement described in Subsection (1)(c).
1113	(3) If the court grants a petition described in Subsection (1)(e), the court shall make the

1114	court's findings in a written order.
1115	(4) A court may not expunge a conviction of an offense for which a certificate of eligibility
1116	may not be, or should not have been, issued under Section 77-40a-302 or 77-40a-303.
1117	(5) If a court issues an order of expungement under this section, the court shall:
1118	(a) expunge all records of the case as described in Section 77-40a-401; and
1119	(b) notify the bureau of the order of expungement.
1120	Section 20. Section 77-40a-307 is enacted to read:
1121	77-40a-307 (Effective 10/01/24). Distribution of expungement order based on a
1122	petition to all agencies.
1123	(1) (a) Upon receiving notice from the court of an expungement order as described in
1124	Subsection 77-40a-306(5), the bureau shall notify all agencies affected by the
1125	expungement order.
1126	(b) For purposes of Subsection (1)(a), the bureau may not notify the Board of Pardons
1127	and Parole of an expungement order if the individual has never been:
1128	(i) sentenced to prison in this state; or
1129	(ii) under the jurisdiction of the Board of Pardons and Parole.
1130	(c) The bureau shall forward a copy of the expungement order to the Federal Bureau of
1131	Investigation.
1132	(2) A petitioner may deliver copies of the expungement to all agencies affected by the order
1133	of expungement.
1134	(3) If an agency receives an expungement order under this part, the agency shall expunge
1135	all records for the case in accordance with Section 77-40a-401.
1136	The following section is affected by a coordination clause at the end of this bill.
1137	Section 21. Section 77-40a-401 is amended to read:
1138	Part 4. Expungement of Criminal Records
1139	77-40a-401 (Effective 10/01/24). Processing of expungement order Written
1140	confirmation of expungement Effect of an expungement.
1141	[(1) (a) The bureau, upon receiving notice from the court, shall notify all criminal justice
1142	agencies affected by the expungement order.]
1143	[(b) For purposes of Subsection (1)(a), the bureau may not notify the Board of Pardons and
1144	Parole of an expungement order if the individual has never been:]
1145	[(i) sentenced to prison in this state; or]
1146	(ii) under the jurisdiction of the Board of Pardons and Parole.

1147	[(c) A petitioner may deliver copies of the expungement to all criminal justice agencies
1148	affected by the order of expungement.]
1149	[(d) An individual, who receives an expungement order under Section 77-27-5.1, shall pay
1150	a processing fee to the bureau, established in accordance with the process in Section
1151	63J-1-504, before the bureau's record may be expunged.]
1152	[(2) Unless otherwise provided by law or ordered by a court to respond differently, an
1153	individual or agency who has received an expungement of an arrest or conviction under
1154	this chapter or Section 77-27-5.1 may respond to any inquiry as though the arrest or
1155	eonviction did not occur.]
1156	[(3) The bureau shall forward a copy of the expungement order to the Federal Bureau of
1157	Investigation.]
1158	[(4) An agency receiving an expungement order shall expunge the individual's identifying
1159	information contained in records in the agency's possession relating to the incident for
1160	which expungement is ordered.]
1161	[(5) Unless ordered by a court to do so, or in accordance with Section 77-40a-403, a
1162	government agency or official may not divulge information or records that have been
1163	expunged.]
1164	(1) In processing an expungement order, a court and the bureau shall give priority to:
1165	(a) first, an expungement order granting a petition for expungement under Part 3,
1166	Petition for Expungement;
1167	(b) second, an expungement order upon a pardon by the Board of Pardons and Parole as
1168	described in Section 77-27-5.1;
1169	(c) third, an expungement order upon a plea in abeyance as described in Section 77-2a-3;
1170	(d) fourth, an expungement order where an individual submitted a form requesting
1171	automatic expungement under Part 2, Automatic Expungement and Deletion; and
1172	(e) fifth, an expungement order where the court identified the case as being eligible for
1173	automatic expungement under Part 2, Automatic Expungement and Deletion.
1174	(2) An individual, who receives an expungement order under Section 77-27-5.1, shall pay a
1175	processing fee to the bureau, established in accordance with the process in Section
1176	63J-1-504, before the bureau's record may be expunged.
1177	(3) An agency shall:
1178	(a) develop and implement a process to identify an expunged record; and
1179	(b) keep, index, and maintain all expunged records of arrests and convictions.
1180	(4) (a) If an individual who receives an expungement requests confirmation from an

1181	agency, the agency shall provide the individual with written confirmation that:
1182	(i) the agency has identified all records subject to expungement; and
1183	(ii) except as otherwise provided by Sections 77-40a-402 and 77-40a-403, the agency
1184	will restrict or deny access to all of the expunged records.
1185	(b) The bureau may charge a fee for providing a written confirmation under Subsection
1186	(4)(a) in accordance with the process in Section 63J-1-504.
1187	(5) Upon entry of an expungement order, an individual, who received the expungement,
1188	may respond to any inquiry as though the arrest, investigation, detention, prosecution, or
1189	conviction did not occur unless otherwise provided by law or ordered by a court to
1190	respond differently.
1191	(6) (a) An expungement order may not restrict an agency's use or dissemination of
1192	records in the agency's ordinary course of business until the agency has received a
1193	copy of the order.
1194	(b) Any action taken by an agency after issuance of the order but prior to the agency's
1195	receipt of a copy of the order may not be invalidated by the order.
1196	(7) An expungement order may not:
1197	(a) terminate or invalidate any pending administrative proceedings or actions of which
1198	the individual had notice according to the records of the administrative body prior to
1199	issuance of the expungement order;
1200	(b) affect the enforcement of any order or findings issued by an administrative body
1201	pursuant to the administrative body's lawful authority prior to issuance of the
1202	expungement order;
1203	(c) remove any evidence relating to the individual including records of arrest, which the
1204	administrative body has used or may use in these proceedings; or
1205	(d) prevent an agency from maintaining, sharing, or distributing any record required by
1206	law.
1207	Section 22. Section 77-40a-402 is amended to read:
1208	77-40a-402 (Effective 10/01/24). Distribution for order for vacatur.
1209	(1) An individual who receives an order for vacatur under Subsection 78B-9-108(2) shall be
1210	responsible for delivering a copy of the order for vacatur to all affected [eriminal justice
1211	agencies and officials] agencies.
1212	(2) To complete delivery of the order for vacatur to the bureau, the individual shall
1213	complete and attach to the order for vacatur an application for a certificate of eligibility
1214	for expungement, including identifying information and fingerprints, in accordance with

1215	Section 77-40a-301.
1216	(3) Except as otherwise provided in this section, the bureau shall treat the order for vacatur
1217	and attached certificate of eligibility for expungement the same as a valid order for
1218	expungement under Section 77-40a-401.
1219	(4) Unless otherwise provided by law or ordered by a court to respond differently, an
1220	individual who has received a vacatur of conviction under Subsection 78B-9-108(2) may
1221	respond to any inquiry as though the conviction did not occur.
1222	(5) The bureau shall forward a copy of the order for vacatur to the Federal Bureau of
1223	Investigation.
1224	(6) An agency receiving an order for vacatur shall expunge the individual's identifying
1225	information contained in records in the agency's possession relating to the incident for
1226	which vacatur is ordered.
1227	(7) [A government] An agency or official may not divulge information contained in a record
1228	of arrest, investigation, detention, or conviction after receiving an order for vacatur to
1229	any person or agency, except for:
1230	(a) the individual for whom vacatur was ordered; or
1231	(b) Peace Officer Standards and Training, in accordance with Section 53-6-203 and
1232	Subsection [77-40a-403(4)(b)] 77-40a-403(2)(b) .
1233	(8) The bureau may not count vacated convictions against any future expungement
1234	eligibility.
1235	Section 23. Section 77-40a-403 is amended to read:
1236	77-40a-403 (Effective 10/01/24). Release and use of expunged records.
1237	[(1) (a) The bureau, after receiving an expungement order, shall keep, index, and maintain
1238	all expunged records of arrests and convictions.]
1239	[(b) Any agency, other than the bureau, receiving an expungement order shall develop and
1240	implement a process to identify and maintain an expunged record.]
1241	[(2) (a) An agency shall provide an individual who receives an expungement with written
1242	confirmation that the agency has expunged all records of the offense for which the
1243	individual received the expungement if the individual requests confirmation from the
1244	agency.]
1245	[(b) The bureau may charge a fee for providing a written confirmation under Subsection
1246	(2)(a) in accordance with the process in Section 63J-1-504.]
1247	[(3)] (1) (a) [An employee of the bureau, or any agency with an expunged record, may not]
1248	An agency with an expunged record, or any employee of an agency with an expunged

1249	record, may not knowingly or intentionally divulge any information contained in the
1250	expunged record to any person, or another agency, without a court order unless:
1251	(i) specifically authorized by statute; or
1252	(ii) subject to Subsection [(3)(b)] (1)(b), the information in an expunged record is
1253	being shared with another agency through a records management system that both
1254	agencies use for the purpose of record management.
1255	(b) An agency with a records management system may not disclose any information in
1256	an expunged record with another agency or person that does not use the records
1257	management system for the purpose of record management.
1258	[(4)] (2) The following entities or agencies may receive information contained in expunged
1259	records upon specific request:
1260	(a) the Board of Pardons and Parole;
1261	(b) Peace Officer Standards and Training;
1262	(c) federal authorities if required by federal law;
1263	(d) the State Board of Education;
1264	(e) the Commission on Criminal and Juvenile Justice, for purposes of investigating
1265	applicants for judicial office; and
1266	(f) a research institution or an agency engaged in research regarding the criminal justice
1267	system if:
1268	(i) the research institution or agency provides a legitimate research purpose for
1269	gathering information from the expunged records;
1270	(ii) the research institution or agency enters into a data sharing agreement with the
1271	court or agency with custody of the expunged records that protects the
1272	confidentiality of any identifying information in the expunged records;
1273	(iii) any research using expunged records does not include any individual's name or
1274	identifying information in any product of that research; and
1275	(iv) any product resulting from research using expunged records includes a disclosure
1276	that expunged records were used for research purposes.
1277	[(5)] (3) Except as otherwise provided by this section or by court order, a person, an agency,
1278	or an entity authorized by this section to view expunged records may not reveal or
1279	release any information obtained from the expunged records to anyone outside the
1280	specific request, including distribution on a public website.
1281	[(6)] (4) A prosecuting attorney may communicate with another prosecuting attorney, or
1282	another prosecutorial agency, regarding information in an expunged record that includes

1283	a conviction, or a charge dismissed as a result of a successful completion of a plea in
1284	abeyance agreement, for:
1285	(a) stalking as described in Section 76-5-106.5;
1286	(b) a domestic violence offense as defined in Section 77-36-1;
1287	(c) an offense that would require the individual to register as a sex offender, as defined
1288	in Section 77-41-102; or
1289	(d) a weapons offense under Title 76, Chapter 10, Part 5, Weapons.
1290	[(7)] (5) Except as provided in Subsection [(9)] (7), a prosecuting attorney may not use an
1291	expunged record for the purpose of a sentencing enhancement or as a basis for charging
1292	an individual with an offense that requires a prior conviction.
1293	[(8)] (6) The bureau may also use the information in the bureau's index as provided in
1294	Section 53-5-704.
1295	[(9)] (7) If[, after obtaining an expungement,] an individual is charged with a felony or an
1296	offense eligible for enhancement based on a prior conviction[, the state] after obtaining
1297	an expungement, the prosecuting attorney may petition the court to open the expunged
1298	records upon a showing of good cause.
1299	[(10)] (8) (a) For judicial sentencing, a court may order any records expunged under this
1300	chapter or Section 77-27-5.1 to be opened and admitted into evidence.
1301	(b) The records are confidential and are available for inspection only by the court,
1302	parties, counsel for the parties, and any other person who is authorized by the court to
1303	inspect them.
1304	(c) At the end of the action or proceeding, the court shall order the records expunged
1305	again.
1306	(d) Any person authorized by this Subsection [(10)] (8) to view expunged records may
1307	not reveal or release any information obtained from the expunged records to anyone
1308	outside the court.
1309	[(11)] (9) Records released under this chapter are classified as protected under Section
1310	63G-2-305 and are accessible only as provided under Title 63G, Chapter 2, Part 2,
1311	Access to Records, and Subsection 53-10-108(2)(k) for records held by the bureau.
1312	Section 24. Section 77-40a-404 is amended to read:
1313	77-40a-404 (Effective 10/01/24). Confirmation of expungement Access to
1314	expunged records by individuals.
1315	(1) An individual who receives an expungement may request a written confirmation from
1316	an agency under Subsection [77-40a-403(2)] 77-40a-401(4) to confirm that the agency

1317	has expunged all records of the offense for which the individual received the
1318	expungement.
1319	(2) The following individuals may view or obtain an expunged record under this chapter or
1320	Section 77-27-5.1:
1321	(a) the petitioner or an individual who receives an automatic expungement under [
1322	Section 77-40a-201] Part 2, Automatic Expungement and Deletion;
1323	(b) a law enforcement officer, who was involved in the case, for use solely in the
1324	officer's defense of a civil action arising out of the officer's involvement with the
1325	petitioner in that particular case; and
1326	(c) a party to a civil action arising out of the expunged incident if the information is kept
1327	confidential and utilized only in the action.
1328	The following section is affected by a coordination clause at the end of this bill.
1329	Section 25. Section 78A-2-302 is amended to read:
1330	78A-2-302 (Effective 10/01/24). Waiver of fees, costs, and security Indigent
1331	litigants Affidavit.
1332	(1) As used in Sections 78A-2-302 through 78A-2-309:
1333	(a) "Convicted" means:
1334	(i) a conviction by entry of a plea of guilty or nolo contendere, guilty with a mental
1335	condition, no contest; and
1336	(ii) a conviction of any crime or offense.
1337	(b) "Indigent" means [an individual who is financially unable to pay fees and costs or
1338	give security] a financial status that results from a court finding that a petitioner is
1339	financially unable to pay the fee, a cost, or give security.
1340	(c) "Prisoner" means an individual who has been convicted of a crime and is
1341	incarcerated for that crime or is being held in custody for trial or sentencing.
1342	(2) An individual may institute, prosecute, defend, or appeal any cause in a court in this
1343	state without prepayment of fees and costs or security if :
1344	(a) the individual submits an affidavit demonstrating that the individual is indigent[-]; or
1345	(b) the cause is a petition for expungement and the individual provides the court with
1346	proof that another court granted a waiver of the fee for a petition for expungement as
1347	described in Subsection 77-40a-305(12)(b).
1348	(3) A court shall find an individual indigent if the individual's affidavit under Subsection
1349	(2) demonstrates:
1350	(a) the individual has an income level at or below 150% of the United States poverty

1351	level as defined by the most recent poverty income guidelines published by the
1352	United States Department of Health and Human Services;
1353	(b) the individual receives benefits from a means-tested government program, including
1354	Temporary Assistance to Needy Families, Supplemental Security Income, the
1355	Supplemental Nutrition Assistance Program, or Medicaid;
1356	(c) the individual receives legal services from a nonprofit provider or a pro bono
1357	attorney through the Utah State Bar; or
1358	(d) the individual has insufficient income or other means to pay the necessary fees and
1359	costs or security without depriving the individual, or the individual's family, of food,
1360	shelter, clothing, or other necessities.
1361	(4) An affidavit demonstrating that an individual is indigent under Subsection (3)(d) shall
1362	contain complete information on the individual's:
1363	(a) identity and residence;
1364	(b) amount of income, including any government financial support, alimony, or child
1365	support;
1366	(c) assets owned, including real and personal property;
1367	(d) business interests;
1368	(e) accounts receivable;
1369	(f) securities, checking and savings account balances;
1370	(g) debts; and
1371	(h) monthly expenses.
1372	(5) If the individual under Subsection (3) is a prisoner, the prisoner shall disclose the
1373	amount of money held in the prisoner's trust account at the time the affidavit under
1374	Subsection (2) is executed in accordance with Section 78A-2-305.
1375	(6) An affidavit of indigency under this section shall state the following:
1376	I, (insert name), do solemnly swear or affirm that due to my poverty I am unable to bear the
1377	expenses of the action or legal proceedings which I am about to commence or the appeal
1378	which I am about to take, and that I believe I am entitled to the relief sought by the action,
1379	legal proceedings, or appeal.
1380	(7) The Administrative Office of the Courts shall include on a form for an affidavit of
1381	indigency the following warning: "It is a crime for anyone to intentionally or knowingly
1382	provide false or misleading information to the court when seeking a waiver of a court
1383	fee."
1384	Section 26. Section 78A-7-209.5 is amended to read:

1385	78A-7-209.5 (Effective 10/01/24). Presiding judge Associate presiding judge
1386	Election Powers Duties.
1387	(1) (a) In judicial districts having more than one justice court judge, the justice court
1388	judges shall elect one judge of the district to the office of presiding judge.
1389	(b) The presiding judge shall receive an additional \$2,000 per annum as compensation
1390	from the Justice Court Technology, Security, and Training Account described in
1391	Section 78A-7-301 for the period served as presiding judge.
1392	(2) (a) In judicial districts having more than two justice court judges, the justice court
1393	judges may elect one judge of the district to the office of associate presiding judge.
1394	(b) The associate presiding judge shall receive an additional \$1,000 per annum as
1395	compensation from the Justice Court Technology, Security, and Training Account
1396	described in Section 78A-7-301 for the period served as associate presiding judge.
1397	(3) The presiding judge has the following authority and responsibilities, consistent with the
1398	policies of the Judicial Council:
1399	(a) working with each justice court judge in the district to implement policies and rules
1400	of the Judicial Council;
1401	(b) exercising powers and performing administrative duties as authorized by the Judicial
1402	Council;
1403	(c) if there is no other appointed justice court judge in that court available, assigning a
1404	justice court judge to hear a case in which a judge has been disqualified in
1405	accordance with rules of the Supreme Court;
1406	(d) if a justice court judge of the district cannot perform the justice court judge's duties
1407	in a case or cases due to illness, death, or other incapacity, and the governing body
1408	has not appointed a temporary justice court judge in accordance with Section
1409	78A-7-208:
1410	(i) assigning, on an emergency basis, a justice court judge to hear a case or cases; and
1411	(ii) facilitating judicial coverage with the appointing municipal or county authority
1412	until a temporary justice court judge can be appointed, in accordance with Section
1413	78A-7-208, or a new justice court judge is formally appointed and takes office, in
1414	accordance with Section 78A-7-202; and
1415	(e) entering orders of expungement in cases expunged in accordance with [Section
1416	77-40a-201] Title 77, Chapter 40a, Part 2, Automatic Expungement and Deletion.
1417	(4) (a) When the presiding judge is unavailable, the associate presiding judge shall
1418	assume the responsibilities of the presiding judge.

1419	(b) The associate presiding judge shall perform other duties assigned by the presiding
1420	judge.
1421	Section 27. Section 78B-7-1001 is amended to read:
1422	78B-7-1001 (Effective 10/01/24). Definitions.
1423	As used in this part:
1424	(1) (a) [Except as provided in Subsection (1)(b), "agency"] "Agency" means, except as
1425	provided in Subsection (1)(b), a state, county, or local government entity that
1426	generates or maintains records relating to a civil order for which expungement may
1427	be ordered.
1428	(b) "Agency" does not include the Division of Child and Family Services created in
1429	Section 80-2-201.
1430	(2) "Civil order" means:
1431	(a) an ex parte civil protective order;
1432	(b) an ex parte civil stalking injunction;
1433	(c) a civil protective order; or
1434	(d) a civil stalking injunction.
1435	[(3) "Expunge" means to seal or otherwise restrict access to an individual's record held by
1436	an agency when the record includes a civil order.]
1437	(3) (a) "Expunge" means to remove a record from public inspection by:
1438	(i) sealing the record; or
1439	(ii) restricting or denying access to the record.
1440	(b) "Expunge" does not include the destruction of a record.
1441	(4) "Petitioner" means an individual petitioning for expungement of a civil order under this
1442	part.
1443	Section 28. Section 78B-7-1004 is amended to read:
1444	78B-7-1004 (Effective 10/01/24). Distribution and effect of order of expungement
1445	Penalty.
1446	(1) An individual who receives an order of expungement under Section 78B-7-1003 shall
1447	be responsible for delivering a copy of the order of expungement to any affected agency.
1448	[(2) Upon receipt of an order of expungement as described in Subsection (1), an agency
1449	shall expunge all records described in the expungement order that are under the control
1450	of the agency.]
1451	(2) If an agency receives an expungement order as described in Subsection (1), the agency
1452	shall expunge all records affected by the expungement order.

- 1453 (3) Upon entry of an expungement order by a court under Section 78B-7-1003:
- (a) the civil order is considered to never have occurred; and
- (b) the petitioner may reply to an inquiry on the matter as though there was never a civil order.
- 1457 (4) (a) Unless ordered by a court to do so, an agency or official may not divulge information or records that have been expunged under this part.
- 1459 (b) An expungement order may not restrict an agency's use or dissemination of records 1460 in the agency's ordinary course of business until the agency has received a copy of 1461 the expungement order.
- 1462 (c) Any action taken by an agency after issuance of the expungement order but before 1463 the agency's receipt of a copy of the expungement order may not be invalidated by 1464 the order.
- 1465 (5) An expungement order under this part may not:
 - (a) terminate or invalidate any pending administrative proceedings or actions of which the individual had notice according to the records of the administrative body before issuance of the expungement order;
 - (b) affect the enforcement of any order or findings issued by an administrative body pursuant to the administrative body's lawful authority prior to issuance of the expungement order; or
- 1472 (c) prevent an agency from maintaining, sharing, or distributing any record required by law.
- 1474 (6) An employee or agent of an agency that is prohibited from disseminating information 1475 from an expunged record under this section who knowingly or intentionally discloses 1476 identifying information from the expunged record, unless allowed by law, is guilty of a 1477 class A misdemeanor.
- 1478 (7) Records expunged under this part may be released to, or viewed by, the following individuals:
- 1480 (a) the petitioner; or

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- 1481 (b) parties to a civil action arising out of the expunged civil order, providing the information is kept confidential and utilized only in the action.
- 1483 (8) This part does not preclude a court from considering the same circumstances or 1484 evidence for which an expunged civil order was issued in any proceeding that occurs 1485 after the civil order is expunged.
- Section 29. Section **80-6-1001** is amended to read:

1487	80-6-1001 (Effective 10/01/24). Definitions.
1488	As used in this part:
1489	(1) "Abstract" means a copy or summary of a court's disposition.
1490	(2) (a) "Agency" means a state, county, or local government entity that generates or
1491	maintains records for which expungement may be ordered under this part.
1492	(b) "Agency" includes a local education agency, as defined in Section 53E-1-102, for
1493	purposes of this part.
1494	(3) (a) "Expunge" means [to seal or otherwise restrict access to a record that is part of an
1495	individual's juvenile record and in the custody of the juvenile court or an agency] to
1496	remove a juvenile record from public inspection by:
1497	(i) sealing the juvenile record; or
1498	(ii) restricting or denying access to the juvenile record.
1499	(b) "Expunge" does not include the destruction of a juvenile record.
1500	(4) (a) "Juvenile record" means all records for all incidents of delinquency involving an
1501	individual that are in the custody of the juvenile court or an agency.
1502	(b) "Juvenile record" does not include a record of an adjudication under Chapter 3,
1503	Abuse, Neglect, and Dependency Proceedings, or Chapter 4, Termination and
1504	Restoration of Parental Rights.
1505	(5) "Petitioner" means an individual requesting an expungement or vacatur under this part.
1506	Section 30. Section 80-6-1006.1 is amended to read:
1507	80-6-1006.1 (Effective 10/01/24). Exceptions to expungement order
1508	Distribution of expungement order Agency duties Effect of expungement
1509	Access to expunged record.
1510	(1) This section applies to an expungement order under Section 80-6-1004.1, 80-6-1004.2,
1511	80-6-1004.3, 80-6-1004.4, or 80-6-1004.5.
1512	(2) The juvenile court may not order:
1513	(a) the Board of Pardons and Parole and the Department of Corrections to seal a record
1514	in the possession of the Board of Pardons and Parole or the Department of
1515	Corrections, except that the juvenile court may order the Board of Pardons and Parole
1516	and the Department of Corrections to restrict access to a record if the record is
1517	specifically identified in the expungement order as a record in the possession of the
1518	Board of Pardons and Parole or the Department of Corrections; or
1519	(b) the Division of Child and Family Services to expunge a record in an individual's
1520	juvenile record that is contained in the Management Information System or the

1521	Licensing Information System unless:
1522	(i) the record is unsupported; or
1523	(ii) after notice and an opportunity to be heard, the Division of Child and Family
1524	Services stipulates in writing to expunging the record.
1525	(3) (a) If the juvenile court issues an expungement order, the juvenile court shall send a
1526	copy of the expungement order to any affected agency or official identified in the
1527	juvenile record.
1528	(b) An individual who is the subject of an expungement order may deliver copies of the
1529	expungement order to all agencies and officials affected by the expungement order.
1530	(4) (a) Upon receipt of an expungement order, an agency shall:
1531	(i) [to avoid destruction or expungement of records in whole or in part, expunge only
1532	the references to the individual's name in the records relating to the individual's
1533	adjudication, nonjudicial adjustment, petition, arrest, investigation, or detention
1534	for which expungement is ordered] expunge all records affected by the
1535	expungement order; and
1536	(ii) destroy all photographs and records created under Section 80-6-608, except that a
1537	record of a minor's fingerprints may not be destroyed by an agency.
1538	(b) An agency that receives a copy of an expungement order shall mail an affidavit to
1539	the individual who is the subject of the expungement order, or the individual's
1540	attorney, that the agency has complied with the expungement order.
1541	(5) Notwithstanding Subsection (4), the Board of Pardons and Parole and the Department of
1542	Corrections:
1543	(a) may not disclose records expunged in an expungement order unless required by law;
1544	(b) are not required to destroy any photograph or record created under Section 80-6-608;
1545	(c) may use an expunged record for purposes related to incarceration and supervision of
1546	an individual under the jurisdiction of the Board of Pardons and Parole, including for
1547	the purpose of making decisions about:
1548	(i) the treatment and programming of the individual;
1549	(ii) housing of the individual;
1550	(iii) applicable guidelines regarding the individual; or
1551	(iv) supervision conditions for the individual;
1552	(d) are not prohibited from disclosing or sharing any information in an expunged record
1553	with another agency that uses the same record management system as the Board of
1554	Pardons and Parole or the Department of Corrections; and

1555 (e) are not required to mail an affidavit under Subsection (4)(b). 1556 (6) Upon entry of an expungement order: 1557 (a) an adjudication, a nonjudicial adjustment, a petition, an arrest, an investigation, or a 1558 detention for which the record is expunged is considered to have never occurred; and 1559 (b) the individual, who is the subject of the expungement order, may reply to an inquiry 1560 on the matter as though there never was an adjudication, a nonjudicial adjustment, a 1561 petition, an arrest, an investigation, or a detention. 1562 (7) A record expunged under Section 80-6-1004.1, 80-6-1004.2, 80-6-1004.3, 80-6-1004.4, 1563 or 80-6-1004.5 may be released to, or viewed by, the individual who is the subject of the 1564 record. 1565 Section 31. **Repealer.** 1566 This bill repeals: 1567 Section 77-40a-203, (Effective 10/01/24) Time periods for expungement or deletion --1568 Identification and processing of clean slate eligible cases. Section 32. Effective date. 1569 1570 (1) Except as provided in Subsection (2), this bill takes effect on October 1, 2024. 1571 (2) Section 63M-7-221 takes effect on May 1, 2024. 1572 Section 33. Coordinating H.B. 352 with S.B. 163. 1573 If H.B. 352, Amendments to Expungement, and S.B. 163, Expungement 1574 Revisions, both pass and become law, the Legislature intends that, on October 1, 2024: 1575 (1) the following language replace Subsection 77-40a-301(1)(b) enacted in H.B. 352 1576 and S.B. 163: 1577 "(b) except as provided in Subsections 77-40a-304(3) and (7), pay the issuance fee for the certificate of eligibility or special certificate as described in Section 77-40a-304 if 1578 1579 the individual is eligible to receive a certificate of eligibility or special certificate; and"; 1580 (2) Subsection 77-40a-306(5) enacted in H.B. 352 not be enacted; 1581 (3) Subsection 77-40a-401(3) enacted in H.B. 352 be amended to read: 1582 "(3)(a) An agency shall: 1583 (i) develop and implement a process to identify an expunged record; and (ii) keep, index, and maintain all expunged records of arrests and convictions. 1584 1585 (b) Subsection (3)(a) does not prevent an agency from maintaining or destroying a 1586 record in accordance with a retention schedule when the record is an expunged record. 1587 (c) An agency is not required to redact an expunged record, or a record referencing an

expunged record, that pertains to more than one individual until the agency is required to

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1589	release the record."; and
1590	(4) Subsection 78A-2-302(2) be amended to read:
1591	"(2) An individual may institute, prosecute, defend, or appeal any cause in a court in
1592	this state without prepayment of fees and costs or security if:
1593	(a) the individual submits an affidavit demonstrating that the individual is indigent[-]
1594	<u>or</u>
1595	(b) the cause is a petition for expungement and: (i) the individual provides the court
1596	with proof that another court granted a waiver of the fee for a petition for expungement
1597	as described in Subsection 77-40a-305(12)(b); or
1598	(ii) the individual is receiving services for the expungement from a nonprofit
1599	organization, or a public benefit corporation, that provides services to low-income
1600	individuals seeking expungement "