

**AMENDMENTS TO EXPUNGEMENT**

2024 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Karianne Lisonbee**

Senate Sponsor: \_\_\_\_\_

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**LONG TITLE**

**General Description:**

This bill addresses the expungement of records.

**Highlighted Provisions:**

This bill:

- ▶ repeals sunset dates regarding issuance and filing fees for expungement;
- ▶ repeals language relating to the suspension of issuance fees for certificates of eligibility for expungement and filing fees for petitions for expungement;
- ▶ allows a court to issue an order of expungement for a plea in abeyance when the defendant has completed a drug court program and the court dismisses the case against the defendant;
- ▶ defines terms related to expungement;
- ▶ amends provisions related to the automatic expungement of a case, including:
  - requiring an individual to submit a form to receive an automatic expungement;
  - prohibiting an automatic expungement if the individual is currently incarcerated, on probation, or on parole, unless the individual is on probation or parole for an infraction, a traffic offense, or a minor regulatory offense;
  - prohibiting an automatic expungement if there is a criminal proceeding pending against the individual for a misdemeanor or felony offense, unless the proceeding is for a traffic offense; and
  - prohibiting an automatic expungement if there is a plea in abeyance pending



28 against the individual for a misdemeanor or felony offense, unless the plea in abeyance is for a  
29 traffic offense;

- 30 ▶ clarifies automatic deletion of a traffic offense;
- 31 ▶ provides that the Bureau of Criminal Identification notify all state agencies affected  
32 by an automatic expungement order, except that the Bureau of Criminal  
33 Identification may not notify the Board of Pardons and Parole in certain  
34 circumstances;
- 35 ▶ provides that a state agency expunge all records affected by an automatic  
36 expungement order;
- 37 ▶ does not require a local agency to expunge records that may be affected by an  
38 automatic expungement order;
- 39 ▶ provides that the time period for expunging the conviction of a domestic violence  
40 offense is 10 years;
- 41 ▶ clarifies the certificate of eligibility process;
- 42 ▶ allows for the waiver of an issuance fee for a certificate of eligibility or a special  
43 certificate if a court finds that the individual filing the petition for expungement is  
44 indigent;
- 45 ▶ requires a court to consider the total number of offenses for which an individual has  
46 received a certificate of expungement when determining whether the individual is  
47 indigent;
- 48 ▶ requires a subsequent court to waive a filing fee for a petition for expungement if a  
49 prior court found the individual to be indigent within 180 days before the filing of  
50 the petition for expungement;
- 51 ▶ clarifies the distribution of an expungement order based on a petition and the  
52 expungement of records affected by an expungement order based on a petition;
- 53 ▶ establishes the priority in how expungement orders are processed by a state or local  
54 agency;
- 55 ▶ requires a state and local agency to develop and implement a process to identify  
56 expunged records and keep, index, and maintain all expunged records of arrest;
- 57 ▶ clarifies the effect of an expungement;
- 58 ▶ addresses the waiver of a fee for a petition for expungement when the individual has

- 59 previously received a waiver for a petition for expungement from a prior court;
- 60       ▶ requires a court to find an individual indigent if the individual submits an affidavit
- 61 of indigency demonstrating that the individual has an income at or below 250% of
- 62 the United States poverty level;
- 63       ▶ requires the Administrative Office of the Courts to include a warning on an affidavit
- 64 of indigency;
- 65       ▶ clarifies the expungement of records regarding protective orders, stalking
- 66 injunctions, and juvenile records;
- 67       ▶ repeals a statute regarding the time periods for expungement or deletion and
- 68 identifying and processing clean slate eligible cases; and
- 69       ▶ makes technical and conforming changes.

70 **Money Appropriated in this Bill:**

71 None

72 **Other Special Clauses:**

73 None

74 **Utah Code Sections Affected:**

75 AMENDS:

76 **63I-1-277**, as last amended by Laws of Utah 2022, Chapter 384 and last amended by  
77 Coordination Clause, Laws of Utah 2022, Chapter 384

78 **63I-1-278**, as last amended by Laws of Utah 2022, Chapters 188, 318, 384, and 423

79 **77-2a-3**, as last amended by Laws of Utah 2023, Chapters 113, 415

80 **77-40a-101**, as last amended by Laws of Utah 2023, Chapter 265

81 **77-40a-104**, as last amended by Laws of Utah 2023, Chapter 265

82 **77-40a-201**, as renumbered and amended by Laws of Utah 2022, Chapter 250

83 **77-40a-202**, as renumbered and amended by Laws of Utah 2022, Chapter 250

84 **77-40a-301**, as enacted by Laws of Utah 2022, Chapter 250

85 **77-40a-303**, as last amended by Laws of Utah 2023, Chapter 265

86 **77-40a-304**, as last amended by Laws of Utah 2023, Chapter 265

87 **77-40a-305**, as last amended by Laws of Utah 2023, Chapters 265, 330

88 **77-40a-306**, as last amended by Laws of Utah 2023, Chapter 330

89 **77-40a-401**, as last amended by Laws of Utah 2023, Chapter 265

- 90 [77-40a-402](#), as last amended by Laws of Utah 2023, Chapter 265
- 91 [77-40a-403](#), as last amended by Laws of Utah 2023, Chapter 265
- 92 [77-40a-404](#), as last amended by Laws of Utah 2023, Chapter 265
- 93 [78A-2-302](#), as last amended by Laws of Utah 2023, Chapter 184
- 94 [78A-7-209.5](#), as enacted by Laws of Utah 2022, Chapter 276
- 95 [78B-7-1001](#), as enacted by Laws of Utah 2022, Chapter 270
- 96 [78B-7-1004](#), as enacted by Laws of Utah 2022, Chapter 270
- 97 [80-6-1001](#), as last amended by Laws of Utah 2023, Chapter 115
- 98 [80-6-1006.1](#), as enacted by Laws of Utah 2023, Chapter 115

99 ENACTS:

- 100 [77-40a-201.1](#), Utah Code Annotated 1953
- 101 [77-40a-201.2](#), Utah Code Annotated 1953
- 102 [77-40a-204](#), Utah Code Annotated 1953
- 103 [77-40a-307](#), Utah Code Annotated 1953

104 REPEALS:

- 105 [77-40a-203](#), as renumbered and amended by Laws of Utah 2022, Chapter 250

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

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

109 **63I-1-277. Repeal dates: Title 77.**

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

112 Section 2. Section **63I-1-278** is amended to read:

113 **63I-1-278. Repeal dates: Title 78A and Title 78B.**

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

116 [~~(2)~~] (1) Section [78B-3-421](#), regarding medical malpractice arbitration agreements, is  
117 repealed July 1, 2029.

118 [~~(3)~~] (2) Subsection [78A-7-106](#)(6), regarding the transfer of a criminal action involving  
119 a domestic violence offense from the justice court to the district court, is repealed on July 1,  
120 2024.

121           ~~[(4)]~~ (3) Section ~~78B-4-518~~, regarding the limitation on employer liability for an  
 122 employee convicted of an offense, is repealed on July 1, 2025.

123           ~~[(5)]~~ (4) Title 78B, Chapter 6, Part 2, Alternative Dispute Resolution Act, is repealed  
 124 July 1, 2026.

125           ~~[(6)]~~ (5) Title 78B, Chapter 12, Part 4, Advisory Committee, which creates the Child  
 126 Support Guidelines Advisory Committee, is repealed July 1, 2026.

127           ~~[(7)]~~ (6) Section ~~78B-22-805~~, regarding the Interdisciplinary Parental Representation  
 128 Pilot Program, is repealed December 31, 2024.

129           Section 3. Section ~~77-2a-3~~ is amended to read:

130           **~~77-2a-3. Manner of entry of plea -- Powers of court.~~**

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

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

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

137           (a) reduce the degree of the offense, ~~and enter judgment of conviction and impose~~  
 138 ~~sentence for a lower degree of offense; or~~ enter a judgment of conviction for the lower degree  
 139 of the offense, and impose a sentence for the lower degree of the offense;

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

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

142           (i) the defendant successfully completes a drug court program; and

143           (ii) the court allows the withdrawal of the defendant's plea and orders the dismissal of  
 144 the case.

145           (3) (a) Upon finding that a defendant has successfully completed the terms of a plea in  
 146 abeyance agreement and only as provided in the plea in abeyance agreement or as agreed to by  
 147 all parties, the court may ~~[reduce the degree of the offense or dismiss the case only as provided~~  
 148 ~~in the plea in abeyance agreement or as agreed to by all parties.]:~~

149           (i) reduce the degree of the offense, enter a judgment of conviction for the lower degree  
 150 of the offense, and impose a sentence for the lower degree of the offense;

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

152 (iii) issue an order of expungement for all records of the offense if:  
153 (A) the defendant successfully completes a drug court program; and  
154 (B) the court allows the withdrawal of the defendant's plea and orders the dismissal of  
155 the case.

156 (b) Upon sentencing a defendant for any lesser offense in accordance with a plea in  
157 abeyance agreement, the court may not invoke Section 76-3-402 to further reduce the degree of  
158 the offense.

159 (4) The court may require the Department of Corrections to assist in the administration  
160 of the plea in abeyance agreement as if the defendant were on probation to the court under  
161 Section 77-18-105.

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

163 (a) an order that the defendant pay a nonrefundable plea in abeyance fee, with a  
164 surcharge based on the amount of the plea in abeyance fee, both of which shall be allocated in  
165 the same manner as if paid as a fine for a criminal conviction under Section 78A-5-110 and a  
166 surcharge under Title 51, Chapter 9, Part 4, Criminal Conviction Surcharge Allocation, and  
167 which may not exceed in amount the maximum fine and surcharge which could have been  
168 imposed upon conviction and sentencing for the same offense;

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

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

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

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

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

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

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

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

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

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

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

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

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

195 (8) No plea may be held in abeyance in any case involving:

196 (a) a sexual offense against an individual who is under 14 years old; or

197 (b) a driving under the influence violation under Section [41-6a-502](#), [41-6a-502.5](#),  
198 [41-6a-517](#), [41-6a-520](#), [41-6a-520.1](#), [41-6a-521.1](#), [76-5-102.1](#), or [76-5-207](#).

199 (9) If the court issues an order of expungement under Subsection (3)(a)(iii):

200 (a) the court shall notify the Bureau of Criminal Identification of the order of  
201 expungement; and

202 (b) the Bureau of Criminal Identification shall notify all state and local agencies  
203 affected by the order of expungement as described in Section [77-40a-307](#).

204 Section 4. Section **77-40a-101** is amended to read:

205 **77-40a-101. Definitions.**

206 As used in this chapter:

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

210 (1) "Automatic expungement" means the expungement of records held by a state  
211 agency of an investigation, arrest, detention, or conviction of an offense without the filing of a  
212 petition.

213 (2) "Bureau" means the Bureau of Criminal Identification of the Department of Public

214 Safety established in Section [53-10-201](#).

215 (3) "Civil accounts receivable" means the same as that term is defined in Section  
216 [77-32b-102](#).

217 (4) "Civil judgment of restitution" means the same as that term is defined in Section  
218 [77-32b-102](#).

219 ~~[(3)]~~ (5) "Certificate of eligibility" means a document issued by the bureau stating that  
220 the criminal record and all records of arrest, investigation, and detention associated with a case  
221 that is the subject of a petition for expungement is eligible for expungement.

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

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

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

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

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

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

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

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

235 ~~[(iii) for which the following time periods have elapsed from the day on which the case  
236 is adjudicated:]~~

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

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

239 ~~[(C) at least seven years for a class A conviction for possession of a controlled  
240 substance in violation of Subsection [58-37-8\(2\)\(a\)\(i\)](#).]~~

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

242 ~~[(i) that is dismissed as a result of a successful completion of a plea in abeyance  
243 agreement governed by Subsection [77-2a-3\(2\)\(b\)](#) if:]~~

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



245 misdemeanor for possession of a controlled substance in violation of Subsection  
246 ~~58-37-8(2)(a)(i), a class B or class C misdemeanor, or an infraction;]~~  
247 ~~[(B) the individual involved meets the requirements of Subsection (4)(a)(ii); and]~~  
248 ~~[(C) the time periods described in Subsections (4)(a)(iii)(A) through (C) have elapsed~~  
249 ~~from the day on which the case is dismissed; or]~~  
250 ~~[(ii) where charges are dismissed without prejudice if each conviction, or charge that~~  
251 ~~was dismissed, in the case would otherwise meet the requirements under Subsection (4)(a) or~~  
252 ~~(b)(i).]~~  
253 ~~[(c) "Clean slate eligible case" does not include a case:]~~  
254 ~~[(i) where the individual is found not guilty by reason of insanity;]~~  
255 ~~[(ii) where the case establishes a criminal accounts receivable, as defined in Section~~  
256 ~~77-32b-102, that:]~~  
257 ~~[(A) has been entered as a civil accounts receivable or a civil judgment of restitution;~~  
258 ~~as those terms are defined in Section 77-32b-102, and transferred to the Office of State Debt~~  
259 ~~Collection under Section 77-18-114; or]~~  
260 ~~[(B) has not been satisfied according to court records; or]~~  
261 ~~[(iii) that resulted in one or more pleas held in abeyance or convictions for the~~  
262 ~~following offenses:]~~  
263 ~~[(A) any of the offenses listed in Subsection 77-40a-303(2)(a);]~~  
264 ~~[(B) an offense against the person in violation of Title 76, Chapter 5, Offenses Against~~  
265 ~~the Individual;]~~  
266 ~~[(C) a weapons offense in violation of Title 76, Chapter 10, Part 5, Weapons;]~~  
267 ~~[(D) sexual battery in violation of Section 76-9-702.1;]~~  
268 ~~[(E) an act of lewdness in violation of Section 76-9-702 or 76-9-702.5;]~~  
269 ~~[(F) an offense in violation of Title 41, Chapter 6a, Part 5, Driving Under the Influence~~  
270 ~~and Reckless Driving;]~~  
271 ~~[(G) damage to or interruption of a communication device in violation of Section~~  
272 ~~76-6-108;]~~  
273 ~~[(H) a domestic violence offense as defined in Section 77-36-1; or]~~  
274 ~~[(I) any other offense classified in the Utah Code as a felony or a class A misdemeanor~~  
275 ~~other than a class A misdemeanor conviction for possession of a controlled substance in~~

276 violation of Subsection ~~58-37-8(2)(a)(i).~~]

277 (6) "Clean slate eligible case" means a case that is eligible for automatic expungement  
278 under Section [77-40a-201.2](#).

279 ~~[(5)]~~ (7) "Conviction" means judgment by a criminal court on a verdict or finding of  
280 guilty after trial, a plea of guilty, or a plea of nolo contendere.

281 (8) "Court" means the court that had jurisdiction over the offense or case for which  
282 expungement is sought.

283 (9) "Criminal accounts receivable" means the same as that term is defined in Section  
284 [77-32b-102](#).

285 ~~[(6)]~~ (10) "Criminal protective order" means the same as that term is defined in Section  
286 [78B-7-102](#).

287 ~~[(7)]~~ (11) "Criminal stalking injunction" means the same as that term is defined in  
288 Section [78B-7-102](#).

289 ~~[(8)]~~ (12) "Department" means the Department of Public Safety established in Section  
290 [53-1-103](#).

291 (13) "Domestic violence offense" means the same as that term is defined in Section  
292 [77-36-1](#).

293 ~~[(9)]~~ (14) "Drug possession offense" means an offense under:

294 (a) Subsection [58-37-8\(2\)](#), except:

295 (i) any offense under Subsection [58-37-8\(2\)\(b\)\(i\)](#), possession of 100 pounds or more of  
296 marijuana;

297 (ii) any offense enhanced under Subsection [58-37-8\(2\)\(e\)](#), violation in a correctional  
298 facility; or

299 (iii) driving with a controlled substance illegally in the person's body and negligently  
300 causing serious bodily injury or death of another, as codified before May 4, 2022,

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

302 (b) Subsection [58-37a-5\(1\)](#), use or possession of drug paraphernalia;

303 (c) Section [58-37b-6](#), possession or use of an imitation controlled substance; or

304 (d) any local ordinance which is substantially similar to any of the offenses described  
305 in this Subsection ~~[(9)]~~ (14).

306 ~~[(10)]~~ (15) (a) "Expunge" means to ~~[seal or otherwise restrict access to the individual's~~

307 ~~record held by an agency when the record includes a criminal investigation, detention, arrest, or~~  
308 ~~conviction.]~~ remove a record from public inspection by:

309 (i) sealing the record; or

310 (ii) restricting or denying a person access to the record.

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

312 (16) "Indigent" means a court found a petitioner financially unable to pay the fee to file  
313 a petition for expungement under Section [78A-2-302](#).

314 ~~[(H)]~~ (17) "Jurisdiction" means a state, district, province, political subdivision,  
315 territory, or possession of the United States or any foreign country.

316 (18) "Local agency" means a county or local government entity that generates or  
317 maintains records for which expungement may be ordered.

318 ~~[(H2)]~~ (19) (a) "Minor regulatory offense" means, except as provided in Subsection

319 ~~[(H2)(c)]~~ (19)(c), a class B or C misdemeanor offense or a local ordinance.

320 (b) "Minor regulatory offense" includes an offense under Section [76-9-701](#) or  
321 [76-10-105](#).

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

323 (i) any drug possession offense;

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

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

327 (iv) except as provided in Subsection ~~[(H2)(b)]~~ (19)(b), an offense under Title 76, Utah  
328 Criminal Code; or

329 (v) any local ordinance that is substantially similar to an offense listed in Subsections  
330 ~~[(H2)(c)(i)]~~ (19)(c)(i) through (iv).

331 ~~[(H3)]~~ (20) "Petitioner" means an individual applying for expungement under this  
332 chapter.

333 ~~[(H4)]~~ (21) "Plea in abeyance" means the same as that term is defined in Section  
334 [77-2a-1](#).

335 (22) "Record" means a book, letter, document, paper, map, plan, photograph, film,  
336 card, tape, recording, electronic data, or other documentary material, regardless of physical  
337 form or characteristics, that:

338 (a) contains information about a criminal investigation, arrest, detention, investigation,  
339 or conviction of an individual; and

340 (b) is prepared, owned, received, or retained by a state or local agency.

341 (23) "State agency" means a state government entity that generates or maintains records  
342 for which expungement may be ordered.

343 ~~[(15)]~~ (24) (a) "Traffic offense" means, except as provided in Subsection ~~[(15)(b)]~~  
344 ~~(24)(b)~~:

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

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

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

351 (iv) all local ordinances that are substantially similar to an offense listed in Subsections  
352 ~~[(15)(a)(i)]~~ (24)(a)(i) through (iii).

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

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

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

357 (iii) any local ordinance that is substantially similar to an offense listed in Subsection  
358 ~~[(15)(b)(i)]~~ (24)(b)(i) or (ii).

359 ~~[(16)]~~ (25) "Traffic offense case" means that each offense in the case is a traffic  
360 offense.

361 Section 5. Section 77-40a-104 is amended to read:

362 **77-40a-104. Department rulemaking authority.**

363 In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
364 department may make rules to:

365 (1) implement procedures for processing an automatic expungement;

366 (2) implement procedures for applying for certificates of eligibility;

367 (3) specify procedures for receiving a certificate of eligibility;

368 (4) create forms and determine information necessary to be provided to the bureau; and

369 (5) implement procedures for the confirmation of an expungement under Subsection  
370 ~~[77-40a-403(2)]~~ 77-40a-401(5).

371 Section 6. Section 77-40a-201 is amended to read:

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

373 **77-40a-201. General provisions for automatic expungement and deletion.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

429 ~~[(d) (i) If a prosecuting agency provides written notice of an objection for a reason~~  
430 ~~described in Subsection (4)(c) within 35 days of the day on which the notice described in~~

431 ~~Subsection (4)(b) is sent, the court may not proceed with automatic expungement.]~~

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

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

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

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

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

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

446 ~~[(5)] (1) Nothing in this section precludes an individual from filing a petition for~~  
447 ~~expungement of records that are eligible for automatic expungement or deletion under this~~  
448 ~~section if an automatic expungement or deletion has not occurred pursuant to this section.~~

449 ~~[(6)] (2) An automatic expungement performed under this section does not preclude a~~  
450 ~~person from requesting access to expunged records in accordance with Section [77-40a-403](#) or~~  
451 ~~[77-40a-404](#).~~

452 ~~[(7)] (3) (a) The Judicial Council and the Supreme Court shall make rules to govern the~~  
453 ~~process for automatic expungement.~~

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

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

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

460 ~~(4) An individual does not have a cause of action for damages as a result of the failure~~  
461 ~~to identify an individual's case as eligible for automatic expungement or deletion under this~~

462 part.

463 Section 7. Section **77-40a-201.1** is enacted to read:

464 **77-40a-201.1. Automatic expungement of state records for a clean slate case.**

465 (1) If an individual seeks automatic expungement of all records held by a state agency  
466 for a case for which the individual was a defendant and the case is eligible for automatic  
467 expungement under this section, the individual shall submit a form to the court requesting  
468 automatic expungement.

469 (2) Upon the submission of a form under Subsection (1), the court shall issue an order  
470 of expungement for all records of the case that are maintained by a state agency if:

471 (a) the case is eligible for automatic expungement as described in Subsection (3); and

472 (b) the prosecuting agency does not object to the automatic expungement as described  
473 in Subsection (7).

474 (3) Except as otherwise provided in Subsection (4), a case is eligible for automatic  
475 expungement under Subsection (2)(a) if:

476 (a) each conviction within the case is a conviction for:

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

479 (ii) a class B misdemeanor offense;

480 (iii) a class C misdemeanor offense; or

481 (iv) an infraction; and

482 (v) the following time periods have passed after the day on which the individual is  
483 convicted:

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

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

487 (C) at least seven years for the conviction of a class A misdemeanor offense for

488 possession of a controlled substance in violation of Subsection [58-37-8\(2\)\(a\)\(i\)](#);

489 (b) the case is dismissed as a result of a successful completion of a plea in abeyance  
490 agreement governed by Subsection [77-2a-3\(2\)\(b\)](#), or the case is dismissed without prejudice, if:

491 (i) each charge within the case is:

492 (A) a misdemeanor offense for possession of a controlled substance in violation of



493 Subsection 58-37-8(2)(a)(i);  
494 (B) a class B misdemeanor offense;  
495 (C) a class C misdemeanor offense; or  
496 (D) an infraction; and  
497 (ii) the following time periods have passed after the day on which the case is  
498 dismissed:  
499 (A) at least five years for a charge in the case for a class C misdemeanor offense or an  
500 infraction;  
501 (B) at least six years for a charge in the case for a class B misdemeanor offense; or  
502 (C) at least seven years for a charge in the case for a class A misdemeanor offense for  
503 possession of a controlled substance in violation of Subsection 58-37-8(2)(a)(i).  
504 (4) A case is not eligible for automatic expungement under Subsection (2)(a) if:  
505 (a) the individual has a criminal history that makes the individual ineligible for  
506 expungement under Subsection 77-40a-303(4) or (5) without taking into consideration:  
507 (i) the exception in Subsection 77-40a-303(7); or  
508 (ii) any infraction, traffic offense, or minor regulatory offense;  
509 (b) there is a criminal proceeding for a misdemeanor or felony offense pending against  
510 the individual, unless the proceeding is for a traffic offense;  
511 (c) there is a plea in abeyance for a misdemeanor or felony offense pending against the  
512 individual, unless the plea in abeyance is for a traffic offense;  
513 (d) the individual is currently incarcerated, on parole, or on probation, unless the  
514 individual is on probation or parole for an infraction, a traffic offense, or a minor regulatory  
515 offense;  
516 (e) the case resulted in the individual being found not guilty by reason of insanity;  
517 (f) the case establishes a criminal accounts receivable that:  
518 (i) has been entered as a civil accounts receivable or a civil judgment of restitution and  
519 transferred to the Office of State Debt Collection under Section 77-18-114; or  
520 (ii) has not been satisfied according to court records; or  
521 (g) the case resulted in a plea held in abeyance or a conviction for the following  
522 offenses:  
523 (i) any of the offenses listed in Subsection 77-40a-303(2)(a);

- 524 (ii) an offense against the person in violation of Title 76, Chapter 5, Offenses Against  
525 the Individual;
- 526 (iii) a weapons offense in violation of Title 76, Chapter 10, Part 5, Weapons;
- 527 (iv) sexual battery in violation of Section 76-9-702.1;
- 528 (v) an act of lewdness in violation of Section 76-9-702 or 76-9-702.5;
- 529 (vi) an offense in violation of Title 41, Chapter 6a, Part 5, Driving Under the Influence  
530 and Reckless Driving;
- 531 (vii) damage to or interruption of a communication device in violation of Section  
532 76-6-108;
- 533 (viii) a domestic violence offense as defined in Section 77-36-1; or
- 534 (ix) any other offense classified in the Utah Code as a felony or a class A misdemeanor  
535 other than a class A misdemeanor conviction for possession of a controlled substance in  
536 violation of Subsection 58-37-8(2)(a)(i).
- 537 (5) A prosecuting agency that has complied with Rule 42 of the Utah Rules of Criminal  
538 Procedure shall receive notice on a monthly basis for any case prosecuted by that agency that  
539 appears to be eligible for automatic expungement under this section.
- 540 (6) Within 35 days after the day on which the notice described in Subsection (5) is  
541 sent, the prosecuting agency shall provide written notice in accordance with Rule 42 of the  
542 Utah Rules of Criminal Procedure if the prosecuting agency objects to an automatic  
543 expungement for any of the following reasons:
- 544 (a) the prosecuting agency believes that the case is not eligible for expungement under  
545 this section after reviewing the agency record;
- 546 (b) the individual has not paid court-ordered restitution to the victim; or
- 547 (c) the prosecuting agency has a reasonable belief, grounded in supporting facts, that an  
548 individual involved in the case is continuing to engage in criminal activity within or outside of  
549 the state.
- 550 (7) If a prosecuting agency provides written notice of an objection for a reason  
551 described in Subsection (5) within 35 days after the day on which the notice under Subsection  
552 (5) is sent, the court may not proceed with automatic expungement of the case.
- 553 (8) If 35 days pass after the day on which the notice described in Subsection (5) is sent  
554 without the prosecuting agency providing written notice of an objection under Subsection (6),

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

556 (9) If a court issues an order of expungement under Subsection (2), the court shall  
557 notify the bureau and the prosecuting agency identified in the case of the order of  
558 expungement.

559 Section 8. Section **77-40a-201.2** is enacted to read:

560 **77-40a-201.2. Automatic expungement of state records for a case resulting in an**  
561 **acquittal or dismissal with prejudice.**

562 (1) If an individual seeks automatic expungement of all records held by a state agency  
563 of a case for which the individual was a defendant and the case is eligible for automatic  
564 expungement under this section, the individual shall submit a form to the court requesting  
565 automatic expungement.

566 (2) Upon the submission of a form under Subsection (1), the court shall issue an order  
567 of expungement for all records of the case that are maintained by a state agency if the case is  
568 eligible for expungement as described in Subsection (3).

569 (3) Except as provided in Subsection (3), a case is eligible for expungement under  
570 Subsection (2) if:

571 (a) the case resulted in an acquittal on all charges; or

572 (b) the case is dismissed with prejudice.

573 (4) A case is not eligible for expungement under Subsection (2) if:

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

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

578 (c) there is a criminal proceeding for a misdemeanor or felony offense pending against  
579 the individual, unless the proceeding is for a traffic offense;

580 (d) there is a plea in abeyance for a misdemeanor or felony offense pending against the  
581 individual, unless the plea in abeyance is for a traffic offense; or

582 (e) the individual is currently incarcerated, on parole, or on probation, unless the  
583 individual is on probation or parole for an infraction, a traffic offense, or a minor regulatory  
584 offense.

585 (5) If a court issues an order of expungement under Subsection (2), the court shall

586 notify the bureau and the prosecuting agency identified in the case of the order of  
587 expungement.

588 Section 9. Section **77-40a-202** is amended to read:

589 **77-40a-202. Automatic deletion for traffic offense by a court.**

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

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

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

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

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

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

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

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

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

608 Section 10. Section **77-40a-204** is enacted to read:

609 **77-40a-204. Distribution of order for automatic expungement to state agencies.**

610 (1) (a) Upon receiving notice from a court of an expungement order under this part, the  
611 bureau shall notify all state agencies affected by the expungement order.

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

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

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

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

617 Investigation.

618 (3) An individual, who is the subject of an expungement order under this part, may  
619 deliver copies of the expungement order to all state agencies affected by the order.

620 (4) If a state agency receives an expungement order under this part, the state agency  
621 shall expunge all records for the case as described in Section [77-40a-401](#).

622 (5) A local agency is not required to expunge all records for a case that is automatically  
623 expunged under this part.

624 Section 11. Section **77-40a-301** is amended to read:

625 **77-40a-301. Application for certificate of eligibility for expungement -- Penalty**  
626 **for false or misleading information on application.**

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

629 (a) except as provided in Subsection [77-40a-305](#)(3) or (4), apply to the bureau for a  
630 certificate of eligibility for expungement of the criminal record and pay the application fee as  
631 described in Section [77-40a-304](#);

632 (b) [~~if the individual is qualified to receive a certificate of eligibility~~] except as  
633 provided in Subsections [77-40a-304](#)(3) and (7), pay the issuance fee for the certificate of  
634 eligibility as described in Section [77-40a-304](#); and

635 (c) file a petition for expungement in accordance with Section [77-40a-305](#).

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

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

641 Section 12. Section **77-40a-303** is amended to read:

642 **77-40a-303. Requirements for a certificate of eligibility to expunge records of a**  
643 **conviction.**

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

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

648 (b) the petitioner has paid in full all restitution ordered by the court under Section  
649 77-38b-205; and

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

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

654 (ii) 10 years for the conviction of a felony for operating a motor vehicle with any  
655 amount of a controlled substance in an individual's body and causing serious bodily injury or  
656 death, as codified before May 4, 2022, Laws of Utah 2021,  
657 Chapter 236, Section 1, Subsection 58-37-8(2)(g);

658 (iii) 10 years for the conviction of a domestic violence offense;

659 [~~(iii)~~] (iv) seven years for the conviction of a felony;

660 [~~(iv)~~] (v) five years for the conviction of a drug possession offense that is a felony;

661 [~~(v)~~] (vi) five years for the conviction of a class A misdemeanor;

662 [~~(vi)~~] (vii) four years for the conviction of a class B misdemeanor; or

663 [~~(vii)~~] (viii) three years for the conviction of a class C misdemeanor or infraction.

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

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

668 (i) a capital felony;

669 (ii) a first degree felony;

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

671 76-3-203.5(1)(c)(i);

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

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

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

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

678 (c) there is a plea in abeyance for a misdemeanor or felony offense pending against the

679 petitioner, unless the plea in abeyance is for a traffic offense;

680 (d) the petitioner is currently incarcerated, on parole, or on probation, unless the  
681 petitioner is on probation or parole for an infraction, a traffic offense, or a minor regulatory  
682 offense;

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

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

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

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

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

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

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

703 (c) any combination of four or more convictions other than for drug possession  
704 offenses that include three class B misdemeanor convictions, each of which is contained in a  
705 separate criminal episode; or

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

708 (5) Subject to Subsections (7) and (8), a petitioner is not eligible to receive a certificate  
709 of eligibility if, at the time the petitioner seeks the certificate of eligibility, the bureau

710 determines that the petitioner's criminal history, including previously expunged convictions,  
711 contains any of the following:

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

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

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

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

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

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

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

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

730 (i) a class B misdemeanor;

731 (ii) a class C misdemeanor;

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

734 (iv) an infraction.

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

738 (a) an infraction;

739 (b) a traffic offense;

740 (c) a minor regulatory offense; or



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

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

746 Section 13. Section ~~77-40a-304~~ is amended to read:

747 **~~77-40a-304. Certificate of eligibility process -- Issuance of certificate -- Fees.~~**

748 (1) (a) When a petitioner applies for a certificate of eligibility as described in  
749 Subsection ~~77-40a-301~~(1)[~~;~~];

750 (i) the petitioner shall pay an application fee at the time the petitioner submits an  
751 application for a certificate of eligibility to the bureau; and

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

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

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

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

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

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

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

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

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

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

774 (iii) the petitioner is currently incarcerated, on parole, or on probation, unless the  
775 petitioner is on probation or parole for an infraction, a traffic offense, or a minor regulatory  
776 offense.

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

778 (b) If the petitioner meets all of the criteria under Section 77-40a-302 or 77-40a-303  
779 and the bureau determines that the issuance of a certificate of eligibility or special certificate is  
780 appropriate:

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

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

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

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

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

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

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

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

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

801 (b) indicates on the application for a certificate of eligibility that the petitioner  
802 reasonably believes, as of the date of the application, that the fee to file a petition for

803 expungement is likely to be waived by a court because the petitioner is indigent.

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

806 ~~[(3)]~~ (4) The bureau shall include on the certificate of eligibility all information that is  
807 needed for the court to issue a valid expungement order.

808 ~~[(4)]~~ (5) The bureau shall provide clear written instructions to the petitioner that  
809 explain:

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

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

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

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

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

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

826 (8) (a) If the petitioner qualifies for a waiver of the issuance fee under Subsection (7)  
827 and the expungement order grants the petition for expungement, the bureau shall process the  
828 expungement order in accordance with Section 77-40a-401 as if the petitioner paid the issuance  
829 fee.

830 (b) If the petitioner does not qualify for a waiver of the issuance fee under Subsection  
831 (7) and the expungement order grants the petition for expungement, the bureau may not process  
832 the expungement order in accordance with Section 77-40a-401 until the petitioner pays the  
833 issuance fee.

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

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

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

843 Section 14. Section **77-40a-305** is amended to read:

844 **77-40a-305. Petition for expungement -- Prosecutorial responsibility -- Hearing.**

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

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

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

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

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

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

858 (ii) for a traffic offense case with a class B misdemeanor, at least four years have  
859 passed after the day on which the petitioner was convicted;

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

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

862 and

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

864 (4) Notwithstanding Subsection (2), a petitioner may file a petition for expungement of

865 a record for a conviction related to cannabis possession without a certificate of eligibility if the  
866 petition demonstrates that:

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

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

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

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

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

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

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

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

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

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

889 (7) (a) The prosecuting attorney may respond to the petition by filing a  
890 recommendation or objection with the court within 35 days after the day on which the notice of  
891 the filing of the petition is sent by the court to the prosecuting attorney.

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

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

896 Adult Probation and Parole within the Department of Corrections.

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

899 (i) the reasons probation was terminated; and

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

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

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

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

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

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

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

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

917 (12) (a) If the petitioner seeks a waiver of the fee required for a petition for  
918 expungement in accordance with Section 78A-2-302, the court shall consider the total number  
919 of offenses for which the petitioner has received a certificate of eligibility and is seeking  
920 expungement in determining whether the petitioner is indigent under Subsection  
921 78A-2-302(3)(e) even if the court does not have jurisdiction over an offense for which the  
922 petitioner is seeking expungement.

923 (b) If a court grants a waiver of the fee required for a petition for expungement in  
924 accordance with Section 78A-2-302, a subsequent court shall grant a waiver of a fee for a  
925 petition for expungement if the prior court waived the fee for a petition for expungement  
926 within 180 days before the day on which the petitioner filed the petition for expungement with

927 the subsequent court.

928 Section 15. Section **77-40a-306** is amended to read:

929 **77-40a-306. Order of expungement.**

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

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

934 (b) the statutory requirements have been met;

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

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

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

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

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

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

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

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

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

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

960 (4) A court may not expunge a conviction of an offense for which a certificate of  
961 eligibility may not be, or should not have been, issued under Section [77-40a-302](#) or  
962 [77-40a-303](#).

963 (5) If a court grants a petition for expungement, the court shall notify the bureau of the  
964 order of expungement.

965 Section 16. Section [77-40a-307](#) is enacted to read:

966 **77-40a-307. Distribution of expungement order based on a petition to all state and**  
967 **local agencies.**

968 (1) (a) Upon receiving notice from the court of an expungement order as described in  
969 Subsection [77-40a-306](#)(5) or [77-2a-3](#)(3), the bureau shall notify all state and local agencies  
970 affected by the expungement order.

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

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

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

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

977 (2) A petitioner may deliver copies of the expungement to all state and local agencies  
978 affected by the order of expungement.

979 (3) If a state or local agency receives an expungement order under this part, the agency  
980 shall expunge all records for the case as described in Section [77-40a-401](#).

981 Section 17. Section [77-40a-401](#) is amended to read:

#### 982 **Part 4. Expungement of Criminal Records**

983 **77-40a-401. Distribution of order -- Processing of expungement order -- Written**  
984 **confirmation of expungement -- Effect of an expungement.**

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

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



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

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

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

993 ~~[(d) An individual, who receives an expungement order under Section 77-27-5.1, shall~~  
994 ~~pay a processing fee to the bureau, established in accordance with the process in Section~~  
995 ~~63J-1-504, before the bureau's record may be expunged.]~~

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

1000 ~~[(3) The bureau shall forward a copy of the expungement order to the Federal Bureau~~  
1001 ~~of Investigation.]~~

1002 ~~[(4) An agency receiving an expungement order shall expunge the individual's~~  
1003 ~~identifying information contained in records in the agency's possession relating to the incident~~  
1004 ~~for which expungement is ordered.]~~

1005 ~~[(5) Unless ordered by a court to do so, or in accordance with Section 77-40a-403, a~~  
1006 ~~government agency or official may not divulge information or records that have been~~  
1007 ~~expunged.]~~

1008 (1) If a state or local agency receives an expungement order as described in Section  
1009 77-40a-204 or 77-40a-307, the state or local agency shall expunge all records affected by the  
1010 expungement order.

1011 (2) In processing an expungement order under Subsection (1), the state or local agency  
1012 shall give priority to:

1013 (a) first, an expungement order granting a petition for expungement as described in  
1014 Section 77-40a-306; and

1015 (b) second, an expungement order granting an automatic expungement under Part 2,  
1016 Automatic Expungement and Deletion.

1017 (3) An individual, who receives an expungement order under Section 77-27-5.1, shall  
1018 pay a processing fee to the bureau, established in accordance with the process in Section  
1019 63J-1-504, before the bureau's record may be expunged as described in Subsection (1).

1020           (4) A state or local agency shall:  
1021           (a) develop and implement a process to identify an expunged record; and  
1022           (b) keep, index, and maintain all expunged records of arrests and convictions.  
1023           (5) (a) If an individual who receives an expungement requests confirmation from a  
1024 state or local agency, the state or local agency shall provide the individual with written  
1025 confirmation that:  
1026           (i) the agency has identified all records subject to expungement; and  
1027           (ii) except as otherwise provided by Sections [77-40a-402](#) and [77-40a-403](#), the agency  
1028 will restrict or deny access to all of the expunged records.  
1029           (b) The bureau may charge a fee for providing a written confirmation under Subsection  
1030 (5)(a) in accordance with the process in Section 63J-1-504.  
1031           (6) Upon entry of an expungement order, an individual, who received the  
1032 expungement, may respond to any inquiry as though the conviction did not occur unless  
1033 otherwise provided by law or ordered by a court to respond differently.  
1034           ~~[(6)]~~ (7) (a) An expungement order may not restrict [an] a state or local agency's use or  
1035 dissemination of records in the agency's ordinary course of business until the agency has  
1036 received a copy of the order.  
1037           (b) Any action taken by [an] a state or local agency after issuance of the order but prior  
1038 to the agency's receipt of a copy of the order may not be invalidated by the order.  
1039           ~~[(7)]~~ (8) An expungement order may not:  
1040           (a) terminate or invalidate any pending administrative proceedings or actions of which  
1041 the individual had notice according to the records of the administrative body prior to issuance  
1042 of the expungement order;  
1043           (b) affect the enforcement of any order or findings issued by an administrative body  
1044 pursuant to the administrative body's lawful authority prior to issuance of the expungement  
1045 order;  
1046           (c) remove any evidence relating to the individual including records of arrest, which  
1047 the administrative body has used or may use in these proceedings; or  
1048           (d) prevent an agency from maintaining, sharing, or distributing any record required by  
1049 law.  
1050           Section 18. Section **77-40a-402** is amended to read:

1051 **77-40a-402. Distribution for order for vacatur.**

1052 (1) An individual who receives an order for vacatur under Subsection 78B-9-108(2)  
1053 shall be responsible for delivering a copy of the order for vacatur to all affected [~~criminal~~  
1054 ~~justice agencies and officials~~] state and local agencies.

1055 (2) To complete delivery of the order for vacatur to the bureau, the individual shall  
1056 complete and attach to the order for vacatur an application for a certificate of eligibility for  
1057 expungement, including identifying information and fingerprints, in accordance with Section  
1058 77-40a-301.

1059 (3) Except as otherwise provided in this section, the bureau shall treat the order for  
1060 vacatur and attached certificate of eligibility for expungement the same as a valid order for  
1061 expungement under Section 77-40a-401.

1062 (4) Unless otherwise provided by law or ordered by a court to respond differently, an  
1063 individual who has received a vacatur of conviction under Subsection 78B-9-108(2) may  
1064 respond to any inquiry as though the conviction did not occur.

1065 (5) The bureau shall forward a copy of the order for vacatur to the Federal Bureau of  
1066 Investigation.

1067 (6) An agency receiving an order for vacatur shall expunge the individual's identifying  
1068 information contained in records in the agency's possession relating to the incident for which  
1069 vacatur is ordered.

1070 (7) A [~~government~~] state or local agency or official may not divulge information  
1071 contained in a record of arrest, investigation, detention, or conviction after receiving an order  
1072 for vacatur to any person or agency, except for:

1073 (a) the individual for whom vacatur was ordered; or

1074 (b) Peace Officer Standards and Training, in accordance with Section 53-6-203 and  
1075 Subsection [~~77-40a-403(4)(b)~~] 77-40a-403(2)(b).

1076 (8) The bureau may not count vacated convictions against any future expungement  
1077 eligibility.

1078 Section 19. Section 77-40a-403 is amended to read:

1079 **77-40a-403. Release and use of expunged records.**

1080 [~~(1) (a) The bureau, after receiving an expungement order, shall keep, index, and~~  
1081 ~~maintain all expunged records of arrests and convictions.~~]

1082 ~~[(b) Any agency, other than the bureau, receiving an expungement order shall develop~~  
1083 ~~and implement a process to identify and maintain an expunged record.]~~

1084 ~~[(2) (a) An agency shall provide an individual who receives an expungement with~~  
1085 ~~written confirmation that the agency has expunged all records of the offense for which the~~  
1086 ~~individual received the expungement if the individual requests confirmation from the agency.]~~

1087 ~~[(b) The bureau may charge a fee for providing a written confirmation under~~  
1088 ~~Subsection (2)(a) in accordance with the process in Section ~~63J-1-504~~.]~~

1089 ~~[(3)]~~ (1) (a) ~~[An employee of the bureau, or any agency with an expunged record,]~~ A  
1090 state or local agency with an expunged record, or any employee of a state or local agency with  
1091 an expunged record, may not divulge any information contained in the expunged record to any  
1092 person, or another state or local agency, without a court order unless:

1093 (i) specifically authorized by statute; or

1094 (ii) subject to Subsection ~~[(3)(b)]~~ (1)(b), the information in an expunged record is  
1095 being shared with another state or local agency through a records management system that both  
1096 agencies use for the purpose of record management.

1097 (b) ~~[An]~~ A state or local agency with a records management system may not disclose  
1098 any information in an expunged record with another ~~[agency or]~~ person, or another state or  
1099 local agency, that does not use the records management system for the purpose of record  
1100 management.

1101 ~~[(4)]~~ (2) The following entities or agencies may receive information contained in  
1102 expunged records upon specific request:

1103 (a) the Board of Pardons and Parole;

1104 (b) Peace Officer Standards and Training;

1105 (c) federal authorities if required by federal law;

1106 (d) the State Board of Education;

1107 (e) the Commission on Criminal and Juvenile Justice, for purposes of investigating  
1108 applicants for judicial office; and

1109 (f) a research institution or an agency engaged in research regarding the criminal justice  
1110 system if:

1111 (i) the research institution or agency provides a legitimate research purpose for  
1112 gathering information from the expunged records;

1113 (ii) the research institution or agency enters into a data sharing agreement with the  
1114 court or agency with custody of the expunged records that protects the confidentiality of any  
1115 identifying information in the expunged records;

1116 (iii) any research using expunged records does not include any individual's name or  
1117 identifying information in any product of that research; and

1118 (iv) any product resulting from research using expunged records includes a disclosure  
1119 that expunged records were used for research purposes.

1120 ~~[(5)]~~ (3) Except as otherwise provided by this section or by court order, a person, ~~[an]~~ a  
1121 state or local agency, or an entity authorized by this section to view expunged records may not  
1122 reveal or release any information obtained from the expunged records to anyone outside the  
1123 specific request, including distribution on a public website.

1124 ~~[(6)]~~ (4) A prosecuting attorney may communicate with another prosecuting attorney,  
1125 or another prosecutorial agency, regarding information in an expunged record that includes a  
1126 conviction, or a charge dismissed as a result of a successful completion of a plea in abeyance  
1127 agreement, for:

1128 (a) stalking as described in Section [76-5-106.5](#);

1129 (b) a domestic violence offense as defined in Section [77-36-1](#);

1130 (c) an offense that would require the individual to register as a sex offender, as defined  
1131 in Section [77-41-102](#); or

1132 (d) a weapons offense under Title 76, Chapter 10, Part 5, Weapons.

1133 ~~[(7)]~~ (5) Except as provided in Subsection ~~[(9)]~~ (7), a prosecuting attorney may not use  
1134 an expunged record for the purpose of a sentencing enhancement or as a basis for charging an  
1135 individual with an offense that requires a prior conviction.

1136 ~~[(8)]~~ (6) The bureau may also use the information in the bureau's index as provided in  
1137 Section [53-5-704](#).

1138 ~~[(9)]~~ (7) If, after obtaining an expungement, an individual is charged with a felony or  
1139 an offense eligible for enhancement based on a prior conviction, the state may petition the court  
1140 to open the expunged records upon a showing of good cause.

1141 ~~[(10)]~~ (8) (a) For judicial sentencing, a court may order any records expunged under  
1142 this chapter or Section [77-27-5.1](#) to be opened and admitted into evidence.

1143 (b) The records are confidential and are available for inspection only by the court,

1144 parties, counsel for the parties, and any other person who is authorized by the court to inspect  
1145 them.

1146 (c) At the end of the action or proceeding, the court shall order the records expunged  
1147 again.

1148 (d) Any person authorized by this Subsection [~~(10)~~] (8) to view expunged records may  
1149 not reveal or release any information obtained from the expunged records to anyone outside the  
1150 court.

1151 [(H)] (9) Records released under this chapter are classified as protected under Section  
1152 63G-2-305 and are accessible only as provided under Title 63G, Chapter 2, Part 2, Access to  
1153 Records, and Subsection 53-10-108(2)(k) for records held by the bureau.

1154 Section 20. Section 77-40a-404 is amended to read:

1155 **77-40a-404. Confirmation of expungement -- Access to expunged records by**  
1156 **individuals.**

1157 (1) An individual who receives an expungement may request a written confirmation  
1158 from an agency under Subsection [~~77-40a-403(2)~~] 77-40a-401(5) to confirm that the agency  
1159 has expunged all records of the offense for which the individual received the expungement.

1160 (2) The following individuals may view or obtain an expunged record under this  
1161 chapter or Section 77-27-5.1:

1162 (a) the petitioner or an individual who receives an automatic expungement under  
1163 [~~Section 77-40a-201~~] Part 2, Automatic Expungement and Deletion;

1164 (b) a law enforcement officer, who was involved in the case, for use solely in the  
1165 officer's defense of a civil action arising out of the officer's involvement with the petitioner in  
1166 that particular case; and

1167 (c) a party to a civil action arising out of the expunged incident if the information is  
1168 kept confidential and utilized only in the action.

1169 Section 21. Section 78A-2-302 is amended to read:

1170 **78A-2-302. Waiver of fees, costs, and security -- Indigent litigants -- Affidavit.**

1171 (1) As used in Sections 78A-2-302 through 78A-2-309:

1172 (a) "Convicted" means:

1173 (i) a conviction by entry of a plea of guilty or nolo contendere, guilty with a mental  
1174 condition, no contest; and

- 1175 (ii) a conviction of any crime or offense.
- 1176 (b) "Indigent" means an individual who is financially unable to pay fees and costs or  
1177 give security.
- 1178 (c) "Prisoner" means an individual who has been convicted of a crime and is  
1179 incarcerated for that crime or is being held in custody for trial or sentencing.
- 1180 (2) An individual may institute, prosecute, defend, or appeal any cause in a court in this  
1181 state without prepayment of fees and costs or security if:
- 1182 (a) the individual submits an affidavit demonstrating that the individual is indigent[-];  
1183 or
- 1184 (b) the individual is seeking a waiver of the fee for a petition for expungement and the  
1185 individual has received a waiver for a petition for expungement from a prior court as described  
1186 in Subsection [77-40a-305\(12\)\(b\)](#).
- 1187 (3) A court shall find an individual indigent if the individual's affidavit under  
1188 Subsection (2) demonstrates:
- 1189 (a) if the cause is not a petition for expungement, the individual has an income level at  
1190 or below 150% of the United States poverty level as defined by the most recent poverty income  
1191 guidelines published by the United States Department of Health and Human Services;
- 1192 (b) if the cause is a petition for expungement, the individual has an income level at or  
1193 below 250% of the United States poverty level as defined by the most recent poverty income  
1194 guidelines published by the United States Department of Health and Human Services;
- 1195 ~~(b)~~ (c) the individual receives benefits from a means-tested government program,  
1196 including Temporary Assistance to Needy Families, Supplemental Security Income, the  
1197 Supplemental Nutrition Assistance Program, or Medicaid;
- 1198 ~~(c)~~ (d) the individual receives legal services from a nonprofit provider or a pro bono  
1199 attorney through the Utah State Bar; or
- 1200 ~~(d)~~ (e) the individual has insufficient income or other means to pay the necessary fees  
1201 and costs or security without depriving the individual, or the individual's family, of food,  
1202 shelter, clothing, or other necessities.
- 1203 (4) An affidavit demonstrating that an individual is indigent under Subsection ~~(3)(d)~~  
1204 (3)(e) shall contain complete information on the individual's:
- 1205 (a) identity and residence;

1206 (b) amount of income, including any government financial support, alimony, or child  
1207 support;

1208 (c) assets owned, including real and personal property;

1209 (d) business interests;

1210 (e) accounts receivable;

1211 (f) securities, checking and savings account balances;

1212 (g) debts; and

1213 (h) monthly expenses.

1214 (5) If the individual under Subsection (3) is a prisoner, the prisoner shall disclose the  
1215 amount of money held in the prisoner's trust account at the time the affidavit under Subsection  
1216 (2) is executed in accordance with Section [78A-2-305](#).

1217 (6) An affidavit of indigency under this section shall state the following:

1218 I, (insert name), do solemnly swear or affirm that due to my poverty I am unable to bear  
1219 the expenses of the action or legal proceedings which I am about to commence or the appeal  
1220 which I am about to take, and that I believe I am entitled to the relief sought by the action, legal  
1221 proceedings, or appeal.

1222 (7) The Administrative Office of the Courts shall include on a form for an affidavit of  
1223 indigency the following warning: "It is a crime for anyone to intentionally or knowingly  
1224 provide false or misleading information to the court when seeking a waiver of a court fee."

1225 Section 22. Section [78A-7-209.5](#) is amended to read:

1226 **78A-7-209.5. Presiding judge -- Associate presiding judge -- Election -- Powers --**  
1227 **Duties.**

1228 (1) (a) In judicial districts having more than one justice court judge, the justice court  
1229 judges shall elect one judge of the district to the office of presiding judge.

1230 (b) The presiding judge shall receive an additional \$2,000 per annum as compensation  
1231 from the Justice Court Technology, Security, and Training Account described in Section  
1232 [78A-7-301](#) for the period served as presiding judge.

1233 (2) (a) In judicial districts having more than two justice court judges, the justice court  
1234 judges may elect one judge of the district to the office of associate presiding judge.

1235 (b) The associate presiding judge shall receive an additional \$1,000 per annum as  
1236 compensation from the Justice Court Technology, Security, and Training Account described in



1237 Section 78A-7-301 for the period served as associate presiding judge.

1238 (3) The presiding judge has the following authority and responsibilities, consistent with  
1239 the policies of the Judicial Council:

1240 (a) working with each justice court judge in the district to implement policies and rules  
1241 of the Judicial Council;

1242 (b) exercising powers and performing administrative duties as authorized by the  
1243 Judicial Council;

1244 (c) if there is no other appointed justice court judge in that court available, assigning a  
1245 justice court judge to hear a case in which a judge has been disqualified in accordance with  
1246 rules of the Supreme Court;

1247 (d) if a justice court judge of the district cannot perform the justice court judge's duties  
1248 in a case or cases due to illness, death, or other incapacity, and the governing body has not  
1249 appointed a temporary justice court judge in accordance with Section 78A-7-208:

1250 (i) assigning, on an emergency basis, a justice court judge to hear a case or cases; and

1251 (ii) facilitating judicial coverage with the appointing municipal or county authority  
1252 until a temporary justice court judge can be appointed, in accordance with Section 78A-7-208,  
1253 or a new justice court judge is formally appointed and takes office, in accordance with Section  
1254 78A-7-202; and

1255 (e) entering orders of expungement in cases expunged in accordance with [Section  
1256 ~~77-40a-201~~] Title 77, Chapter 40a, Part 2, Automatic Expungement and Deletion.

1257 (4) (a) When the presiding judge is unavailable, the associate presiding judge shall  
1258 assume the responsibilities of the presiding judge.

1259 (b) The associate presiding judge shall perform other duties assigned by the presiding  
1260 judge.

1261 Section 23. Section 78B-7-1001 is amended to read:

1262 **78B-7-1001. Definitions.**

1263 As used in this part:

1264 (1) (a) [~~Except as provided in Subsection (1)(b), "agency"~~] "Agency" means, except as  
1265 provided in Subsection (1)(b), a state, county, or local government entity that generates or  
1266 maintains records relating to a civil order for which expungement may be ordered.

1267 (b) "Agency" does not include the Division of Child and Family Services created in [

1268 ]Section 80-2-201.

1269 (2) "Civil order" means:

1270 (a) an ex parte civil protective order;

1271 (b) an ex parte civil stalking injunction;

1272 (c) a civil protective order; or

1273 (d) a civil stalking injunction.

1274 [~~(3) "Expunge" means to seal or otherwise restrict access to an individual's record held~~  
1275 ~~by an agency when the record includes a civil order.~~]

1276 (3) (a) "Expunge" means to remove a record from public inspection by:

1277 (i) sealing the record; or

1278 (ii) restricting or denying a person access to the record.

1279 (b) "Expunge" does not include the destruction of a record.

1280 (4) "Petitioner" means an individual petitioning for expungement of a civil order under  
1281 this part.

1282 Section 24. Section **78B-7-1004** is amended to read:

1283 **78B-7-1004. Distribution and effect of order of expungement -- Penalty.**

1284 (1) An individual who receives an order of expungement under Section **78B-7-1003**  
1285 shall be responsible for delivering a copy of the order of expungement to any affected agency.

1286 [~~(2) Upon receipt of an order of expungement as described in Subsection (1), an agency~~  
1287 ~~shall expunge all records described in the expungement order that are under the control of the~~  
1288 ~~agency.~~]

1289 (2) If an agency receives an expungement order as described in Subsection (1), the  
1290 agency shall expunge all records affected by the expungement order.

1291 (3) Upon entry of an expungement order by a court under Section **78B-7-1003**:

1292 (a) the civil order is considered to never have occurred; and

1293 (b) the petitioner may reply to an inquiry on the matter as though there was never a  
1294 civil order.

1295 (4) (a) Unless ordered by a court to do so, an agency or official may not divulge  
1296 information or records that have been expunged under this part.

1297 (b) An expungement order may not restrict an agency's use or dissemination of records  
1298 in the agency's ordinary course of business until the agency has received a copy of the

1299 expungement order.

1300 (c) Any action taken by an agency after issuance of the expungement order but before  
1301 the agency's receipt of a copy of the expungement order may not be invalidated by the order.

1302 (5) An expungement order under this part may not:

1303 (a) terminate or invalidate any pending administrative proceedings or actions of which  
1304 the individual had notice according to the records of the administrative body before issuance of  
1305 the expungement order;

1306 (b) affect the enforcement of any order or findings issued by an administrative body  
1307 pursuant to the administrative body's lawful authority prior to issuance of the expungement  
1308 order; or

1309 (c) prevent an agency from maintaining, sharing, or distributing any record required by  
1310 law.

1311 (6) An employee or agent of an agency that is prohibited from disseminating  
1312 information from an expunged record under this section who knowingly or intentionally  
1313 discloses identifying information from the expunged record, unless allowed by law, is guilty of  
1314 a class A misdemeanor.

1315 (7) Records expunged under this part may be released to, or viewed by, the following  
1316 individuals:

1317 (a) the petitioner; or

1318 (b) parties to a civil action arising out of the expunged civil order, providing the  
1319 information is kept confidential and utilized only in the action.

1320 (8) This part does not preclude a court from considering the same circumstances or  
1321 evidence for which an expunged civil order was issued in any proceeding that occurs after the  
1322 civil order is expunged.

1323 Section 25. Section **80-6-1001** is amended to read:

1324 **80-6-1001. Definitions.**

1325 As used in this part:

1326 (1) "Abstract" means a copy or summary of a court's disposition.

1327 (2) (a) "Agency" means a state, county, or local government entity that generates or  
1328 maintains records for which expungement may be ordered under this part.

1329 (b) "Agency" includes a local education agency, as defined in Section [53E-1-102](#), for

1330 purposes of this part.

1331 (3) (a) "Expunge" means [~~to seal or otherwise restrict access to a record that is part of~~  
1332 ~~an individual's juvenile record and in the custody of the juvenile court or an agency]~~ to remove  
1333 a juvenile record from public inspection by:

1334 (i) sealing the juvenile record; or

1335 (ii) restricting or denying a person access to the juvenile record.

1336 (b) "Expunge" does not include the destruction of a juvenile record.

1337 (4) (a) "Juvenile record" means all records for all incidents of delinquency involving an  
1338 individual that are in the custody of the juvenile court or an agency.

1339 (b) "Juvenile record" does not include a record of an adjudication under Chapter 3,  
1340 Abuse, Neglect, and Dependency Proceedings, or Chapter 4, Termination and Restoration of  
1341 Parental Rights.

1342 (5) "Petitioner" means an individual requesting an expungement or vacatur under this  
1343 part.

1344 Section 26. Section **80-6-1006.1** is amended to read:

1345 **80-6-1006.1. Exceptions to expungement order -- Distribution of expungement**  
1346 **order -- Agency duties -- Effect of expungement -- Access to expunged record.**

1347 (1) This section applies to an expungement order under Section [80-6-1004.1](#),  
1348 [80-6-1004.2](#), [80-6-1004.3](#), [80-6-1004.4](#), or [80-6-1004.5](#).

1349 (2) The juvenile court may not order:

1350 (a) the Board of Pardons and Parole and the Department of Corrections to seal a record  
1351 in the possession of the Board of Pardons and Parole or the Department of Corrections, except  
1352 that the juvenile court may order the Board of Pardons and Parole and the Department of  
1353 Corrections to restrict access to a record if the record is specifically identified in the  
1354 expungement order as a record in the possession of the Board of Pardons and Parole or the  
1355 Department of Corrections; or

1356 (b) the Division of Child and Family Services to expunge a record in an individual's  
1357 juvenile record that is contained in the Management Information System or the Licensing  
1358 Information System unless:

1359 (i) the record is unsupported; or

1360 (ii) after notice and an opportunity to be heard, the Division of Child and Family

1361 Services stipulates in writing to expunging the record.

1362 (3) (a) If the juvenile court issues an expungement order, the juvenile court shall send a  
1363 copy of the expungement order to any affected agency or official identified in the juvenile  
1364 record.

1365 (b) An individual who is the subject of an expungement order may deliver copies of the  
1366 expungement order to all agencies and officials affected by the expungement order.

1367 (4) (a) Upon receipt of an expungement order, an agency shall:

1368 (i) ~~[to avoid destruction or expungement of records in whole or in part, expunge only~~  
1369 ~~the references to the individual's name in the records relating to the individual's adjudication,~~  
1370 ~~nonjudicial adjustment, petition, arrest, investigation, or detention for which expungement is~~  
1371 ~~ordered]~~ expunge all records affected by the expungement order; and

1372 (ii) destroy all photographs and records created under Section 80-6-608, except that a  
1373 record of a minor's fingerprints may not be destroyed by an agency.

1374 (b) An agency that receives a copy of an expungement order shall mail an affidavit to  
1375 the individual who is the subject of the expungement order, or the individual's attorney, that the  
1376 agency has complied with the expungement order.

1377 (5) Notwithstanding Subsection (4), the Board of Pardons and Parole and the  
1378 Department of Corrections:

1379 (a) may not disclose records expunged in an expungement order unless required by  
1380 law;

1381 (b) are not required to destroy any photograph or record created under Section  
1382 80-6-608;

1383 (c) may use an expunged record for purposes related to incarceration and supervision  
1384 of an individual under the jurisdiction of the Board of Pardons and Parole, including for the  
1385 purpose of making decisions about:

1386 (i) the treatment and programming of the individual;

1387 (ii) housing of the individual;

1388 (iii) applicable guidelines regarding the individual; or

1389 (iv) supervision conditions for the individual;

1390 (d) are not prohibited from disclosing or sharing any information in an expunged  
1391 record with another agency that uses the same record management system as the Board of

1392 Pardons and Parole or the Department of Corrections; and

1393 (e) are not required to mail an affidavit under Subsection (4)(b).

1394 (6) Upon entry of an expungement order:

1395 (a) an adjudication, a nonjudicial adjustment, a petition, an arrest, an investigation, or a  
1396 detention for which the record is expunged is considered to have never occurred; and

1397 (b) the individual, who is the subject of the expungement order, may reply to an inquiry  
1398 on the matter as though there never was an adjudication, a nonjudicial adjustment, a petition,  
1399 an arrest, an investigation, or a detention.

1400 (7) A record expunged under Section [80-6-1004.1](#), [80-6-1004.2](#), [80-6-1004.3](#),  
1401 [80-6-1004.4](#), or [80-6-1004.5](#) may be released to, or viewed by, the individual who is the subject  
1402 of the record.

1403 Section 27. **Repealer.**

1404 This bill repeals:

1405 Section [77-40a-203](#), **Time periods for expungement or deletion -- Identification and**  
1406 **processing of clean slate eligible cases.**

1407 Section 28. **Effective date.**

1408 This bill takes effect on May 1, 2024.