

- 26 Corrections; and
- prohibiting an automatic expungement if there is a criminal proceeding pending
- in this state against the individual for a misdemeanor or felony offense, unless
- 29 the proceeding is for a traffic offense;
- provides that the court and Bureau of Criminal Identification are the only agencies
- 31 that expunge records affected by an automatic expungement order;
- clarifies the certificate of eligibility process;
- allows for the waiver of an issuance fee for a certificate of eligibility or a special
- 34 certificate if a court finds that the individual filing the petition for expungement is
- 35 indigent;
- requires a court to consider the total number of cases for which an individual has
- 37 received a certificate of expungement when determining whether the individual is
- 38 indigent;
- requires a subsequent court to waive a filing fee for a petition for expungement if a
- 40 prior court found the individual to be indigent within 180 days before the filing of
- 41 the petition for expungement;
- clarifies the distribution of an expungement order based on a petition and the
- expungement of records affected by an expungement order based on a petition;
- establishes the priority in how expungement orders are processed by a court and the
- 45 Bureau of Criminal Identification;
- requires an agency to develop and implement a process to identify expunged records
- and keep, index, and maintain all expunged records of arrest;
- Larifies the effect of an expungement;
  - addresses the waiver of a fee for a petition for expungement when the individual has
- 50 previously received a waiver for a petition for expungement from a prior court;
- requires a court to find an individual indigent if the individual submits an affidavit
- of indigency demonstrating that the individual has an income at or below 250% of
- the United States poverty level;
- requires the Administrative Office of the Courts to include a warning on an affidavit
- of indigency;

clarifies the expungement of records regarding protective orders, stalking

57	injunctions, and juvenile records;
58	<ul> <li>repeals a statute regarding the time periods for expungement or deletion and</li> </ul>
59	identifying and processing clean slate eligible cases; and
60	<ul><li>makes technical and conforming changes.</li></ul>
61	Money Appropriated in this Bill:
62	None
63	Other Special Clauses:
64	None
65	<b>Utah Code Sections Affected:</b>
66	AMENDS:
67	53-10-108, as last amended by Laws of Utah 2023, Chapter 328
68	63I-1-277, as last amended by Laws of Utah 2022, Chapter 384 and last amended by
69	Coordination Clause, Laws of Utah 2022, Chapter 384
70	63I-1-278, as last amended by Laws of Utah 2022, Chapters 188, 318, 384, and 423
71	77-2a-3, as last amended by Laws of Utah 2023, Chapters 113, 415
72	77-40a-101, as last amended by Laws of Utah 2023, Chapter 265
73	77-40a-104, as last amended by Laws of Utah 2023, Chapter 265
74	77-40a-201, as renumbered and amended by Laws of Utah 2022, Chapter 250
75	77-40a-202, as renumbered and amended by Laws of Utah 2022, Chapter 250
76	77-40a-301, as enacted by Laws of Utah 2022, Chapter 250
77	77-40a-302, as last amended by Laws of Utah 2023, Chapter 265
78	77-40a-303, as last amended by Laws of Utah 2023, Chapter 265
79	77-40a-304, as last amended by Laws of Utah 2023, Chapter 265
80	77-40a-305, as last amended by Laws of Utah 2023, Chapters 265, 330
81	77-40a-306, as last amended by Laws of Utah 2023, Chapter 330
82	77-40a-401, as last amended by Laws of Utah 2023, Chapter 265
83	77-40a-402, as last amended by Laws of Utah 2023, Chapter 265
84	77-40a-403, as last amended by Laws of Utah 2023, Chapter 265
85	77-40a-404, as last amended by Laws of Utah 2023, Chapter 265
86	78A-2-302, as last amended by Laws of Utah 2023, Chapter 184
87	<b>78A-7-209.5</b> , as enacted by Laws of Utah 2022, Chapter 276

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	78B-7-1004, as enacted by Laws of Utah 2022, Chapter 270
	<b>80-6-1001</b> , as last amended by Laws of Utah 2023, Chapter 115
	<b>80-6-1006.1</b> , as enacted by Laws of Utah 2023, Chapter 115
ENAC	TS:
	<b>77-40a-204</b> , Utah Code Annotated 1953
	<b>77-40a-205</b> , Utah Code Annotated 1953
	<b>77-40a-206</b> , Utah Code Annotated 1953
	<b>77-40a-207</b> , Utah Code Annotated 1953
	<b>77-40a-307</b> , Utah Code Annotated 1953
REPE	ALS:
	77-40a-203, as renumbered and amended by Laws of Utah 2022, Chapter 250
Be it e	nacted by the Legislature of the state of Utah:
Be it e	nacted by the Legislature of the state of Utah:  Section 1. Section 53-10-108 is amended to read:
Be it e	
	Section 1. Section <b>53-10-108</b> is amended to read:
use of	Section 1. Section 53-10-108 is amended to read: 53-10-108. Restrictions on access, use, and contents of division records Limited
use of	Section 1. Section 53-10-108 is amended to read: 53-10-108. Restrictions on access, use, and contents of division records Limited records for employment purposes Challenging accuracy of records Usage fees
use of	Section 1. Section 53-10-108 is amended to read: 53-10-108. Restrictions on access, use, and contents of division records Limited records for employment purposes Challenging accuracy of records Usage fees sing children records Penalty for misuse of records.
use of Mis	Section 1. Section 53-10-108 is amended to read:  53-10-108. Restrictions on access, use, and contents of division records Limited records for employment purposes Challenging accuracy of records Usage fees sing children records Penalty for misuse of records.  (1) As used in this section:
use of Missi	Section 1. Section 53-10-108 is amended to read:  53-10-108. Restrictions on access, use, and contents of division records Limited records for employment purposes Challenging accuracy of records Usage fees sing children records Penalty for misuse of records.  (1) As used in this section:  (a) "Clone" means to copy a subscription or subscription data from a rap back system,

- Bureau of Investigation.

  (c) "Rap back system" means a system that enables authorized entities to receive
  - (c) "Rap back system" means a system that enables authorized entities to receive ongoing status notifications of any criminal history reported on individuals whose fingerprints are registered in the system.
  - (d) "Volunteer Employee Criminal History System" or "VECHS" means a system that allows the bureau and the Federal Bureau of Investigation to provide criminal history record information to a qualifying entity, including a non-governmental qualifying entity.
    - (e) "WIN Database" means the Western Identification Network Database that consists

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following individuals:

(i) cabinet members;

(ii) judicial applicants; and

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119	of eight western states sharing one electronic fingerprint database.
120	(2) Except as provided in Subsection (17), dissemination of information from a
121	criminal history record, including information obtained from a fingerprint background check,
122	name check, warrant of arrest information, or information from division files, is limited to:
123	(a) criminal justice agencies for purposes of administration of criminal justice and for
124	employment screening by criminal justice agencies;
125	(b) (i) agencies or individuals pursuant to a specific agreement with a criminal justice
126	agency to provide services required for the administration of criminal justice; and
127	(ii) the agreement shall specifically authorize access to data, limit the use of the data to
128	purposes for which given, and ensure the security and confidentiality of the data;
129	(c) a qualifying entity for employment background checks for the qualifying entity's
130	own employees or volunteers and individuals who have applied for employment with or to
131	serve as a volunteer for the qualifying entity;
132	(d) noncriminal justice agencies or individuals for any purpose authorized by statute,
133	executive order, court rule, court order, or local ordinance;
134	(e) agencies or individuals for the purpose of obtaining required clearances connected
135	with foreign travel or obtaining citizenship;
136	(f) agencies or individuals for the purpose of a preplacement adoptive study, in
137	accordance with the requirements of Sections 78B-6-128 and 78B-6-130;
138	(g) private security agencies through guidelines established by the commissioner for
139	employment background checks for their own employees and prospective employees;
140	(h) state agencies for the purpose of conducting a background check for the following
141	individuals:
142	(i) employees;
143	(ii) applicants for employment;
144	(iii) volunteers; and
145	(iv) contract employees;
146	(i) governor's office for the purpose of conducting a background check on the

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150 (iii) members of boards, committees, and commissions appointed by the governor; 151 (i) the office of the lieutenant governor for the purpose of conducting a background 152 check on an individual applying to be a notary public under Section 46-1-3: 153 (k) agencies and individuals as the commissioner authorizes for the express purpose of 154 research, evaluative, or statistical activities pursuant to an agreement with a criminal justice 155 agency; and 156 (1) other agencies and individuals as the commissioner authorizes and finds necessary 157 for protection of life and property and for offender identification, apprehension, and 158 prosecution pursuant to an agreement. 159 (3) An agreement under Subsection (2)(k) shall specifically authorize access to data, 160 limit the use of data to research, evaluative, or statistical purposes, preserve the anonymity of 161 individuals to whom the information relates, and ensure the confidentiality and security of the 162 data. 163 (4) (a) Before requesting information, a qualifying entity under Subsection (2)(c), state 164 agency, or other agency or individual described in Subsections (2)(d) through (j) shall obtain a 165 signed waiver from the person whose information is requested. 166 (b) The waiver shall notify the signee: 167 (i) that a criminal history background check will be conducted: 168 (ii) who will see the information; and 169 (iii) how the information will be used. 170 (c) A qualifying entity under Subsection (2)(c), state agency, or other agency or 171 individual described in Subsections (2)(d) through (g) that submits a request for a noncriminal 172 justice name based background check of local databases to the bureau shall provide to the 173 bureau: 174 (i) personal identifying information for the subject of the background check; and 175 (ii) the fee required by Subsection (15). 176 (d) A qualifying entity under Subsection (2)(c), state agency, or other agency or

individual described in Subsections (2)(d) through (g) that submits a request for a WIN

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

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

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

(iii) the fee required by Subsection (15)
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- (e) Information received by a qualifying entity under Subsection (2)(c), state agency, or other agency or individual described in Subsections (2)(d) through (j) may only be:
- (i) available to individuals involved in the hiring or background investigation of the job applicant, employee, notary applicant, or as authorized under federal or state law;
- (ii) used for the purpose of assisting in making an employment appointment, selection, or promotion decision or for considering a notary applicant under Section 46-1-3; and
- (iii) used for the purposes disclosed in the waiver signed in accordance with Subsection (4)(b).
- (f) An individual who disseminates or uses information obtained from the division under Subsections (2)(c) through (j) for purposes other than those specified under Subsection (4)(e), in addition to any penalties provided under this section, is subject to civil liability.
- (g) (i) A qualifying entity under Subsection (2)(c), state agency, or other agency or individual described in Subsections (2)(d) through (j) that obtains background check information shall provide the subject of the background check an opportunity to:
  - (A) request a copy of the information received; and
  - (B) respond to and challenge the accuracy of any information received.
- (ii) An individual who is the subject of a background check and who receives a copy of the information described in Subsection (4)(g)(i) may use the information only for the purpose of reviewing, responding to, or challenging the accuracy of the information.
- (h) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division may make rules to implement this Subsection (4).
- (i) The division or the division's employees are not liable for defamation, invasion of privacy, negligence, or any other claim in connection with the contents of information disseminated under Subsections (2)(c) through (j).
- (5) (a) Except as provided in Subsection (5)(b), (c), (d), or (e), or as otherwise authorized under state law, criminal history record information obtained from division files may be used only for the purposes for which the information was provided.
- (b) A criminal history provided to an agency under Subsection (2)(f) may be provided by the agency to the individual who is the subject of the history, another licensed child-placing agency, or the attorney for the adoptive parents for the purpose of facilitating an adoption.

- (c) A criminal history of a defendant provided to a criminal justice agency under Subsection (2)(a) may also be provided by the prosecutor to a defendant's defense counsel, upon request during the discovery process, for the purpose of establishing a defense in a criminal case.
- (d) A public transit district, as described in Title 17B, Chapter 2a, Part 8, Public Transit District Act, that is under contract with a state agency to provide services may, for the purposes of complying with Subsection 26B-6-410(5), provide a criminal history record to the state agency or the agency's designee.
- (e) Criminal history record information obtained from a national source may be disseminated if the dissemination is authorized by a policy issued by the Criminal Justice Information Services Division or other federal law.
- (6) (a) A qualifying entity under Subsection (2)(c) may submit fingerprints to the bureau and the Federal Bureau of Investigation for a local and national background check under the provisions of the National Child Protection Act of 1993, 42 U.S.C. Sec. 5119 et seq.
- (b) A qualifying entity under Subsection (2)(c) that submits fingerprints under Subsection (6)(a):
  - (i) shall meet all VECHS requirements for using VECHS; and
- (ii) may only submit fingerprints for an employee, volunteer, or applicant who has resided in Utah for the seven years before the day on which the qualifying entity submits the employee's, volunteer's, or applicant's fingerprints.
- (7) (a) This section does not preclude the use of the division's central computing facilities for the storage and retrieval of criminal history record information.
- (b) This information shall be stored so the information cannot be modified, destroyed, or accessed by unauthorized agencies or individuals.
- (8) Direct access through remote computer terminals to criminal history record information in the division's files is limited to those agencies authorized by the commissioner under procedures designed to prevent unauthorized access to this information.
- (9) (a) The commissioner shall establish procedures to allow an individual right of access to review and receive a copy of the individual's criminal history report.
- (b) A processing fee for the right of access service, including obtaining a copy of the individual's criminal history report under Subsection (9)(a) shall be set in accordance with

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- (c) (i) The commissioner shall establish procedures for an individual to challenge the completeness and accuracy of criminal history record information contained in the division's computerized criminal history files regarding that individual.
- (ii) These procedures shall include provisions for amending any information found to be inaccurate or incomplete.
  - (10) The private security agencies as provided in Subsection (2)(g):
- 250 (a) shall be charged for access; and
- 251 (b) shall be registered with the division according to rules made by the division under 252 Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
  - (11) Before providing information requested under this section, the division shall give priority to a criminal justice agency's needs.
  - (12) (a) It is a class B misdemeanor for a person to knowingly or intentionally access, use, disclose, or disseminate a record created, maintained, or to which access is granted by the division or any information contained in a record created, maintained, or to which access is granted by the division for a purpose prohibited or not permitted by statute, rule, regulation, or policy of a governmental entity.
  - (b) A person who discovers or becomes aware of any unauthorized use of records created or maintained, or to which access is granted by the division shall inform the commissioner and the director of the bureau of the unauthorized use.
  - (13) (a) Subject to Subsection (13)(b), a qualifying entity or an entity described in Subsection (2) may request that the division register fingerprints taken for the purpose of conducting current and future criminal background checks under this section with:
    - (i) the WIN Database rap back system, or any successor system;
    - (ii) the FBI Rap Back System; or
    - (iii) a system maintained by the division.
  - (b) A qualifying entity or an entity described in Subsection (2) may only make a request under Subsection (13)(a) if the entity:
    - (i) has the authority through state or federal statute or federal executive order;
- 272 (ii) obtains a signed waiver from the individual whose fingerprints are being registered; 273 and

- 274 (iii) establishes a privacy risk mitigation strategy to ensure that the entity only receives 275 notifications for individuals with whom the entity maintains an authorizing relationship.
  - (14) The division is authorized to submit fingerprints to the FBI Rap Back System to be retained in the FBI Rap Back System for the purpose of being searched by future submissions to the FBI Rap Back System, including latent fingerprint searches.
  - (15) (a) The division shall impose fees set in accordance with Section 63J-1-504 for the applicant fingerprint card, name check, and to register fingerprints under Subsection (13)(a).
  - (b) Funds generated under this Subsection (15) shall be deposited into the General Fund as a dedicated credit by the department to cover the costs incurred in providing the information.
  - (c) The division may collect fees charged by an outside agency for services required under this section.
  - (16) For the purposes of conducting a criminal background check authorized under Subsection (2)(h), (i), or (j), the Division of Human Resource Management, in accordance with Title 63A, Chapter 17, Utah State Personnel Management Act, and the governor's office shall have direct access to criminal background information maintained under Chapter 10, Part 2, Bureau of Criminal Identification.
  - (17) (a) Except as provided in Subsection (18), if an individual has an active FBI Rap Back System subscription with a qualifying entity, the division may, upon request from another qualifying entity, clone the subscription to the requesting qualifying entity if:
    - (i) the requesting qualifying entity requests the clone:
  - (A) for the purpose of evaluating whether the individual should be permitted to obtain or retain a license for, or serve as an employee or volunteer in a position in which the individual is responsible for, the care, treatment, training, instruction, supervision, or recreation of children, the elderly, or individuals with disabilities; or
  - (B) for the same purpose as the purpose for which the original qualifying entity requested the criminal history record information;
  - (ii) the requesting qualifying entity is expressly authorized by statute to obtain criminal history record information for the individual who is the subject of the request;
    - (iii) before requesting the clone, the requesting qualifying entity obtains a signed

	02-02-24 1.00 1 M1 1 Sub. (Dull) 11.D. 33
305	waiver, containing the information described in Subsection (4)(b), from the individual who is
306	the subject of the request;
307	(iv) the requesting qualifying entity or the individual pays any applicable fees set by the
308	division in accordance with Section 63J-1-504; and
309	(v) the requesting qualifying entity complies with the requirements described in
310	Subsection (4)(g).
311	(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
312	division may make rules regulating the process described in this Subsection (17).
313	(18) (a) Subsection (17) does not apply unless the Federal Bureau of Investigation
314	approves the use of the FBI Rap Back System for the purpose described in Subsection
315	(17)(a)(i) under the conditions described in Subsection (17).
316	(b) Subsection (17) does not apply to the extent that implementation of the provisions
317	of Subsection (17) are contrary to the requirements of the Child Care and Development Block
318	Grant, 42 U.S.C. Secs. 9857-9858r or any other federal grant.
319	(19) (a) Information received by a qualifying entity under Subsection (17) may only be
320	disclosed and used as described in Subsection (4)(e).
321	(b) A person who disseminates or uses information received under Subsection (17) for
322	a purpose other than those described in Subsection (4)(e) is subject to the penalties described in
323	this section and is also subject to civil liability.
324	(c) A qualifying entity is not liable for defamation, invasion of privacy, negligence, or
325	any other claim in connection with the contents of information disseminated under Subsection
326	(17).
327	(20) (a) As used in this section, "agency" means the same as that term is defined in
328	<u>Section 77-40a-101.</u>
329	(b) The division is the only agency in this state that is authorized to conduct a
330	background check for a qualifying entity described in Subsection (2).
331	(c) Except as provided in Subsections (16) and (20)(b), an agency may not conduct a
332	background check for a qualifying entity described in Subsection (2).

[Subsection 77-40a-304(5), regarding the suspension of issuance fees for certificates of

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

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

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336	eligibility, is repealed on July 1, 2023. Reserved.
337	Section 3. Section <b>63I-1-278</b> is amended to read:
338	63I-1-278. Repeal dates: Title 78A and Title 78B.
339	[(1) Subsections 78A-2-301(4) and 78A-2-301.5(12), regarding the suspension of filing
340	fees for petitions for expungement, are repealed on July 1, 2023.]
341	[(2)] (1) Section 78B-3-421, regarding medical malpractice arbitration agreements, is
342	repealed July 1, 2029.
343	[(3)] (2) Subsection 78A-7-106(6), regarding the transfer of a criminal action involving
344	a domestic violence offense from the justice court to the district court, is repealed on July 1,
345	2024.
346	[4) Section 78B-4-518, regarding the limitation on employer liability for an
347	employee convicted of an offense, is repealed on July 1, 2025.
348	[(5)] (4) Title 78B, Chapter 6, Part 2, Alternative Dispute Resolution Act, is repealed
349	July 1, 2026.
350	[(6)] (5) Title 78B, Chapter 12, Part 4, Advisory Committee, which creates the Child
351	Support Guidelines Advisory Committee, is repealed July 1, 2026.
352	[ <del>(7)</del> ] <u>(6)</u> Section 78B-22-805, regarding the Interdisciplinary Parental Representation
353	Pilot Program, is repealed December 31, 2024.
354	Section 4. Section 77-2a-3 is amended to read:
355	77-2a-3. Manner of entry of plea Powers of court Expungement.
356	(1) (a) Acceptance of any plea in anticipation of a plea in abeyance agreement shall be
357	done in full compliance with the Utah Rules of Criminal Procedure, Rule 11.
358	(b) In cases charging offenses for which bail may be forfeited, a plea in abeyance
359	agreement may be entered into without a personal appearance before a magistrate.
360	(2) A plea in abeyance agreement may provide that the court may, upon finding that the
361	defendant has successfully completed the terms of the agreement:
362	(a) reduce the degree of the offense, [and enter judgment of conviction and impose
363	sentence for a lower degree of offense; or] enter a judgment of conviction for the lower degree
364	of the offense, and impose a sentence for the lower degree of the offense;
365	(b) allow withdrawal of the defendant's plea and order the dismissal of the case[-]; or
366	(c) issue an order of expungement for all records of the offense if:

507	(1) the defendant successfully completes a problem solving court program that is
368	certified by the Judicial Council; and
369	(ii) the court allows the withdrawal of the defendant's plea and orders the dismissal of
370	the case.
371	(3) (a) Upon finding that a defendant has successfully completed the terms of a plea in
372	abeyance agreement and only as provided in the plea in abeyance agreement or as agreed to by
373	all parties, the court may [reduce the degree of the offense or dismiss the case only as provided
374	in the plea in abeyance agreement or as agreed to by all parties.]:
375	(i) reduce the degree of the offense, enter a judgment of conviction for the lower degree
376	of the offense, and impose a sentence for the lower degree of the offense;
377	(ii) allow withdrawal of the defendant's plea and order the dismissal of the case; or
378	(iii) issue an order of expungement for all records of the offense if:
379	(A) the defendant successfully completes a problem solving court program that is
380	certified by the Judicial Council; and
381	(B) the court allows the withdrawal of the defendant's plea and orders the dismissal of
382	the case.
383	(b) Upon sentencing a defendant for any lesser offense in accordance with a plea in
384	abeyance agreement, the court may not invoke Section 76-3-402 to further reduce the degree of
385	the offense.
386	(4) The court may require the Department of Corrections to assist in the administration
387	of the plea in abeyance agreement as if the defendant were on probation to the court under
388	Section 77-18-105.
389	(5) The terms of a plea in abeyance agreement may include:
390	(a) an order that the defendant pay a nonrefundable plea in abeyance fee, with a
391	surcharge based on the amount of the plea in abeyance fee, both of which shall be allocated in
392	the same manner as if paid as a fine for a criminal conviction under Section 78A-5-110 and a
393	surcharge under Title 51, Chapter 9, Part 4, Criminal Conviction Surcharge Allocation, and
394	which may not exceed in amount the maximum fine and surcharge which could have been
395	imposed upon conviction and sentencing for the same offense;
396	(b) an order that the defendant pay the costs of any remedial or rehabilitative program
397	required by the terms of the agreement; and

398	(c) an order that the defendant comply with any other conditions that could have been
399	imposed as conditions of probation upon conviction and sentencing for the same offense.
400	(6) (a) The terms of a plea in abeyance shall include:
401	(i) a specific amount of restitution that the defendant will pay, as agreed to by the
402	defendant and the prosecuting attorney;
403	(ii) a certification from the prosecuting attorney that:
404	(A) the prosecuting attorney has consulted with all victims, including the Utah Office
405	for Victims of Crime; and
406	(B) all victims, including the Utah Office for Victims of Crime, are not seeking
407	restitution; or
408	(iii) an agreement between the parties that restitution will be determined by the court at
409	a subsequent hearing in accordance with Section 77-38b-205.
410	(b) At a subsequent hearing described in Subsection (6)(a)(iii), the court shall order the
411	defendant, as a modified term of the plea in abeyance, to pay restitution to all victims for the
412	entire amount of pecuniary damages that are proximately caused by the criminal conduct of the
413	defendant.
414	(c) The court shall collect, receive, process, and distribute payments for restitution to
415	the victim, unless otherwise provided by law or by the plea in abeyance agreement.
416	(d) If the defendant does not successfully complete the terms of the plea in abeyance,
417	the court shall enter an order for restitution, in accordance with Chapter 38b, Crime Victims
418	Restitution Act, upon entering a sentence for the defendant.
419	(7) (a) A court may not hold a plea in abeyance without the consent of both the
420	prosecuting attorney and the defendant.
421	(b) A decision by a prosecuting attorney not to agree to a plea in abeyance is final.
422	(8) (a) If the terms of a plea in abeyance agreement allow a court to issue an order of
423	expungement as described in Subsection (2)(c), the prosecuting attorney shall make a
424	reasonable effort to provide notice to any victim of the offense of the terms of the plea in
425	abeyance agreement.
426	(b) The notice under Subsection (8)(a) shall:
427	(i) state that the victim has a right to object to the expungement; and
428	(ii) provide instructions for registering an objection with the court.

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

460	[(1)] "Agency" means a state, county, or local government entity that generates or
461	maintains records relating to an investigation, arrest, detention, or conviction for an offense for
462	which expungement may be ordered.
463	(1) "Automatic expungement" means the expungement of records of an investigation,
464	arrest, detention, or conviction of an offense without the filing of a petition.
465	(2) "Bureau" means the Bureau of Criminal Identification of the Department of Public
466	Safety established in Section 53-10-201.
467	(3) "Civil accounts receivable" means the same as that term is defined in Section
468	<u>77-32b-102.</u>
469	(4) "Civil judgment of restitution" means the same as that term is defined in Section
470	<u>77-32b-102.</u>
471	[(3)] (5) "Certificate of eligibility" means a document issued by the bureau stating that
472	the criminal record and all records of arrest, investigation, and detention associated with a case
473	that is the subject of a petition for expungement is eligible for expungement.
474	[(4) (a) "Clean slate eligible case" means, except as provided in Subsection (4)(c), a
475	case:]
476	[(i) where each conviction within the case is:]
477	[(A) a misdemeanor conviction for possession of a controlled substance in violation of
478	Subsection 58-37-8(2)(a)(i);]
479	[(B) a class B or class C misdemeanor conviction; or]
480	[(C) an infraction conviction;]
481	[(ii) that involves an individual:]
482	[(A) whose total number of convictions in Utah state courts, not including infractions,
483	traffic offenses, or minor regulatory offenses, does not exceed the limits described in
484	Subsections 77-40a-303(4) and (5) without taking into consideration the exception in
485	Subsection 77-40a-303(7); and]
486	[(B) against whom no criminal proceedings are pending in the state; and]
487	[(iii) for which the following time periods have elapsed from the day on which the case
488	is adjudicated:]
489	[(A) at least five years for a class C misdemeanor or an infraction;]
490	(B) at least six years for a class B misdemeanor: and

491	[(C) at least seven years for a class A conviction for possession of a controlled
492	substance in violation of Subsection 58-37-8(2)(a)(i).]
493	[(b) "Clean slate eligible case" includes a case:]
494	[(i) that is dismissed as a result of a successful completion of a plea in abeyance
495	agreement governed by Subsection 77-2a-3(2)(b) if:]
496	[(A) except as provided in Subsection (4)(c), each charge within the case is a
497	misdemeanor for possession of a controlled substance in violation of Subsection
498	58-37-8(2)(a)(i), a class B or class C misdemeanor, or an infraction;
499	[(B) the individual involved meets the requirements of Subsection (4)(a)(ii); and]
500	[(C) the time periods described in Subsections (4)(a)(iii)(A) through (C) have elapsed
501	from the day on which the case is dismissed; or]
502	[(ii) where charges are dismissed without prejudice if each conviction, or charge that
503	was dismissed, in the case would otherwise meet the requirements under Subsection (4)(a) or
504	<del>(b)(i).</del> ]
505	[(c) "Clean slate eligible case" does not include a case:]
506	[(i) where the individual is found not guilty by reason of insanity;]
507	[(ii) where the case establishes a criminal accounts receivable, as defined in Section
508	<del>77-32b-102, that:</del> ]
509	[(A) has been entered as a civil accounts receivable or a civil judgment of restitution,
510	as those terms are defined in Section 77-32b-102, and transferred to the Office of State Debt
511	Collection under Section 77-18-114; or]
512	[(B) has not been satisfied according to court records; or]
513	[(iii) that resulted in one or more pleas held in abeyance or convictions for the
514	following offenses:]
515	[(A) any of the offenses listed in Subsection 77-40a-303(2)(a);]
516	[(B) an offense against the person in violation of Title 76, Chapter 5, Offenses Against
517	the Individual;]
518	[(C) a weapons offense in violation of Title 76, Chapter 10, Part 5, Weapons;]
519	[(D) sexual battery in violation of Section 76-9-702.1;]
520	[(E) an act of lewdness in violation of Section 76-9-702 or 76-9-702.5;]
521	[(F) an offense in violation of Title 41, Chapter 6a, Part 5, Driving Under the Influence

522	and Reckless Driving;
523	[(G) damage to or interruption of a communication device in violation of Section
524	<del>76-6-108;</del> ]
525	[(H) a domestic violence offense as defined in Section 77-36-1; or]
526	[(I) any other offense classified in the Utah Code as a felony or a class A misdemeanor
527	other than a class A misdemeanor conviction for possession of a controlled substance in
528	violation of Subsection 58-37-8(2)(a)(i).]
529	(6) "Clean slate eligible case" means a case that is eligible for automatic expungement
530	under Section 77-40a-205.
531	[(5)] (7) "Conviction" means judgment by a criminal court on a verdict or finding of
532	guilty after trial, a plea of guilty, or a plea of nolo contendere.
533	(8) "Court" means a district court or a justice court.
534	(9) "Criminal accounts receivable" means the same as that term is defined in Section
535	<u>77-32b-102.</u>
536	[(6)] (10) "Criminal protective order" means the same as that term is defined in Section
537	78B-7-102.
538	$[\frac{7}{11}]$ "Criminal stalking injunction" means the same as that term is defined in
539	Section 78B-7-102.
540	[(8)] (12) "Department" means the Department of Public Safety established in Section
541	53-1-103.
542	[ <del>(9)</del> ] <u>(13)</u> "Drug possession offense" means [an offense under]:
543	(a) <u>an offense described in</u> Subsection 58-37-8(2), except <u>for</u> :
544	(i) [any] an offense under Subsection 58-37-8(2)(b)(i), possession of 100 pounds or
545	more of marijuana;
546	(ii) [any] an offense enhanced under Subsection 58-37-8(2)(e), violation in a
547	correctional facility; or
548	(iii) an offense for driving with a controlled substance illegally in the person's body and
549	negligently causing serious bodily injury or death of another, as codified before May 4, 2022,
550	Laws of Utah 2021, Chapter 236, Section 1, Subsection 58-37-8(2)(g);
551	(b) an offense described in Subsection 58-37a-5(1), use or possession of drug
552	paraphernalia;

553	(c) an offense described in Section 58-37b-6, possession or use of an imitation
554	controlled substance; or
555	(d) any local ordinance which is substantially similar to any of the offenses described
556	in this Subsection $\left[\frac{(9)}{(13)}\right]$ .
557	[(10)] (14) (a) "Expunge" means to [seal or otherwise restrict access to the individual's
558	record held by an agency when the record includes a criminal investigation, detention, arrest, or
559	conviction.] remove a record from public inspection by:
560	(i) sealing the record; or
561	(ii) restricting or denying access to the record.
562	(b) "Expunge" does not include the destruction of a record.
563	(15) "Indigent" means a financial status that results from a court finding that a
564	petitioner is financially unable to pay the fee to file a petition for expungement under Section
565	<u>78A-2-302.</u>
566	[(11)] (16) "Jurisdiction" means a state, district, province, political subdivision,
567	territory, or possession of the United States or any foreign country.
568	$[\frac{(12)}{(17)}]$ (a) "Minor regulatory offense" means, except as provided in Subsection
569	$[\frac{(12)(c)}{(17)(c)}$ , a class B or C misdemeanor offense or a local ordinance.
570	(b) "Minor regulatory offense" includes an offense under Section 76-9-701 or
571	76-10-105.
572	(c) "Minor regulatory offense" does not include:
573	(i) any drug possession offense;
574	(ii) an offense under Title 41, Chapter 6a, Part 5, Driving Under the Influence and
575	Reckless Driving;
576	(iii) an offense under Sections 73-18-13 through 73-18-13.6;
577	(iv) except as provided in Subsection [(12)(b)] (17)(b), an offense under Title 76, Utah
578	Criminal Code; or
579	(v) any local ordinance that is substantially similar to an offense listed in Subsections
580	$[\frac{(12)(c)(i)}{(17)(c)(i)}]$ through (iv).
581	[(13)] (18) "Petitioner" means an individual applying for expungement under this
582	chapter.
583	$[\frac{(14)}{(19)}]$ "Plea in abeyance" means the same as that term is defined in Section

584	//-2a-1.
585	(20) "Record" means a book, letter, document, paper, map, plan, photograph, film,
586	card, tape, recording, electronic data, or other documentary material, regardless of physical
587	form or characteristics, that:
588	(a) is contained in the agency's file regarding the arrest, detention, investigation,
589	conviction, sentence, incarceration, probation, or parole of an individual; and
590	(b) is prepared, owned, received, or retained by an agency, including a court.
591	[(15)] (21) (a) "Traffic offense" means, except as provided in Subsection [(15)(b)]
592	<u>(21)(b)</u> :
593	(i) an infraction, a class B misdemeanor offense, or a class C misdemeanor offense
594	under Title 41, Chapter 6a, Traffic Code;
595	(ii) an infraction, a class B misdemeanor offense, or a class C misdemeanor offense
596	under Title 53, Chapter 3, Part 2, Driver Licensing Act;
597	(iii) an infraction, a class B misdemeanor offense, or a class C misdemeanor offense
598	under Title 73, Chapter 18, State Boating Act; and
599	(iv) all local ordinances that are substantially similar to an offense listed in Subsections
600	[(15)(a)(i)] $(21)(a)(i)$ through (iii).
501	(b) "Traffic offense" does not mean:
502	(i) an offense under Title 41, Chapter 6a, Part 5, Driving Under the Influence and
503	Reckless Driving;
504	(ii) an offense under Sections 73-18-13 through 73-18-13.6; or
505	(iii) any local ordinance that is substantially similar to an offense listed in Subsection
606	[(15)(b)(i)] $(21)(b)(i)$ or (ii).
507	[(16)] (22) "Traffic offense case" means that each offense in the case is a traffic
608	offense.
509	Section 6. Section 77-40a-104 is amended to read:
510	77-40a-104. Department rulemaking authority.
511	In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
512	department may make rules to:
513	(1) implement procedures for processing an automatic expungement;
514	(2) implement procedures for applying for certificates of eligibility;

615	(3) specify procedures for receiving a certificate of eligibility;
616	(4) create forms and determine information necessary to be provided to the bureau; and
617	(5) implement procedures for the confirmation of an expungement under Subsection
618	$\left[\frac{77-40a-403(2)}{77-40a-401(4)}\right]$
619	Section 7. Section 77-40a-201 is amended to read:
620	Part 2. Automatic Expungement and Deletion
621	77-40a-201. General provisions for automatic expungement and deletion.
622	[(1) (a) Except as provided in Subsection (1)(b) and subject to Section 77-40a-203, this
623	section governs the process for the automatic expungement of all records in:]
624	[(i) except as provided in Subsection (2)(e), a case that resulted in an acquittal on all
625	charges;]
626	[(ii) except as provided in Subsection (3)(e), a case that is dismissed with prejudice; or]
627	[(iii) a case that is a clean slate eligible case.]
628	[(b) This section does not govern automatic expungement of a traffic offense.]
629	[(2) (a) Except as provided in Subsection (2)(e), the process for automatic
630	expungement of records for a case that resulted in an acquittal on all charges is as described in
631	Subsections (2)(b) through (d).]
632	[(b) If a court determines that the requirements for automatic expungement have been
633	met, a district court or justice court shall:]
634	[(i) issue, without a petition, an expungement order; and]
635	[(ii) based on information available, notify the bureau and the prosecuting agency
636	identified in the case of the order of expungement.]
637	[(c) The bureau, upon receiving notice from the court, shall notify the law enforcement
638	agencies identified in the case of the order of expungement.]
639	[(d) For a case resulting in an acquittal on all charges on or before May 1, 2020, that is
640	automatically expunged under this Subsection (2), a law enforcement agency shall expunge
641	records for the case within one year after the day on which the law enforcement agency
642	receives notice from the bureau.]
643	[(e) For purposes of this section, a case that resulted in acquittal on all charges does not
644	include a case that resulted in an acquittal because the individual is found not guilty by reason
645	of insanity.]

646	[(3) (a) The process for an automatic expungement of a case that is dismissed with
647	prejudice is as described in Subsections (3)(b) through (d).]
648	[(b) If a court determines that the requirements for automatic expungement have been
649	met, a district court or justice court shall:]
650	[(i) issue, without a petition, an expungement order; and]
651	[(ii) based on information available, notify the bureau and the prosecuting agency
652	identified in the case of the order of expungement.]
653	[(c) The bureau, upon receiving notice from the court, shall notify the law enforcement
654	agencies identified in the case of the order of expungement.]
655	[(d) For a case dismissed on or before May 1, 2020, that is automatically expunged
656	under this Subsection (3), a law enforcement agency shall expunge records for the case within
657	one year after the day on which the law enforcement agency receives notice from the bureau.]
658	[(e) For purposes of this Subsection (3), a case that is dismissed with prejudice does
659	not include a case that is dismissed with prejudice as a result of successful completion of a plea
660	in abeyance agreement governed by Subsection 77-2a-3(2)(b).]
661	[(4) (a) The process for the automatic expungement of a clean slate eligible case is as
662	described in Subsections (4)(b) through (g) and in accordance with any rules made by the
663	Judicial Council or the Supreme Court.]
664	[(b) A prosecuting agency, that has complied with Rule 42 of the Utah Rules of
665	Criminal Procedure, shall receive notice on a monthly basis for any case prosecuted by that
666	agency that appears to be a clean slate eligible case.]
667	[(c) Within 35 days of the day on which the notice described in Subsection (4)(b) is
668	sent, the prosecuting agency shall provide written notice in accordance with any rules made by
669	the Judicial Council or the Supreme Court if the prosecuting agency objects to an automatic
670	expungement for any of the following reasons:]
671	[(i) after reviewing the agency record, the prosecuting agency believes that the case
672	does not meet the definition of a clean slate eligible case;]
673	[(ii) the individual has not paid court-ordered restitution to the victim; or]
674	[(iii) the prosecuting agency has a reasonable belief, grounded in supporting facts, that
675	an individual with a clean slate eligible case is continuing to engage in criminal activity within
676	or outside of the state.]

677	[(d) (i) If a prosecuting agency provides written notice of an objection for a reason
678	described in Subsection (4)(c) within 35 days of the day on which the notice described in
679	Subsection (4)(b) is sent, the court may not proceed with automatic expungement.]
680	[(ii) If 35 days pass from the day on which the notice described in Subsection (4)(b) is
681	sent without the prosecuting agency providing written notice of an objection for a reason
682	described in Subsection (4)(c), the court may proceed with automatic expungement.]
683	[(e) If a court determines that the requirements for automatic expungement have been
684	met, a district court or justice court shall:]
685	[(i) issue, without a petition, an expungement order; and]
686	[(ii) based on information available, notify the bureau and the prosecuting agency
687	identified in the case of the order of expungement.]
688	[(f) The bureau, upon receiving notice from the court, shall notify the law enforcement
689	agencies identified in the case of the order of expungement.]
690	[(g) For a clean slate case adjudicated or dismissed on or before May 1, 2020, that is
691	automatically expunged under this Subsection (4), a law enforcement agency shall expunge
692	records for the case within one year after the day on which the law enforcement agency
693	receives notice from the bureau.]
694	[(5)] (1) Nothing in this section precludes an individual from filing a petition for
695	expungement of records that are eligible for automatic expungement or deletion under this
696	section if an automatic expungement or deletion has not occurred pursuant to this section.
697	[(6)] (2) An automatic expungement performed under this [section] part does not
698	preclude a person from requesting access to expunged records in accordance with Section
699	77-40a-403 or 77-40a-404.
700	[ <del>(7)</del> ] (3) (a) The Judicial Council and the Supreme Court shall make rules to govern the
701	process for automatic expungement.
702	(b) The rules under Subsection $[\frac{(7)(a)}{(3)(a)}]$ may authorize:
703	(i) a presiding judge of a district court to issue an expungement order for any case
704	when the requirements for automatic expungement are met; and
705	(ii) a presiding judge of a justice court to issue an expungement order for any justice
706	court case within the presiding judge's judicial district when the requirements for automatic
707	expungement are met.

708	(4) An individual does not have a cause of action for damages as a result of the failure
709	<u>to:</u>
710	(a) identify an individual's case as eligible for automatic expungement or deletion
711	under this part; or
712	(b) automatically expunge or delete the records of a case that is eligible under this part.
713	Section 8. Section 77-40a-202 is amended to read:
714	77-40a-202. Automatic deletion for traffic offense by a court.
715	(1) [Subject to Section 77-40a-203;] A court shall delete all records for the following
716	traffic offenses [shall be deleted] without a court order or notice to the prosecuting agency:
717	(a) a traffic offense case that resulted in an acquittal on all charges;
718	(b) a traffic offense case that is dismissed with prejudice, except for a case that is
719	dismissed with prejudice as a result of successful completion of a plea in abeyance agreement
720	governed by Subsection 77-2a-3(2)(b); or
721	(c) a traffic offense case for which the following time periods have elapsed from the
722	day on which the case is adjudicated:
723	(i) at least five years for a class C misdemeanor or an infraction; or
724	(ii) at least six years for a class B misdemeanor.
725	(2) For a traffic offense case that results in an acquittal, is dismissed, or is adjudicated
726	on or after May 1, 2020, the court shall delete all records for the traffic offense upon
727	identification.
728	(3) For a traffic offense case that results in an acquittal, is dismissed, or is adjudicated
729	before May 1, 2020, the court shall delete all records for the traffic offense within one year of
730	the day on which the case is identified as eligible for deletion.
731	[(2) The Judicial Council shall make rules to provide an ongoing process for
732	identifying and deleting records on all traffic offenses described in Subsection (1).]
733	Section 9. Section 77-40a-204 is enacted to read:
734	77-40a-204. Request for automatic expungement of a case Cases identified for
735	automatic expungement before October 1, 2024.
736	(1) On and after October 1, 2024, an individual shall submit the necessary form to the
737	court to receive an automatic expungement of a case that is eligible under this part.
738	(2) If a form is submitted as described in Subsection (1), the court shall determine

739	whether the individual has a case that qualifies for automatic expungement in accordance with
740	Sections 77-40a-205 and 77-40a-206.
741	(3) A court shall automatically expunge a case in accordance with this part if the court
742	identified the case as being eligible for automatic expungement before October 1, 2024.
743	Section 10. Section 77-40a-205 is enacted to read:
744	77-40a-205. Automatic expungement of state records for a clean slate case.
745	(1) Upon the submission of a form under Section 77-40a-204, the court shall issue an
746	order of expungement for all records of the case that are held by the court and the bureau if:
747	(a) the case is eligible for expungement under this section; and
748	(b) the prosecuting agency does not object to the expungement of the case as described
749	in Subsection (6).
750	(2) Except as otherwise provided in Subsection (3), a case is eligible for expungement
751	under this section if:
752	(a) (i) each conviction within the case is a conviction for:
753	(A) a misdemeanor offense for possession of a controlled substance in violation of
754	Subsection 58-37-8(2)(a)(i);
755	(B) a class B misdemeanor offense;
756	(C) a class C misdemeanor offense; or
757	(D) an infraction; and
758	(ii) the following time periods have passed after the day on which the individual is
759	adjudicated:
760	(A) at least five years for the conviction of a class C misdemeanor offense or an
761	infraction;
762	(B) at least six years for the conviction of a class B misdemeanor offense; or
763	(C) at least seven years for the conviction of a class A misdemeanor offense for
764	possession of a controlled substance in violation of Subsection 58-37-8(2)(a)(i); or
765	(b) (i) the case is dismissed as a result of a successful completion of a plea in abeyance
766	agreement governed by Subsection 77-2a-3(2)(b) or the case is dismissed without prejudice;
767	(ii) each charge within the case is:
768	(A) a misdemeanor offense for possession of a controlled substance in violation of
769	Subsection 58-37-8(2)(a)(i);

770	(B) a class B misdemeanor offense;
771	(C) a class C misdemeanor offense; or
772	(D) an infraction; and
773	(iii) the following time periods have passed after the day on which the case is
774	dismissed:
775	(A) at least five years for a charge in the case for a class C misdemeanor offense or an
776	infraction;
777	(B) at least six years for a charge in the case for a class B misdemeanor offense; or
778	(C) at least seven years for a charge in the case for a class A misdemeanor offense for
779	possession of a controlled substance in violation of Subsection 58-37-8(2)(a)(i).
780	(3) A case is not eligible for expungement under this section if:
781	(a) the individual has a total number of convictions in courts of this state that exceed
782	the limits under Subsection 77-40a-303(4) or (5) without taking into consideration:
783	(i) the exception in Subsection 77-40a-303(7); or
784	(ii) any infraction, traffic offense, or minor regulatory offense;
785	(b) there is a criminal proceeding for a misdemeanor or felony offense pending in a
786	court of this state against the individual, unless the proceeding is for a traffic offense;
787	(c) for an individual seeking an automatic expungement on and after January 1, 2025,
788	the individual is incarcerated in the state prison or on probation or parole that is supervised by
789	the Department of Corrections;
790	(d) the case resulted in the individual being found not guilty by reason of insanity;
791	(e) the case establishes a criminal accounts receivable that:
792	(i) has been entered as a civil accounts receivable or a civil judgment of restitution and
793	transferred to the Office of State Debt Collection under Section 77-18-114; or
794	(ii) has not been satisfied according to court records; or
795	(f) the case resulted in a plea held in abeyance or a conviction for the following
796	offenses:
797	(i) any of the offenses listed in Subsection 77-40a-303(2)(a);
798	(ii) an offense against the person in violation of Title 76, Chapter 5, Offenses Against
799	the Individual;
800	(iii) a weapons offense in violation of Title 76, Chapter 10, Part 5, Weapons;

801	(iv) sexual battery in violation of Section 76-9-702.1;
802	(v) an act of lewdness in violation of Section 76-9-702 or 76-9-702.5;
803	(vi) an offense in violation of Title 41, Chapter 6a, Part 5, Driving Under the Influence
804	and Reckless Driving;
805	(vii) damage to or interruption of a communication device in violation of Section
806	<u>76-6-108;</u>
807	(viii) a domestic violence offense as defined in Section 77-36-1; or
808	(ix) any other offense classified in the Utah Code as a felony or a class A misdemeanor
809	other than a class A misdemeanor conviction for possession of a controlled substance in
810	violation of Subsection 58-37-8(2)(a)(i).
811	(4) A prosecuting agency that has complied with Rule 42 of the Utah Rules of Criminal
812	Procedure shall receive notice on a monthly basis for any case prosecuted by that agency that
813	appears to be eligible for automatic expungement under this section.
814	(5) Within 35 days after the day on which the notice described in Subsection (4) is
815	sent, the prosecuting agency shall provide written notice in accordance with Rule 42 of the
816	<u>Utah Rules of Criminal Procedure if the prosecuting agency objects to an automatic</u>
817	expungement for any of the following reasons:
818	(a) the prosecuting agency believes that the case is not eligible for expungement under
819	this section after reviewing the agency record;
820	(b) the individual has not paid restitution to the victim as ordered by the court; or
821	(c) the prosecuting agency has a reasonable belief, grounded in supporting facts, that an
822	individual involved in the case is continuing to engage in criminal activity within or outside of
823	the state.
824	(6) If a prosecuting agency provides written notice of an objection for a reason
825	described in Subsection (5) within 35 days after the day on which the notice under Subsection
826	(4) is sent, the court may not proceed with automatic expungement of the case.
827	(7) If 35 days pass after the day on which the notice described in Subsection (4) is sent
828	without the prosecuting agency providing written notice of an objection under Subsection (5),
829	the court shall proceed with automatic expungement of the case.
830	(8) If a court issues an order of expungement under Subsection (1), the court shall:
831	(a) expunge all records held by the court of the case in accordance with Section

832	<u>77-40a-401; and</u>
833	(b) notify the bureau and the prosecuting agency identified in the case, based on
834	information available to the court, of the order of expungement.
835	Section 11. Section 77-40a-206 is enacted to read:
836	77-40a-206. Automatic expungement of state records for a case resulting in an
837	acquittal or dismissal with prejudice.
838	(1) Upon the submission of a form under Section 77-40a-204, the court shall issue an
839	order of expungement for all records of the case that are held by the court and the bureau if the
840	case is eligible for expungement under this section.
841	(2) Except as provided in Subsection (3), a case is eligible for expungement under this
842	section if:
843	(a) (i) the case resulted in an acquittal on all charges; and
844	(ii) at least 60 days have passed after the day on which the case resulted in an acquittal;
845	<u>or</u>
846	(b) (i) the case is dismissed with prejudice; and
847	(ii) at least 180 days have passed after the day on which:
848	(A) for a case in which no appeal was filed, the entire case against the individual is
849	dismissed with prejudice; or
850	(B) for a case in which an appeal was filed, a court issues a final nonappealable order.
851	(3) A case is not eligible for expungement under Subsection (2) if:
852	(a) the case resulted in an acquittal because the individual is found not guilty by reason
853	of insanity; or
854	(b) the case is dismissed with prejudice as a result of successful completion of a plea in
855	abeyance agreement governed by Subsection 77-2a-3(2)(b).
856	(4) If a court issues an order of expungement under Subsection (1), the court shall:
857	(a) expunge all records held by the court of the case as described in Section
858	77-40a-401; and
859	(b) notify the bureau and the prosecuting agency identified in the case, based on
860	information available to the court, of the order of expungement.
861	Section 12. Section 77-40a-207 is enacted to read:
862	77-40a-207. Automatic expungement by the bureau.

863	(1) Upon receiving notice from a court of an expungement order under this part, the
864	bureau shall expunge all records for the case in accordance with Section 77-40a-401.
865	(2) The bureau shall forward a copy of the expungement order to the Federal Bureau of
866	<u>Investigation.</u>
867	(3) Except for the court and the bureau, an agency is not required to expunge all
868	records for a case that is automatically expunged under this part.
869	Section 13. Section 77-40a-301 is amended to read:
870	77-40a-301. Application for certificate of eligibility for expungement Penalty
871	for false or misleading information on application.
872	(1) If an individual seeks to expunge the individual's criminal record in regard to an
873	arrest, investigation, detention, or conviction, the individual shall:
874	(a) except as provided in Subsection 77-40a-305(3) or (4), apply to the bureau for a
875	certificate of eligibility for expungement of the criminal record and pay the application fee as
876	described in Section 77-40a-304;
877	[(b) if the individual is qualified to receive a certificate of eligibility, pay the issuance
878	fee for the certificate of eligibility as described in Section 77-40a-304; and]
879	(b) except as provided in Subsections 77-40a-304(3) and (7), pay the issuance fee for
880	the certificate of eligibility as described in Section 77-40a-304; and
881	(c) file a petition for expungement in accordance with Section 77-40a-305.
882	(2) (a) An individual who intentionally or knowingly provides any false or misleading
883	information to the bureau when applying for a certificate of eligibility is guilty of a class B
884	misdemeanor and subject to prosecution under Section 76-8-504.6.
885	(b) Regardless of whether the individual is prosecuted, the bureau may deny a
886	certificate of eligibility to anyone who knowingly provides false information on an application.
887	Section 14. Section 77-40a-302 is amended to read:
888	77-40a-302. Requirements for certificate of eligibility to expunge records of
889	arrest, investigation, and detention.
890	(1) Except as provided in Subsection (2), if a petitioner is arrested or charged with an
891	offense, the petitioner is eligible to receive a certificate of eligibility from the bureau to
892	expunge records of the arrest, investigation, and detention in the case for the offense if:
893	(a) the following time periods have passed:

894	(i) at least 30 days have passed after the day on which the individual is arrested or
895	charged for the offense;
896	(ii) at least three years have passed after the day on which the petitioner was convicted
897	of the traffic offense if there is a conviction in the case for a traffic offense that is a class C
898	misdemeanor or an infraction; or
899	(iii) at least four years have passed after the day on which the petitioner was convicted
900	of the traffic offense if there is a conviction in the case for a traffic offense that is a class B
901	misdemeanor; and
902	(b) one of the following occurs:
903	(i) an investigating law enforcement agency and the prosecuting attorney have screened
904	the case and determined that no charges will be filed against the petitioner;
905	(ii) all charges in the case are dismissed with prejudice;
906	(iii) if a charge in the case is dismissed without prejudice or without condition:
907	(A) the prosecuting attorney consents in writing to the issuance of a certificate of
908	eligibility; or
909	(B) at least 180 days have passed after the day on which the charge is dismissed;
910	(iv) the petitioner is acquitted at trial on all of the charges in the case; or
911	(v) the statute of limitations expires on all of the charges in the case[; and].
912	[(c) (i) there is a conviction in the case for a traffic offense that is a class C
913	misdemeanor or an infraction, at least three years have passed after the day on which the
914	petitioner was convicted of the traffic offense; or]
915	[(ii) there is a conviction in the case for a traffic offense that is a class B misdemeanor,
916	at least four years have passed after the day on which the petitioner was convicted of the traffic
917	offense.]
918	(2) A petitioner is not eligible for a certificate of eligibility under Subsection (1) if:
919	(a) there is a criminal proceeding for a misdemeanor or felony offense pending against
920	the petitioner, unless the criminal proceeding is for a traffic offense;
921	(b) there is a plea in abeyance for a misdemeanor or felony offense pending against the
922	petitioner, unless the plea in abeyance is for a traffic offense;
923	(c) the petitioner is currently incarcerated, on parole, or on probation, unless the
924	petitioner is on probation or parole for an infraction, a traffic offense, or a minor regulatory

925	offense; or
926	(d) there is a criminal protective order or a criminal stalking injunction in effect for the
927	case.
928	Section 15. Section 77-40a-303 is amended to read:
929	77-40a-303. Requirements for a certificate of eligibility to expunge records of a
930	conviction.
931	(1) Except as otherwise provided by this section, a petitioner is eligible to receive a
932	certificate of eligibility from the bureau to expunge the records of a conviction if:
933	(a) the petitioner has paid in full all fines and interest ordered by the court related to the
934	conviction for which expungement is sought;
935	(b) the petitioner has paid in full all restitution ordered by the court under Section
936	77-38b-205; and
937	(c) the following time periods have passed after the day on which the petitioner was
938	convicted or released from incarceration, parole, or probation, whichever occurred last, for the
939	conviction that the petitioner seeks to expunge:
940	(i) 10 years for the conviction of a misdemeanor under Subsection 41-6a-501(2);
941	(ii) 10 years for the conviction of a felony for operating a motor vehicle with any
942	amount of a controlled substance in an individual's body and causing serious bodily injury or
943	death, as codified before May 4, 2022, Laws of Utah 2021,
944	Chapter 236, Section 1, Subsection 58-37-8(2)(g);
945	(iii) seven years for the conviction of a felony;
946	(iv) five years for the conviction of a drug possession offense that is a felony;
947	(v) five years for the conviction of a class A misdemeanor;
948	(vi) four years for the conviction of a class B misdemeanor; or
949	(vii) three years for the conviction of a class C misdemeanor or infraction.
950	(2) A petitioner is not eligible to receive a certificate of eligibility from the bureau to
951	expunge the records of a conviction under Subsection (1) if:
952	(a) except as provided in Subsection (3), the conviction for which expungement is
953	sought is:
954	(i) a capital felony;
955	(ii) a first degree felony;

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- 956 (iii) a felony conviction of a violent felony as defined in Subsection 957 76-3-203.5(1)(c)(i); 958 (iv) a felony conviction described in Subsection 41-6a-501(2): 959 (v) an offense, or a combination of offenses, that would require the individual to 960 register as a sex offender, as defined in Section 77-41-102; or 961 (vi) a registerable child abuse offense as defined in Subsection 77-43-102(2); 962 (b) there is a criminal proceeding for a misdemeanor or felony offense pending against 963 the petitioner, unless the criminal proceeding is for a traffic offense: 964 (c) there is a plea in abeyance for a misdemeanor or felony offense pending against the 965 petitioner, unless the plea in abeyance is for a traffic offense; 966 (d) the petitioner is currently incarcerated, on parole, or on probation, unless the 967 petitioner is on probation or parole for an infraction, a traffic offense, or a minor regulatory 968 offense: 969 (e) the petitioner intentionally or knowingly provides false or misleading information 970 on the application for a certificate of eligibility; 971 (f) there is a criminal protective order or a criminal stalking injunction in effect for the 972 case; or 973 (g) the bureau determines that the petitioner's criminal history makes the petitioner 974 ineligible for a certificate of eligibility under Subsection (4) or (5). 975 (3) Subsection (2)(a) does not apply to a conviction for a qualifying sexual offense, as 976 defined in Section 76-3-209, if, at the time of the offense, a petitioner who committed the 977 offense was at least 14 years old but under 18 years old, unless the petitioner was convicted by 978 a district court as an adult in accordance with Title 80, Chapter 6, Part 5, Transfer to District 979 Court. (4) Subject to Subsections (6), (7), and (8), a petitioner is not eligible to receive a 980 981 certificate of eligibility if, at the time the petitioner seeks the certificate of eligibility, the 982 bureau determines that the petitioner's criminal history, including previously expunged 983 convictions, contains any of the following:
  - (b) any combination of three or more convictions other than for drug possession

which is contained in a separate criminal episode:

(a) two or more felony convictions other than for drug possession offenses, each of

offenses that include two class A misdemeanor convictions, each of which is contained in a separate criminal episode;

- (c) any combination of four or more convictions other than for drug possession offenses that include three class B misdemeanor convictions, each of which is contained in a separate criminal episode; or
- (d) five or more convictions other than for drug possession offenses of any degree whether misdemeanor or felony, each of which is contained in a separate criminal episode.
- (5) Subject to Subsections (7) and (8), a petitioner is not eligible to receive a certificate of eligibility if, at the time the petitioner seeks the certificate of eligibility, the bureau determines that the petitioner's criminal history, including previously expunged convictions, contains any of the following:
- (a) three or more felony convictions for drug possession offenses, each of which is contained in a separate criminal episode; or
- (b) any combination of five or more convictions for drug possession offenses, each of which is contained in a separate criminal episode.
- (6) If the petitioner's criminal history contains convictions for both a drug possession offense and a non-drug possession offense arising from the same criminal episode, the bureau shall count that criminal episode as a conviction under Subsection (4) if any non-drug possession offense in that episode:
  - (a) is a felony or class A misdemeanor; or
- (b) has the same or a longer waiting period under Subsection (1)(c) than any drug possession offense in that episode.
- (7) Except as provided in Subsection (8), if at least 10 years have passed after the day on which the petitioner was convicted or released from incarceration, parole, or probation, whichever occurred last, for all convictions:
- (a) each numerical eligibility limit under Subsections (4)(a) and (b) shall be increased by one; and
- (b) each numerical eligibility limit under Subsections (4)(c) and (d) is not applicable if the highest level of convicted offense in the criminal episode is:
  - (i) a class B misdemeanor;
- 1017 (ii) a class C misdemeanor;

1018	(iii) a drug possession offense if none of the non-drug possession offenses in the
1019	criminal episode are a felony or a class A misdemeanor; or
1020	(iv) an infraction.
1021	(8) When determining whether a petitioner is eligible for a certificate of eligibility
1022	under Subsection (4), (5), or (7), the bureau may not consider a petitioner's pending case or
1023	prior conviction for:
1024	(a) an infraction;
1025	(b) a traffic offense;
1026	(c) a minor regulatory offense; or
1027	(d) a clean slate eligible case that was automatically expunged [in accordance with
1028	<del>Section 77-40a-201</del> ].
1029	(9) If the petitioner received a pardon before May 14, 2013, from the Utah Board of
1030	Pardons and Parole, the petitioner is entitled to an expungement order for all pardoned crimes
1031	in accordance with Section 77-27-5.1.
1032	Section 16. Section 77-40a-304 is amended to read:
1033	77-40a-304. Certificate of eligibility process Issuance of certificate Fees.
1034	(1) (a) When a petitioner applies for a certificate of eligibility as described in
1035	Subsection 77-40a-301(1)[ <del>-</del> -]:
1036	(i) the bureau shall perform a check of records of governmental agencies, including
1037	national criminal data bases, to determine whether the petitioner is eligible to receive a
1038	certificate of eligibility under this chapter.
1039	(ii) the petitioner shall pay an application fee at the time the petitioner submits an
1040	application for a certificate of eligibility to the bureau; and
1041	(b) For purposes of determining eligibility under this chapter, the bureau may review
1042	records of arrest, investigation, detention, and conviction that have been previously expunged,
1043	regardless of the jurisdiction in which the expungement occurred.
1044	[(c) Once the eligibility process is complete, the bureau shall notify the petitioner.]
1045	[(d) If the petitioner meets all of the criteria under Section 77-40a-302 or 77-40a-303:]
1046	[(i) the bureau shall issue a certificate of eligibility that is valid for a period of 180 days
1047	from the day on which the certificate is issued;]
1048	[(ii) the bureau shall provide a petitioner with an identification number for the

1049	certificate of eligibility; and]
1050	[(iii) the petitioner shall pay the issuance fee established by the department as
1051	described in Subsection (2).]
1052	[(e)] (c) If[, after reasonable research,] a disposition for an arrest on the criminal
1053	history file is unobtainable after reasonable research, the bureau may issue a special certificate
1054	giving determination of eligibility to the court, except that the bureau may not issue the special
1055	certificate if:
1056	(i) there is a criminal proceeding for a misdemeanor or felony offense pending against
1057	the petitioner, unless the criminal proceeding is for a traffic offense;
1058	(ii) there is a plea in abeyance for a misdemeanor or felony offense pending against the
1059	petitioner, unless the plea in abeyance is for a traffic offense; or
1060	(iii) the petitioner is currently incarcerated, on parole, or on probation, unless the
1061	petitioner is on probation or parole for an infraction, a traffic offense, or a minor regulatory
1062	offense.
1063	(2) (a) Once the eligibility process is complete, the bureau shall notify the petitioner.
1064	(b) If the petitioner meets all of the criteria under Section 77-40a-302 or 77-40a-303
1065	and the bureau determines that the issuance of a certificate of eligibility or special certificate is
1066	appropriate:
1067	(i) the bureau shall issue a certificate of eligibility or special certificate that is valid for
1068	a period of 180 days from the day on which the certificate is issued;
1069	(ii) the bureau shall provide a petitioner with an identification number for the
1070	certificate of eligibility or special certificate; and
1071	(iii) except as provided in Subsection (3), the petitioner shall pay an additional fee for
1072	the issuance of a certificate of eligibility or special certificate.
1073	[(2) (a) The bureau shall charge application and issuance fees for a certificate of
1074	eligibility or special certificate in accordance with the process in Section 63J-1-504.]
1075	[(b) The application fee shall be paid at the time the petitioner submits an application
1076	for a certificate of eligibility to the bureau.]
1077	[(c) If the bureau determines that the issuance of a certificate of eligibility or special
1078	certificate is appropriate, the petitioner will be charged an additional fee for the issuance of a

certificate of eligibility or special certificate unless Subsection (2)(d) applies.]

1080	[(d) An issuance fee may not be assessed against a petitioner who]
1081	(3) The bureau shall issue a certificate of eligibility or special certificate without
1082	requiring the payment of the issuance fee if the petitioner:
1083	(a) qualifies for a certificate of eligibility under Section 77-40a-302 unless the charges
1084	were dismissed pursuant to a plea in abeyance agreement under Title 77, Chapter 2a, Pleas in
1085	Abeyance, or a diversion agreement under Title 77, Chapter 2, Prosecution, Screening, and
1086	Diversion[:]; or
1087	(b) indicates on the application for a certificate of eligibility that the petitioner
1088	reasonably believes, as of the date of the application, that the fee to file a petition for
1089	expungement is likely to be waived by a court because the petitioner is indigent.
1090	[(e) Funds generated under this Subsection (2) shall be deposited in the General Fund
1091	as a dedicated credit by the department to cover the costs incurred in determining eligibility.]
1092	$[\frac{(3)}{4}]$ The bureau shall include on the certificate of eligibility all information that is
1093	needed for the court to issue a valid expungement order.
1094	$\left[\frac{(4)}{(5)}\right]$ The bureau shall provide clear written instructions to the petitioner that
1095	explain:
1096	(a) the process for a petition for expungement; and
1097	(b) what is required of the petitioner to complete the process for a petition for
1098	expungement.
1099	(6) If a petitioner indicates on the application for a certificate of eligibility that a court
1100	is likely to waive the fee for a petition for expungement as described in Subsection (3)(b), the
1101	bureau shall:
1102	(a) inform the petitioner that the petitioner will be required to pay an issuance fee
1103	before an agency will notify other agencies of the expungement if a court does not waive the
1104	fee for a petition for expungement; and
1105	(b) provide the petitioner with the form for waiving a court fee for a petition for
1106	expungement.
1107	(7) If the bureau issues a certificate of eligibility or a special certificate without
1108	requiring payment of the issuance fee as described in Subsection (3)(b), the bureau shall charge
1109	the petitioner the issuance fee upon the bureau's receipt of an order deciding a petition for
1110	expungement unless the court communicates to the bureau that the fee to file the petition for

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1111	expungement was waived because the petitioner is indigent.			
1112	(8) (a) If the petitioner qualifies for a waiver of the issuance fee under Subsection (7)			
1113	and the expungement order grants the petition for expungement, the bureau shall process the			
1114	expungement order in accordance with Section 77-40a-401 as if the petitioner paid the issuance			
1115	<u>fee.</u>			
1116	(b) If the petitioner does not qualify for a waiver of the issuance fee under Subsection			
1117	(7) and the expungement order grants the petition for expungement, the bureau may not notify			
1118	other agencies affected by the expungement order as described in Section 77-40a-401 until the			
1119	petitioner pays the issuance fee.			
1120	(c) If the bureau issues a certificate of eligibility or special certificate without requiring			
1121	payment of the issuance fee under Subsection (3)(b), the bureau may not charge the petitioner			
1122	an issuance fee on the grounds that the validity of the certificate described in (2)(b)(i) has			
1123	expired.			
1124	(9) The bureau shall charge application and issuance fees for a certificate of eligibility			
1125	or special certificate in accordance with the process in Section 63J-1-504.			
1126	(10) The department shall deposit funds generated by application and issuance fees			
1127	under this section into the General Fund as a dedicated credit by the department to cover the			
1128	costs incurred in determining eligibility for expungement.			
1129	Section 17. Section 77-40a-305 is amended to read:			
1130	77-40a-305. Petition for expungement Prosecutorial responsibility Hearing.			
1131	(1) (a) The petitioner shall file a petition for expungement, in accordance with the Utah			
1132	Rules of Criminal Procedure, that includes the identification number for the certificate of			
1133	eligibility described in Subsection [ <del>77-40a-304(1)(d)(ii)</del> ] <u>77-40a-304(2)(b)(ii)</u> .			
1134	(b) Information on a certificate of eligibility is incorporated into a petition by reference			
1135	to the identification number for the certificate of eligibility.			
1136	(2) (a) If a petition for expungement is filed under Subsection (1)(a), the court shall			
1137	obtain a certificate of eligibility from the bureau.			
1138	(b) A court may not accept a petition for expungement if the certificate of eligibility is			
1139	no longer valid as described in Subsection [ <del>77-40a-304(1)(d)(i)</del> ] <del>77-40a-304(2)(b)(i)</del> .			

(3) Notwithstanding Subsection (2), the petitioner may file a petition for expungement

of a traffic offense case without obtaining a certificate of eligibility if:

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- (a) (i) for a traffic offense case with a class C misdemeanor or infraction, at least three years have passed after the day on which the petitioner was convicted; or
  - (ii) for a traffic offense case with a class B misdemeanor, at least four years have passed after the day on which the petitioner was convicted;
    - (b) there is no traffic offense case pending against the petitioner;
  - (c) there is no plea in abeyance for a traffic offense case pending against the petitioner; and
    - (d) the petitioner is not currently on probation for a traffic offense case.
  - (4) Notwithstanding Subsection (2), a petitioner may file a petition for expungement of a record for a conviction related to cannabis possession without a certificate of eligibility if the petition demonstrates that:
  - (a) the petitioner had, at the time of the relevant arrest or citation leading to the conviction, a qualifying condition, as that term is defined in Section 26B-4-201; and
  - (b) the possession of cannabis in question was in a form and an amount to medicinally treat the qualifying condition described in Subsection (4)(a).
  - (5) (a) The court shall provide notice of a filing of a petition and certificate of eligibility to the prosecutorial office that handled the court proceedings within three days after the day on which the petitioner's filing fee is paid or waived.
  - (b) If there were no court proceedings, the court shall provide notice of a filing of a petition and certificate of eligibility to the county attorney's office in the jurisdiction where the arrest occurred.
  - (c) If the prosecuting agency with jurisdiction over the arrest, investigation, detention, or conviction, was a city attorney's office, the county attorney's office in the jurisdiction where the arrest occurred shall immediately notify the city attorney's office that the county attorney's office has received a notice of a filing of a petition for expungement.
  - (6) (a) Upon receipt of a notice of a filing of a petition for expungement of a conviction or a charge dismissed in accordance with a plea in abeyance, the prosecuting attorney shall make a reasonable effort to provide notice to any victim of the conviction or charge.
    - (b) The notice under Subsection (6)(a) shall:
- 1171 (i) include a copy of the petition, certificate of eligibility, statutes, and rules applicable 1172 to the petition;

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1173	(ii) state that the victim has a right to object to the expungement; and
1174	(iii) provide instructions for registering an objection with the court.
1175	(7) (a) The prosecuting attorney may respond to the petition by filing a
1176	recommendation or objection with the court within 35 days after the day on which the notice of
1177	the filing of the petition is sent by the court to the prosecuting attorney.
1178	(b) If there is a victim of the offense for which expungement is sought, the victim may
1179	respond to the petition by filing a recommendation or objection with the court within 60 days
1180	after the day on which the petition for expungement was filed with the court.
1181	(8) (a) The court may request a written response to the petition from the Division of
1182	Adult Probation and Parole within the Department of Corrections.
1183	(b) If requested, the response prepared by the Division of Adult Probation and Parole
1184	shall include:
1185	(i) the reasons probation was terminated; and
1186	(ii) certification that the petitioner has completed all requirements of sentencing and
1187	probation or parole.
1188	(c) The Division of Adult Probation and Parole shall provide a copy of the response to
1189	the petitioner and the prosecuting attorney.
1190	(9) The petitioner may respond in writing to any objections filed by the prosecuting
1191	attorney or the victim and the response prepared by the Division of Adult Probation and Parole
1192	within 14 days after the day on which the objection or response is received.
1193	(10) (a) If the court receives an objection concerning the petition from any party, the
1194	court shall set a date for a hearing and notify the petitioner and the prosecuting attorney of the
1195	date set for the hearing.
1196	(b) The prosecuting attorney shall notify the victim of the date set for the hearing.
1197	(c) The petitioner, the prosecuting attorney, the victim, and any other person who has
1198	relevant information about the petitioner may testify at the hearing.
1199	(d) The court shall review the petition, the certificate of eligibility, and any written
1200	responses submitted regarding the petition.

(11) If no objection is received within 60 days from the day on which the petition for

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

(12) (a) If the petitioner seeks a waiver of the fee required for a petition for

- expungement in accordance with Section 78A-2-302, the court shall consider the total number of cases for which the petitioner has received a certificate of eligibility and is seeking expungement in determining whether the petitioner is indigent under Subsection 78A-2-302(3)(e) even if the court does not have jurisdiction over a case for which the petitioner is seeking expungement.

  (b) If a court grants a waiver of the fee required for a petition for expungement in
  - (b) If a court grants a waiver of the fee required for a petition for expungement in accordance with Section 78A-2-302, and only upon a request from the petitioner, a subsequent court shall grant a waiver of a fee for a petition for expungement if the prior court waived the fee for a petition for expungement within 180 days before the day on which the petitioner filed the petition for expungement with the subsequent court.
    - Section 18. Section 77-40a-306 is amended to read:

#### 77-40a-306. Order of expungement.

- (1) If a petition is filed in accordance with Section 77-40a-305, the court shall issue an order of expungement if the court finds, by clear and convincing evidence, that:
- (a) except as provided in Subsection 77-40a-305(3) or (4), the petition and certificate of eligibility are sufficient;
  - (b) the statutory requirements have been met;
- (c) if the petitioner seeks expungement after a case is dismissed without prejudice or without condition, the prosecuting attorney provided written consent and has not filed and does not intend to refile related charges;
- (d) if the petitioner seeks expungement without a certificate of eligibility for expungement under Subsection 77-40a-305(4) for a record of conviction related to cannabis possession:
- (i) the petitioner had, at the time of the relevant arrest or citation leading to the conviction, a qualifying condition, as that term is defined in Section 26B-4-201; and
- (ii) the possession of cannabis in question was in a form and an amount to medicinally treat the qualifying condition described in Subsection (1)(d)(i);
- (e) if an objection is received, the petition for expungement is for a charge dismissed in accordance with a plea in abeyance agreement, and the charge is an offense eligible to be used for enhancement, there is good cause for the court to grant the expungement; and
  - (f) the interests of the public would not be harmed by granting the expungement.

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1235	(2) (a) If the court denies a petition described in Subsection (1)(c) because the	
1236	prosecuting attorney intends to refile charges, the petitioner may apply again for a certificate of	
1237	eligibility if charges are not refiled within 180 days after the day on which the court denies th	
1238	petition.	
1239	(b) A prosecuting attorney who opposes an expungement of a case dismissed without	
1240	prejudice, or without condition, shall have a good faith basis for the intention to refile the case.	
1241	(c) A court shall consider the number of times that good faith basis of intention to	
1242	refile by the prosecuting attorney is presented to the court in making the court's determination	
1243	to grant the petition for expungement described in Subsection (1)(c).	
1244	(3) If the court grants a petition described in Subsection (1)(e), the court shall make the	
1245	court's findings in a written order.	
1246	(4) A court may not expunge a conviction of an offense for which a certificate of	
1247	eligibility may not be, or should not have been, issued under Section 77-40a-302 or	
1248	77-40a-303.	
1249	(5) If a court grants a petition for expungement, the court shall:	
1250	(a) expunge all records of the case as described in Section 77-40a-401; and	
1251	(b) notify the bureau of the order of expungement.	
1252	Section 19. Section 77-40a-307 is enacted to read:	
1253	77-40a-307. Distribution of expungement order based on a petition to all agencies	
1254	(1) (a) Upon receiving notice from the court of an expungement order as described in	
1255	Subsection 77-40a-306(5), the bureau shall notify all agencies affected by the expungement	
1256	order.	
1257	(b) For purposes of Subsection (1)(a), the bureau may not notify the Board of Pardons	
1258	and Parole of an expungement order if the individual has never been:	
1259	(i) sentenced to prison in this state; or	
1260	(ii) under the jurisdiction of the Board of Pardons and Parole.	
1261	(c) The bureau shall forward a copy of the expungement order to the Federal Bureau of	
1262	Investigation.	
1263	(2) A petitioner may deliver copies of the expungement to all agencies affected by the	
1264	order of expungement.	

(3) If an agency receives an expungement order under this part, the agency shall

1266	expunge all records for the case in accordance with Section 77-40a-401.		
1267	Section 20. Section 77-40a-401 is amended to read:		
1268	Part 4. Expungement of Criminal Records		
1269	77-40a-401. Distribution of order Processing of expungement order Written		
1270	confirmation of expungement Effect of an expungement.		
1271	[(1) (a) The bureau, upon receiving notice from the court, shall notify all criminal		
1272	justice agencies affected by the expungement order.]		
1273	[(b) For purposes of Subsection (1)(a), the bureau may not notify the Board of Pardons		
1274	and Parole of an expungement order if the individual has never been:]		
1275	[(i) sentenced to prison in this state; or]		
1276	[(ii) under the jurisdiction of the Board of Pardons and Parole.]		
1277	[(c) A petitioner may deliver copies of the expungement to all criminal justice agencies		
1278	affected by the order of expungement.]		
1279	[(d) An individual, who receives an expungement order under Section 77-27-5.1, shall		
1280	pay a processing fee to the bureau, established in accordance with the process in Section		
1281	63J-1-504, before the bureau's record may be expunged.]		
1282	[(2) Unless otherwise provided by law or ordered by a court to respond differently, an		
1283	individual or agency who has received an expungement of an arrest or conviction under this		
1284	chapter or Section 77-27-5.1 may respond to any inquiry as though the arrest or conviction did		
1285	not occur.]		
1286	[(3) The bureau shall forward a copy of the expungement order to the Federal Bureau		
1287	of Investigation.]		
1288	[(4) An agency receiving an expungement order shall expunge the individual's		
1289	identifying information contained in records in the agency's possession relating to the incident		
1290	for which expungement is ordered.]		
1291	[(5) Unless ordered by a court to do so, or in accordance with Section 77-40a-403, a		
1292	government agency or official may not divulge information or records that have been		
1293	expunged.]		
1294	(1) In processing an expungement order, a court and the bureau shall give priority to:		
1295	(a) first, an expungement order granting a petition for expungement as described in		
1296	Section 77-40a-306; and		

1207	(b) and d an arrange and and a supplier an arrange are supplied as D and 2			
1297	(b) second, an expungement order granting an automatic expungement under Part 2,			
1298	Automatic Expungement and Deletion.			
1299	(2) An individual, who receives an expungement order under Section 77-27-5.1, shall			
1300	pay a processing fee to the bureau, established in accordance with the process in Section			
1301	63J-1-504, before the bureau's record may be expunged.			
1302	(3) An agency shall:			
1303	(a) develop and implement a process to identify an expunged record; and			
1304	(b) keep, index, and maintain all expunged records of arrests and convictions.			
1305	(4) (a) If an individual who receives an expungement requests confirmation from an			
1306	agency, the agency shall provide the individual with written confirmation that:			
1307	(i) the agency has identified all records subject to expungement; and			
1308	(ii) except as otherwise provided by Sections 77-40a-402 and 77-40a-403, the agency			
1309	will restrict or deny access to all of the expunged records.			
1310	(b) The bureau may charge a fee for providing a written confirmation under Subsection			
1311	(4)(a) in accordance with the process in Section 63J-1-504.			
1312	(5) Upon entry of an expungement order, an individual, who received the			
1313	expungement, may respond to any inquiry as though the conviction did not occur unless			
1314	otherwise provided by law or ordered by a court to respond differently.			
1315	(6) (a) An expungement order may not restrict an agency's use or dissemination of			
1316	records in the agency's ordinary course of business until the agency has received a copy of the			
1317	order.			
1318	(b) Any action taken by an agency after issuance of the order but prior to the agency's			
1319	receipt of a copy of the order may not be invalidated by the order.			
1320	(7) An expungement order may not:			
1321	(a) terminate or invalidate any pending administrative proceedings or actions of which			
1322	the individual had notice according to the records of the administrative body prior to issuance			
1323	of the expungement order;			
1324	(b) affect the enforcement of any order or findings issued by an administrative body			
1325	pursuant to the administrative body's lawful authority prior to issuance of the expungement			
1326	order;			
1327	(c) remove any evidence relating to the individual including records of arrest, which			

eligibility.

1328	the administrative body has used or may use in these proceedings; or			
1329	(d) prevent an agency from maintaining, sharing, or distributing any record required by			
1330	law.			
1331	Section 21. Section 77-40a-402 is amended to read:			
1332	77-40a-402. Distribution for order for vacatur.			
1333	(1) An individual who receives an order for vacatur under Subsection 78B-9-108(2)			
1334	shall be responsible for delivering a copy of the order for vacatur to all affected [criminal			
1335	justice agencies and officials] agencies.			
1336	(2) To complete delivery of the order for vacatur to the bureau, the individual shall			
1337	complete and attach to the order for vacatur an application for a certificate of eligibility for			
1338	expungement, including identifying information and fingerprints, in accordance with Section			
1339	77-40a-301.			
1340	(3) Except as otherwise provided in this section, the bureau shall treat the order for			
1341	vacatur and attached certificate of eligibility for expungement the same as a valid order for			
1342	expungement under Section 77-40a-401.			
1343	(4) Unless otherwise provided by law or ordered by a court to respond differently, an			
1344	individual who has received a vacatur of conviction under Subsection 78B-9-108(2) may			
1345	respond to any inquiry as though the conviction did not occur.			
1346	(5) The bureau shall forward a copy of the order for vacatur to the Federal Bureau of			
1347	Investigation.			
1348	(6) An agency receiving an order for vacatur shall expunge the individual's identifying			
1349	information contained in records in the agency's possession relating to the incident for which			
1350	vacatur is ordered.			
1351	(7) [A government] An agency or official may not divulge information contained in a			
1352	record of arrest, investigation, detention, or conviction after receiving an order for vacatur to			
1353	any person or agency, except for:			
1354	(a) the individual for whom vacatur was ordered; or			
1355	(b) Peace Officer Standards and Training, in accordance with Section 53-6-203 and			
1356	Subsection [ <del>77-40a-403(4)(b)</del> ] 77-40a-403(2)(b).			

(8) The bureau may not count vacated convictions against any future expungement

1359	Section 22. Section 77-40a-403 is amended to read:	
1360	77-40a-403. Release and use of expunged records.	
1361	[(1) (a) The bureau, after receiving an expungement order, shall keep, index, and	
1362	maintain all expunged records of arrests and convictions.]	
1363	[(b) Any agency, other than the bureau, receiving an expungement order shall develop	
1364	and implement a process to identify and maintain an expunged record.]	
1365	[(2) (a) An agency shall provide an individual who receives an expungement with	
1366	written confirmation that the agency has expunged all records of the offense for which the	
1367	individual received the expungement if the individual requests confirmation from the agency.]	
1368	[(b) The bureau may charge a fee for providing a written confirmation under	
1369	Subsection (2)(a) in accordance with the process in Section 63J-1-504.]	
1370	[(3)] (1) (a) [An employee of the bureau, or any agency with an expunged record, may	
1371	not] An agency with an expunged record, or any employee of an agency with an expunged	
1372	record, may not knowingly or intentionally divulge any information contained in the expunged	
1373	record to any person, or another agency, without a court order unless:	
1374	(i) specifically authorized by statute; or	
1375	(ii) subject to Subsection $[\frac{(3)(b)}{(1)(b)}]$ , the information in an expunged record is	
1376	being shared with another agency through a records management system that both agencies use	
1377	for the purpose of record management.	
1378	(b) An agency with a records management system may not disclose any information in	
1379	an expunged record with another agency or person that does not use the records management	
1380	system for the purpose of record management.	
1381	[(4)] (2) The following entities or agencies may receive information contained in	
1382	expunged records upon specific request:	
1383	(a) the Board of Pardons and Parole;	
1384	(b) Peace Officer Standards and Training;	
1385	(c) federal authorities if required by federal law;	
1386	(d) the State Board of Education;	
1387	(e) the Commission on Criminal and Juvenile Justice, for purposes of investigating	
1388	applicants for judicial office; and	
1389	(f) a research institution or an agency engaged in research regarding the criminal justice	

1390 system if:

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- (i) the research institution or agency provides a legitimate research purpose for gathering information from the expunged records;
- (ii) the research institution or agency enters into a data sharing agreement with the court or agency with custody of the expunged records that protects the confidentiality of any identifying information in the expunged records;
- (iii) any research using expunged records does not include any individual's name or identifying information in any product of that research; and
- (iv) any product resulting from research using expunged records includes a disclosure that expunged records were used for research purposes.
- [(5)] (3) Except as otherwise provided by this section or by court order, a person, an agency, or an entity authorized by this section to view expunged records may not reveal or release any information obtained from the expunged records to anyone outside the specific request, including distribution on a public website.
- [(6)] (4) A prosecuting attorney may communicate with another prosecuting attorney, or another prosecutorial agency, regarding information in an expunged record that includes a conviction, or a charge dismissed as a result of a successful completion of a plea in abeyance agreement, for:
  - (a) stalking as described in Section 76-5-106.5;
  - (b) a domestic violence offense as defined in Section 77-36-1;
- (c) an offense that would require the individual to register as a sex offender, as defined in Section 77-41-102; or
  - (d) a weapons offense under Title 76, Chapter 10, Part 5, Weapons.
- [(7)] (5) Except as provided in Subsection [(9)] (7), a prosecuting attorney may not use an expunged record for the purpose of a sentencing enhancement or as a basis for charging an individual with an offense that requires a prior conviction.
- [<del>(8)</del>] <u>(6)</u> The bureau may also use the information in the bureau's index as provided in Section 53-5-704.
- 1418 [(9)] (7) If[, after obtaining an expungement,] an individual is charged with a felony or 1419 an offense eligible for enhancement based on a prior conviction[, the state] after obtaining an 1420 expungement, the prosecuting attorney may petition the court to open the expunged records

1421	upon a showing of good cause.		
1422	[(10)] (8) (a) For judicial sentencing, a court may order any records expunged under		
1423	this chapter or Section 77-27-5.1 to be opened and admitted into evidence.		
1424	(b) The records are confidential and are available for inspection only by the court,		
1425	parties, counsel for the parties, and any other person who is authorized by the court to inspect		
1426	them.		
1427	(c) At the end of the action or proceeding, the court shall order the records expunged		
1428	again.		
1429	(d) Any person authorized by this Subsection [(10)] (8) to view expunged records may		
1430	not reveal or release any information obtained from the expunged records to anyone outside the		
1431	court.		
1432	[(11)] (9) Records released under this chapter are classified as protected under Section		
1433	63G-2-305 and are accessible only as provided under Title 63G, Chapter 2, Part 2, Access to		
1434	Records, and Subsection 53-10-108(2)(k) for records held by the bureau.		
1435	Section 23. Section 77-40a-404 is amended to read:		
1436	77-40a-404. Confirmation of expungement Access to expunged records by		
1437	individuals.		
1438	(1) An individual who receives an expungement may request a written confirmation		
1439	from an agency under Subsection [77-40a-403(2)] 77-40a-401(4) to confirm that the agency		
1440	has expunged all records of the offense for which the individual received the expungement.		
1441	(2) The following individuals may view or obtain an expunged record under this		
1442	chapter or Section 77-27-5.1:		
1443	(a) the petitioner or an individual who receives an automatic expungement under		
1444	[Section 77-40a-201] Part 2, Automatic Expungement and Deletion;		
1445	(b) a law enforcement officer, who was involved in the case, for use solely in the		
1446	officer's defense of a civil action arising out of the officer's involvement with the petitioner in		
1447	that particular case; and		
1448	(c) a party to a civil action arising out of the expunged incident if the information is		
1449	kept confidential and utilized only in the action.		
1450	Section 24. Section <b>78A-2-302</b> is amended to read:		

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

1452	(1) As used in Sections 78A-2-302 through 78A-2-309:		
1453	(a) "Convicted" means:		
1454	(i) a conviction by entry of a plea of guilty or nolo contendere, guilty with a mental		
1455	condition, no contest; and		
1456	(ii) a conviction of any crime or offense.		
1457	(b) "Indigent" means [an individual who is financially unable to pay fees and costs or		
1458	give security] a financial status that results from a court finding that a petitioner is financially		
1459	unable to pay the fee, a cost, or give security.		
1460	(c) "Prisoner" means an individual who has been convicted of a crime and is		
1461	incarcerated for that crime or is being held in custody for trial or sentencing.		
1462	(2) An individual may institute, prosecute, defend, or appeal any cause in a court in this		
1463	state without prepayment of fees and costs or security if:		
1464	(a) the individual submits an affidavit demonstrating that the individual is indigent[-];		
1465	<u>or</u>		
1466	(b) the individual is seeking a waiver of the fee for a petition for expungement and the		
1467	individual provides the court with proof that another court granted a waiver for a petition for		
1468	expungement as described in Subsection 77-40a-305(12)(b).		
1469	(3) A court shall find an individual indigent if the individual's affidavit under		
1470	Subsection (2) demonstrates:		
1471	(a) if the cause is not a petition for expungement, the individual has an income level at		
1472	or below 150% of the United States poverty level as defined by the most recent poverty income		
1473	guidelines published by the United States Department of Health and Human Services;		
1474	(b) if the cause is a petition for expungement, the individual has an income level at or		
1475	below 250% of the United States poverty level as defined by the most recent poverty income		
1476	guidelines published by the United States Department of Health and Human Services;		
1477	[(b)] (c) the individual receives benefits from a means-tested government program,		
1478	including Temporary Assistance to Needy Families, Supplemental Security Income, the		
1479	Supplemental Nutrition Assistance Program, or Medicaid;		
1480	[(c)] (d) the individual receives legal services from a nonprofit provider or a pro bono		
1481	attorney through the Utah State Bar; or		
1482	[(d)] (e) the individual has insufficient income or other means to pay the necessary fees		

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1483	and costs or security without depriving the individual, or the individual's family, of food,			
1484	shelter, clothing, or other necessities.			
1485	(4) An affidavit demonstrating that an individual is indigent under Subsection $[(3)(d)]$			
1486	(3)(e) shall contain complete information on the individual's:			
1487	(a) identity and residence;			
1488	(b) amount of income, including any government financial support, alimony, or child			
1489	support;			
1490	(c) assets owned, including real and personal property;			
1491	(d) business interests;			
1492	(e) accounts receivable;			
1493	(f) securities, checking and savings account balances;			
1494	(g) debts; and			
1495	(h) monthly expenses.			
1496	(5) If the individual under Subsection (3) is a prisoner, the prisoner shall disclose the			
1497	amount of money held in the prisoner's trust account at the time the affidavit under Subsection			
1498	(2) is executed in accordance with Section 78A-2-305.			
1499	(6) An affidavit of indigency under this section shall state the following:			
1500	I, (insert name), do solemnly swear or affirm that due to my poverty I am unable to bear			
1501	the expenses of the action or legal proceedings which I am about to commence or the appeal			
1502	which I am about to take, and that I believe I am entitled to the relief sought by the action, legal			
1503	proceedings, or appeal.			
1504	(7) The Administrative Office of the Courts shall include on a form for an affidavit of			
1505	indigency the following warning: "It is a crime for anyone to intentionally or knowingly			
1506	provide false or misleading information to the court when seeking a waiver of a court fee."			
1507	Section 25. Section <b>78A-7-209.5</b> is amended to read:			
1508	78A-7-209.5. Presiding judge Associate presiding judge Election Powers			
1509	Duties.			
1510	(1) (a) In judicial districts having more than one justice court judge, the justice court			
1511	judges shall elect one judge of the district to the office of presiding judge.			
1512	(b) The presiding judge shall receive an additional \$2,000 per annum as compensation			
1513	from the Justice Court Technology, Security, and Training Account described in Section			

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judge.

1514 78A-7-301 for the period served as presiding judge. (2) (a) In judicial districts having more than two justice court judges, the justice court 1515 1516 judges may elect one judge of the district to the office of associate presiding judge. 1517 (b) The associate presiding judge shall receive an additional \$1,000 per annum as 1518 compensation from the Justice Court Technology, Security, and Training Account described in 1519 Section 78A-7-301 for the period served as associate presiding judge. 1520 (3) The presiding judge has the following authority and responsibilities, consistent with 1521 the policies of the Judicial Council: 1522 (a) working with each justice court judge in the district to implement policies and rules 1523 of the Judicial Council; 1524 (b) exercising powers and performing administrative duties as authorized by the 1525 Judicial Council; 1526 (c) if there is no other appointed justice court judge in that court available, assigning a 1527 justice court judge to hear a case in which a judge has been disqualified in accordance with 1528 rules of the Supreme Court; 1529 (d) if a justice court judge of the district cannot perform the justice court judge's duties 1530 in a case or cases due to illness, death, or other incapacity, and the governing body has not 1531 appointed a temporary justice court judge in accordance with Section 78A-7-208: 1532 (i) assigning, on an emergency basis, a justice court judge to hear a case or cases; and 1533 (ii) facilitating judicial coverage with the appointing municipal or county authority 1534 until a temporary justice court judge can be appointed, in accordance with Section 78A-7-208, 1535 or a new justice court judge is formally appointed and takes office, in accordance with Section 1536 78A-7-202; and 1537 (e) entering orders of expungement in cases expunged in accordance with [Section 1538 77-40a-201] Title 77, Chapter 40a, Part 2, Automatic Expungement and Deletion. 1539 (4) (a) When the presiding judge is unavailable, the associate presiding judge shall 1540 assume the responsibilities of the presiding judge.

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

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

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

1545	As used in this part:			
1546	(1) (a) [Except as provided in Subsection (1)(b), "agency"] "Agency" means, except as			
1547	provided in Subsection (1)(b), a state, county, or local government entity that generates or			
1548	maintains records relating to a civil order for which expungement may be ordered.			
1549	(b) "Agency" does not include the Division of Child and Family Services created in [			
1550	]Section 80-2-201.			
1551	(2) "Civil order" means:			
1552	(a) an ex parte civil protective order;			
1553	(b) an ex parte civil stalking injunction;			
1554	(c) a civil protective order; or			
1555	(d) a civil stalking injunction.			
1556	[(3) "Expunge" means to seal or otherwise restrict access to an individual's record held			
1557	by an agency when the record includes a civil order.]			
1558	(3) (a) "Expunge" means to remove a record from public inspection by:			
1559	(i) sealing the record; or			
1560	(ii) restricting or denying access to the record.			
1561	(b) "Expunge" does not include the destruction of a record.			
1562	(4) "Petitioner" means an individual petitioning for expungement of a civil order under			
1563	this part.			
1564	Section 27. Section <b>78B-7-1004</b> is amended to read:			
1565	78B-7-1004. Distribution and effect of order of expungement Penalty.			
1566	(1) An individual who receives an order of expungement under Section 78B-7-1003			
1567	shall be responsible for delivering a copy of the order of expungement to any affected agency.			
1568	[(2) Upon receipt of an order of expungement as described in Subsection (1), an agency			
1569	shall expunge all records described in the expungement order that are under the control of the			
1570	agency.]			
1571	(2) If an agency receives an expungement order as described in Subsection (1), the			
1572	agency shall expunge all records affected by the expungement order.			
1573	(3) Upon entry of an expungement order by a court under Section 78B-7-1003:			
1574	(a) the civil order is considered to never have occurred; and			
1575	(b) the petitioner may reply to an inquiry on the matter as though there was never a			

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- 1577 (4) (a) Unless ordered by a court to do so, an agency or official may not divulge 1578 information or records that have been expunged under this part.
  - (b) An expungement order may not restrict an agency's use or dissemination of records in the agency's ordinary course of business until the agency has received a copy of the expungement order.
  - (c) Any action taken by an agency after issuance of the expungement order but before the agency's receipt of a copy of the expungement order may not be invalidated by the order.
    - (5) An expungement order under this part may not:
  - (a) terminate or invalidate any pending administrative proceedings or actions of which the individual had notice according to the records of the administrative body before issuance of the expungement order;
  - (b) affect the enforcement of any order or findings issued by an administrative body pursuant to the administrative body's lawful authority prior to issuance of the expungement order; or
  - (c) prevent an agency from maintaining, sharing, or distributing any record required by law.
    - (6) An employee or agent of an agency that is prohibited from disseminating information from an expunged record under this section who knowingly or intentionally discloses identifying information from the expunged record, unless allowed by law, is guilty of a class A misdemeanor.
    - (7) Records expunged under this part may be released to, or viewed by, the following individuals:
      - (a) the petitioner; or
    - (b) parties to a civil action arising out of the expunged civil order, providing the information is kept confidential and utilized only in the action.
  - (8) This part does not preclude a court from considering the same circumstances or evidence for which an expunged civil order was issued in any proceeding that occurs after the civil order is expunged.
- Section 28. Section **80-6-1001** is amended to read:
- 1606 **80-6-1001.** Definitions.

1607	As used in this part:
1608	(1) "Abstract" means a copy or summary of a court's disposition.
1609	(2) (a) "Agency" means a state, county, or local government entity that generates or
1610	maintains records for which expungement may be ordered under this part.
1611	(b) "Agency" includes a local education agency, as defined in Section 53E-1-102, for
1612	purposes of this part.
1613	(3) (a) "Expunge" means [to seal or otherwise restrict access to a record that is part of
1614	an individual's juvenile record and in the custody of the juvenile court or an agency] to remove
1615	a juvenile record from public inspection by:
1616	(i) sealing the juvenile record; or
1617	(ii) restricting or denying access to the juvenile record.
1618	(b) "Expunge" does not include the destruction of a juvenile record.
1619	(4) (a) "Juvenile record" means all records for all incidents of delinquency involving an
1620	individual that are in the custody of the juvenile court or an agency.
1621	(b) "Juvenile record" does not include a record of an adjudication under Chapter 3,
1622	Abuse, Neglect, and Dependency Proceedings, or Chapter 4, Termination and Restoration of
1623	Parental Rights.
1624	(5) "Petitioner" means an individual requesting an expungement or vacatur under this
1625	part.
1626	Section 29. Section <b>80-6-1006.1</b> is amended to read:
1627	80-6-1006.1. Exceptions to expungement order Distribution of expungement
1628	order Agency duties Effect of expungement Access to expunged record.
1629	(1) This section applies to an expungement order under Section 80-6-1004.1,
1630	80-6-1004.2, 80-6-1004.3, 80-6-1004.4, or 80-6-1004.5.
1631	(2) The juvenile court may not order:
1632	(a) the Board of Pardons and Parole and the Department of Corrections to seal a record
1633	in the possession of the Board of Pardons and Parole or the Department of Corrections, except
1634	that the juvenile court may order the Board of Pardons and Parole and the Department of
1635	Corrections to restrict access to a record if the record is specifically identified in the
1636	expungement order as a record in the possession of the Board of Pardons and Parole or the
1637	Department of Corrections; or

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purpose of making decisions about:

1638 (b) the Division of Child and Family Services to expunge a record in an individual's 1639 juvenile record that is contained in the Management Information System or the Licensing 1640 Information System unless: 1641 (i) the record is unsupported; or 1642 (ii) after notice and an opportunity to be heard, the Division of Child and Family 1643 Services stipulates in writing to expunging the record. 1644 (3) (a) If the juvenile court issues an expungement order, the juvenile court shall send a 1645 copy of the expungement order to any affected agency or official identified in the juvenile 1646 record. 1647 (b) An individual who is the subject of an expungement order may deliver copies of the 1648 expungement order to all agencies and officials affected by the expungement order. 1649 (4) (a) Upon receipt of an expungement order, an agency shall: 1650 (i) [to avoid destruction or expungement of records in whole or in part, expunge only 1651 the references to the individual's name in the records relating to the individual's adjudication, 1652 nonjudicial adjustment, petition, arrest, investigation, or detention for which expungement is 1653 ordered expunge all records affected by the expungement order; and 1654 (ii) destroy all photographs and records created under Section 80-6-608, except that a 1655 record of a minor's fingerprints may not be destroyed by an agency. 1656 (b) An agency that receives a copy of an expungement order shall mail an affidavit to 1657 the individual who is the subject of the expungement order, or the individual's attorney, that the 1658 agency has complied with the expungement order. 1659 (5) Notwithstanding Subsection (4), the Board of Pardons and Parole and the 1660 Department of Corrections: 1661 (a) may not disclose records expunged in an expungement order unless required by 1662 law; 1663 (b) are not required to destroy any photograph or record created under Section 1664 80-6-608: 1665 (c) may use an expunged record for purposes related to incarceration and supervision

of an individual under the jurisdiction of the Board of Pardons and Parole, including for the

(i) the treatment and programming of the individual;

1669	(11) housing of the individual;
1670	(iii) applicable guidelines regarding the individual; or
1671	(iv) supervision conditions for the individual;
1672	(d) are not prohibited from disclosing or sharing any information in an expunged
1673	record with another agency that uses the same record management system as the Board of
1674	Pardons and Parole or the Department of Corrections; and
1675	(e) are not required to mail an affidavit under Subsection (4)(b).
1676	(6) Upon entry of an expungement order:
1677	(a) an adjudication, a nonjudicial adjustment, a petition, an arrest, an investigation, or a
1678	detention for which the record is expunged is considered to have never occurred; and
1679	(b) the individual, who is the subject of the expungement order, may reply to an inquiry
1680	on the matter as though there never was an adjudication, a nonjudicial adjustment, a petition,
1681	an arrest, an investigation, or a detention.
1682	(7) A record expunged under Section 80-6-1004.1, 80-6-1004.2, 80-6-1004.3,
1683	80-6-1004.4, or 80-6-1004.5 may be released to, or viewed by, the individual who is the subject
1684	of the record.
1685	Section 30. Repealer.
1686	This bill repeals:
1687	Section 77-40a-203, Time periods for expungement or deletion Identification and
1688	processing of clean slate eligible cases.
1689	Section 31. Effective date.
1690	This bill takes effect on October 1, 2024.