

Representative Karianne Lisonbee proposes the following substitute bill:

AMENDMENTS TO EXPUNGEMENT

2024 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Karianne Lisonbee

Senate Sponsor: _____

LONG TITLE

General Description:

This bill addresses the expungement of records.

Highlighted Provisions:

This bill:

- ▶ repeals sunset dates regarding issuance and filing fees for expungement;
- ▶ repeals language relating to the suspension of issuance fees for certificates of eligibility for expungement and filing fees for petitions for expungement;
- ▶ allows a court to issue an order of expungement for a plea in abeyance when the defendant has completed a problem solving court program and the court dismisses the case against the defendant;
- ▶ defines terms related to expungement;
- ▶ clarifies automatic deletion of a traffic offense;
- ▶ amends and clarifies provisions related to the automatic expungement of a case, including:
 - for an automatic expungement on and after January 1, 2025, prohibiting an automatic expungement if the individual is incarcerated in the state prison or on probation or parole that is supervised by the Department of Corrections; and
 - prohibiting an automatic expungement if there is a criminal proceeding pending



26 in this state against the individual for a misdemeanor or felony offense, unless the proceeding
27 is for a traffic offense;

28 ▶ clarifies the certificate of eligibility process;

29 ▶ allows for the waiver of an issuance fee for a certificate of eligibility or a special
30 certificate if a court finds that the individual filing the petition for expungement is
31 indigent;

32 ▶ requires a court to consider the total number of cases for which an individual has
33 received a certificate of expungement when determining whether the individual is
34 indigent;

35 ▶ requires a subsequent court to waive a filing fee for a petition for expungement if a
36 prior court found the individual to be indigent within 180 days before the filing of
37 the petition for expungement;

38 ▶ establishes the priority in how expungement orders are processed by a court and the
39 Bureau of Criminal Identification;

40 ▶ requires an agency to develop and implement a process to identify expunged records
41 and keep, index, and maintain all expunged records of arrest;

42 ▶ clarifies the effect of an expungement;

43 ▶ addresses the waiver of a fee for a petition for expungement when the individual has
44 previously received a waiver for a petition for expungement from a prior court;

45 ▶ requires a court to find an individual indigent if the individual submits an affidavit
46 of indigency demonstrating that the individual has an income at or below 250% of
47 the United States poverty level;

48 ▶ requires the Administrative Office of the Courts to include a warning on an affidavit
49 of indigency;

50 ▶ clarifies the expungement of records regarding protective orders, stalking
51 injunctions, and juvenile records; and

52 ▶ makes technical and conforming changes.

53 **Money Appropriated in this Bill:**

54 None

55 **Other Special Clauses:**

56 This bill provides a special effective date.

57 **Utah Code Sections Affected:**

58 AMENDS:

59 **63I-1-277**, as last amended by Laws of Utah 2022, Chapter 384 and last amended by
60 Coordination Clause, Laws of Utah 2022, Chapter 384

61 **63I-1-278**, as last amended by Laws of Utah 2022, Chapters 188, 318, 384, and 423

62 **77-2a-3**, as last amended by Laws of Utah 2023, Chapters 113, 415

63 **77-40a-101**, as last amended by Laws of Utah 2023, Chapter 265

64 **77-40a-104**, as last amended by Laws of Utah 2023, Chapter 265

65 **77-40a-201**, as renumbered and amended by Laws of Utah 2022, Chapter 250

66 **77-40a-202**, as renumbered and amended by Laws of Utah 2022, Chapter 250

67 **77-40a-203**, as renumbered and amended by Laws of Utah 2022, Chapter 250

68 **77-40a-301**, as enacted by Laws of Utah 2022, Chapter 250

69 **77-40a-302**, as last amended by Laws of Utah 2023, Chapter 265

70 **77-40a-303**, as last amended by Laws of Utah 2023, Chapter 265

71 **77-40a-304**, as last amended by Laws of Utah 2023, Chapter 265

72 **77-40a-305**, as last amended by Laws of Utah 2023, Chapters 265, 330

73 **77-40a-306**, as last amended by Laws of Utah 2023, Chapter 330

74 **77-40a-401**, as last amended by Laws of Utah 2023, Chapter 265

75 **77-40a-402**, as last amended by Laws of Utah 2023, Chapter 265

76 **77-40a-403**, as last amended by Laws of Utah 2023, Chapter 265

77 **77-40a-404**, as last amended by Laws of Utah 2023, Chapter 265

78 **78A-2-302**, as last amended by Laws of Utah 2023, Chapter 184

79 **78A-7-209.5**, as enacted by Laws of Utah 2022, Chapter 276

80 **78B-7-1001**, as enacted by Laws of Utah 2022, Chapter 270

81 **78B-7-1004**, as enacted by Laws of Utah 2022, Chapter 270

82 **80-6-1001**, as last amended by Laws of Utah 2023, Chapter 115

83 **80-6-1006.1**, as enacted by Laws of Utah 2023, Chapter 115

84 ENACTS:

85 **77-40a-202.1**, Utah Code Annotated 1953

86 **77-40a-202.5**, Utah Code Annotated 1953

87

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

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

90 **63I-1-277. Repeal dates: Title 77.**

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

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

94 **63I-1-278. Repeal dates: Title 78A and Title 78B.**

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

97 [~~(2)~~] (1) Section **78B-3-421**, regarding medical malpractice arbitration agreements, is
98 repealed July 1, 2029.

99 [~~(3)~~] (2) Subsection **78A-7-106(6)**, regarding the transfer of a criminal action involving
100 a domestic violence offense from the justice court to the district court, is repealed on July 1,
101 2024.

102 [~~(4)~~] (3) Section **78B-4-518**, regarding the limitation on employer liability for an
103 employee convicted of an offense, is repealed on July 1, 2025.

104 [~~(5)~~] (4) Title 78B, Chapter 6, Part 2, Alternative Dispute Resolution Act, is repealed
105 July 1, 2026.

106 [~~(6)~~] (5) Title 78B, Chapter 12, Part 4, Advisory Committee, which creates the Child
107 Support Guidelines Advisory Committee, is repealed July 1, 2026.

108 [~~(7)~~] (6) Section **78B-22-805**, regarding the Interdisciplinary Parental Representation
109 Pilot Program, is repealed December 31, 2024.

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

111 **77-2a-3. Manner of entry of plea -- Powers of court -- Expungement.**

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

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

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

118 (a) reduce the degree of the offense [~~and enter judgment of conviction and impose~~

119 ~~sentence for a lower degree of offense; or], enter a judgment of conviction for the lower degree~~
120 ~~of the offense, and impose a sentence for the lower degree of the offense;~~

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

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

123 (i) the defendant successfully completes a problem solving court program that is
124 certified by the Judicial Council; and

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

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

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

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

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

135 (A) the defendant successfully completes a problem solving court program that is
136 certified by the Judicial Council; and

137 (B) the court allows the withdrawal of the defendant's plea and orders the dismissal of
138 the case.

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

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

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

146 (a) an order that the defendant pay a nonrefundable plea in abeyance fee, with a
147 surcharge based on the amount of the plea in abeyance fee, both of which shall be allocated in
148 the same manner as if paid as a fine for a criminal conviction under Section 78A-5-110 and a
149 surcharge under Title 51, Chapter 9, Part 4, Criminal Conviction Surcharge Allocation, and

150 which may not exceed in amount the maximum fine and surcharge which could have been
151 imposed upon conviction and sentencing for the same offense;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

181 abeyance agreement.

182 (b) The notice under Subsection (8)(a) shall:

183 (i) state that the victim has a right to object to the expungement; and

184 (ii) provide instructions for registering an objection with the court.

185 (c) If there is a victim of the offense, the victim may file an objection with the court
186 before the court makes a finding as to whether the defendant successfully completed the terms
187 of the plea in abeyance agreement as described in Subsection (3).

188 (d) The defendant may respond, in writing, to any objection filed by the victim within
189 14 days after the day on which the objection is received by the court.

190 [~~8~~] (9) No plea may be held in abeyance in any case involving:

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

192 (b) a driving under the influence violation under Section 41-6a-502, 41-6a-502.5,
193 41-6a-517, 41-6a-520, 41-6a-520.1, 41-6a-521.1, 76-5-102.1, or 76-5-207.

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

195 (a) the court shall notify the Bureau of Criminal Identification of the order of
196 expungement; and

197 (b) the Bureau of Criminal Identification shall notify all agencies affected by the order
198 of expungement as described in Section 77-40a-401.

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

200 **77-40a-101. Definitions.**

201 As used in this chapter:

202 (1) "Agency" means a state, county, or local government entity that generates or
203 maintains records relating to an investigation, arrest, detention, or conviction for an offense for
204 which expungement may be ordered.

205 (2) "Automatic expungement" means the expungement of records of an investigation,
206 arrest, detention, or conviction of an offense without the filing of a petition.

207 [~~2~~] (3) "Bureau" means the Bureau of Criminal Identification of the Department of
208 Public Safety established in Section 53-10-201.

209 (4) "Civil accounts receivable" means the same as that term is defined in Section
210 77-32b-102.

211 (5) "Civil judgment of restitution" means the same as that term is defined in Section

212 [77-32b-102](#).

213 ~~[(3)]~~ (6) "Certificate of eligibility" means a document issued by the bureau stating that
214 the criminal record and all records of arrest, investigation, and detention associated with a case
215 that is the subject of a petition for expungement is eligible for expungement.

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

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

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

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

222 ~~[(C) an infraction conviction;~~

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

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

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

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

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

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

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

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

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

238 ~~[(A) except as provided in Subsection (4)(c), each charge within the case is a
239 misdemeanor for possession of a controlled substance in violation of Subsection~~

240 ~~[58-37-8\(2\)\(a\)\(i\)](#), a class B or class C misdemeanor, or an infraction;]~~

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

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

243 from the day on which the case is dismissed; or]

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

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

246 ~~(b)(i).]~~

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

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

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

250 ~~77-32b-102, that:~~

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

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

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

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

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

256 ~~following offenses:]~~

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

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

259 ~~the Individual;]~~

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

261 [(D) ~~sexual battery in violation of Section 76-9-702.1;]~~

262 [(E) ~~an act of lewdness in violation of Section 76-9-702 or 76-9-702.5;]~~

263 [(F) ~~an offense in violation of Title 41, Chapter 6a, Part 5, Driving Under the Influence~~

264 ~~and Reckless Driving;]~~

265 [(G) ~~damage to or interruption of a communication device in violation of Section~~

266 ~~76-6-108;]~~

267 [(H) ~~a domestic violence offense as defined in Section 77-36-1; or]~~

268 [(I) ~~any other offense classified in the Utah Code as a felony or a class A misdemeanor~~

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

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

271 (7) "Clean slate eligible case" means a case that is eligible for automatic expungement

272 under Section 77-40a-202.1.

273 [(5)] (8) "Conviction" means judgment by a criminal court on a verdict or finding of

274 guilty after trial, a plea of guilty, or a plea of nolo contendere.

275 (9) "Court" means a district court or a justice court.

276 (10) "Criminal accounts receivable" means the same as that term is defined in Section
277 77-32b-102.

278 ~~[(6)]~~ (11) "Criminal protective order" means the same as that term is defined in Section
279 78B-7-102.

280 ~~[(7)]~~ (12) "Criminal stalking injunction" means the same as that term is defined in
281 Section 78B-7-102.

282 ~~[(8)]~~ (13) "Department" means the Department of Public Safety established in Section
283 53-1-103.

284 ~~[(9)]~~ (14) "Drug possession offense" means [an offense under]:

285 (a) an offense described in Subsection 58-37-8(2), except for:

286 (i) [any] an offense under Subsection 58-37-8(2)(b)(i), possession of 100 pounds or
287 more of marijuana;

288 (ii) [any] an offense enhanced under Subsection 58-37-8(2)(e), violation in a
289 correctional facility; or

290 (iii) an offense for driving with a controlled substance illegally in the person's body and
291 negligently causing serious bodily injury or death of another, as codified before May 4, 2022,
292 Laws of Utah 2021, Chapter 236, Section 1, Subsection 58-37-8(2)(g);

293 (b) an offense described in Subsection 58-37a-5(1), use or possession of drug
294 paraphernalia;

295 (c) an offense described in Section 58-37b-6, possession or use of an imitation
296 controlled substance; or

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

299 ~~[(10)]~~ (15) (a) "Expunge" means to [seal or otherwise restrict access to the individual's
300 record held by an agency when the record includes a criminal investigation, detention, arrest, or
301 conviction.] remove a record from public inspection by:

302 (i) sealing the record; or

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

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

305 (16) "Indigent" means a financial status that results from a court finding that a
306 petitioner is financially unable to pay the fee to file a petition for expungement under Section
307 78A-2-302.

308 [~~(11)~~] (17) "Jurisdiction" means a state, district, province, political subdivision,
309 territory, or possession of the United States or any foreign country.

310 [~~(12)~~] (18) (a) "Minor regulatory offense" means, except as provided in Subsection
311 [~~(12)(e)~~] (18)(c), a class B or C misdemeanor offense or a local ordinance.

312 (b) "Minor regulatory offense" includes an offense under Section 76-9-701 or
313 76-10-105.

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

315 (i) any drug possession offense;

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

318 (iii) an offense under Sections 73-18-13 through 73-18-13.6;

319 (iv) except as provided in Subsection [~~(12)(b)~~] (18)(b), an offense under Title 76, Utah
320 Criminal Code; or

321 (v) any local ordinance that is substantially similar to an offense listed in Subsections
322 [~~(12)(e)(i)~~] (18)(c)(i) through (iv).

323 [~~(13)~~] (19) "Petitioner" means an individual applying for expungement under this
324 chapter.

325 [~~(14)~~] (20) "Plea in abeyance" means the same as that term is defined in Section
326 77-2a-1.

327 (21) "Record" means a book, letter, document, paper, map, plan, photograph, film,
328 card, tape, recording, electronic data, or other documentary material, regardless of physical
329 form or characteristics, that:

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

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

333 [~~(15)~~] (22) (a) "Traffic offense" means, except as provided in Subsection [~~(15)(b)~~]
334 (22)(b):

335 (i) an infraction, a class B misdemeanor offense, or a class C misdemeanor offense

336 under Title 41, Chapter 6a, Traffic Code;

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

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

341 (iv) all local ordinances that are substantially similar to an offense listed in Subsections
342 ~~[(15)(a)(i)]~~ (22)(a)(i) through (iii).

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

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

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

347 (iii) any local ordinance that is substantially similar to an offense listed in Subsection
348 ~~[(15)(b)(i)]~~ (22)(b)(i) or (ii).

349 ~~[(16)]~~ (23) "Traffic offense case" means that each offense in the case is a traffic
350 offense.

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

352 **77-40a-104. Department rulemaking authority.**

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

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

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

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

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

359 (5) implement procedures for the confirmation of an expungement under Subsection

360 ~~[77-40a-403(2)]~~ 77-40a-401(4).

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

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

363 **77-40a-201. General provisions for automatic expungement and deletion.**

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

366 ~~[(i) except as provided in Subsection (2)(e), a case that resulted in an acquittal on all~~

367 charges;]

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

397 [~~(d) For a case dismissed on or before May 1, 2020, that is automatically expunged~~

398 under this Subsection (3), a law enforcement agency shall expunge records for the case within
399 one year after the day on which the law enforcement agency receives notice from the bureau.]

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

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

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

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

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

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

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

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

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

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

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

428 [~~(ii) based on information available, notify the bureau and the prosecuting agency~~

429 identified in the case of the order of expungement.]

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

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

436 [(5)] (1) Nothing in this section precludes an individual from filing a petition for
437 expungement of records that are eligible for automatic expungement or deletion under this
438 section if an automatic expungement or deletion has not occurred pursuant to this section.

439 [(6)] (2) An automatic expungement performed under this [section] part does not
440 preclude a person from requesting access to expunged records in accordance with Section
441 [77-40a-403](#) or [77-40a-404](#).

442 [(7)] (3) (a) The Judicial Council and the Supreme Court shall make rules to govern the
443 process for automatic expungement.

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

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

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

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

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

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

455 Section 7. Section **77-40a-202** is amended to read:

456 **77-40a-202. Automatic deletion for traffic offense by a court.**

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

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

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

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

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

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

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

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

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

475 Section 8. Section **77-40a-202.1** is enacted to read:

476 **77-40a-202.1. Automatic expungement of state records for a clean slate case.**

477 (1) A court shall issue an order of expungement, without the filing of a petition, for all
478 records of the case that are held by an agency if:

479 (a) the case is eligible for expungement under this section; and

480 (b) the prosecuting agency does not object to the expungement of the case as described
481 in Subsection (6).

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

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

485 (A) a misdemeanor offense for possession of a controlled substance in violation of
486 Subsection 58-37-8(2)(a)(i);

487 (B) a class B misdemeanor offense;

488 (C) a class C misdemeanor offense; or

489 (D) an infraction; and

490 (ii) the following time periods have passed after the day on which the individual is

491 adjudicated:

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

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

495 (C) at least seven years for the conviction of a class A misdemeanor offense for
496 possession of a controlled substance in violation of Subsection 58-37-8(2)(a)(i); or

497 (b) (i) the case is dismissed as a result of a successful completion of a plea in abeyance
498 agreement governed by Subsection 77-2a-3(2)(b) or the case is dismissed without prejudice;

499 (ii) each charge within the case is:

500 (A) a misdemeanor offense for possession of a controlled substance in violation of
501 Subsection 58-37-8(2)(a)(i);

502 (B) a class B misdemeanor offense;

503 (C) a class C misdemeanor offense; or

504 (D) an infraction; and

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

507 (A) at least five years for a charge in the case for a class C misdemeanor offense or an
508 infraction;

509 (B) at least six years for a charge in the case for a class B misdemeanor offense; or

510 (C) at least seven years for a charge in the case for a class A misdemeanor offense for
511 possession of a controlled substance in violation of Subsection 58-37-8(2)(a)(i).

512 (3) A case is not eligible for expungement under this section if:

513 (a) the individual has a total number of convictions in courts of this state that exceed
514 the limits under Subsection 77-40a-303(4) or (5) without taking into consideration:

515 (i) the exception in Subsection 77-40a-303(7); or

516 (ii) any infraction, traffic offense, or minor regulatory offense;

517 (b) there is a criminal proceeding for a misdemeanor or felony offense pending in a
518 court of this state against the individual, unless the proceeding is for a traffic offense;

519 (c) for an automatic expungement on and after January 1, 2025, the individual is
520 incarcerated in the state prison or on probation or parole that is supervised by the Department
521 of Corrections;

- 522 (d) the case resulted in the individual being found not guilty by reason of insanity;
523 (e) the case establishes a criminal accounts receivable that:
524 (i) has been entered as a civil accounts receivable or a civil judgment of restitution and
525 transferred to the Office of State Debt Collection under Section [77-18-114](#); or
526 (ii) has not been satisfied according to court records; or
527 (f) the case resulted in a plea held in abeyance or a conviction for the following
528 offenses:
529 (i) any of the offenses listed in Subsection [77-40a-303\(2\)\(a\)](#);
530 (ii) an offense against a person in violation of Title 76, Chapter 5, Offenses Against the
531 Individual;
532 (iii) a weapons offense in violation of Title 76, Chapter 10, Part 5, Weapons;
533 (iv) sexual battery in violation of Section [76-9-702.1](#);
534 (v) an act of lewdness in violation of Section [76-9-702](#) or [76-9-702.5](#);
535 (vi) an offense in violation of Title 41, Chapter 6a, Part 5, Driving Under the Influence
536 and Reckless Driving;
537 (vii) damage to or interruption of a communication device in violation of Section
538 [76-6-108](#);
539 (viii) a domestic violence offense as defined in Section [77-36-1](#); or
540 (ix) any other offense classified in the Utah Code as a felony or a class A misdemeanor
541 other than a class A misdemeanor conviction for possession of a controlled substance in
542 violation of Subsection [58-37-8\(2\)\(a\)\(i\)](#).
543 (4) A prosecuting agency that has complied with Rule 42 of the Utah Rules of Criminal
544 Procedure shall receive notice on a monthly basis for any case prosecuted by that agency that
545 appears to be eligible for expungement under this section.
546 (5) Within 35 days after the day on which the notice described in Subsection (4) is
547 sent, the prosecuting agency shall provide written notice in accordance with Rule 42 of the
548 Utah Rules of Criminal Procedure if the prosecuting agency objects to an expungement for any
549 of the following reasons:
550 (a) the prosecuting agency believes that the case is not eligible for expungement under
551 this section after reviewing the agency record;
552 (b) the individual has not paid restitution to the victim as ordered by the court; or

553 (c) the prosecuting agency has a reasonable belief, grounded in supporting facts, that an
554 individual involved in the case is continuing to engage in criminal activity within or outside of
555 the state.

556 (6) If a prosecuting agency provides written notice of an objection for a reason
557 described in Subsection (5) within 35 days after the day on which the notice under Subsection
558 (4) is sent, the court may not proceed with automatic expungement of the case.

559 (7) If 35 days pass after the day on which the notice described in Subsection (4) is sent
560 without the prosecuting agency providing written notice of an objection under Subsection (5),
561 the court shall proceed with automatic expungement of the case.

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

563 (a) expunge all records held by the court of the case in accordance with Section
564 77-40a-401; and

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

567 Section 9. Section **77-40a-202.5** is enacted to read:

568 **77-40a-202.5. Automatic expungement of state records for a case resulting in an**
569 **acquittal or dismissal with prejudice.**

570 (1) A court shall issue an order of expungement, without the filing of a petition, for all
571 records of the case that are held by an agency if the case is eligible for expungement under this
572 section.

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

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

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

577 or

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

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

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

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

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

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

586 (b) the case is dismissed with prejudice as a result of successful completion of a plea in
 587 abeyance agreement governed by Subsection 77-2a-3(2)(b).

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

589 (a) expunge all records held by the court of the case as described in Section
 590 77-40a-401; and

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

593 Section 10. Section 77-40a-203 is amended to read:

594 **77-40a-203. Time periods for expungement or deletion -- Identification and**
 595 **processing of clean slate eligible cases.**

596 ~~[(1) Reasonable efforts within available funding shall be made to]~~ A court shall make
 597 reasonable efforts, within available funding, to expunge [or delete] a case under this part as
 598 quickly as is practicable with the goal of:

599 ~~[(a) for cases adjudicated on or after May 1, 2020:]~~

600 ~~[(iv) deleting a traffic offense case described in Subsection 77-40a-202(1)(c) upon~~
 601 ~~identification; and]~~

602 ~~[(i)]~~ (1) expunging a case that resulted in an acquittal on all charges on or after May 1,
 603 2020, 60 days after the acquittal;

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

607 ~~[(A)]~~ (a) for a case in which no appeal was filed, the day on which the entire case
 608 against the individual is dismissed with prejudice; or

609 ~~[(B)]~~ (b) for a case in which an appeal was filed, the day on which a court issues a final
 610 [unappealable] nonappealable order;

611 ~~[(iii)]~~ (3) expunging a clean slate eligible case that is adjudicated or dismissed on or
 612 after May 1, 2020, and is not a traffic offense within 30 days of the court[; in accordance with
 613 Section 77-40a-201;] determining that the requirements for expungement have been satisfied[;
 614 or] under Section 77-40a-202.1; and

615 ~~[(b)] (4) [for cases adjudicated before May 1, 2020, expunging or deleting]~~ expunging
616 a case adjudicated or dismissed before May 1, 2020, within one year of the day on which the
617 case is identified as eligible for automatic expungement ~~[or deletion]~~.

618 ~~[(2) (a) The Judicial Council or the Supreme Court shall make rules governing the~~
619 ~~identification and processing of clean slate eligible cases in accordance with Section~~
620 ~~77-40a-201.]~~

621 ~~[(b) Reasonable efforts shall be made to identify and process all clean slate eligible~~
622 ~~cases in accordance with Section 77-40a-201.]~~

623 ~~[(c) An individual does not have a cause of action for damages as a result of the failure~~
624 ~~to identify an individual's case as a clean slate eligible case or to automatically expunge or~~
625 ~~delete the records of a clean slate eligible case.]~~

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

627 **77-40a-301. Application for certificate of eligibility for expungement -- Penalty**
628 **for false or misleading information on application.**

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

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

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

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

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

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

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

644 Section 12. Section **77-40a-302** is amended to read:

645 **77-40a-302. Requirements for certificate of eligibility to expunge records of**

646 **arrest, investigation, and detention.**

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

650 (a) the following time periods have passed:

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

653 (ii) at least three years have passed after the day on which the petitioner was convicted
654 of the traffic offense if there is a conviction in the case for a traffic offense that is a class C
655 misdemeanor or an infraction; or

656 (iii) at least four years have passed after the day on which the petitioner was convicted
657 of the traffic offense if there is a conviction in the case for a traffic offense that is a class B
658 misdemeanor; and

659 (b) one of the following occurs:

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

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

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

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

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

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

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

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

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

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

676 (a) there is a criminal proceeding for a misdemeanor or felony offense pending against

677 the petitioner, unless the criminal proceeding is for a traffic offense;

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

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

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

685 Section 13. Section **77-40a-303** is amended to read:

686 **77-40a-303. Requirements for a certificate of eligibility to expunge records of a**
687 **conviction.**

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

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

692 (b) the petitioner has paid in full all restitution ordered by the court under Section
693 [77-38b-205](#); and

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

697 (i) 10 years for the conviction of a misdemeanor under Subsection [41-6a-501\(2\)](#);

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

701 Chapter 236, Section 1, Subsection [58-37-8\(2\)\(g\)](#);

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

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

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

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

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

707 (2) A petitioner is not eligible to receive a certificate of eligibility from the bureau to

708 expunge the records of a conviction under Subsection (1) if:

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

711 (i) a capital felony;

712 (ii) a first degree felony;

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

714 76-3-203.5(1)(c)(i);

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

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

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

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

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

723 (d) the petitioner is currently incarcerated, on parole, or on probation, unless the
724 petitioner is on probation or parole for an infraction, a traffic offense, or a minor regulatory
725 offense;

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

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

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

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

737 (4) Subject to Subsections (6), (7), and (8), a petitioner is not eligible to receive a
738 certificate of eligibility if, at the time the petitioner seeks the certificate of eligibility, the

739 bureau determines that the petitioner's criminal history, including previously expunged
740 convictions, contains any of the following:

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

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

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

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

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

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

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

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

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

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

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

769 (a) each numerical eligibility limit under Subsections (4)(a) and (b) shall be increased

770 by one; and

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

773 (i) a class B misdemeanor;

774 (ii) a class C misdemeanor;

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

777 (iv) an infraction.

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

781 (a) an infraction;

782 (b) a traffic offense;

783 (c) a minor regulatory offense; or

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

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

789 Section 14. Section 77-40a-304 is amended to read:

790 **77-40a-304. Certificate of eligibility process -- Issuance of certificate -- Fees.**

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

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

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

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

801 ~~[(e) Once the eligibility process is complete, the bureau shall notify the petitioner.]~~
802 ~~[(d) If the petitioner meets all of the criteria under Section [77-40a-302](#) or [77-40a-303](#).]~~
803 ~~[(i) the bureau shall issue a certificate of eligibility that is valid for a period of 180 days~~
804 ~~from the day on which the certificate is issued;]~~
805 ~~[(ii) the bureau shall provide a petitioner with an identification number for the~~
806 ~~certificate of eligibility; and]~~
807 ~~[(iii) the petitioner shall pay the issuance fee established by the department as~~
808 ~~described in Subsection (2).]~~
809 ~~[(e)]~~ (c) ~~If~~, ~~after reasonable research,~~ a disposition for an arrest on the criminal
810 history file is unobtainable after reasonable research, the bureau may issue a special certificate
811 giving determination of eligibility to the court, except that the bureau may not issue the special
812 certificate if:
813 (i) there is a criminal proceeding for a misdemeanor or felony offense pending against
814 the petitioner, unless the criminal proceeding is for a traffic offense;
815 (ii) there is a plea in abeyance for a misdemeanor or felony offense pending against the
816 petitioner, unless the plea in abeyance is for a traffic offense; or
817 (iii) the petitioner is currently incarcerated, on parole, or on probation, unless the
818 petitioner is on probation or parole for an infraction, a traffic offense, or a minor regulatory
819 offense.
820 (2) (a) Once the eligibility process is complete, the bureau shall notify the petitioner.
821 (b) If the petitioner meets all of the criteria under Section [77-40a-302](#) or [77-40a-303](#)
822 and the bureau determines that the issuance of a certificate of eligibility or special certificate is
823 appropriate:
824 (i) the bureau shall issue a certificate of eligibility or special certificate that is valid for
825 a period of 180 days from the day on which the certificate is issued;
826 (ii) the bureau shall provide a petitioner with an identification number for the
827 certificate of eligibility or special certificate; and
828 (iii) except as provided in Subsection (3), the petitioner shall pay an additional fee for
829 the issuance of a certificate of eligibility or special certificate.
830 ~~[(2) (a) The bureau shall charge application and issuance fees for a certificate of~~
831 ~~eligibility or special certificate in accordance with the process in Section [63J-1-504](#).]~~

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

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

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

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

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

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

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

849 ~~[(3)]~~ (4) The bureau shall include on the certificate of eligibility all information that is
850 needed for the court to issue a valid expungement order.

851 ~~[(4)]~~ (5) The bureau shall provide clear written instructions to the petitioner that
852 explain:

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

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

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

859 (a) inform the petitioner that the petitioner will be required to pay an issuance fee
860 before an agency will notify other agencies of the expungement if a court does not waive the
861 fee for a petition for expungement; and

862 (b) provide the petitioner with the form for waiving a court fee for a petition for

863 expungement.

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

869 (8) (a) If the petitioner qualifies for a waiver of the issuance fee under Subsection (7)
870 and the expungement order grants the petition for expungement, the bureau shall process the
871 expungement order in accordance with Section [77-40a-401](#) as if the petitioner paid the issuance
872 fee.

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

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

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

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

886 Section 15. Section **77-40a-305** is amended to read:

887 **77-40a-305. Petition for expungement -- Prosecutorial responsibility -- Hearing.**

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

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

893 (2) (a) If a petition for expungement is filed under Subsection (1)(a), the court shall

894 obtain a certificate of eligibility from the bureau.

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

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

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

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

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

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

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

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

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

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

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

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

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

924 (6) (a) Upon receipt of a notice of a filing of a petition for expungement of a conviction

925 or a charge dismissed in accordance with a plea in abeyance, the prosecuting attorney shall
926 make a reasonable effort to provide notice to any victim of the conviction or charge.

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

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

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

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

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

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

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

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

942 (i) the reasons probation was terminated; and

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

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

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

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

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

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

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

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

960 (12) (a) If the petitioner seeks a waiver of the fee required for a petition for
961 expungement in accordance with Section 78A-2-302, the court shall consider the total number
962 of cases for which the petitioner has received a certificate of eligibility and is seeking
963 expungement in determining whether the petitioner is indigent under Subsection
964 78A-2-302(3)(e) even if the court does not have jurisdiction over a case for which the
965 petitioner is seeking expungement.

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

971 Section 16. Section 77-40a-306 is amended to read:

972 **77-40a-306. Order of expungement.**

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

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

977 (b) the statutory requirements have been met;

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

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

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

986 (ii) the possession of cannabis in question was in a form and an amount to medicinally

987 treat the qualifying condition described in Subsection (1)(d)(i);

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

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

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

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

998 (c) A court shall consider the number of times that good faith basis of intention to
999 refile by the prosecuting attorney is presented to the court in making the court's determination
1000 to grant the petition for expungement described in Subsection (1)(c).

1001 (3) If the court grants a petition described in Subsection (1)(e), the court shall make the
1002 court's findings in a written order.

1003 (4) A court may not expunge a conviction of an offense for which a certificate of
1004 eligibility may not be, or should not have been, issued under Section 77-40a-302 or
1005 77-40a-303.

1006 (5) If a court grants a petition for expungement, the court shall:

1007 (a) expunge all records of the case as described in Section 77-40a-401; and

1008 (b) notify the bureau of the order of expungement.

1009 Section 17. Section 77-40a-401 is amended to read:

1010 **Part 4. Expungement of Criminal Records**

1011 **77-40a-401. Distribution of order -- Processing of expungement order -- Written**
1012 **confirmation of expungement -- Effect of an expungement.**

1013 ~~[(1) (a) The bureau, upon receiving notice from the court, shall notify all criminal~~
1014 ~~justice agencies affected by the expungement order.]~~

1015 ~~[(b) For purposes of Subsection (1)(a), the bureau may not notify the Board of Pardons~~
1016 ~~and Parole of an expungement order if the individual has never been:]~~

1017 ~~[(i) sentenced to prison in this state; or]~~

1018 ~~[(ii) under the jurisdiction of the Board of Pardons and Parole.]~~

1019 ~~[(c) A petitioner may deliver copies of the expungement to all criminal justice agencies~~
1020 ~~affected by the order of expungement.]~~

1021 ~~[(d) An individual, who receives an expungement order under Section 77-27-5.1, shall~~
1022 ~~pay a processing fee to the bureau, established in accordance with the process in Section~~
1023 ~~63J-1-504, before the bureau's record may be expunged.]~~

1024 ~~[(2) Unless otherwise provided by law or ordered by a court to respond differently, an~~
1025 ~~individual or agency who has received an expungement of an arrest or conviction under this~~
1026 ~~chapter or Section 77-27-5.1 may respond to any inquiry as though the arrest or conviction did~~
1027 ~~not occur.]~~

1028 ~~[(3) The bureau shall forward a copy of the expungement order to the Federal Bureau~~
1029 ~~of Investigation.]~~

1030 ~~[(4) An agency receiving an expungement order shall expunge the individual's~~
1031 ~~identifying information contained in records in the agency's possession relating to the incident~~
1032 ~~for which expungement is ordered.]~~

1033 ~~[(5) Unless ordered by a court to do so, or in accordance with Section 77-40a-403, a~~
1034 ~~government agency or official may not divulge information or records that have been~~
1035 ~~expunged.]~~

1036 (1) (a) Upon receiving notice from the court of an expungement order, the bureau shall
1037 notify all agencies affected by the expungement order.

1038 (b) For purposes of Subsection (1)(a), the bureau may not notify the Board of Pardons
1039 and Parole of an expungement order if the individual has never been:

1040 (i) sentenced to prison in this state; or

1041 (ii) under the jurisdiction of the Board of Pardons and Parole.

1042 (c) The bureau shall forward a copy of the expungement order to the Federal Bureau of
1043 Investigation.

1044 (d) A petitioner may deliver copies of the expungement to all agencies affected by the
1045 order of expungement.

1046 (2) (a) If an agency receives an expungement order under this part, the agency shall
1047 expunge all records for the case in accordance with this part.

1048 (b) For a case that is adjudicated or dismissed, or resulted in an acquittal on all charges,

1049 before May 1, 2020, and is automatically expunged, a law enforcement agency shall expunge
1050 records for the case within one year after the day on which the law enforcement agency
1051 receives notice from the bureau.

1052 (3) In processing an expungement order, a court and the bureau shall give priority to:

1053 (a) first, an expungement order granting a petition for expungement as described in
1054 Section [77-40a-306](#); and

1055 (b) second, an order for an automatic expungement under Part 2, Automatic
1056 Expungement and Deletion.

1057 (4) An individual, who receives an expungement order under Section [77-27-5.1](#), shall
1058 pay a processing fee to the bureau, established in accordance with the process in Section
1059 [63J-1-504](#), before the bureau's record may be expunged.

1060 (5) An agency shall:

1061 (a) develop and implement a process to identify an expunged record; and

1062 (b) keep, index, and maintain all expunged records of arrests and convictions.

1063 (6) (a) If an individual who receives an expungement requests confirmation from an
1064 agency, the agency shall provide the individual with written confirmation that:

1065 (i) the agency has identified all records subject to expungement; and

1066 (ii) except as otherwise provided by Sections [77-40a-402](#) and [77-40a-403](#), the agency
1067 will restrict or deny access to all of the expunged records.

1068 (b) The bureau may charge a fee for providing a written confirmation under Subsection
1069 (6)(a) in accordance with the process in Section [63J-1-504](#).

1070 (7) Upon entry of an expungement order, an individual, who received the
1071 expungement, may respond to any inquiry as though the conviction did not occur unless
1072 otherwise provided by law or ordered by a court to respond differently.

1073 ~~[(6)]~~ (8) (a) An expungement order may not restrict an agency's use or dissemination of
1074 records in the agency's ordinary course of business until the agency has received a copy of the
1075 order.

1076 (b) Any action taken by an agency after issuance of the order but prior to the agency's
1077 receipt of a copy of the order may not be invalidated by the order.

1078 ~~[(7)]~~ (9) An expungement order may not:

1079 (a) terminate or invalidate any pending administrative proceedings or actions of which

1080 the individual had notice according to the records of the administrative body prior to issuance
1081 of the expungement order;

1082 (b) affect the enforcement of any order or findings issued by an administrative body
1083 pursuant to the administrative body's lawful authority prior to issuance of the expungement
1084 order;

1085 (c) remove any evidence relating to the individual including records of arrest, which
1086 the administrative body has used or may use in these proceedings; or

1087 (d) prevent an agency from maintaining, sharing, or distributing any record required by
1088 law.

1089 Section 18. Section **77-40a-402** is amended to read:

1090 **77-40a-402. Distribution for order for vacatur.**

1091 (1) An individual who receives an order for vacatur under Subsection **78B-9-108(2)**
1092 shall be responsible for delivering a copy of the order for vacatur to all affected [~~criminal~~
1093 ~~justice agencies and officials~~] agencies.

1094 (2) To complete delivery of the order for vacatur to the bureau, the individual shall
1095 complete and attach to the order for vacatur an application for a certificate of eligibility for
1096 expungement, including identifying information and fingerprints, in accordance with Section
1097 **77-40a-301**.

1098 (3) Except as otherwise provided in this section, the bureau shall treat the order for
1099 vacatur and attached certificate of eligibility for expungement the same as a valid order for
1100 expungement under Section **77-40a-401**.

1101 (4) Unless otherwise provided by law or ordered by a court to respond differently, an
1102 individual who has received a vacatur of conviction under Subsection **78B-9-108(2)** may
1103 respond to any inquiry as though the conviction did not occur.

1104 (5) The bureau shall forward a copy of the order for vacatur to the Federal Bureau of
1105 Investigation.

1106 (6) An agency receiving an order for vacatur shall expunge the individual's identifying
1107 information contained in records in the agency's possession relating to the incident for which
1108 vacatur is ordered.

1109 (7) [~~A government~~] An agency or official may not divulge information contained in a
1110 record of arrest, investigation, detention, or conviction after receiving an order for vacatur to

1111 any person or agency, except for:

1112 (a) the individual for whom vacatur was ordered; or

1113 (b) Peace Officer Standards and Training, in accordance with Section 53-6-203 and
1114 Subsection [~~77-40a-403(4)(b)~~] 77-40a-403(2)(b).

1115 (8) The bureau may not count vacated convictions against any future expungement
1116 eligibility.

1117 Section 19. Section ~~77-40a-403~~ is amended to read:

1118 **77-40a-403. Release and use of expunged records.**

1119 [~~(1)(a) The bureau, after receiving an expungement order, shall keep, index, and~~
1120 ~~maintain all expunged records of arrests and convictions.]~~

1121 [~~(b) Any agency, other than the bureau, receiving an expungement order shall develop~~
1122 ~~and implement a process to identify and maintain an expunged record.]~~

1123 [~~(2)(a) An agency shall provide an individual who receives an expungement with~~
1124 ~~written confirmation that the agency has expunged all records of the offense for which the~~
1125 ~~individual received the expungement if the individual requests confirmation from the agency.]~~

1126 [~~(b) The bureau may charge a fee for providing a written confirmation under~~
1127 ~~Subsection (2)(a) in accordance with the process in Section 63J-1-504.]~~

1128 [~~(3)~~] (1)(a) [~~An employee of the bureau, or any agency with an expunged record, may~~
1129 ~~not] An agency with an expunged record, or any employee of an agency with an expunged
1130 record, may not knowingly or intentionally divulge any information contained in the expunged
1131 record to any person, or another agency, without a court order unless:~~

1132 (i) specifically authorized by statute; or

1133 (ii) subject to Subsection [~~(3)(b)~~] (1)(b), the information in an expunged record is
1134 being shared with another agency through a records management system that both agencies use
1135 for the purpose of record management.

1136 (b) An agency with a records management system may not disclose any information in
1137 an expunged record with another agency or person that does not use the records management
1138 system for the purpose of record management.

1139 [~~(4)~~] (2) The following entities or agencies may receive information contained in
1140 expunged records upon specific request:

1141 (a) the Board of Pardons and Parole;

- 1142 (b) Peace Officer Standards and Training;
- 1143 (c) federal authorities if required by federal law;
- 1144 (d) the State Board of Education;
- 1145 (e) the Commission on Criminal and Juvenile Justice, for purposes of investigating
- 1146 applicants for judicial office; and
- 1147 (f) a research institution or an agency engaged in research regarding the criminal justice
- 1148 system if:
- 1149 (i) the research institution or agency provides a legitimate research purpose for
- 1150 gathering information from the expunged records;
- 1151 (ii) the research institution or agency enters into a data sharing agreement with the
- 1152 court or agency with custody of the expunged records that protects the confidentiality of any
- 1153 identifying information in the expunged records;
- 1154 (iii) any research using expunged records does not include any individual's name or
- 1155 identifying information in any product of that research; and
- 1156 (iv) any product resulting from research using expunged records includes a disclosure
- 1157 that expunged records were used for research purposes.
- 1158 ~~[(5)]~~ (3) Except as otherwise provided by this section or by court order, a person, an
- 1159 agency, or an entity authorized by this section to view expunged records may not reveal or
- 1160 release any information obtained from the expunged records to anyone outside the specific
- 1161 request, including distribution on a public website.
- 1162 ~~[(6)]~~ (4) A prosecuting attorney may communicate with another prosecuting attorney,
- 1163 or another prosecutorial agency, regarding information in an expunged record that includes a
- 1164 conviction, or a charge dismissed as a result of a successful completion of a plea in abeyance
- 1165 agreement, for:
- 1166 (a) stalking as described in Section 76-5-106.5;
- 1167 (b) a domestic violence offense as defined in Section 77-36-1;
- 1168 (c) an offense that would require the individual to register as a sex offender, as defined
- 1169 in Section 77-41-102; or
- 1170 (d) a weapons offense under Title 76, Chapter 10, Part 5, Weapons.
- 1171 ~~[(7)]~~ (5) Except as provided in Subsection ~~[(9)]~~ (7), a prosecuting attorney may not use
- 1172 an expunged record for the purpose of a sentencing enhancement or as a basis for charging an

1173 individual with an offense that requires a prior conviction.

1174 ~~[(8)]~~ (6) The bureau may also use the information in the bureau's index as provided in
1175 Section [53-5-704](#).

1176 ~~[(9)]~~ (7) If ~~[, after obtaining an expungement,]~~ an individual is charged with a felony or
1177 an offense eligible for enhancement based on a prior conviction ~~[, the state]~~ after obtaining an
1178 expungement, the prosecuting attorney may petition the court to open the expunged records
1179 upon a showing of good cause.

1180 ~~[(10)]~~ (8) (a) For judicial sentencing, a court may order any records expunged under
1181 this chapter or Section [77-27-5.1](#) to be opened and admitted into evidence.

1182 (b) The records are confidential and are available for inspection only by the court,
1183 parties, counsel for the parties, and any other person who is authorized by the court to inspect
1184 them.

1185 (c) At the end of the action or proceeding, the court shall order the records expunged
1186 again.

1187 (d) Any person authorized by this Subsection ~~[(10)]~~ (8) to view expunged records may
1188 not reveal or release any information obtained from the expunged records to anyone outside the
1189 court.

1190 ~~[(11)]~~ (9) Records released under this chapter are classified as protected under Section
1191 [63G-2-305](#) and are accessible only as provided under Title 63G, Chapter 2, Part 2, Access to
1192 Records, and Subsection [53-10-108](#)(2)(k) for records held by the bureau.

1193 Section 20. Section ~~77-40a-404~~ is amended to read:

1194 **~~77-40a-404. Confirmation of expungement -- Access to expunged records by~~**
1195 **~~individuals.~~**

1196 (1) An individual who receives an expungement may request a written confirmation
1197 from an agency under Subsection ~~[[77-40a-403](#)(2)]~~ [77-40a-403](#)(4) to confirm that the agency
1198 has expunged all records of the offense for which the individual received the expungement.

1199 (2) The following individuals may view or obtain an expunged record under this
1200 chapter or Section [77-27-5.1](#):

1201 (a) the petitioner or an individual who receives an automatic expungement under
1202 ~~[Section [77-40a-201](#)]~~ Part 2, Automatic Expungement and Deletion;

1203 (b) a law enforcement officer, who was involved in the case, for use solely in the

1204 officer's defense of a civil action arising out of the officer's involvement with the petitioner in
1205 that particular case; and

1206 (c) a party to a civil action arising out of the expunged incident if the information is
1207 kept confidential and utilized only in the action.

1208 Section 21. Section **78A-2-302** is amended to read:

1209 **78A-2-302. Waiver of fees, costs, and security -- Indigent litigants -- Affidavit.**

1210 (1) As used in Sections [78A-2-302](#) through [78A-2-309](#):

1211 (a) "Convicted" means:

1212 (i) a conviction by entry of a plea of guilty or nolo contendere, guilty with a mental
1213 condition, no contest; and

1214 (ii) a conviction of any crime or offense.

1215 (b) "Indigent" means ~~[an individual who is financially unable to pay fees and costs or~~
1216 ~~give security]~~ a financial status that results from a court finding that a petitioner is financially
1217 unable to pay the fee, a cost, or give security.

1218 (c) "Prisoner" means an individual who has been convicted of a crime and is
1219 incarcerated for that crime or is being held in custody for trial or sentencing.

1220 (2) An individual may institute, prosecute, defend, or appeal any cause in a court in this
1221 state without prepayment of fees and costs or security if:

1222 (a) the individual submits an affidavit demonstrating that the individual is indigent[-];
1223 or

1224 (b) the individual is seeking a waiver of the fee for a petition for expungement and the
1225 individual provides the court with proof that another court granted a waiver for a petition for
1226 expungement as described in Subsection [77-40a-305\(12\)\(b\)](#).

1227 (3) A court shall find an individual indigent if the individual's affidavit under
1228 Subsection (2) demonstrates:

1229 (a) if the cause is not a petition for expungement, the individual has an income level at
1230 or below 150% of the United States poverty level as defined by the most recent poverty income
1231 guidelines published by the United States Department of Health and Human Services;

1232 (b) if the cause is a petition for expungement, the individual has an income level at or
1233 below 250% of the United States poverty level as defined by the most recent poverty income
1234 guidelines published by the United States Department of Health and Human Services;

1235 ~~[(b)]~~ (c) the individual receives benefits from a means-tested government program,
 1236 including Temporary Assistance to Needy Families, Supplemental Security Income, the
 1237 Supplemental Nutrition Assistance Program, or Medicaid;

1238 ~~[(c)]~~ (d) the individual receives legal services from a nonprofit provider or a pro bono
 1239 attorney through the Utah State Bar; or

1240 ~~[(d)]~~ (e) the individual has insufficient income or other means to pay the necessary fees
 1241 and costs or security without depriving the individual, or the individual's family, of food,
 1242 shelter, clothing, or other necessities.

1243 (4) An affidavit demonstrating that an individual is indigent under Subsection ~~[(3)]~~
 1244 (3)(e) shall contain complete information on the individual's:

1245 (a) identity and residence;

1246 (b) amount of income, including any government financial support, alimony, or child
 1247 support;

1248 (c) assets owned, including real and personal property;

1249 (d) business interests;

1250 (e) accounts receivable;

1251 (f) securities, checking and savings account balances;

1252 (g) debts; and

1253 (h) monthly expenses.

1254 (5) If the individual under Subsection (3) is a prisoner, the prisoner shall disclose the
 1255 amount of money held in the prisoner's trust account at the time the affidavit under Subsection
 1256 (2) is executed in accordance with Section [78A-2-305](#).

1257 (6) An affidavit of indigency under this section shall state the following:

1258 I, (insert name), do solemnly swear or affirm that due to my poverty I am unable to bear
 1259 the expenses of the action or legal proceedings which I am about to commence or the appeal
 1260 which I am about to take, and that I believe I am entitled to the relief sought by the action, legal
 1261 proceedings, or appeal.

1262 (7) The Administrative Office of the Courts shall include on a form for an affidavit of
 1263 indigency the following warning: "It is a crime for anyone to intentionally or knowingly
 1264 provide false or misleading information to the court when seeking a waiver of a court fee."

1265 Section 22. Section [78A-7-209.5](#) is amended to read:

1266 **78A-7-209.5. Presiding judge -- Associate presiding judge -- Election -- Powers --**
1267 **Duties.**

1268 (1) (a) In judicial districts having more than one justice court judge, the justice court
1269 judges shall elect one judge of the district to the office of presiding judge.

1270 (b) The presiding judge shall receive an additional \$2,000 per annum as compensation
1271 from the Justice Court Technology, Security, and Training Account described in Section
1272 [78A-7-301](#) for the period served as presiding judge.

1273 (2) (a) In judicial districts having more than two justice court judges, the justice court
1274 judges may elect one judge of the district to the office of associate presiding judge.

1275 (b) The associate presiding judge shall receive an additional \$1,000 per annum as
1276 compensation from the Justice Court Technology, Security, and Training Account described in
1277 Section [78A-7-301](#) for the period served as associate presiding judge.

1278 (3) The presiding judge has the following authority and responsibilities, consistent with
1279 the policies of the Judicial Council:

1280 (a) working with each justice court judge in the district to implement policies and rules
1281 of the Judicial Council;

1282 (b) exercising powers and performing administrative duties as authorized by the
1283 Judicial Council;

1284 (c) if there is no other appointed justice court judge in that court available, assigning a
1285 justice court judge to hear a case in which a judge has been disqualified in accordance with
1286 rules of the Supreme Court;

1287 (d) if a justice court judge of the district cannot perform the justice court judge's duties
1288 in a case or cases due to illness, death, or other incapacity, and the governing body has not
1289 appointed a temporary justice court judge in accordance with Section [78A-7-208](#):

1290 (i) assigning, on an emergency basis, a justice court judge to hear a case or cases; and

1291 (ii) facilitating judicial coverage with the appointing municipal or county authority
1292 until a temporary justice court judge can be appointed, in accordance with Section [78A-7-208](#),
1293 or a new justice court judge is formally appointed and takes office, in accordance with Section
1294 [78A-7-202](#); and

1295 (e) entering orders of expungement in cases expunged in accordance with [Section
1296 [77-40a-201](#)] Title 77, Chapter 40a, Part 2, Automatic Expungement and Deletion.

1297 (4) (a) When the presiding judge is unavailable, the associate presiding judge shall
1298 assume the responsibilities of the presiding judge.

1299 (b) The associate presiding judge shall perform other duties assigned by the presiding
1300 judge.

1301 Section 23. Section **78B-7-1001** is amended to read:

1302 **78B-7-1001. Definitions.**

1303 As used in this part:

1304 (1) (a) [~~Except as provided in Subsection (1)(b), "agency"~~] "Agency" means, except as
1305 provided in Subsection (1)(b), a state, county, or local government entity that generates or
1306 maintains records relating to a civil order for which expungement may be ordered.

1307 (b) "Agency" does not include the Division of Child and Family Services created in [
1308]Section 80-2-201.

1309 (2) "Civil order" means:

- 1310 (a) an ex parte civil protective order;
- 1311 (b) an ex parte civil stalking injunction;
- 1312 (c) a civil protective order; or
- 1313 (d) a civil stalking injunction.

1314 [~~(3) "Expunge" means to seal or otherwise restrict access to an individual's record held~~
1315 ~~by an agency when the record includes a civil order.]~~

1316 (3) (a) "Expunge" means to remove a record from public inspection by:

- 1317 (i) sealing the record; or
- 1318 (ii) restricting or denying access to the record.

1319 (b) "Expunge" does not include the destruction of a record.

1320 (4) "Petitioner" means an individual petitioning for expungement of a civil order under
1321 this part.

1322 Section 24. Section **78B-7-1004** is amended to read:

1323 **78B-7-1004. Distribution and effect of order of expungement -- Penalty.**

1324 (1) An individual who receives an order of expungement under Section 78B-7-1003
1325 shall be responsible for delivering a copy of the order of expungement to any affected agency.

1326 [~~(2) Upon receipt of an order of expungement as described in Subsection (1), an agency~~
1327 ~~shall expunge all records described in the expungement order that are under the control of the~~

1328 agency.]

1329 (2) If an agency receives an expungement order as described in Subsection (1), the
1330 agency shall expunge all records affected by the expungement order.

1331 (3) Upon entry of an expungement order by a court under Section 78B-7-1003:

1332 (a) the civil order is considered to never have occurred; and

1333 (b) the petitioner may reply to an inquiry on the matter as though there was never a
1334 civil order.

1335 (4) (a) Unless ordered by a court to do so, an agency or official may not divulge
1336 information or records that have been expunged under this part.

1337 (b) An expungement order may not restrict an agency's use or dissemination of records
1338 in the agency's ordinary course of business until the agency has received a copy of the
1339 expungement order.

1340 (c) Any action taken by an agency after issuance of the expungement order but before
1341 the agency's receipt of a copy of the expungement order may not be invalidated by the order.

1342 (5) An expungement order under this part may not:

1343 (a) terminate or invalidate any pending administrative proceedings or actions of which
1344 the individual had notice according to the records of the administrative body before issuance of
1345 the expungement order;

1346 (b) affect the enforcement of any order or findings issued by an administrative body
1347 pursuant to the administrative body's lawful authority prior to issuance of the expungement
1348 order; or

1349 (c) prevent an agency from maintaining, sharing, or distributing any record required by
1350 law.

1351 (6) An employee or agent of an agency that is prohibited from disseminating
1352 information from an expunged record under this section who knowingly or intentionally
1353 discloses identifying information from the expunged record, unless allowed by law, is guilty of
1354 a class A misdemeanor.

1355 (7) Records expunged under this part may be released to, or viewed by, the following
1356 individuals:

1357 (a) the petitioner; or

1358 (b) parties to a civil action arising out of the expunged civil order, providing the

1359 information is kept confidential and utilized only in the action.

1360 (8) This part does not preclude a court from considering the same circumstances or
1361 evidence for which an expunged civil order was issued in any proceeding that occurs after the
1362 civil order is expunged.

1363 Section 25. Section **80-6-1001** is amended to read:

1364 **80-6-1001. Definitions.**

1365 As used in this part:

1366 (1) "Abstract" means a copy or summary of a court's disposition.

1367 (2) (a) "Agency" means a state, county, or local government entity that generates or
1368 maintains records for which expungement may be ordered under this part.

1369 (b) "Agency" includes a local education agency, as defined in Section [53E-1-102](#), for
1370 purposes of this part.

1371 (3) (a) "Expunge" means ~~[to seal or otherwise restrict access to a record that is part of~~
1372 ~~an individual's juvenile record and in the custody of the juvenile court or an agency]~~ to remove
1373 a juvenile record from public inspection by:

1374 (i) sealing the juvenile record; or

1375 (ii) restricting or denying access to the juvenile record.

1376 (b) "Expunge" does not include the destruction of a juvenile record.

1377 (4) (a) "Juvenile record" means all records for all incidents of delinquency involving an
1378 individual that are in the custody of the juvenile court or an agency.

1379 (b) "Juvenile record" does not include a record of an adjudication under Chapter 3,
1380 Abuse, Neglect, and Dependency Proceedings, or Chapter 4, Termination and Restoration of
1381 Parental Rights.

1382 (5) "Petitioner" means an individual requesting an expungement or vacatur under this
1383 part.

1384 Section 26. Section **80-6-1006.1** is amended to read:

1385 **80-6-1006.1. Exceptions to expungement order -- Distribution of expungement**
1386 **order -- Agency duties -- Effect of expungement -- Access to expunged record.**

1387 (1) This section applies to an expungement order under Section [80-6-1004.1](#),
1388 [80-6-1004.2](#), [80-6-1004.3](#), [80-6-1004.4](#), or [80-6-1004.5](#).

1389 (2) The juvenile court may not order:

1390 (a) the Board of Pardons and Parole and the Department of Corrections to seal a record
1391 in the possession of the Board of Pardons and Parole or the Department of Corrections, except
1392 that the juvenile court may order the Board of Pardons and Parole and the Department of
1393 Corrections to restrict access to a record if the record is specifically identified in the
1394 expungement order as a record in the possession of the Board of Pardons and Parole or the
1395 Department of Corrections; or

1396 (b) the Division of Child and Family Services to expunge a record in an individual's
1397 juvenile record that is contained in the Management Information System or the Licensing
1398 Information System unless:

1399 (i) the record is unsupported; or

1400 (ii) after notice and an opportunity to be heard, the Division of Child and Family
1401 Services stipulates in writing to expunging the record.

1402 (3) (a) If the juvenile court issues an expungement order, the juvenile court shall send a
1403 copy of the expungement order to any affected agency or official identified in the juvenile
1404 record.

1405 (b) An individual who is the subject of an expungement order may deliver copies of the
1406 expungement order to all agencies and officials affected by the expungement order.

1407 (4) (a) Upon receipt of an expungement order, an agency shall:

1408 (i) ~~[to avoid destruction or expungement of records in whole or in part, expunge only~~
1409 ~~the references to the individual's name in the records relating to the individual's adjudication,~~
1410 ~~nonjudicial adjustment, petition, arrest, investigation, or detention for which expungement is~~
1411 ~~ordered]~~ expunge all records affected by the expungement order; and

1412 (ii) destroy all photographs and records created under Section [80-6-608](#), except that a
1413 record of a minor's fingerprints may not be destroyed by an agency.

1414 (b) An agency that receives a copy of an expungement order shall mail an affidavit to
1415 the individual who is the subject of the expungement order, or the individual's attorney, that the
1416 agency has complied with the expungement order.

1417 (5) Notwithstanding Subsection (4), the Board of Pardons and Parole and the
1418 Department of Corrections:

1419 (a) may not disclose records expunged in an expungement order unless required by
1420 law;

1421 (b) are not required to destroy any photograph or record created under Section
1422 80-6-608;

1423 (c) may use an expunged record for purposes related to incarceration and supervision
1424 of an individual under the jurisdiction of the Board of Pardons and Parole, including for the
1425 purpose of making decisions about:

1426 (i) the treatment and programming of the individual;

1427 (ii) housing of the individual;

1428 (iii) applicable guidelines regarding the individual; or

1429 (iv) supervision conditions for the individual;

1430 (d) are not prohibited from disclosing or sharing any information in an expunged
1431 record with another agency that uses the same record management system as the Board of
1432 Pardons and Parole or the Department of Corrections; and

1433 (e) are not required to mail an affidavit under Subsection (4)(b).

1434 (6) Upon entry of an expungement order:

1435 (a) an adjudication, a nonjudicial adjustment, a petition, an arrest, an investigation, or a
1436 detention for which the record is expunged is considered to have never occurred; and

1437 (b) the individual, who is the subject of the expungement order, may reply to an inquiry
1438 on the matter as though there never was an adjudication, a nonjudicial adjustment, a petition,
1439 an arrest, an investigation, or a detention.

1440 (7) A record expunged under Section 80-6-1004.1, 80-6-1004.2, 80-6-1004.3,
1441 80-6-1004.4, or 80-6-1004.5 may be released to, or viewed by, the individual who is the subject
1442 of the record.

1443 Section 27. **Effective date.**

1444 This bill takes effect on October 1, 2024.