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- 26 2025, prohibiting an automatic expungement if the individual is incarcerated in the state prison 27 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 in this state against the individual for a misdemeanor or felony offense, unless the proceeding is for a traffic offense;
 - ▶ provides that the court and Bureau of Criminal Identification are the only agencies that expunge records affected by an automatic expungement order;
 - clarifies the certificate of eligibility process;
 - allows for the waiver of an issuance fee for a certificate of eligibility or a special certificate if a court finds that the individual filing the petition for expungement is indigent;
- requires a court to consider the total number of cases for which an individual has received a certificate of expungement when determining whether the individual is indigent;
 - requires a subsequent court to waive a filing fee for a petition for expungement if a prior court found the individual to be indigent within 180 days before the filing of the petition for expungement;
 - clarifies the distribution of an expungement order based on a petition and the expungement of records affected by an expungement order based on a petition;
 - establishes the priority of expungement orders that are processed by a court and the Bureau of Criminal Identification;
 - requires an agency to develop and implement a process to identify expunged records and keep, index, and maintain all expunged records of arrest;
 - clarifies the effect of an expungement;
 - ► addresses the waiver of a fee for a petition for expungement when the individual has previously received a waiver for a petition for expungement from a prior court;
 - requires a court to find an individual indigent if the individual submits an affidavit of indigency demonstrating that the individual has an income at or below 175% of the United States poverty level;
- requires the Administrative Office of the Courts to include a warning on an affidavit of indigency;

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

88	78B-7-1001 , as enacted by Laws of Utah 2022, Chapter 270
89	78B-7-1004, as enacted by Laws of Utah 2022, Chapter 270
90	80-6-1001, as last amended by Laws of Utah 2023, Chapter 115
91	80-6-1006.1, as enacted by Laws of Utah 2023, Chapter 115
92	ENACTS:
93	77-40a-204, Utah Code Annotated 1953
94	77-40a-205, Utah Code Annotated 1953
95	77-40a-206, Utah Code Annotated 1953
96	77-40a-207, Utah Code Annotated 1953
97	77-40a-307, Utah Code Annotated 1953
98	REPEALS:
99	77-40a-203, as renumbered and amended by Laws of Utah 2022, Chapter 250
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101	Be it enacted by the Legislature of the state of Utah:
102	Section 1. Section 63I-1-277 is amended to read:
103	63I-1-277. Repeal dates: Title 77.
104	[Subsection 77-40a-304(5), regarding the suspension of issuance fees for certificates of
105	eligibility, is repealed on July 1, 2023.] Reserved.
106	Section 2. Section 63I-1-278 is amended to read:
107	63I-1-278. Repeal dates: Title 78A and Title 78B.
108	[(1) Subsections 78A-2-301(4) and 78A-2-301.5(12), regarding the suspension of filing
109	fees for petitions for expungement, are repealed on July 1, 2023.]
110	[(2)] (1) Section 78B-3-421, regarding medical malpractice arbitration agreements, is
111	repealed July 1, 2029.
112	[(3)] (2) Subsection 78A-7-106(6), regarding the transfer of a criminal action involving
113	a domestic violence offense from the justice court to the district court, is repealed on July 1,
114	2024.
115	[(4)] (3) Section 78B-4-518, regarding the limitation on employer liability for an
116	employee convicted of an offense, is repealed on July 1, 2025.
117	[(5)] (4) Title 78B, Chapter 6, Part 2, Alternative Dispute Resolution Act, is repealed
118	July 1, 2026.

119	[(6)] <u>(5)</u> Title 78B, Chapter 12, Part 4, Advisory Committee, which creates the Child
120	Support Guidelines Advisory Committee, is repealed July 1, 2026.
121	[(7)] (6) Section 78B-22-805, regarding the Interdisciplinary Parental Representation
122	Pilot Program, is repealed December 31, 2024.
123	Section 3. Section 77-2a-3 is amended to read:
124	77-2a-3. Manner of entry of plea Powers of court Expungement.
125	(1) (a) Acceptance of any plea in anticipation of a plea in abeyance agreement shall be
126	done in full compliance with the Utah Rules of Criminal Procedure, Rule 11.
127	(b) In cases charging offenses for which bail may be forfeited, a plea in abeyance
128	agreement may be entered into without a personal appearance before a magistrate.
129	(2) A plea in abeyance agreement may provide that the court may, upon finding that the
130	defendant has successfully completed the terms of the agreement:
131	(a) reduce the degree of the offense, [and enter judgment of conviction and impose
132	sentence for a lower degree of offense; or] enter a judgment of conviction for the lower degree
133	of the offense, and impose a sentence for the lower degree of the offense;
134	(b) allow withdrawal of the defendant's plea and order the dismissal of the case[:]; or
135	(c) issue an order of expungement for all records of the offense if:
136	(i) the defendant successfully completes a problem solving court program that is
137	certified by the Judicial Council; and
138	(ii) the court allows the withdrawal of the defendant's plea and orders the dismissal of
139	the case.
140	(3) (a) Upon finding that a defendant has successfully completed the terms of a plea in
141	abeyance agreement and only as provided in the plea in abeyance agreement or as agreed to by
142	all parties, the court may [reduce the degree of the offense or dismiss the case only as provided
143	in the plea in abeyance agreement or as agreed to by all parties.]:
144	(i) reduce the degree of the offense, enter a judgment of conviction for the lower degree
145	of the offense, and impose a sentence for the lower degree of the offense;
146	(ii) allow withdrawal of the defendant's plea and order the dismissal of the case; or
147	(iii) issue an order of expungement for all records of the offense if:
148	(A) the defendant successfully completes a problem solving court program that is
149	certified by the Judicial Council; and

- (B) the court allows the withdrawal of the defendant's plea and orders the dismissal of the case.
 - (b) Upon sentencing a defendant for any lesser offense in accordance with a plea in abeyance agreement, the court may not invoke Section 76-3-402 to further reduce the degree of the offense.
 - (4) The court may require the Department of Corrections to assist in the administration of the plea in abeyance agreement as if the defendant were on probation to the court under Section 77-18-105.
 - (5) The terms of a plea in abeyance agreement may include:
 - (a) an order that the defendant pay a nonrefundable plea in abeyance fee, with a surcharge based on the amount of the plea in abeyance fee, both of which shall be allocated in the same manner as if paid as a fine for a criminal conviction under Section 78A-5-110 and a surcharge under Title 51, Chapter 9, Part 4, Criminal Conviction Surcharge Allocation, and which may not exceed in amount the maximum fine and surcharge which could have been imposed upon conviction and sentencing for the same offense;
 - (b) an order that the defendant pay the costs of any remedial or rehabilitative program required by the terms of the agreement; and
 - (c) an order that the defendant comply with any other conditions that could have been imposed as conditions of probation upon conviction and sentencing for the same offense.
 - (6) (a) The terms of a plea in abeyance shall include:
 - (i) a specific amount of restitution that the defendant will pay, as agreed to by the defendant and the prosecuting attorney;
 - (ii) a certification from the prosecuting attorney that:
 - (A) the prosecuting attorney has consulted with all victims, including the Utah Office for Victims of Crime; and
 - (B) all victims, including the Utah Office for Victims of Crime, are not seeking restitution; or
 - (iii) an agreement between the parties that restitution will be determined by the court at a subsequent hearing in accordance with Section 77-38b-205.
- (b) At a subsequent hearing described in Subsection (6)(a)(iii), the court shall order the defendant, as a modified term of the plea in abeyance, to pay restitution to all victims for the

181	entire amount of pecuniary damages that are proximately caused by the criminal conduct of the
182	defendant.
183	(c) The court shall collect, receive, process, and distribute payments for restitution to
184	the victim, unless otherwise provided by law or by the plea in abeyance agreement.
185	(d) If the defendant does not successfully complete the terms of the plea in abeyance,
186	the court shall enter an order for restitution, in accordance with Chapter 38b, Crime Victims
187	Restitution Act, upon entering a sentence for the defendant.
188	(7) (a) A court may not hold a plea in abeyance without the consent of both the
189	prosecuting attorney and the defendant.
190	(b) A decision by a prosecuting attorney not to agree to a plea in abeyance is final.
191	(8) No plea may be held in abeyance in any case involving:
192	(a) a sexual offense against an individual who is under 14 years old; or
193	(b) a driving under the influence violation under Section 41-6a-502, 41-6a-502.5,
194	41-6a-517, 41-6a-520, 41-6a-520.1, 41-6a-521.1, 76-5-102.1, or 76-5-207.
195	(9) (a) If the terms of a plea in abeyance agreement allow a court to issue an order of
196	expungement as described in Subsection (2)(c), the prosecuting attorney shall make a
197	reasonable effort to provide notice to any victim of the offense of the terms of the plea in
198	abeyance agreement.
199	(b) The notice under Subsection (9)(a) shall:
200	(i) state that the victim has a right to object to the expungement; and
201	(ii) provide instructions for registering an objection with the court.
202	(c) If there is a victim of the offense, the victim may file an objection with the court
203	before the court makes a finding as to whether the defendant successfully completed the terms
204	of the plea in abeyance agreement as described in Subsection (3).
205	(d) The defendant may respond, in writing, to any objection filed by the victim within
206	14 days after the day on which the objection is received by the court.
207	(10) If the court issues an order of expungement under Subsection (3)(a)(iii), the court
208	shall:
209	(a) expunge all records of the case as described in Section 77-40a-401; and
210	(b) notify the Bureau of Criminal Identification of the order of expungement.
211	(11) (a) Upon receiving notice from the court of an expungement order as described in

212	Subsection (10), the Bureau of Criminal Identification shall notify any agency, as defined in
213	Section 77-40a-101, affected by the expungement order.
214	(b) For purposes of Subsection (11)(a), the Bureau of Criminal Identification may not
215	notify the Board of Pardons and Parole of an expungement order if the individual has never
216	been:
217	(i) sentenced to prison in this state; or
218	(ii) under the jurisdiction of the Board of Pardons and Parole.
219	(c) The Bureau of Criminal Identification shall forward a copy of the expungement
220	order to the Federal Bureau of Investigation.
221	(12) The defendant may deliver copies of the expungement to any agency, as defined in
222	Section 77-40a-101, affected by the order of expungement.
223	(13) If an agency receives an expungement order under this part, the agency shall
224	expunge all records for the case in accordance with Section 77-40a-401.
225	Section 4. Section 77-40a-101 is amended to read:
226	77-40a-101. Definitions.
227	As used in this chapter:
228	[(1)] "Agency" means a state, county, or local government entity that generates or
229	maintains records relating to an investigation, arrest, detention, or conviction for an offense for
230	which expungement may be ordered.
231	(1) "Automatic expungement" means the expungement of records of an investigation,
232	arrest, detention, or conviction of an offense without the filing of a petition.
233	(2) "Bureau" means the Bureau of Criminal Identification of the Department of Public
234	Safety established in Section 53-10-201.
235	(3) "Civil accounts receivable" means the same as that term is defined in Section
236	<u>77-32b-102.</u>
237	(4) "Civil judgment of restitution" means the same as that term is defined in Section
238	<u>77-32b-102.</u>
239	[(3)] (5) "Certificate of eligibility" means a document issued by the bureau stating that
240	the criminal record and all records of arrest, investigation, and detention associated with a case
241	that is the subject of a petition for expungement is eligible for expungement.
242	[(4) (a) "Clean slate eligible case" means, except as provided in Subsection (4)(c), a

243	case:]
244	[(i) where each conviction within the case is:]
245	[(A) a misdemeanor conviction for possession of a controlled substance in violation of
246	Subsection 58-37-8(2)(a)(i);]
247	[(B) a class B or class C misdemeanor conviction; or]
248	[(C) an infraction conviction;]
249	[(ii) that involves an individual:]
250	[(A) whose total number of convictions in Utah state courts, not including infractions,
251	traffic offenses, or minor regulatory offenses, does not exceed the limits described in
252	Subsections 77-40a-303(4) and (5) without taking into consideration the exception in
253	Subsection 77-40a-303(7); and]
254	[(B) against whom no criminal proceedings are pending in the state; and]
255	[(iii) for which the following time periods have elapsed from the day on which the case
256	is adjudicated:]
257	[(A) at least five years for a class C misdemeanor or an infraction;]
258	[(B) at least six years for a class B misdemeanor; and]
259	[(C) at least seven years for a class A conviction for possession of a controlled
260	substance in violation of Subsection 58-37-8(2)(a)(i).]
261	[(b) "Clean slate eligible case" includes a case:]
262	[(i) that is dismissed as a result of a successful completion of a plea in abeyance
263	agreement governed by Subsection 77-2a-3(2)(b) if:]
264	[(A) except as provided in Subsection (4)(c), each charge within the case is a
265	misdemeanor for possession of a controlled substance in violation of Subsection
266	58-37-8(2)(a)(i), a class B or class C misdemeanor, or an infraction;
267	[(B) the individual involved meets the requirements of Subsection (4)(a)(ii); and]
268	[(C) the time periods described in Subsections (4)(a)(iii)(A) through (C) have elapsed
269	from the day on which the case is dismissed; or]
270	[(ii) where charges are dismissed without prejudice if each conviction, or charge that
271	was dismissed, in the case would otherwise meet the requirements under Subsection (4)(a) or
272	(b)(i).]
273	[(c) "Clean slate eligible case" does not include a case:]

274	[(i) where the individual is found not guilty by reason of insanity;]
275	[(ii) where the case establishes a criminal accounts receivable, as defined in Section
276	77-32b-102, that:]
277	[(A) has been entered as a civil accounts receivable or a civil judgment of restitution,
278	as those terms are defined in Section 77-32b-102, and transferred to the Office of State Debt
279	Collection under Section 77-18-114; or]
280	[(B) has not been satisfied according to court records; or]
281	[(iii) that resulted in one or more pleas held in abeyance or convictions for the
282	following offenses:]
283	[(A) any of the offenses listed in Subsection 77-40a-303(2)(a);]
284	[(B) an offense against the person in violation of Title 76, Chapter 5, Offenses Against
285	the Individual;
286	[(C) a weapons offense in violation of Title 76, Chapter 10, Part 5, Weapons;]
287	[(D) sexual battery in violation of Section 76-9-702.1;]
288	[(E) an act of lewdness in violation of Section 76-9-702 or 76-9-702.5;]
289	[(F) an offense in violation of Title 41, Chapter 6a, Part 5, Driving Under the Influence
290	and Reckless Driving;]
291	[(G) damage to or interruption of a communication device in violation of Section
292	76-6-108;]
293	[(H) a domestic violence offense as defined in Section 77-36-1; or]
294	[(I) any other offense classified in the Utah Code as a felony or a class A misdemeanor
295	other than a class A misdemeanor conviction for possession of a controlled substance in
296	violation of Subsection 58-37-8(2)(a)(i).]
297	(6) "Clean slate eligible case" means a case that is eligible for automatic expungement
298	under Section 77-40a-205.
299	[(5)] (7) "Conviction" means judgment by a criminal court on a verdict or finding of
300	guilty after trial, a plea of guilty, or a plea of nolo contendere.
301	(8) "Court" means a district court or a justice court.
302	(9) "Criminal accounts receivable" means the same as that term is defined in Section
303	<u>77-32b-102</u> .
304	[(6)] (10) "Criminal protective order" means the same as that term is defined in Section

305	78B-7-102.
306	$[\frac{7}{11}]$ "Criminal stalking injunction" means the same as that term is defined in
307	Section 78B-7-102.
308	[(8)] (12) "Department" means the Department of Public Safety established in Section
309	53-1-103.
310	[(9)] <u>(13)</u> "Drug possession offense" means [an offense under]:
311	(a) <u>an offense described in Subsection 58-37-8(2)</u> , except <u>for</u> :
312	(i) [any] an offense under Subsection 58-37-8(2)(b)(i), possession of 100 pounds or
313	more of marijuana;
314	(ii) [any] an offense enhanced under Subsection 58-37-8(2)(e), violation in a
315	correctional facility; or
316	(iii) an offense for driving with a controlled substance illegally in the person's body and
317	negligently causing serious bodily injury or death of another, as codified before May 4, 2022,
318	Laws of Utah 2021, Chapter 236, Section 1, Subsection 58-37-8(2)(g);
319	(b) an offense described in Subsection 58-37a-5(1), use or possession of drug
320	paraphernalia;
321	(c) <u>an offense described in Section 58-37b-6</u> , possession or use of an imitation
322	controlled substance; or
323	(d) any local ordinance which is substantially similar to any of the offenses described
324	in this Subsection $\left[\frac{(9)}{(13)}\right]$.
325	[(10)] (14) (a) "Expunge" means to [seal or otherwise restrict access to the individual's
326	record held by an agency when the record includes a criminal investigation, detention, arrest, or
327	conviction.] remove a record from public inspection by:
328	(i) sealing the record; or
329	(ii) restricting or denying access to the record.
330	(b) "Expunge" does not include the destruction of a record.
331	(15) "Indigent" means a financial status that results from a court finding that a
332	petitioner is financially unable to pay the fee to file a petition for expungement under Section
333	<u>78A-2-302.</u>
334	[(11)] (16) "Jurisdiction" means a state, district, province, political subdivision,
335	territory, or possession of the United States or any foreign country.

336	[(12)] (17) (a) "Minor regulatory offense" means, except as provided in Subsection
337	[(12)(c)] (17)(c), a class B or C misdemeanor offense or a local ordinance.
338	(b) "Minor regulatory offense" includes an offense under Section 76-9-701 or
339	76-10-105.
340	(c) "Minor regulatory offense" does not include:
341	(i) any drug possession offense;
342	(ii) an offense under Title 41, Chapter 6a, Part 5, Driving Under the Influence and
343	Reckless Driving;
344	(iii) an offense under Sections 73-18-13 through 73-18-13.6;
345	(iv) except as provided in Subsection [(12)(b)] (17)(b), an offense under Title 76, Utah
346	Criminal Code; or
347	(v) any local ordinance that is substantially similar to an offense listed in Subsections
348	$[\frac{(12)(c)(i)}{(17)(c)(i)}]$ through (iv).
349	[(13)] (18) "Petitioner" means an individual applying for expungement under this
350	chapter.
351	[(14)] (19) "Plea in abeyance" means the same as that term is defined in Section
352	77-2a-1.
353	(20) "Record" means a book, letter, document, paper, map, plan, photograph, film,
354	card, tape, recording, electronic data, or other documentary material, regardless of physical
355	form or characteristics, that:
356	(a) is contained in the agency's file regarding the arrest, detention, investigation,
357	conviction, sentence, incarceration, probation, or parole of an individual; and
358	(b) is prepared, owned, received, or retained by an agency, including a court.
359	[(15)] (21) (a) "Traffic offense" means, except as provided in Subsection $[(15)(b)]$
360	<u>(21)(b)</u> :
361	(i) an infraction, a class B misdemeanor offense, or a class C misdemeanor offense
362	under Title 41, Chapter 6a, Traffic Code;
363	(ii) an infraction, a class B misdemeanor offense, or a class C misdemeanor offense
364	under Title 53, Chapter 3, Part 2, Driver Licensing Act;
365	(iii) an infraction, a class B misdemeanor offense, or a class C misdemeanor offense
366	under Title 73, Chapter 18, State Boating Act; and

367	(iv) all local ordinances that are substantially similar to an offense listed in Subsections
368	[(15)(a)(i)] <u>(21)(a)(i)</u> through (iii).
369	(b) "Traffic offense" does not mean:
370	(i) an offense under Title 41, Chapter 6a, Part 5, Driving Under the Influence and
371	Reckless Driving;
372	(ii) an offense under Sections 73-18-13 through 73-18-13.6; or
373	(iii) any local ordinance that is substantially similar to an offense listed in Subsection
374	$[\frac{(15)(b)(i)}{(21)(b)(i)}]$ or (ii).
375	[(16)] (22) "Traffic offense case" means that each offense in the case is a traffic
376	offense.
377	Section 5. Section 77-40a-104 is amended to read:
378	77-40a-104. Department rulemaking authority.
379	In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
380	department may make rules to:
381	(1) implement procedures for processing an automatic expungement;
382	(2) implement procedures for applying for certificates of eligibility;
383	(3) specify procedures for receiving a certificate of eligibility;
384	(4) create forms and determine information necessary to be provided to the bureau; and
385	(5) implement procedures for the confirmation of an expungement under Subsection
386	[77-40a-403(2)] <u>77-40a-401(4)</u> .
387	Section 6. Section 77-40a-201 is amended to read:
388	Part 2. Automatic Expungement and Deletion
389	77-40a-201. General provisions for automatic expungement and deletion.
390	[(1) (a) Except as provided in Subsection (1)(b) and subject to Section 77-40a-203, this
391	section governs the process for the automatic expungement of all records in:]
392	[(i) except as provided in Subsection (2)(e), a case that resulted in an acquittal on all
393	charges;]
394	[(ii) except as provided in Subsection (3)(e), a case that is dismissed with prejudice; or]
395	[(iii) a case that is a clean slate eligible case.]
396	[(b) This section does not govern automatic expungement of a traffic offense.]
397	[(2) (a) Except as provided in Subsection (2)(e), the process for automatic

398	expungement of records for a case that resulted in an acquittal on all charges is as described in
399	Subsections (2)(b) through (d).
400	[(b) If a court determines that the requirements for automatic expungement have been
401	met, a district court or justice court shall:]
402	[(i) issue, without a petition, an expungement order; and]
403	[(ii) based on information available, notify the bureau and the prosecuting agency
404	identified in the case of the order of expungement.]
405	[(c) The bureau, upon receiving notice from the court, shall notify the law enforcement
406	agencies identified in the case of the order of expungement.]
407	[(d) For a case resulting in an acquittal on all charges on or before May 1, 2020, that is
408	automatically expunged under this Subsection (2), a law enforcement agency shall expunge
409	records for the case within one year after the day on which the law enforcement agency
410	receives notice from the bureau.]
411	[(e) For purposes of this section, a case that resulted in acquittal on all charges does not
412	include a case that resulted in an acquittal because the individual is found not guilty by reason
413	of insanity.]
414	[(3) (a) The process for an automatic expungement of a case that is dismissed with
415	prejudice is as described in Subsections (3)(b) through (d).]
416	[(b) If a court determines that the requirements for automatic expungement have been
417	met, a district court or justice court shall:]
418	[(i) issue, without a petition, an expungement order; and]
419	[(ii) based on information available, notify the bureau and the prosecuting agency
420	identified in the case of the order of expungement.]
421	[(c) The bureau, upon receiving notice from the court, shall notify the law enforcement
422	agencies identified in the case of the order of expungement.]
423	[(d) For a case dismissed on or before May 1, 2020, that is automatically expunged
424	under this Subsection (3), a law enforcement agency shall expunge records for the case within
425	one year after the day on which the law enforcement agency receives notice from the bureau.]
426	[(e) For purposes of this Subsection (3), a case that is dismissed with prejudice does
427	not include a case that is dismissed with prejudice as a result of successful completion of a plea
428	in abeyance agreement governed by Subsection 77-2a-3(2)(b).]

429	(4) (a) The process for the automatic expungement of a clean slate eligible case is as
430	described in Subsections (4)(b) through (g) and in accordance with any rules made by the
431	Judicial Council or the Supreme Court.]
432	[(b) A prosecuting agency, that has complied with Rule 42 of the Utah Rules of
433	Criminal Procedure, shall receive notice on a monthly basis for any case prosecuted by that
434	agency that appears to be a clean slate eligible case.]
435	[(c) Within 35 days of the day on which the notice described in Subsection (4)(b) is
436	sent, the prosecuting agency shall provide written notice in accordance with any rules made by
437	the Judicial Council or the Supreme Court if the prosecuting agency objects to an automatic
438	expungement for any of the following reasons:]
439	[(i) after reviewing the agency record, the prosecuting agency believes that the case
440	does not meet the definition of a clean slate eligible case;]
441	[(ii) the individual has not paid court-ordered restitution to the victim; or]
442	[(iii) the prosecuting agency has a reasonable belief, grounded in supporting facts, that
443	an individual with a clean slate eligible case is continuing to engage in criminal activity within
444	or outside of the state.]
445	[(d) (i) If a prosecuting agency provides written notice of an objection for a reason
446	described in Subsection (4)(c) within 35 days of the day on which the notice described in
447	Subsection (4)(b) is sent, the court may not proceed with automatic expungement.]
448	[(ii) If 35 days pass from the day on which the notice described in Subsection (4)(b) is
449	sent without the prosecuting agency providing written notice of an objection for a reason
450	described in Subsection (4)(c), the court may proceed with automatic expungement.]
451	[(e) If a court determines that the requirements for automatic expungement have been
452	met, a district court or justice court shall:]
453	[(i) issue, without a petition, an expungement order; and]
454	[(ii) based on information available, notify the bureau and the prosecuting agency
455	identified in the case of the order of expungement.]
456	[(f) The bureau, upon receiving notice from the court, shall notify the law enforcement
457	agencies identified in the case of the order of expungement.]
458	[(g) For a clean slate case adjudicated or dismissed on or before May 1, 2020, that is
459	automatically expunged under this Subsection (4), a law enforcement agency shall expunge

460	records for the case within one year after the day on which the law enforcement agency
461	receives notice from the bureau.]
462	[(5)] (1) Nothing in this section precludes an individual from filing a petition for
463	expungement of records that are eligible for automatic expungement or deletion under this
464	section if an automatic expungement or deletion has not occurred pursuant to this section.
465	[(6)] (2) An automatic expungement performed under this [section] part does not
466	preclude a person from requesting access to expunged records in accordance with Section
467	77-40a-403 or 77-40a-404.
468	[(7)] <u>(3)</u> (a) The Judicial Council and the Supreme Court shall make rules to govern the
469	process for automatic expungement.
470	(b) The rules under Subsection $[\frac{(7)(a)}{(3)(a)}]$ may authorize:
471	(i) a presiding judge of a district court to issue an expungement order for any case
472	when the requirements for automatic expungement are met; and
473	(ii) a presiding judge of a justice court to issue an expungement order for any justice
474	court case within the presiding judge's judicial district when the requirements for automatic
475	expungement are met.
476	(4) An individual does not have a cause of action for damages as a result of the failure
477	<u>to:</u>
478	(a) identify an individual's case as eligible for automatic expungement or deletion
479	under this part; or
480	(b) automatically expunge or delete the records of a case that is eligible under this part.
481	Section 7. Section 77-40a-202 is amended to read:
482	77-40a-202. Automatic deletion for traffic offense by a court.
483	(1) [Subject to Section 77-40a-203,] A court shall delete all records for the following
484	traffic offenses [shall be deleted] without a court order or notice to the prosecuting agency:
485	(a) a traffic offense case that resulted in an acquittal on all charges;
486	(b) a traffic offense case that is dismissed with prejudice, except for a case that is
487	dismissed with prejudice as a result of successful completion of a plea in abeyance agreement
488	governed by Subsection 77-2a-3(2)(b); or
489	(c) a traffic offense case for which the following time periods have elapsed from the
490	day on which the case is adjudicated:

491	(i) at least five years for a class C misdemeanor or an infraction; or
492	(ii) at least six years for a class B misdemeanor.
493	(2) For a traffic offense case that results in an acquittal, is dismissed, or is adjudicated
494	on or after May 1, 2020, the court shall delete all records for the traffic offense upon
495	identification.
496	(3) For a traffic offense case that results in an acquittal, is dismissed, or is adjudicated
497	before May 1, 2020, the court shall delete all records for the traffic offense within one year of
498	the day on which the case is identified as eligible for deletion.
499	[(2) The Judicial Council shall make rules to provide an ongoing process for
500	identifying and deleting records on all traffic offenses described in Subsection (1).]
501	Section 8. Section 77-40a-204 is enacted to read:
502	77-40a-204. Request for automatic expungement of a case Automatic
503	expungement before October 1, 2024, and on and after October 1, 2027.
504	(1) (a) On and after October 1, 2024, but before October 1, 2027, an individual must
505	submit the necessary form to the court to receive an expungement of a case that is eligible
506	under this part.
507	(b) If a form is submitted as described in Subsection (1), the court shall determine
508	whether the individual has a case that qualifies for expungement in accordance with Sections
509	77-40a-205 and 77-40a-206.
510	(2) A court shall automatically expunge a case in accordance with this part if the court
511	identified the case as being eligible for automatic expungement before October 1, 2024, and the
512	requirements for automatic expungement were met under this part.
513	(3) On and after October 1, 2027, a court shall automatically expunge a case in
514	accordance with this part if the court identifies the case as being eligible for automatic
515	expungement.
516	(4) A court shall make reasonable efforts, within available funding, to expunge a case
517	under Subsection (3) as quickly as practicable with the goal of:
518	(a) expunging a case that resulted in an acquittal on all charges on or after May 1,
519	2020, 60 days after acquittal;
520	(b) expunging a case that resulted in a dismissal with prejudice, other than a case that is
521	dismissed with prejudice as a result of successful completion of a plea in abeyance agreement

322	governed by Subsection 77-24-3(2)(b), on or after May 1, 2020, 180 days after:
523	(i) for a case in which no appeal was filed, the day on which the entire case against the
524	individual is dismissed with prejudice; or
525	(ii) for a case in which an appeal was filed, the day on which a court issues a final
526	nonappealable order;
527	(c) expunging a clean slate eligible case that is adjudicated or dismissed on or after
528	May 1, 2020, and is not a traffic offense within 30 days of the court determining that the
529	requirements for expungement have been satisfied under Section 77-40a-206; and
530	(d) expunging a case adjudicated or dismissed before May 1, 2020, within one year of
531	the day on which the case is identified as eligible for automatic expungement.
532	Section 9. Section 77-40a-205 is enacted to read:
533	77-40a-205. Automatic expungement of state records for a clean slate case.
534	(1) A court shall issue an order of expungement, without the filing of a petition, for all
535	records of the case that are held by the court and the bureau if:
536	(a) on and after October 1, 2024, but before October 1, 2027, the individual submitted
537	a form requesting expungement of a case as described in Section 77-40a-204;
538	(b) the case is eligible for expungement under this section; and
539	(c) the prosecuting agency does not object to the expungement of the case as described
540	in Subsection (6).
541	(2) Except as otherwise provided in Subsection (3), a case is eligible for expungement
542	under this section if:
543	(a) (i) each conviction within the case is a conviction for:
544	(A) a misdemeanor offense for possession of a controlled substance in violation of
545	Subsection 58-37-8(2)(a)(i);
546	(B) a class B misdemeanor offense;
547	(C) a class C misdemeanor offense; or
548	(D) an infraction; and
549	(ii) the following time periods have passed after the day on which the individual is
550	adjudicated:
551	(A) at least five years for the conviction of a class C misdemeanor offense or an
552	infraction;

553	(B) at least six years for the conviction of a class B misdemeanor offense; or
554	(C) at least seven years for the conviction of a class A misdemeanor offense for
555	possession of a controlled substance in violation of Subsection 58-37-8(2)(a)(i); or
556	(b) (i) the case is dismissed as a result of a successful completion of a plea in abeyance
557	agreement governed by Subsection 77-2a-3(2)(b) or the case is dismissed without prejudice;
558	(ii) each charge within the case is:
559	(A) a misdemeanor offense for possession of a controlled substance in violation of
560	<u>Subsection</u> 58-37-8(2)(a)(i);
561	(B) a class B misdemeanor offense;
562	(C) a class C misdemeanor offense; or
563	(D) an infraction; and
564	(iii) the following time periods have passed after the day on which the case is
565	dismissed:
566	(A) at least five years for a charge in the case for a class C misdemeanor offense or an
567	infraction;
568	(B) at least six years for a charge in the case for a class B misdemeanor offense; or
569	(C) at least seven years for a charge in the case for a class A misdemeanor offense for
570	possession of a controlled substance in violation of Subsection 58-37-8(2)(a)(i).
571	(3) A case is not eligible for expungement under this section if:
572	(a) the individual has a total number of convictions in courts of this state that exceed
573	the limits under Subsection 77-40a-303(4) or (5) without taking into consideration:
574	(i) the exception in Subsection 77-40a-303(7); or
575	(ii) any infraction, traffic offense, or minor regulatory offense;
576	(b) there is a criminal proceeding for a misdemeanor or felony offense pending in a
577	court of this state against the individual, unless the proceeding is for a traffic offense;
578	(c) for an individual seeking an automatic expungement on and after January 1, 2025,
579	the individual is incarcerated in the state prison or on probation or parole that is supervised by
580	the Department of Corrections;
581	(d) the case resulted in the individual being found not guilty by reason of insanity;
582	(e) the case establishes a criminal accounts receivable that:
583	(i) has been entered as a civil accounts receivable or a civil judgment of restitution and

584	transferred to the Office of State Debt Collection under Section //-18-114; or
585	(ii) has not been satisfied according to court records; or
586	(f) the case resulted in a plea held in abeyance or a conviction for the following
587	offenses:
588	(i) any of the offenses listed in Subsection 77-40a-303(2)(a);
589	(ii) an offense against the person in violation of Title 76, Chapter 5, Offenses Against
590	the Individual;
591	(iii) a weapons offense in violation of Title 76, Chapter 10, Part 5, Weapons;
592	(iv) sexual battery in violation of Section 76-9-702.1;
593	(v) an act of lewdness in violation of Section 76-9-702 or 76-9-702.5;
594	(vi) an offense in violation of Title 41, Chapter 6a, Part 5, Driving Under the Influence
595	and Reckless Driving;
596	(vii) damage to or interruption of a communication device in violation of Section
597	<u>76-6-108;</u>
598	(viii) a domestic violence offense as defined in Section 77-36-1; or
599	(ix) any other offense classified in the Utah Code as a felony or a class A misdemeanor
600	other than a class A misdemeanor conviction for possession of a controlled substance in
601	violation of Subsection 58-37-8(2)(a)(i).
602	(4) A prosecuting agency that has complied with Rule 42 of the Utah Rules of Criminal
603	Procedure shall receive notice on a monthly basis for any case prosecuted by that agency that
604	appears to be eligible for automatic expungement under this section.
605	(5) Within 35 days after the day on which the notice described in Subsection (4) is
606	sent, the prosecuting agency shall provide written notice in accordance with Rule 42 of the
607	<u>Utah Rules of Criminal Procedure if the prosecuting agency objects to an automatic</u>
608	expungement for any of the following reasons:
609	(a) the prosecuting agency believes that the case is not eligible for expungement under
610	this section after reviewing the agency record;
611	(b) the individual has not paid restitution to the victim as ordered by the court; or
612	(c) the prosecuting agency has a reasonable belief, grounded in supporting facts, that an
613	individual involved in the case is continuing to engage in criminal activity within or outside of
614	the state.

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615	(6) If a prosecuting agency provides written notice of an objection for a reason
616	described in Subsection (5) within 35 days after the day on which the notice under Subsection
617	(4) is sent, the court may not proceed with automatic expungement of the case.
618	(7) If 35 days pass after the day on which the notice described in Subsection (4) is sent
619	without the prosecuting agency providing written notice of an objection under Subsection (5),
620	the court shall proceed with automatic expungement of the case.
621	(8) If a court issues an order of expungement under Subsection (1), the court shall:
622	(a) expunge all records of the case held by the court in accordance with Section
623	77-40a-401; and
624	(b) notify the bureau and the prosecuting agency identified in the case, based on
625	information available to the court, of the order of expungement.
626	Section 10. Section 77-40a-206 is enacted to read:
627	77-40a-206. Automatic expungement of state records for a case resulting in an
628	acquittal or dismissal with prejudice.
629	(1) A court shall issue an order of expungement, without the filing of a petition, for all
630	records of the case that are held by the court and the bureau if:
631	(a) on and after October 1, 2024, but before October 1, 2027, the individual submitted
632	a form requesting expungement of a case as described in Section 77-40a-204; and
633	(b) the case is eligible for expungement under this section.
634	(2) Except as provided in Subsection (3), a case is eligible for expungement under this
635	section if:
636	(a) (i) the case resulted in an acquittal on all charges; and
637	(ii) at least 60 days have passed after the day on which the case resulted in an acquittal;
638	<u>or</u>
639	(b) (i) the case is dismissed with prejudice; and
640	(ii) at least 180 days have passed after the day on which:
641	(A) for a case in which no appeal was filed, the entire case against the individual is
642	dismissed with prejudice; or
643	(B) for a case in which an appeal was filed, a court issues a final nonappealable order.
644	(3) A case is not eligible for expungement under Subsection (2) if:
645	(a) the case resulted in an acquittal because the individual is found not guilty by reason

646	of insanity; or
647	(b) the case is dismissed with prejudice as a result of successful completion of a plea in
648	abeyance agreement governed by Subsection 77-2a-3(2)(b).
649	(4) If a court issues an order of expungement under Subsection (1), the court shall:
650	(a) expunge all records of the case held by the court as described in Section
651	77-40a-401; and
652	(b) notify the bureau and the prosecuting agency identified in the case, based on
653	information available to the court, of the order of expungement.
654	Section 11. Section 77-40a-207 is enacted to read:
655	77-40a-207. Automatic expungement by the bureau.
656	(1) Upon receiving notice from a court of an expungement order under this part, the
657	bureau shall expunge all records of the case in accordance with Section 77-40a-401.
658	(2) The bureau shall forward a copy of the expungement order to the Federal Bureau of
659	Investigation.
660	(3) Except for the court and the bureau, an agency is not required to expunge all
661	records of a case that is automatically expunged under this part.
662	Section 12. Section 77-40a-301 is amended to read:
663	77-40a-301. Application for certificate of eligibility for expungement Penalty
664	for false or misleading information on application.
665	(1) If an individual seeks to expunge the individual's criminal record in regard to an
666	arrest, investigation, detention, or conviction, the individual shall:
667	(a) except as provided in Subsection 77-40a-305(3) or (4), apply to the bureau for a
668	certificate of eligibility for expungement of the criminal record and pay the application fee as
669	described in Section 77-40a-304;
670	[(b) if the individual is qualified to receive a certificate of eligibility, pay the issuance
671	fee for the certificate of eligibility as described in Section 77-40a-304; and]
672	(b) except as provided in Subsections 77-40a-304(3) and (7), pay the issuance fee for
673	the certificate of eligibility as described in Section 77-40a-304; and
674	(c) file a petition for expungement in accordance with Section 77-40a-305.
675	(2) (a) An individual who intentionally or knowingly provides any false or misleading
676	information to the bureau when applying for a certificate of eligibility is guilty of a class B

677	misdemeanor and subject to prosecution under Section 76-8-504.6.
678	(b) Regardless of whether the individual is prosecuted, the bureau may deny a
679	certificate of eligibility to anyone who knowingly provides false information on an application.
680	Section 13. Section 77-40a-302 is amended to read:
681	77-40a-302. Requirements for certificate of eligibility to expunge records of
682	arrest, investigation, and detention.
683	(1) Except as provided in Subsection (2), if a petitioner is arrested or charged with an
684	offense, the petitioner is eligible to receive a certificate of eligibility from the bureau to
685	expunge records of the arrest, investigation, and detention in the case for the offense if:
686	(a) the following time periods have passed:
687	(i) at least 30 days have passed after the day on which the individual is arrested or
688	charged for the offense;
689	(ii) at least three years have passed after the day on which the petitioner was convicted
690	of the traffic offense if there is a conviction in the case for a traffic offense that is a class C
691	misdemeanor or an infraction; and
692	(iii) at least four years have passed after the day on which the petitioner was convicted
693	of the traffic offense if there is a conviction in the case for a traffic offense that is a class B
694	misdemeanor; and
695	(b) one of the following occurs:
696	(i) an investigating law enforcement agency and the prosecuting attorney have screened
697	the case and determined that no charges will be filed against the petitioner;
698	(ii) all charges in the case are dismissed with prejudice;
699	(iii) if a charge in the case is dismissed without prejudice or without condition:
700	(A) the prosecuting attorney consents in writing to the issuance of a certificate of
701	eligibility; or
702	(B) at least 180 days have passed after the day on which the charge is dismissed;
703	(iv) the petitioner is acquitted at trial on all of the charges in the case; or
704	(v) the statute of limitations expires on all of the charges in the case[; and].
705	[(c) (i) there is a conviction in the case for a traffic offense that is a class C
706	misdemeanor or an infraction, at least three years have passed after the day on which the
707	petitioner was convicted of the traffic offense; or]

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708 (ii) there is a conviction in the case for a traffic offense that is a class B misdemeanor, 709 at least four years have passed after the day on which the petitioner was convicted of the traffic 710 offense.] 711 (2) A petitioner is not eligible for a certificate of eligibility under Subsection (1) if: 712 (a) there is a criminal proceeding for a misdemeanor or felony offense pending against 713 the petitioner, unless the criminal proceeding is for a traffic offense; 714 (b) there is a plea in abeyance for a misdemeanor or felony offense pending against the 715 petitioner, unless the plea in abeyance is for a traffic offense; 716 (c) the petitioner is currently incarcerated, on parole, or on probation, unless the 717 petitioner is on probation or parole for an infraction, a traffic offense, or a minor regulatory 718 offense; or 719 (d) there is a criminal protective order or a criminal stalking injunction in effect for the 720 case. 721 Section 14. Section 77-40a-303 is amended to read: 722 77-40a-303. Requirements for a certificate of eligibility to expunge records of a 723 conviction. 724 (1) Except as otherwise provided by this section, a petitioner is eligible to receive a 725 certificate of eligibility from the bureau to expunge the records of a conviction if: 726 (a) the petitioner has paid in full all fines and interest ordered by the court related to the 727 conviction for which expungement is sought; 728 (b) the petitioner has paid in full all restitution ordered by the court under Section 729 77-38b-205; and 730 (c) the following time periods have passed after the day on which the petitioner was 731 convicted or released from incarceration, parole, or probation, whichever occurred last, for the 732 conviction that the petitioner seeks to expunge: 733 (i) 10 years for the conviction of a misdemeanor under Subsection 41-6a-501(2); 734 (ii) 10 years for the conviction of a felony for operating a motor vehicle with any 735 amount of a controlled substance in an individual's body and causing serious bodily injury or 736 death, as codified before May 4, 2022, Laws of Utah 2021,

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

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

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- 739 (iv) five years for the conviction of a drug possession offense that is a felony; 740 (v) five years for the conviction of a class A misdemeanor; 741 (vi) four years for the conviction of a class B misdemeanor; or 742 (vii) three years for the conviction of a class C misdemeanor or infraction. 743 (2) A petitioner is not eligible to receive a certificate of eligibility from the bureau to 744 expunge the records of a conviction under Subsection (1) if: 745 (a) except as provided in Subsection (3), the conviction for which expungement is 746 sought is: 747 (i) a capital felony; 748 (ii) a first degree felony; 749 (iii) a felony conviction of a violent felony as defined in Subsection 750 76-3-203.5(1)(c)(i); 751 (iv) a felony conviction described in Subsection 41-6a-501(2); 752 (v) an offense, or a combination of offenses, that would require the individual to 753 register as a sex offender, as defined in Section 77-41-102; or 754 (vi) a registerable child abuse offense as defined in Subsection 77-43-102(2); 755 (b) there is a criminal proceeding for a misdemeanor or felony offense pending against 756 the petitioner, unless the criminal proceeding is for a traffic offense: 757 (c) there is a plea in abeyance for a misdemeanor or felony offense pending against the 758 petitioner, unless the plea in abeyance is for a traffic offense; 759 (d) the petitioner is currently incarcerated, on parole, or on probation, unless the petitioner is on probation or parole for an infraction, a traffic offense, or a minor regulatory 760 761 offense; 762 (e) the petitioner intentionally or knowingly provides false or misleading information 763 on the application for a certificate of eligibility; 764 (f) there is a criminal protective order or a criminal stalking injunction in effect for the 765 case; or 766 (g) the bureau determines that the petitioner's criminal history makes the petitioner
 - (3) Subsection (2)(a) does not apply to a conviction for a qualifying sexual offense, as defined in Section 76-3-209, if, at the time of the offense, a petitioner who committed the

ineligible for a certificate of eligibility under Subsection (4) or (5).

offense was at least 14 years old but under 18 years old, unless the petitioner was convicted by a district court as an adult in accordance with Title 80, Chapter 6, Part 5, Transfer to District Court.

- (4) Subject to Subsections (6), (7), and (8), a petitioner is not eligible to receive a certificate of eligibility if, at the time the petitioner seeks the certificate of eligibility, the bureau determines that the petitioner's criminal history, including previously expunged convictions, contains any of the following:
- (a) two or more felony convictions other than for drug possession offenses, each of which is contained in a separate criminal episode;
- (b) any combination of three or more convictions other than for drug possession offenses that include two class A misdemeanor convictions, each of which is contained in a separate criminal episode;
- (c) any combination of four or more convictions other than for drug possession offenses that include three class B misdemeanor convictions, each of which is contained in a separate criminal episode; or
- (d) five or more convictions other than for drug possession offenses of any degree whether misdemeanor or felony, each of which is contained in a separate criminal episode.
- (5) Subject to Subsections (7) and (8), a petitioner is not eligible to receive a certificate of eligibility if, at the time the petitioner seeks the certificate of eligibility, the bureau determines that the petitioner's criminal history, including previously expunged convictions, contains any of the following:
- (a) three or more felony convictions for drug possession offenses, each of which is contained in a separate criminal episode; or
- (b) any combination of five or more convictions for drug possession offenses, each of which is contained in a separate criminal episode.
- (6) If the petitioner's criminal history contains convictions for both a drug possession offense and a non-drug possession offense arising from the same criminal episode, the bureau shall count that criminal episode as a conviction under Subsection (4) if any non-drug possession offense in that episode:
 - (a) is a felony or class A misdemeanor; or
 - (b) has the same or a longer waiting period under Subsection (1)(c) than any drug

801	possession offense in that episode.
802	(7) Except as provided in Subsection (8), if at least 10 years have passed after the day
803	on which the petitioner was convicted or released from incarceration, parole, or probation,
804	whichever occurred last, for all convictions:
805	(a) each numerical eligibility limit under Subsections (4)(a) and (b) shall be increased
806	by one; and
807	(b) each numerical eligibility limit under Subsections (4)(c) and (d) is not applicable if
808	the highest level of convicted offense in the criminal episode is:
809	(i) a class B misdemeanor;
810	(ii) a class C misdemeanor;
811	(iii) a drug possession offense if none of the non-drug possession offenses in the
812	criminal episode are a felony or a class A misdemeanor; or
813	(iv) an infraction.
814	(8) When determining whether a petitioner is eligible for a certificate of eligibility
815	under Subsection (4), (5), or (7), the bureau may not consider a petitioner's pending case or
816	prior conviction for:
817	(a) an infraction;
818	(b) a traffic offense;
819	(c) a minor regulatory offense; or
820	(d) a clean slate eligible case that was automatically expunged [in accordance with
821	Section 77-40a-201].
822	(9) If the petitioner received a pardon before May 14, 2013, from the Utah Board of
823	Pardons and Parole, the petitioner is entitled to an expungement order for all pardoned crimes
824	in accordance with Section 77-27-5.1.
825	Section 15. Section 77-40a-304 is amended to read:
826	77-40a-304. Certificate of eligibility process Issuance of certificate Fees.
827	(1) (a) When a petitioner applies for a certificate of eligibility as described in
828	Subsection 77-40a-301(1)[,]:
829	(i) the bureau shall perform a check of records of governmental agencies, including
830	national criminal data bases, to determine whether the petitioner is eligible to receive a

certificate of eligibility under this chapter[-]; and

832	(11) the petitioner shall pay an application fee at the time the petitioner submits an
833	application for a certificate of eligibility to the bureau.
834	(b) For purposes of determining eligibility under this chapter, the bureau may review
835	records of arrest, investigation, detention, and conviction that have been previously expunged,
836	regardless of the jurisdiction in which the expungement occurred.
837	[(c) Once the eligibility process is complete, the bureau shall notify the petitioner.]
838	[(d) If the petitioner meets all of the criteria under Section 77-40a-302 or 77-40a-303:]
839	[(i) the bureau shall issue a certificate of eligibility that is valid for a period of 180 days
840	from the day on which the certificate is issued;]
841	[(ii) the bureau shall provide a petitioner with an identification number for the
842	certificate of eligibility; and]
843	[(iii) the petitioner shall pay the issuance fee established by the department as
844	described in Subsection (2).]
845	[(e)] (c) If[, after reasonable research,] a disposition for an arrest on the criminal
846	history file is unobtainable after reasonable research, the bureau may issue a special certificate
847	giving determination of eligibility to the court, except that the bureau may not issue the special
848	certificate if:
849	(i) there is a criminal proceeding for a misdemeanor or felony offense pending against
850	the petitioner, unless the criminal proceeding is for a traffic offense;
851	(ii) there is a plea in abeyance for a misdemeanor or felony offense pending against the
852	petitioner, unless the plea in abeyance is for a traffic offense; or
853	(iii) the petitioner is currently incarcerated, on parole, or on probation, unless the
854	petitioner is on probation or parole for an infraction, a traffic offense, or a minor regulatory
855	offense.
856	(2) (a) Once the eligibility process is complete, the bureau shall notify the petitioner.
857	(b) If the petitioner meets all of the criteria under Section 77-40a-302 or 77-40a-303
858	and the bureau determines that the issuance of a certificate of eligibility or special certificate is
859	appropriate:
860	(i) the bureau shall issue a certificate of eligibility or special certificate that is valid for
861	a period of 180 days from the day on which the certificate is issued;
862	(ii) the bureau shall provide a petitioner with an identification number for the

803	certificate of engionity of special certificate, and
864	(iii) except as provided in Subsection (3), the petitioner shall pay an additional fee for
865	the issuance of a certificate of eligibility or special certificate.
866	[(2) (a) The bureau shall charge application and issuance fees for a certificate of
867	eligibility or special certificate in accordance with the process in Section 63J-1-504.
868	[(b) The application fee shall be paid at the time the petitioner submits an application
869	for a certificate of eligibility to the bureau.]
870	[(c) If the bureau determines that the issuance of a certificate of eligibility or special
871	certificate is appropriate, the petitioner will be charged an additional fee for the issuance of a
872	certificate of eligibility or special certificate unless Subsection (2)(d) applies.]
873	[(d) An issuance fee may not be assessed against a petitioner who]
874	(3) The bureau shall issue a certificate of eligibility or special certificate without
875	requiring the payment of the issuance fee if the petitioner:
876	(a) qualifies for a certificate of eligibility under Section 77-40a-302 unless the charges
877	were dismissed pursuant to a plea in abeyance agreement under Title 77, Chapter 2a, Pleas in
878	Abeyance, or a diversion agreement under Title 77, Chapter 2, Prosecution, Screening, and
879	Diversion[-]; or
880	(b) indicates on the application for a certificate of eligibility that the petitioner
881	reasonably believes, as of the date of the application, that the fee to file a petition for
882	expungement is likely to be waived by a court because the petitioner is indigent.
883	[(e) Funds generated under this Subsection (2) shall be deposited in the General Fund
884	as a dedicated credit by the department to cover the costs incurred in determining eligibility.]
885	[(3)] (4) The bureau shall include on the certificate of eligibility all information that is
886	needed for the court to issue a valid expungement order.
887	[(4)] (5) The bureau shall provide clear written instructions to the petitioner that
888	explain:
889	(a) the process for a petition for expungement; and
890	(b) what is required of the petitioner to complete the process for a petition for
891	expungement.
892	(6) If a petitioner indicates on the application for a certificate of eligibility that a court
893	is likely to waive the fee for a petition for expundement as described in Subsection (3)(b), the

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894	bureau shall:
895	(a) inform the petitioner that the petitioner will be required to pay an issuance fee
896	before an agency will expunge the offense if a court does not waive the fee for a petition for
897	expungement; and
898	(b) provide the petitioner with the form for waiving a court fee for a petition for
899	expungement.
900	(7) If the bureau issues a certificate of eligibility or a special certificate without
901	requiring payment of the issuance fee as described in Subsection (3)(b), the bureau shall charge
902	the petitioner the issuance fee upon the bureau's receipt of an order deciding a petition for
903	expungement unless the court communicates to the bureau that the fee to file the petition for
904	expungement was waived because the petitioner is indigent.
905	(8) (a) If the petitioner qualifies for a waiver of the issuance fee under Subsection (7)
906	and the expungement order grants the petition for expungement, the bureau shall process the
907	expungement order in accordance with Section 77-40a-401 as if the petitioner paid the issuance
908	<u>fee.</u>
909	(b) If the petitioner does not qualify for a waiver of the issuance fee under Subsection
910	(7) and the expungement order grants the petition for expungement, the bureau may not process
911	the expungement order as described in Section 77-40a-401, or notify other agencies affected by
912	the expungement order as described in Section 77-40a-307, until the petitioner pays the
913	issuance fee.
914	(c) If the bureau issues a certificate of eligibility or special certificate without requiring
915	payment of the issuance fee under Subsection (3)(b), the bureau may not charge the petitioner
916	an issuance fee on the grounds that the validity of the certificate described in (2)(b)(i) has
917	expired.
918	(9) The bureau shall charge application and issuance fees for a certificate of eligibility
919	or special certificate in accordance with the process in Section 63J-1-504.
920	(10) The department shall deposit funds generated by application and issuance fees
921	under this section into the General Fund as a dedicated credit by the department to cover the

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costs incurred in determining eligibility for expungement.

Section 16. Section **77-40a-305** is amended to read:

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- (1) (a) The petitioner shall file a petition for expungement, in accordance with the Utah Rules of Criminal Procedure, that includes the identification number for the certificate of eligibility described in Subsection [77-40a-304(1)(d)(ii)] 77-40a-304(2)(b)(ii).
- (b) Information on a certificate of eligibility is incorporated into a petition by reference to the identification number for the certificate of eligibility.
- (2) (a) If a petition for expungement is filed under Subsection (1)(a), the court shall obtain a certificate of eligibility from the bureau.
- (b) A court may not accept a petition for expungement if the certificate of eligibility is no longer valid as described in Subsection [77-40a-304(1)(d)(i)] 77-40a-304(2)(b)(i).
- (3) Notwithstanding Subsection (2), the petitioner may file a petition for expungement of a traffic offense case without obtaining a certificate of eligibility if:
- (a) (i) for a traffic offense case with a class C misdemeanor or infraction, at least three years have passed after the day on which the petitioner was convicted; or
- (ii) for a traffic offense case with a class B misdemeanor, at least four years have passed after the day on which the petitioner was convicted;
 - (b) there is no traffic offense case pending against the petitioner;
- (c) there is no plea in abeyance for a traffic offense case pending against the petitioner; and
 - (d) the petitioner is not currently on probation for a traffic offense case.
- (4) Notwithstanding Subsection (2), a petitioner may file a petition for expungement of a record for a conviction related to cannabis possession without a certificate of eligibility if the petition demonstrates that:
- (a) the petitioner had, at the time of the relevant arrest or citation leading to the conviction, a qualifying condition, as that term is defined in Section 26B-4-201; and
- (b) the possession of cannabis in question was in a form and an amount to medicinally treat the qualifying condition described in Subsection (4)(a).
- (5) (a) The court shall provide notice of a filing of a petition and certificate of eligibility to the prosecutorial office that handled the court proceedings within three days after the day on which the petitioner's filing fee is paid or waived.
- (b) If there were no court proceedings, the court shall provide notice of a filing of a petition and certificate of eligibility to the county attorney's office in the jurisdiction where the

956 arrest occurred.

- (c) If the prosecuting agency with jurisdiction over the arrest, investigation, detention, or conviction, was a city attorney's office, the county attorney's office in the jurisdiction where the arrest occurred shall immediately notify the city attorney's office that the county attorney's office has received a notice of a filing of a petition for expungement.
- (6) (a) Upon receipt of a notice of a filing of a petition for expungement of a conviction or a charge dismissed in accordance with a plea in abeyance, the prosecuting attorney shall make a reasonable effort to provide notice to any victim of the conviction or charge.
 - (b) The notice under Subsection (6)(a) shall:
- (i) include a copy of the petition, certificate of eligibility, statutes, and rules applicable to the petition;
 - (ii) state that the victim has a right to object to the expungement; and
 - (iii) provide instructions for registering an objection with the court.
- (7) (a) The prosecuting attorney may respond to the petition by filing a recommendation or objection with the court within 35 days after the day on which the notice of the filing of the petition is sent by the court to the prosecuting attorney.
- (b) If there is a victim of the offense for which expungement is sought, the victim may respond to the petition by filing a recommendation or objection with the court within 60 days after the day on which the petition for expungement was filed with the court.
- (8) (a) The court may request a written response to the petition from the Division of Adult Probation and Parole within the Department of Corrections.
- (b) If requested, the response prepared by the Division of Adult Probation and Parole shall include:
 - (i) the reasons probation was terminated; and
- (ii) certification that the petitioner has completed all requirements of sentencing and probation or parole.
- (c) The Division of Adult Probation and Parole shall provide a copy of the response to the petitioner and the prosecuting attorney.
- (9) The petitioner may respond in writing to any objections filed by the prosecuting attorney or the victim and the response prepared by the Division of Adult Probation and Parole within 14 days after the day on which the objection or response is received.

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

- (b) The prosecuting attorney shall notify the victim of the date set for the hearing.
- (c) The petitioner, the prosecuting attorney, the victim, and any other person who has relevant information about the petitioner may testify at the hearing.
- (d) The court shall review the petition, the certificate of eligibility, and any written responses submitted regarding the petition.
- (11) If no objection is received within 60 days from the day on which the petition for expungement is filed with the court, the expungement may be granted without a hearing.
- (12) (a) If the petitioner seeks a waiver of the fee required for a petition for expungement in accordance with Section 78A-2-302, the court shall consider the total number of cases for which the petitioner has received a certificate of eligibility and is seeking expungement in determining whether the petitioner is indigent under Subsection 78A-2-302(3)(e) even if the court does not have jurisdiction over a case for which the petitioner is seeking expungement.
- (b) If a court grants a waiver of the fee required for a petition for expungement in accordance with Section 78A-2-302, and only upon a request from the petitioner, a subsequent court shall grant a waiver of a fee for a petition for expungement if the prior court waived the fee for a petition for expungement within 180 days before the day on which the petitioner filed the petition for expungement with the subsequent court.
 - Section 17. Section **77-40a-306** is amended to read:

77-40a-306. Order of expungement.

- (1) If a petition is filed in accordance with Section 77-40a-305, the court shall issue an order of expungement if the court finds, by clear and convincing evidence, that:
- (a) except as provided in Subsection 77-40a-305(3) or (4), the petition and certificate of eligibility are sufficient;
 - (b) the statutory requirements have been met:
- (c) if the petitioner seeks expungement after a case is dismissed without prejudice or without condition, the prosecuting attorney provided written consent and has not filed and does not intend to refile related charges;

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1018	(d) if the petitioner seeks expungement without a certificate of eligibility for
1019	expungement under Subsection 77-40a-305(4) for a record of conviction related to cannabis
1020	possession:
1021	(i) the petitioner had, at the time of the relevant arrest or citation leading to the
1022	conviction, a qualifying condition, as that term is defined in Section 26B-4-201; and
1023	(ii) the possession of cannabis in question was in a form and an amount to medicinally
1024	treat the qualifying condition described in Subsection (1)(d)(i);
1025	(e) if an objection is received, the petition for expungement is for a charge dismissed in
1026	accordance with a plea in abeyance agreement, and the charge is an offense eligible to be used
1027	for enhancement, there is good cause for the court to grant the expungement; and
1028	(f) the interests of the public would not be harmed by granting the expungement.
1029	(2) (a) If the court denies a petition described in Subsection (1)(c) because the
1030	prosecuting attorney intends to refile charges, the petitioner may apply again for a certificate of
1031	eligibility if charges are not refiled within 180 days after the day on which the court denies the
1032	petition.
1033	(b) A prosecuting attorney who opposes an expungement of a case dismissed without
1034	prejudice, or without condition, shall have a good faith basis for the intention to refile the case.
1035	(c) A court shall consider the number of times that good faith basis of intention to
1036	refile by the prosecuting attorney is presented to the court in making the court's determination
1037	to grant the petition for expungement described in Subsection (1)(c).
1038	(3) If the court grants a petition described in Subsection (1)(e), the court shall make the
1039	court's findings in a written order.
1040	(4) A court may not expunge a conviction of an offense for which a certificate of
1041	eligibility may not be, or should not have been, issued under Section 77-40a-302 or
1042	77-40a-303.
1043	(5) If a court grants a petition for expungement, the court shall:
1044	(a) expunge all records of the case as described in Section 77-40a-401; and
1045	(b) notify the bureau of the order of expungement.

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

(1) (a) Upon receiving notice from the court of an expungement order as described in

Section 18. Section 77-40a-307 is enacted to read:

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1049	Subsection 77-40a-306(5), the bureau shall notify all agencies affected by the expungement
1050	order.
1051	(b) For purposes of Subsection (1)(a), the bureau may not notify the Board of Pardons
1052	and Parole of an expungement order if the individual has never been:
1053	(i) sentenced to prison in this state; or
1054	(ii) under the jurisdiction of the Board of Pardons and Parole.
1055	(c) The bureau shall forward a copy of the expungement order to the Federal Bureau of
1056	Investigation.
1057	(2) A petitioner may deliver copies of the expungement to all agencies affected by the
1058	order of expungement.
1059	(3) If an agency receives an expungement order under this part, the agency shall
1060	expunge all records for the case in accordance with Section 77-40a-401.
1061	Section 19. Section 77-40a-401 is amended to read:
1062	Part 4. Expungement of Criminal Records
1063	77-40a-401. Processing of expungement order Written confirmation of
1064	expungement Effect of an expungement.
1065	[(1) (a) The bureau, upon receiving notice from the court, shall notify all criminal
1066	justice agencies affected by the expungement order.]
1067	[(b) For purposes of Subsection (1)(a), the bureau may not notify the Board of Pardons
1068	and Parole of an expungement order if the individual has never been:]
1069	[(i) sentenced to prison in this state; or]
1070	[(ii) under the jurisdiction of the Board of Pardons and Parole.]
1071	[(c) A petitioner may deliver copies of the expungement to all criminal justice agencies
1072	affected by the order of expungement.]
1073	[(d) An individual, who receives an expungement order under Section 77-27-5.1, shall
1074	pay a processing fee to the bureau, established in accordance with the process in Section
1075	63J-1-504, before the bureau's record may be expunged.]
1076	[(2) Unless otherwise provided by law or ordered by a court to respond differently, an
1077	individual or agency who has received an expungement of an arrest or conviction under this
1078	chapter or Section 77-27-5.1 may respond to any inquiry as though the arrest or conviction did
1079	not occur.]

1080	[(3) The bureau shall forward a copy of the expungement order to the Federal Bureau
1081	of Investigation.]
1082	[(4) An agency receiving an expungement order shall expunge the individual's
1083	identifying information contained in records in the agency's possession relating to the incident
1084	for which expungement is ordered.]
1085	[(5) Unless ordered by a court to do so, or in accordance with Section 77-40a-403, a
1086	government agency or official may not divulge information or records that have been
1087	expunged.]
1088	(1) In processing an expungement order, a court and the bureau shall give priority to:
1089	(a) first, an expungement order granting a petition for expungement under Part 3,
1090	Petition for Expungement;
1091	(b) second, an expungement order upon a pardon by the Board of Pardons and Parole
1092	as described in Section 77-27-5.1;
1093	(c) third, an expungement order upon a plea in abeyance as described in Section
1094	<u>77-2a-3;</u>
1095	(d) fourth, an expungement order where an individual submitted a form requesting
1096	automatic expungement under Part 2, Automatic Expungement and Deletion; and
1097	(e) fifth, an expungement order where the court identified the case as being eligible for
1098	automatic expungement under Part 2, Automatic Expungement and Deletion.
1099	(2) An individual, who receives an expungement order under Section 77-27-5.1, shall
1100	pay a processing fee to the bureau, established in accordance with the process in Section
1101	63J-1-504, before the bureau's record may be expunged.
1102	(3) An agency shall:
1103	(a) develop and implement a process to identify an expunged record; and
1104	(b) keep, index, and maintain all expunged records of arrests and convictions.
1105	(4) (a) If an individual who receives an expungement requests confirmation from an
1106	agency, the agency shall provide the individual with written confirmation that:
1107	(i) the agency has identified all records subject to expungement; and
1108	(ii) except as otherwise provided by Sections 77-40a-402 and 77-40a-403, the agency
1109	will restrict or deny access to all of the expunged records.
1110	(b) The bureau may charge a fee for providing a written confirmation under Subsection

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(4)(a) in accordance with the process in Section 63J-1-504. 1111 1112 (5) Upon entry of an expungement order, an individual, who received the 1113 expungement, may respond to any inquiry as though the conviction did not occur unless 1114 otherwise provided by law or ordered by a court to respond differently. 1115 (6) (a) An expungement order may not restrict an agency's use or dissemination of 1116 records in the agency's ordinary course of business until the agency has received a copy of the 1117 order. 1118 (b) Any action taken by an agency after issuance of the order but prior to the agency's 1119 receipt of a copy of the order may not be invalidated by the order. 1120 (7) An expungement order may not: 1121 (a) terminate or invalidate any pending administrative proceedings or actions of which 1122 the individual had notice according to the records of the administrative body prior to issuance 1123 of the expungement order; 1124 (b) affect the enforcement of any order or findings issued by an administrative body 1125 pursuant to the administrative body's lawful authority prior to issuance of the expungement 1126 order; (c) remove any evidence relating to the individual including records of arrest, which 1127 1128 the administrative body has used or may use in these proceedings; or 1129 (d) prevent an agency from maintaining, sharing, or distributing any record required by 1130 law. 1131 Section 20. Section **77-40a-402** is amended to read: 1132 77-40a-402. Distribution for order for vacatur. (1) An individual who receives an order for vacatur under Subsection 78B-9-108(2) 1133 1134 shall be responsible for delivering a copy of the order for vacatur to all affected [criminal 1135 justice agencies and officials] agencies. 1136 (2) To complete delivery of the order for vacatur to the bureau, the individual shall 1137 complete and attach to the order for vacatur an application for a certificate of eligibility for 1138 expungement, including identifying information and fingerprints, in accordance with Section

(3) Except as otherwise provided in this section, the bureau shall treat the order for

vacatur and attached certificate of eligibility for expungement the same as a valid order for

1142	expungement under Section 77-40a-401.
1143	(4) Unless otherwise provided by law or ordered by a court to respond differently, an
1144	individual who has received a vacatur of conviction under Subsection 78B-9-108(2) may
1145	respond to any inquiry as though the conviction did not occur.
1146	(5) The bureau shall forward a copy of the order for vacatur to the Federal Bureau of
1147	Investigation.
1148	(6) An agency receiving an order for vacatur shall expunge the individual's identifying
1149	information contained in records in the agency's possession relating to the incident for which
1150	vacatur is ordered.
1151	(7) [A government] An agency or official may not divulge information contained in a
1152	record of arrest, investigation, detention, or conviction after receiving an order for vacatur to
1153	any person or agency, except for:
1154	(a) the individual for whom vacatur was ordered; or
1155	(b) Peace Officer Standards and Training, in accordance with Section 53-6-203 and
1156	Subsection [77-40a-403(4)(b)] 77-40a-403(2)(b) .
1157	(8) The bureau may not count vacated convictions against any future expungement
1158	eligibility.
1159	Section 21. Section 77-40a-403 is amended to read:
1160	77-40a-403. Release and use of expunged records.
1161	[(1) (a) The bureau, after receiving an expungement order, shall keep, index, and
1162	maintain all expunged records of arrests and convictions.]
1163	[(b) Any agency, other than the bureau, receiving an expungement order shall develop
1164	and implement a process to identify and maintain an expunged record.]
1165	[(2) (a) An agency shall provide an individual who receives an expungement with
1166	written confirmation that the agency has expunged all records of the offense for which the
1167	individual received the expungement if the individual requests confirmation from the agency.]
1168	[(b) The bureau may charge a fee for providing a written confirmation under
1169	Subsection (2)(a) in accordance with the process in Section 63J-1-504.
1170	[(3)] (1) (a) [An employee of the bureau, or any agency with an expunged record, may
1171	not] An agency with an expunged record, or any employee of an agency with an expunged

record, may not knowingly or intentionally divulge any information contained in the expunged

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1173	record to any person, or another agency, without a court order unless:
1174	(i) specifically authorized by statute; or
1175	(ii) subject to Subsection $[(3)(b)]$ $(1)(b)$, the information in an expunged record is
1176	being shared with another agency through a records management system that both agencies use
1177	for the purpose of record management.
1178	(b) An agency with a records management system may not disclose any information in
1179	an expunged record with another agency or person that does not use the records management
1180	system for the purpose of record management.
1181	[(4)] (2) The following entities or agencies may receive information contained in
1182	expunged records upon specific request:
1183	(a) the Board of Pardons and Parole;
1184	(b) Peace Officer Standards and Training;
1185	(c) federal authorities if required by federal law;
1186	(d) the State Board of Education;
1187	(e) the Commission on Criminal and Juvenile Justice, for purposes of investigating
1188	applicants for judicial office; and
1189	(f) a research institution or an agency engaged in research regarding the criminal justice
1190	system if:
1191	(i) the research institution or agency provides a legitimate research purpose for
1192	gathering information from the expunged records;
1193	(ii) the research institution or agency enters into a data sharing agreement with the
1194	court or agency with custody of the expunged records that protects the confidentiality of any
1195	identifying information in the expunged records;
1196	(iii) any research using expunged records does not include any individual's name or
1197	identifying information in any product of that research; and
1198	(iv) any product resulting from research using expunged records includes a disclosure
1199	that expunged records were used for research purposes.
1200	[(5)] (3) Except as otherwise provided by this section or by court order, a person, an
1201	agency, or an entity authorized by this section to view expunged records may not reveal or

release any information obtained from the expunged records to anyone outside the specific

request, including distribution on a public website.

court.

- 1204 [(6)] (4) A prosecuting attorney may communicate with another prosecuting attorney, or another prosecutorial agency, regarding information in an expunged record that includes a 1205 1206 conviction, or a charge dismissed as a result of a successful completion of a plea in abeyance 1207 agreement, for: 1208 (a) stalking as described in Section 76-5-106.5; 1209 (b) a domestic violence offense as defined in Section 77-36-1; (c) an offense that would require the individual to register as a sex offender, as defined 1210 1211 in Section 77-41-102; or 1212 (d) a weapons offense under Title 76, Chapter 10, Part 5, Weapons. 1213 $[\frac{7}{2}]$ (5) Except as provided in Subsection $[\frac{9}{2}]$ (7), a prosecuting attorney may not use 1214 an expunged record for the purpose of a sentencing enhancement or as a basis for charging an 1215 individual with an offense that requires a prior conviction. 1216 [(8)] (6) The bureau may also use the information in the bureau's index as provided in 1217 Section 53-5-704. 1218 [(9)] (7) If , after obtaining an expungement, an individual is charged with a felony or 1219 an offense eligible for enhancement based on a prior conviction[, the state] after obtaining an 1220 expungement, the prosecuting attorney may petition the court to open the expunged records 1221 upon a showing of good cause. 1222 [(10)] (8) (a) For judicial sentencing, a court may order any records expunged under 1223 this chapter or Section 77-27-5.1 to be opened and admitted into evidence. 1224 (b) The records are confidential and are available for inspection only by the court, 1225 parties, counsel for the parties, and any other person who is authorized by the court to inspect 1226 them. 1227 (c) At the end of the action or proceeding, the court shall order the records expunged 1228 again. 1229 (d) Any person authorized by this Subsection [(10)] (8) to view expunged records may 1230 not reveal or release any information obtained from the expunged records to anyone outside the
- [(11)] (9) Records released under this chapter are classified as protected under Section 63G-2-305 and are accessible only as provided under Title 63G, Chapter 2, Part 2, Access to Records, and Subsection 53-10-108(2)(k) for records held by the bureau.

1235	Section 22. Section 77-40a-404 is amended to read:
1236	77-40a-404. Confirmation of expungement Access to expunged records by
1237	individuals.
1238	(1) An individual who receives an expungement may request a written confirmation
1239	from an agency under Subsection [77-40a-403(2)] <u>77-40a-401(4)</u> to confirm that the agency
1240	has expunged all records of the offense for which the individual received the expungement.
1241	(2) The following individuals may view or obtain an expunged record under this
1242	chapter or Section 77-27-5.1:
1243	(a) the petitioner or an individual who receives an automatic expungement under
1244	[Section 77-40a-201] Part 2, Automatic Expungement and Deletion;
1245	(b) a law enforcement officer, who was involved in the case, for use solely in the
1246	officer's defense of a civil action arising out of the officer's involvement with the petitioner in
1247	that particular case; and
1248	(c) a party to a civil action arising out of the expunged incident if the information is
1249	kept confidential and utilized only in the action.
1250	Section 23. Section 78A-2-302 is amended to read:
1251	78A-2-302. Waiver of fees, costs, and security Indigent litigants Affidavit.
1252	(1) As used in Sections 78A-2-302 through 78A-2-309:
1253	(a) "Convicted" means:
1254	(i) a conviction by entry of a plea of guilty or nolo contendere, guilty with a mental
1255	condition, no contest; and
1256	(ii) a conviction of any crime or offense.
1257	(b) "Indigent" means [an individual who is financially unable to pay fees and costs or
1258	give security] a financial status that results from a court finding that a petitioner is financially
1259	unable to pay the fee, a cost, or give security.
1260	(c) "Prisoner" means an individual who has been convicted of a crime and is
1261	incarcerated for that crime or is being held in custody for trial or sentencing.
1262	(2) An individual may institute, prosecute, defend, or appeal any cause in a court in this
1263	state without prepayment of fees and costs or security if:
1264	(a) the individual submits an affidavit demonstrating that the individual is indigent[-];
1265	or

1266	(b) the individual is seeking a waiver of the fee for a petition for expungement and the
1267	individual provides the court with proof that another court granted a waiver for a petition for
1268	expungement as described in Subsection 77-40a-305(12)(b).
1269	(3) A court shall find an individual indigent if the individual's affidavit under
1270	Subsection (2) demonstrates:
1271	(a) if the cause is not a petition for expungement, the individual has an income level at
1272	or below 150% of the United States poverty level as defined by the most recent poverty income
1273	guidelines published by the United States Department of Health and Human Services;
1274	(b) if the cause is a petition for expungement, the individual has an income level at or
1275	below 175% of the United States poverty level as defined by the most recent poverty income
1276	guidelines published by the United States Department of Health and Human Services;
1277	[(b)] (c) the individual receives benefits from a means-tested government program,
1278	including Temporary Assistance to Needy Families, Supplemental Security Income, the
1279	Supplemental Nutrition Assistance Program, or Medicaid;
1280	[(c)] (d) the individual receives legal services from a nonprofit provider or a pro bono
1281	attorney through the Utah State Bar; or
1282	[(d)] (e) the individual has insufficient income or other means to pay the necessary fees
1283	and costs or security without depriving the individual, or the individual's family, of food,
1284	shelter, clothing, or other necessities.
1285	(4) An affidavit demonstrating that an individual is indigent under Subsection $[(3)(d)]$
1286	(3)(e) shall contain complete information on the individual's:
1287	(a) identity and residence;
1288	(b) amount of income, including any government financial support, alimony, or child
1289	support;
1290	(c) assets owned, including real and personal property;
1291	(d) business interests;
1292	(e) accounts receivable;
1293	(f) securities, checking and savings account balances;
1294	(g) debts; and
1295	(h) monthly expenses.
1296	(5) If the individual under Subsection (3) is a prisoner, the prisoner shall disclose the

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amount of money held in the prisoner's trust account at the time the affidavit under Subsection
(2) is executed in accordance with Section 78A-2-305.
(6) An affidavit of indigency under this section shall state the following:
I, (insert name), do solemnly swear or affirm that due to my poverty I am unable to bear
the expenses of the action or legal proceedings which I am about to commence or the appeal
which I am about to take, and that I believe I am entitled to the relief sought by the action, legal
proceedings, or appeal.
(7) The Administrative Office of the Courts shall include on a form for an affidavit of
ndigency the following warning: "It is a crime for anyone to intentionally or knowingly
provide false or misleading information to the court when seeking a waiver of a court fee."
Section 24. Section 78A-7-209.5 is amended to read:
78A-7-209.5. Presiding judge Associate presiding judge Election Powers
Duties.
(1) (a) In judicial districts having more than one justice court judge, the justice court
udges shall elect one judge of the district to the office of presiding judge.
(b) The presiding judge shall receive an additional \$2,000 per annum as compensation
from the Justice Court Technology, Security, and Training Account described in Section
78A-7-301 for the period served as presiding judge.
(2) (a) In judicial districts having more than two justice court judges, the justice court
udges may elect one judge of the district to the office of associate presiding judge.
(b) The associate presiding judge shall receive an additional \$1,000 per annum as
compensation from the Justice Court Technology, Security, and Training Account described in
Section 78A-7-301 for the period served as associate presiding judge.
(3) The presiding judge has the following authority and responsibilities, consistent with
the policies of the Judicial Council:
(a) working with each justice court judge in the district to implement policies and rules
of the Judicial Council;
(b) exercising powers and performing administrative duties as authorized by the
(b) exercising powers and performing administrative duties as admortized by the

(c) if there is no other appointed justice court judge in that court available, assigning a

justice court judge to hear a case in which a judge has been disqualified in accordance with

1328	rules of the Supreme Court,
1329	(d) if a justice court judge of the district cannot perform the justice court judge's duties
1330	in a case or cases due to illness, death, or other incapacity, and the governing body has not
1331	appointed a temporary justice court judge in accordance with Section 78A-7-208:
1332	(i) assigning, on an emergency basis, a justice court judge to hear a case or cases; and
1333	(ii) facilitating judicial coverage with the appointing municipal or county authority
1334	until a temporary justice court judge can be appointed, in accordance with Section 78A-7-208,
1335	or a new justice court judge is formally appointed and takes office, in accordance with Section
1336	78A-7-202; and
1337	(e) entering orders of expungement in cases expunged in accordance with [Section
1338	77-40a-201] Title 77, Chapter 40a, Part 2, Automatic Expungement and Deletion.
1339	(4) (a) When the presiding judge is unavailable, the associate presiding judge shall
1340	assume the responsibilities of the presiding judge.
1341	(b) The associate presiding judge shall perform other duties assigned by the presiding
1342	judge.
1343	Section 25. Section 78B-7-1001 is amended to read:
1344	78B-7-1001. Definitions.
1345	As used in this part:
1346	(1) (a) [Except as provided in Subsection (1)(b), "agency"] "Agency" means, except as
1347	provided in Subsection (1)(b), a state, county, or local government entity that generates or
1348	maintains records relating to a civil order for which expungement may be ordered.
1349	(b) "Agency" does not include the Division of Child and Family Services created in
1350	Section 80-2-201.
1351	(2) "Civil order" means:
1352	(a) an ex parte civil protective order;
1353	(b) an ex parte civil stalking injunction;
1354	(c) a civil protective order; or
1355	(d) a civil stalking injunction.
1356	[(3) "Expunge" means to seal or otherwise restrict access to an individual's record held
1357	by an agency when the record includes a civil order.]
1358	(3) (a) "Expunge" means to remove a record from public inspection by:

1339	(1) searing the record, or
1360	(ii) restricting or denying access to the record.
1361	(b) "Expunge" does not include the destruction of a record.
1362	(4) "Petitioner" means an individual petitioning for expungement of a civil order under
1363	this part.
1364	Section 26. Section 78B-7-1004 is amended to read:
1365	78B-7-1004. Distribution and effect of order of expungement Penalty.
1366	(1) An individual who receives an order of expungement under Section 78B-7-1003
1367	shall be responsible for delivering a copy of the order of expungement to any affected agency.
1368	[(2) Upon receipt of an order of expungement as described in Subsection (1), an agency
1369	shall expunge all records described in the expungement order that are under the control of the
1370	agency.]
1371	(2) If an agency receives an expungement order as described in Subsection (1), the
1372	agency shall expunge all records affected by the expungement order.
1373	(3) Upon entry of an expungement order by a court under Section 78B-7-1003:
1374	(a) the civil order is considered to never have occurred; and
1375	(b) the petitioner may reply to an inquiry on the matter as though there was never a
1376	civil order.
1377	(4) (a) Unless ordered by a court to do so, an agency or official may not divulge
1378	information or records that have been expunged under this part.
1379	(b) An expungement order may not restrict an agency's use or dissemination of records
1380	in the agency's ordinary course of business until the agency has received a copy of the
1381	expungement order.
1382	(c) Any action taken by an agency after issuance of the expungement order but before
1383	the agency's receipt of a copy of the expungement order may not be invalidated by the order.
1384	(5) An expungement order under this part may not:
1385	(a) terminate or invalidate any pending administrative proceedings or actions of which
1386	the individual had notice according to the records of the administrative body before issuance of
1387	the expungement order;
1388	(b) affect the enforcement of any order or findings issued by an administrative body
1389	pursuant to the administrative body's lawful authority prior to issuance of the expungement

1390	order; or
1391	(c) prevent an agency from maintaining, sharing, or distributing any record required by
1392	law.
1393	(6) An employee or agent of an agency that is prohibited from disseminating
1394	information from an expunged record under this section who knowingly or intentionally
1395	discloses identifying information from the expunged record, unless allowed by law, is guilty of
1396	a class A misdemeanor.
1397	(7) Records expunged under this part may be released to, or viewed by, the following
1398	individuals:
1399	(a) the petitioner; or
1400	(b) parties to a civil action arising out of the expunged civil order, providing the
1401	information is kept confidential and utilized only in the action.
1402	(8) This part does not preclude a court from considering the same circumstances or
1403	evidence for which an expunged civil order was issued in any proceeding that occurs after the
1404	civil order is expunged.
1405	Section 27. Section 80-6-1001 is amended to read:
1406	80-6-1001. Definitions.
1407	As used in this part:
1408	(1) "Abstract" means a copy or summary of a court's disposition.
1409	(2) (a) "Agency" means a state, county, or local government entity that generates or
1410	maintains records for which expungement may be ordered under this part.
1411	(b) "Agency" includes a local education agency, as defined in Section 53E-1-102, for
1412	purposes of this part.
1413	(3) (a) "Expunge" means [to seal or otherwise restrict access to a record that is part of
1414	an individual's juvenile record and in the custody of the juvenile court or an agency] to remove
1415	a juvenile record from public inspection by:
1416	(i) sealing the juvenile record; or
1417	(ii) restricting or denying access to the juvenile record.
1418	(b) "Expunge" does not include the destruction of a juvenile record.
1419	(4) (a) "Juvenile record" means all records for all incidents of delinquency involving an

individual that are in the custody of the juvenile court or an agency.

1422	Abuse, Neglect, and Dependency Proceedings, or Chapter 4, Termination and Restoration of
1423	Parental Rights.
1424	(5) "Petitioner" means an individual requesting an expungement or vacatur under this
1425	part.
1426	Section 28. Section 80-6-1006.1 is amended to read:
1427	80-6-1006.1. Exceptions to expungement order Distribution of expungement
1428	order Agency duties Effect of expungement Access to expunged record.
1429	(1) This section applies to an expungement order under Section 80-6-1004.1,
1430	80-6-1004.2, 80-6-1004.3, 80-6-1004.4, or 80-6-1004.5.
1431	(2) The juvenile court may not order:
1432	(a) the Board of Pardons and Parole and the Department of Corrections to seal a record
1433	in the possession of the Board of Pardons and Parole or the Department of Corrections, except
1434	that the juvenile court may order the Board of Pardons and Parole and the Department of
1435	Corrections to restrict access to a record if the record is specifically identified in the
1436	expungement order as a record in the possession of the Board of Pardons and Parole or the
1437	Department of Corrections; or
1438	(b) the Division of Child and Family Services to expunge a record in an individual's
1439	juvenile record that is contained in the Management Information System or the Licensing
1440	Information System unless:
1441	(i) the record is unsupported; or
1442	(ii) after notice and an opportunity to be heard, the Division of Child and Family
1443	Services stipulates in writing to expunging the record.
1444	(3) (a) If the juvenile court issues an expungement order, the juvenile court shall send a
1445	copy of the expungement order to any affected agency or official identified in the juvenile
1446	record.
1447	(b) An individual who is the subject of an expungement order may deliver copies of the
1448	expungement order to all agencies and officials affected by the expungement order.
1449	(4) (a) Upon receipt of an expungement order, an agency shall:
1450	(i) [to avoid destruction or expungement of records in whole or in part, expunge only
1451	the references to the individual's name in the records relating to the individual's adjudication,

(b) "Juvenile record" does not include a record of an adjudication under Chapter 3,

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an arrest, an investigation, or a detention.

1452 nonjudicial adjustment, petition, arrest, investigation, or detention for which expungement is 1453 ordered expunge all records affected by the expungement order; and 1454 (ii) destroy all photographs and records created under Section 80-6-608, except that a 1455 record of a minor's fingerprints may not be destroyed by an agency. 1456 (b) An agency that receives a copy of an expungement order shall mail an affidavit to 1457 the individual who is the subject of the expungement order, or the individual's attorney, that the 1458 agency has complied with the expungement order. (5) Notwithstanding Subsection (4), the Board of Pardons and Parole and the 1459 1460 Department of Corrections: 1461 (a) may not disclose records expunged in an expungement order unless required by 1462 law; 1463 (b) are not required to destroy any photograph or record created under Section 1464 80-6-608: 1465 (c) may use an expunged record for purposes related to incarceration and supervision 1466 of an individual under the jurisdiction of the Board of Pardons and Parole, including for the 1467 purpose of making decisions about: 1468 (i) the treatment and programming of the individual; 1469 (ii) housing of the individual: 1470 (iii) applicable guidelines regarding the individual; or 1471 (iv) supervision conditions for the individual; 1472 (d) are not prohibited from disclosing or sharing any information in an expunged 1473 record with another agency that uses the same record management system as the Board of 1474 Pardons and Parole or the Department of Corrections; and (e) are not required to mail an affidavit under Subsection (4)(b). 1475 1476 (6) Upon entry of an expungement order: 1477 (a) an adjudication, a nonjudicial adjustment, a petition, an arrest, an investigation, or a 1478 detention for which the record is expunged is considered to have never occurred; and 1479 (b) the individual, who is the subject of the expungement order, may reply to an inquiry 1480 on the matter as though there never was an adjudication, a nonjudicial adjustment, a petition,

(7) A record expunged under Section 80-6-1004.1, 80-6-1004.2, 80-6-1004.3,

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1483	80-6-1004.4, or 80-6-1004.5 may be released to, or viewed by, the individual who is the subject
1484	of the record.
1485	Section 29. Repealer.
1486	This bill repeals:
1487	Section 77-40a-203, Time periods for expungement or deletion Identification and
1488	processing of clean slate eligible cases.
1489	Section 30. Effective date.
1490	This hill takes effect on October 1, 2024