

**Representative Karianne Lisonbee** proposes the following substitute bill:

**AMENDMENTS TO EXPUNGEMENT**

2024 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Karianne Lisonbee**

Senate Sponsor: Michael S. Kennedy

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**LONG TITLE**

**General Description:**

This bill addresses the expungement of records.

**Highlighted Provisions:**

This bill:

- ▶ repeals sunset dates regarding issuance and filing fees for expungement;
- ▶ repeals language relating to the suspension of issuance fees for certificates of eligibility for expungement and filing fees for petitions for expungement;
- ▶ creates a sunset date for an expungement working group;
- ▶ creates an expungement working group to study issues related to automatic expungement;
- ▶ allows a court to issue an order of expungement for a plea in abeyance when the defendant has completed a problem solving court program and the court dismisses the case against the defendant;
- ▶ defines terms related to expungement;
- ▶ clarifies automatic deletion of a traffic offense;
- ▶ amends provisions related to the automatic expungement of a case, including:
  - requiring an individual to submit a form to receive an automatic expungement on and after October 1, 2024, and before October 1, 2027;



- 26           • providing that a court automatically expunge cases that are eligible for  
27 expungement on and after October 1, 2027;
- 28           • for an individual seeking an automatic expungement on and after January 1,  
29 2025, prohibiting an automatic expungement if the individual is incarcerated in  
30 the state prison or on probation or parole that is supervised by the Department of  
31 Corrections; and
- 32           • prohibiting an automatic expungement if there is a criminal proceeding pending  
33 in this state against the individual for a misdemeanor or felony offense, unless  
34 the proceeding is for a traffic offense;
- 35           ▶ provides that the court and Bureau of Criminal Identification are the only agencies  
36 that expunge records affected by an automatic expungement order;
- 37           ▶ clarifies the certificate of eligibility process;
- 38           ▶ allows for the waiver of an issuance fee for a certificate of eligibility or a special  
39 certificate if a court finds that the individual filing the petition for expungement is  
40 indigent;
- 41           ▶ requires a court to consider the total number of cases for which an individual has  
42 received a certificate of expungement when determining whether the individual is  
43 indigent;
- 44           ▶ requires a subsequent court to waive a filing fee for a petition for expungement if a  
45 prior court found the individual to be indigent within 180 days before the filing of  
46 the petition for expungement;
- 47           ▶ clarifies the distribution of an expungement order based on a petition and the  
48 expungement of records affected by an expungement order based on a petition;
- 49           ▶ establishes the priority of expungement orders that are processed by a court and the  
50 Bureau of Criminal Identification;
- 51           ▶ requires an agency to develop and implement a process to identify expunged records  
52 and keep, index, and maintain all expunged records of arrest;
- 53           ▶ clarifies the effect of an expungement;
- 54           ▶ addresses the waiver of a fee for a petition for expungement when the individual has  
55 previously received a waiver for a petition for expungement from a prior court;
- 56           ▶ requires a court to find an individual indigent if the individual submits an affidavit

- 57 of indigency demonstrating that the individual has an income at or below 175% of the United
- 58 States poverty level;
- 59       ▶ requires the Administrative Office of the Courts to include a warning on an affidavit
- 60 of indigency;
- 61       ▶ clarifies the expungement of records regarding protective orders, stalking
- 62 injunctions, and juvenile records;
- 63       ▶ repeals a statute regarding the time periods for expungement or deletion and
- 64 identifying and processing clean slate eligible cases; and
- 65       ▶ makes technical and conforming changes.

66 **Money Appropriated in this Bill:**

67       None

68 **Other Special Clauses:**

69       This bill provides a special effective date.

70 **Utah Code Sections Affected:**

71 AMENDS:

72       **63I-1-277**, as last amended by Laws of Utah 2022, Chapter 384 and last amended by

73 Coordination Clause, Laws of Utah 2022, Chapter 384

74       **63I-1-278**, as last amended by Laws of Utah 2022, Chapters 188, 318, 384, and 423

75       **63I-2-263**, as last amended by Laws of Utah 2023, Chapters 33, 139, 212, 354, and 530

76       **77-2a-3**, as last amended by Laws of Utah 2023, Chapters 113, 415

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

78       **77-40a-104**, as last amended by Laws of Utah 2023, Chapter 265

79       **77-40a-201**, as renumbered and amended by Laws of Utah 2022, Chapter 250

80       **77-40a-202**, as renumbered and amended by Laws of Utah 2022, Chapter 250

81       **77-40a-301**, as enacted by Laws of Utah 2022, Chapter 250

82       **77-40a-302**, as last amended by Laws of Utah 2023, Chapter 265

83       **77-40a-303**, as last amended by Laws of Utah 2023, Chapter 265

84       **77-40a-304**, as last amended by Laws of Utah 2023, Chapter 265

85       **77-40a-305**, as last amended by Laws of Utah 2023, Chapters 265, 330

86       **77-40a-306**, as last amended by Laws of Utah 2023, Chapter 330

87       **77-40a-401**, as last amended by Laws of Utah 2023, Chapter 265

- 88 [77-40a-402](#), as last amended by Laws of Utah 2023, Chapter 265
- 89 [77-40a-403](#), as last amended by Laws of Utah 2023, Chapter 265
- 90 [77-40a-404](#), as last amended by Laws of Utah 2023, Chapter 265
- 91 [78A-2-302](#), as last amended by Laws of Utah 2023, Chapter 184
- 92 [78A-7-209.5](#), as enacted by Laws of Utah 2022, Chapter 276
- 93 [78B-7-1001](#), as enacted by Laws of Utah 2022, Chapter 270
- 94 [78B-7-1004](#), as enacted by Laws of Utah 2022, Chapter 270
- 95 [80-6-1001](#), as last amended by Laws of Utah 2023, Chapter 115
- 96 [80-6-1006.1](#), as enacted by Laws of Utah 2023, Chapter 115

97 ENACTS:

- 98 [63M-7-221](#), Utah Code Annotated 1953
- 99 [77-40a-204](#), Utah Code Annotated 1953
- 100 [77-40a-205](#), Utah Code Annotated 1953
- 101 [77-40a-206](#), Utah Code Annotated 1953
- 102 [77-40a-207](#), Utah Code Annotated 1953
- 103 [77-40a-307](#), Utah Code Annotated 1953

104 REPEALS:

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



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

108 Section 1. Section [63I-1-277](#) is amended to read:

109 **[63I-1-277](#). Repeal dates: Title 77.**

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

112 Section 2. Section [63I-1-278](#) is amended to read:

113 **[63I-1-278](#). Repeal dates: Title 78A and Title 78B.**

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

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

118 [~~(3)~~] (2) Subsection [78A-7-106](#)(6), regarding the transfer of a criminal action involving

119 a domestic violence offense from the justice court to the district court, is repealed on July 1,  
120 2024.

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

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

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

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

129 Section 3. Section **63I-2-263** is amended to read:

130 **63I-2-263. Repeal dates: Title 63A to Title 63N.**

131 (1) Title 63A, Chapter 2, Part 5, Educational Interpretation and Translation Services  
132 Procurement Advisory Council is repealed July 1, 2025.

133 (2) Section [63A-17-303](#) is repealed July 1, 2023.

134 (3) Section [63A-17-806](#) is repealed June 30, 2026.

135 (4) Title 63C, Chapter 22, Digital Wellness, Citizenship, and Safe Technology  
136 Commission is repealed July 1, 2023.

137 (5) Section [63H-7a-303](#) is repealed July 1, 2024.

138 (6) Subsection [63H-7a-403](#)(2)(b), regarding the charge to maintain the public safety  
139 communications network, is repealed July 1, 2033.

140 (7) Subsection [63J-1-602.2](#)(45), which lists appropriations to the State Tax  
141 Commission for property tax deferral reimbursements, is repealed July 1, 2027.

142 (8) Section [63M-7-221](#), establishing an expungement working group, is repealed on  
143 April 30, 2025.

144 ~~[(8)]~~ (9) Subsection [63N-2-213](#)(12)(a), relating to claiming a tax credit in the same  
145 taxable year as the targeted business income tax credit, is repealed December 31, 2024.

146 ~~[(9)]~~ (10) Title 63N, Chapter 2, Part 3, Targeted Business Income Tax Credit in an  
147 Enterprise Zone, is repealed December 31, 2024.

148 Section 4. Section **63M-7-221** is enacted to read:

149 **63M-7-221. Expungement working group.**

150 (1) As used in this section:

151 (a) "Agency" means the same as that term is defined in Section [77-40a-101](#).

152 (b) "Automatic expungement" means the same as that term is defined in Section  
153 [77-40a-101](#).

154 (2) The commission shall establish a working group to:

155 (a) study the challenges of implementing automatic expungement under Title 77,  
156 Chapter 40a, Part 2, Automatic Expungement and Deletion;

157 (b) determine the time and resources that an agency would need to implement  
158 automatic expungement under Title 77, Chapter 40a, Automatic Expungement and Deletion;

159 (c) determine whether an investment in technology is needed or could be helpful in  
160 implementing automatic expungement under Chapter 40a, Automatic Expungement and  
161 Deletion; and

162 (d) consider possible statutory changes to improve the implementation of automatic  
163 expungement under Chapter 40a, Automatic Expungement and Deletion.

164 (3) The working group described in Subsection (2) shall consist of:

165 (a) at least one representative of:

166 (i) the Bureau of Criminal Identification established in Section [53-10-201](#);

167 (ii) the Administrative Office of the Courts;

168 (iii) a local law enforcement agency; and

169 (iv) an advocacy group that represents or assists individuals with expungement; and

170 (b) any other individual or organization recommended by the executive director of the  
171 commission.

172 (4) On or before November 1, 2024, the commission shall provide a written report to  
173 the Judiciary Interim Committee describing:

174 (a) the information gathered by the working group under Subsection (2); and

175 (b) any recommendations for statutory changes with respect to the information  
176 gathered by the working group under Subsection (2).

177 Section 5. Section **77-2a-3** is amended to read:

178 **77-2a-3. Manner of entry of plea -- Powers of court -- Expungement.**

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

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

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

185 (a) ~~reduce the degree of the offense [and enter judgment of conviction and impose~~  
186 ~~sentence for a lower degree of offense; or], enter a judgment of conviction for the lower degree~~  
187 ~~of the offense, and impose a sentence for the lower degree of the offense;~~

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

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

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

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

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

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

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

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

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

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

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

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

212 (5) The terms of a plea in abeyance agreement may include:  
213 (a) an order that the defendant pay a nonrefundable plea in abeyance fee, with a  
214 surcharge based on the amount of the plea in abeyance fee, both of which shall be allocated in  
215 the same manner as if paid as a fine for a criminal conviction under Section 78A-5-110 and a  
216 surcharge under Title 51, Chapter 9, Part 4, Criminal Conviction Surcharge Allocation, and  
217 which may not exceed in amount the maximum fine and surcharge which could have been  
218 imposed upon conviction and sentencing for the same offense;

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

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

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

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

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

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

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

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

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

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

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

242 (7) (a) A court may not hold a plea in abeyance without the consent of both the



243 prosecuting attorney and the defendant.

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

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

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

247 (b) a driving under the influence violation under Section [41-6a-502](#), [41-6a-502.5](#),  
248 [41-6a-517](#), [41-6a-520](#), [41-6a-520.1](#), [41-6a-521.1](#), [76-5-102.1](#), or [76-5-207](#).

249 (9) (a) If the terms of a plea in abeyance agreement allow a court to issue an order of  
250 expungement as described in Subsection (2)(c), the prosecuting attorney shall make a  
251 reasonable effort to provide notice to any victim of the offense of the terms of the plea in  
252 abeyance agreement.

253 (b) The notice under Subsection (9)(a) shall:

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

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

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

259 (d) The defendant may respond, in writing, to any objection filed by the victim within  
260 14 days after the day on which the objection is received by the court.

261 (10) If the court issues an order of expungement under Subsection (3)(a)(iii), the court  
262 shall:

263 (a) expunge all records of the case as described in Section [77-40a-401](#); and

264 (b) notify the Bureau of Criminal Identification of the order of expungement.

265 (11) (a) Upon receiving notice from the court of an expungement order as described in  
266 Subsection (10), the Bureau of Criminal Identification shall notify any agency, as defined in  
267 Section [77-40a-101](#), affected by the expungement order.

268 (b) For purposes of Subsection (11)(a), the Bureau of Criminal Identification may not  
269 notify the Board of Pardons and Parole of an expungement order if the individual has never  
270 been:

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

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

273 (c) The Bureau of Criminal Identification shall forward a copy of the expungement

274 order to the Federal Bureau of Investigation.

275 (12) The defendant may deliver copies of the expungement to any agency, as defined in  
 276 Section 77-40a-101, affected by the order of expungement.

277 (13) If an agency receives an expungement order under this part, the agency shall  
 278 expunge all records for the case in accordance with Section 77-40a-401.

279 Section 6. Section **77-40a-101** is amended to read:

280 **77-40a-101. Definitions.**

281 As used in this chapter:

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

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

287 ~~[(2)]~~ (3) "Bureau" means the Bureau of Criminal Identification of the Department of  
 288 Public Safety established in Section 53-10-201.

289 (4) "Civil accounts receivable" means the same as that term is defined in Section  
 290 77-32b-102.

291 (5) "Civil judgment of restitution" means the same as that term is defined in Section  
 292 77-32b-102.

293 ~~[(3)]~~ (6) "Certificate of eligibility" means a document issued by the bureau stating that  
 294 the criminal record and all records of arrest, investigation, and detention associated with a case  
 295 that is the subject of a petition for expungement is eligible for expungement.

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

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

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

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

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

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

304 ~~[(A) whose total number of convictions in Utah state courts, not including infractions,~~

305 ~~traffic offenses, or minor regulatory offenses, does not exceed the limits described in~~  
306 ~~Subsections 77-40a-303(4) and (5) without taking into consideration the exception in~~  
307 ~~Subsection 77-40a-303(7); and]~~  
308 ~~[(B) against whom no criminal proceedings are pending in the state; and]~~  
309 ~~[(iii) for which the following time periods have elapsed from the day on which the case~~  
310 ~~is adjudicated:]~~  
311 ~~[(A) at least five years for a class C misdemeanor or an infraction;]~~  
312 ~~[(B) at least six years for a class B misdemeanor; and]~~  
313 ~~[(C) at least seven years for a class A conviction for possession of a controlled~~  
314 ~~substance in violation of Subsection 58-37-8(2)(a)(i).]~~  
315 ~~[(b) "Clean slate eligible case" includes a case:]~~  
316 ~~[(i) that is dismissed as a result of a successful completion of a plea in abeyance~~  
317 ~~agreement governed by Subsection 77-2a-3(2)(b) if:]~~  
318 ~~[(A) except as provided in Subsection (4)(c), each charge within the case is a~~  
319 ~~misdemeanor for possession of a controlled substance in violation of Subsection~~  
320 ~~58-37-8(2)(a)(i), a class B or class C misdemeanor, or an infraction;]~~  
321 ~~[(B) the individual involved meets the requirements of Subsection (4)(a)(ii); and]~~  
322 ~~[(C) the time periods described in Subsections (4)(a)(iii)(A) through (C) have elapsed~~  
323 ~~from the day on which the case is dismissed; or]~~  
324 ~~[(ii) where charges are dismissed without prejudice if each conviction, or charge that~~  
325 ~~was dismissed, in the case would otherwise meet the requirements under Subsection (4)(a) or~~  
326 ~~(b)(i).]~~  
327 ~~[(c) "Clean slate eligible case" does not include a case:]~~  
328 ~~[(i) where the individual is found not guilty by reason of insanity;]~~  
329 ~~[(ii) where the case establishes a criminal accounts receivable, as defined in Section~~  
330 ~~77-32b-102, that:]~~  
331 ~~[(A) has been entered as a civil accounts receivable or a civil judgment of restitution,~~  
332 ~~as those terms are defined in Section 77-32b-102, and transferred to the Office of State Debt~~  
333 ~~Collection under Section 77-18-114; or]~~  
334 ~~[(B) has not been satisfied according to court records; or]~~  
335 ~~[(iii) that resulted in one or more pleas held in abeyance or convictions for the~~

336 following offenses:]

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

338 [~~(B) an offense against the person in violation of Title 76, Chapter 5, Offenses Against~~  
339 ~~the Individual;~~]

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

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

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

343 [~~(F) an offense in violation of Title 41, Chapter 6a, Part 5, Driving Under the Influence~~  
344 ~~and Reckless Driving;~~]

345 [~~(G) damage to or interruption of a communication device in violation of Section~~  
346 ~~[76-6-108](#);~~]

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

348 [~~(I) any other offense classified in the Utah Code as a felony or a class A misdemeanor~~  
349 ~~other than a class A misdemeanor conviction for possession of a controlled substance in~~  
350 ~~violation of Subsection [58-37-8\(2\)\(a\)\(i\)](#);~~]

351 (7) "Clean slate eligible case" means a case that is eligible for automatic expungement  
352 under Section [77-40a-205](#).

353 [~~(5)~~] (8) "Conviction" means judgment by a criminal court on a verdict or finding of  
354 guilty after trial, a plea of guilty, or a plea of nolo contendere.

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

356 (10) "Criminal accounts receivable" means the same as that term is defined in Section  
357 [77-32b-102](#).

358 [~~(6)~~] (11) "Criminal protective order" means the same as that term is defined in Section  
359 [78B-7-102](#).

360 [~~(7)~~] (12) "Criminal stalking injunction" means the same as that term is defined in  
361 Section [78B-7-102](#).

362 [~~(8)~~] (13) "Department" means the Department of Public Safety established in Section  
363 [53-1-103](#).

364 [~~(9)~~] (14) "Drug possession offense" means [an offense under]:

365 (a) an offense described in Subsection [58-37-8\(2\)](#), except for:

366 (i) [~~any~~] an offense under Subsection [58-37-8\(2\)\(b\)\(i\)](#), possession of 100 pounds or

367 more of marijuana;

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

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

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

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

377 (d) any local ordinance which is substantially similar to any of the offenses described  
378 in this Subsection ~~[(9)]~~ (13).

379 ~~[(10)]~~ (15) (a) "Expunge" means to ~~[seal or otherwise restrict access to the individual's~~  
380 ~~record held by an agency when the record includes a criminal investigation, detention, arrest, or~~  
381 ~~conviction.]~~ remove a record from public inspection by:

382 (i) sealing the record; or

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

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

385 (16) "Indigent" means a financial status that results from a court finding that a  
386 petitioner is financially unable to pay the fee to file a petition for expungement under Section  
387 78A-2-302.

388 ~~[(11)]~~ (17) "Jurisdiction" means a state, district, province, political subdivision,  
389 territory, or possession of the United States or any foreign country.

390 ~~[(12)]~~ (18) (a) "Minor regulatory offense" means, except as provided in Subsection  
391 ~~[(12)(c)]~~ (17)(c), a class B or C misdemeanor offense or a local ordinance.

392 (b) "Minor regulatory offense" includes an offense under Section 76-9-701 or  
393 76-10-105.

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

395 (i) any drug possession offense;

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

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

399 (iv) except as provided in Subsection ~~[(12)(b)]~~ (17)(b), an offense under Title 76, Utah  
400 Criminal Code; or

401 (v) any local ordinance that is substantially similar to an offense listed in Subsections  
402 ~~[(12)(c)(i)]~~ (17)(c)(i) through (iv).

403 ~~[(13)]~~ (19) "Petitioner" means an individual applying for expungement under this  
404 chapter.

405 ~~[(14)]~~ (20) "Plea in abeyance" means the same as that term is defined in Section  
406 77-2a-1.

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

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

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

413 ~~[(15)]~~ (22) (a) "Traffic offense" means, except as provided in Subsection ~~[(15)(b)]~~  
414 (21)(b):

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

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

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

421 (iv) all local ordinances that are substantially similar to an offense listed in Subsections  
422 ~~[(15)(a)(i)]~~ (21)(a)(i) through (iii).

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

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

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

427 (iii) any local ordinance that is substantially similar to an offense listed in Subsection  
428 ~~[(15)(b)(i)]~~ (21)(b)(i) or (ii).

429           ~~[(16)]~~ (23) "Traffic offense case" means that each offense in the case is a traffic  
430 offense.

431           Section 7. Section **77-40a-104** is amended to read:

432           **77-40a-104. Department rulemaking authority.**

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

- 435           (1) implement procedures for processing an automatic expungement;  
436           (2) implement procedures for applying for certificates of eligibility;  
437           (3) specify procedures for receiving a certificate of eligibility;  
438           (4) create forms and determine information necessary to be provided to the bureau; and  
439           (5) implement procedures for the confirmation of an expungement under Subsection  
440 ~~[77-40a-403(2)]~~ 77-40a-401(4).

441           Section 8. Section **77-40a-201** is amended to read:

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

443           **77-40a-201. General provisions for automatic expungement and deletion.**

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

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

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

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

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

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

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

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

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

459           ~~[(c) The bureau, upon receiving notice from the court, shall notify the law enforcement~~

460 agencies identified in the case of the order of expungement.]

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

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

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

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

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

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

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

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

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

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

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

489 ~~[(c) Within 35 days of the day on which the notice described in Subsection (4)(b) is~~  
490 ~~sent, the prosecuting agency shall provide written notice in accordance with any rules made by~~



491 the Judicial Council or the Supreme Court if the prosecuting agency objects to an automatic  
492 expungement for any of the following reasons:]

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

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

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

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

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

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

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

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

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

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

516 [(5)] (1) Nothing in this section precludes an individual from filing a petition for  
517 expungement of records that are eligible for automatic expungement or deletion under this  
518 section if an automatic expungement or deletion has not occurred pursuant to this section.

519 [(6)] (2) An automatic expungement performed under this [section] part does not  
520 preclude a person from requesting access to expunged records in accordance with Section  
521 [77-40a-403](#) or [77-40a-404](#).

522            [(7)] (3) (a) The Judicial Council and the Supreme Court shall make rules to govern the  
523 process for automatic expungement.

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

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

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

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

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

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

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

536            **77-40a-202. Automatic deletion for traffic offense by a court.**

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

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

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

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

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

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

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

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

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

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

556 **77-40a-204. Request for automatic expungement of a case -- Automatic**  
557 **expungement before October 1, 2024, and on and after October 1, 2027.**

558 (1) (a) On and after October 1, 2024, but before October 1, 2027, an individual must  
559 submit the necessary form to the court to receive an expungement of a case that is eligible  
560 under this part.

561 (b) If a form is submitted as described in Subsection (1), the court shall determine  
562 whether the individual has a case that qualifies for expungement in accordance with Sections  
563 77-40a-205 and 77-40a-206.

564 (2) A court shall automatically expunge a case in accordance with this part if the court  
565 identified the case as being eligible for automatic expungement before October 1, 2024, and the  
566 requirements for automatic expungement were met under this part.

567 (3) On and after October 1, 2027, a court shall automatically expunge a case in  
568 accordance with this part if the court identifies the case as being eligible for automatic  
569 expungement.

570 (4) A court shall make reasonable efforts, within available funding, to expunge a case  
571 under Subsection (3) as quickly as practicable with the goal of:

572 (a) expunging a case that resulted in an acquittal on all charges on or after May 1,  
573 2020, 60 days after acquittal;

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

577 (i) for a case in which no appeal was filed, the day on which the entire case against the  
578 individual is dismissed with prejudice; or

579 (ii) for a case in which an appeal was filed, the day on which a court issues a final  
580 nonappealable order;

581 (c) expunging a clean slate eligible case that is adjudicated or dismissed on or after  
582 May 1, 2020, and is not a traffic offense within 30 days of the court determining that the  
583 requirements for expungement have been satisfied under Section 77-40a-205; and

584 (d) expunging a case adjudicated or dismissed before May 1, 2020, within one year of  
585 the day on which the case is identified as eligible for automatic expungement.

586 Section 11. Section **77-40a-205** is enacted to read:

587 **77-40a-205. Automatic expungement of state records for a clean slate case.**

588 (1) A court shall issue an order of expungement, without the filing of a petition, for all  
589 records of the case that are held by the court and the bureau if:

590 (a) on and after October 1, 2024, but before October 1, 2027, the individual submitted  
591 a form requesting expungement of a case as described in Section [77-40a-204](#);

592 (b) the case is eligible for expungement under this section; and

593 (c) the prosecuting agency does not object to the expungement of the case as described  
594 in Subsection (6).

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

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

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

600 (B) a class B misdemeanor offense;

601 (C) a class C misdemeanor offense; or

602 (D) an infraction; and

603 (ii) the following time periods have passed after the day on which the individual is  
604 adjudicated:

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

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

608 (C) at least seven years for the conviction of a class A misdemeanor offense for  
609 possession of a controlled substance in violation of Subsection [58-37-8\(2\)\(a\)\(i\)](#); or

610 (b) (i) the case is dismissed as a result of a successful completion of a plea in abeyance  
611 agreement governed by Subsection [77-2a-3\(2\)\(b\)](#) or the case is dismissed without prejudice;

612 (ii) each charge within the case is:

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

615           (B) a class B misdemeanor offense;  
616           (C) a class C misdemeanor offense; or  
617           (D) an infraction; and  
618           (iii) the following time periods have passed after the day on which the case is  
619 dismissed:  
620           (A) at least five years for a charge in the case for a class C misdemeanor offense or an  
621 infraction;  
622           (B) at least six years for a charge in the case for a class B misdemeanor offense; or  
623           (C) at least seven years for a charge in the case for a class A misdemeanor offense for  
624 possession of a controlled substance in violation of Subsection 58-37-8(2)(a)(i).  
625           (3) A case is not eligible for expungement under this section if:  
626           (a) the individual has a total number of convictions in courts of this state that exceed  
627 the limits under Subsection 77-40a-303(4) or (5) without taking into consideration:  
628           (i) the exception in Subsection 77-40a-303(7); or  
629           (ii) any infraction, traffic offense, or minor regulatory offense;  
630           (b) there is a criminal proceeding for a misdemeanor or felony offense pending in a  
631 court of this state against the individual, unless the proceeding is for a traffic offense;  
632           (c) for an individual seeking an automatic expungement on and after January 1, 2025,  
633 the individual is incarcerated in the state prison or on probation or parole that is supervised by  
634 the Department of Corrections;  
635           (d) the case resulted in the individual being found not guilty by reason of insanity;  
636           (e) the case establishes a criminal accounts receivable that:  
637           (i) has been entered as a civil accounts receivable or a civil judgment of restitution and  
638 transferred to the Office of State Debt Collection under Section 77-18-114; or  
639           (ii) has not been satisfied according to court records; or  
640           (f) the case resulted in a plea held in abeyance or a conviction for the following  
641 offenses:  
642           (i) any of the offenses listed in Subsection 77-40a-303(2)(a);  
643           (ii) an offense against the person in violation of Title 76, Chapter 5, Offenses Against  
644 the Individual;  
645           (iii) a weapons offense in violation of Title 76, Chapter 10, Part 5, Weapons;

- 646 (iv) sexual battery in violation of Section 76-9-702.1;  
647 (v) an act of lewdness in violation of Section 76-9-702 or 76-9-702.5;  
648 (vi) an offense in violation of Title 41, Chapter 6a, Part 5, Driving Under the Influence  
649 and Reckless Driving;  
650 (vii) damage to or interruption of a communication device in violation of Section  
651 76-6-108;  
652 (viii) a domestic violence offense as defined in Section 77-36-1; or  
653 (ix) any other offense classified in the Utah Code as a felony or a class A misdemeanor  
654 other than a class A misdemeanor conviction for possession of a controlled substance in  
655 violation of Subsection 58-37-8(2)(a)(i).
- 656 (4) A prosecuting agency that has complied with Rule 42 of the Utah Rules of Criminal  
657 Procedure shall receive notice on a monthly basis for any case prosecuted by that agency that  
658 appears to be eligible for automatic expungement under this section.
- 659 (5) Within 35 days after the day on which the notice described in Subsection (4) is  
660 sent, the prosecuting agency shall provide written notice in accordance with Rule 42 of the  
661 Utah Rules of Criminal Procedure if the prosecuting agency objects to an automatic  
662 expungement for any of the following reasons:
- 663 (a) the prosecuting agency believes that the case is not eligible for expungement under  
664 this section after reviewing the agency record;  
665 (b) the individual has not paid restitution to the victim as ordered by the court; or  
666 (c) the prosecuting agency has a reasonable belief, grounded in supporting facts, that an  
667 individual involved in the case is continuing to engage in criminal activity within or outside of  
668 the state.
- 669 (6) If a prosecuting agency provides written notice of an objection for a reason  
670 described in Subsection (5) within 35 days after the day on which the notice under Subsection  
671 (4) is sent, the court may not proceed with automatic expungement of the case.
- 672 (7) If 35 days pass after the day on which the notice described in Subsection (4) is sent  
673 without the prosecuting agency providing written notice of an objection under Subsection (5),  
674 the court shall proceed with automatic expungement of the case.
- 675 (8) If a court issues an order of expungement under Subsection (1), the court shall:  
676 (a) expunge all records of the case held by the court in accordance with Section

677 [77-40a-401](#); and

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

680 Section 12. Section **77-40a-206** is enacted to read:

681 **77-40a-206. Automatic expungement of state records for a case resulting in an**  
682 **acquittal or dismissal with prejudice.**

683 (1) A court shall issue an order of expungement, without the filing of a petition, for all  
684 records of the case that are held by the court and the bureau if:

685 (a) on and after October 1, 2024, but before October 1, 2027, the individual submitted  
686 a form requesting expungement of a case as described in Section [77-40a-204](#); and

687 (b) the case is eligible for expungement under this section.

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

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

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

692 or

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

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

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

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

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

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

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

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

704 (a) expunge all records of the case held by the court as described in Section

705 [77-40a-401](#); and

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

708 Section 13. Section **77-40a-207** is enacted to read:

709 **77-40a-207. Automatic expungement by the bureau.**

710 (1) Upon receiving notice from a court of an expungement order under this part, the  
711 bureau shall expunge all records of the case in accordance with Section [77-40a-401](#).

712 (2) The bureau shall forward a copy of the expungement order to the Federal Bureau of  
713 Investigation.

714 (3) Except for the court and the bureau, an agency is not required to expunge all  
715 records of a case that is automatically expunged under this part.

716 Section 14. Section **77-40a-301** is amended to read:

717 **77-40a-301. Application for certificate of eligibility for expungement -- Penalty**  
718 **for false or misleading information on application.**

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

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

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

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

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

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

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

734 Section 15. Section **77-40a-302** is amended to read:

735 **77-40a-302. Requirements for certificate of eligibility to expunge records of**  
736 **arrest, investigation, and detention.**

737 (1) Except as provided in Subsection (2), if a petitioner is arrested or charged with an  
738 offense, the petitioner is eligible to receive a certificate of eligibility from the bureau to



739 expunge records of the arrest, investigation, and detention in the case for the offense if:

740 (a) the following time periods have passed:

741 (i) at least 30 days have passed after the day on which the [individual] petitioner is  
742 arrested or charged for the offense;

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

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

749 (b) one of the following occurs:

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

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

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

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

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

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

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

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

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

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

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

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

770 (c) the petitioner is currently incarcerated, on parole, or on probation, unless the  
771 petitioner is on probation or parole for an infraction, a traffic offense, or a minor regulatory  
772 offense; or

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

775 Section 16. Section **77-40a-303** is amended to read:

776 **77-40a-303. Requirements for a certificate of eligibility to expunge records of a**  
777 **conviction.**

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

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

782 (b) the petitioner has paid in full all restitution ordered by the court under Section  
783 [77-38b-205](#); and

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

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

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

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

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

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

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

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

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

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

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

- 801 (i) a capital felony;
- 802 (ii) a first degree felony;
- 803 (iii) a felony conviction of a violent felony as defined in Subsection
- 804 76-3-203.5(1)(c)(i);
- 805 (iv) a felony conviction described in Subsection 41-6a-501(2);
- 806 (v) an offense, or a combination of offenses, that would require the individual to
- 807 register as a sex offender, as defined in Section 77-41-102; or
- 808 (vi) a registerable child abuse offense as defined in Subsection 77-43-102(2);
- 809 (b) there is a criminal proceeding for a misdemeanor or felony offense pending against
- 810 the petitioner, unless the criminal proceeding is for a traffic offense;
- 811 (c) there is a plea in abeyance for a misdemeanor or felony offense pending against the
- 812 petitioner, unless the plea in abeyance is for a traffic offense;
- 813 (d) the petitioner is currently incarcerated, on parole, or on probation, unless the
- 814 petitioner is on probation or parole for an infraction, a traffic offense, or a minor regulatory
- 815 offense;
- 816 (e) the petitioner intentionally or knowingly provides false or misleading information
- 817 on the application for a certificate of eligibility;
- 818 (f) there is a criminal protective order or a criminal stalking injunction in effect for the
- 819 case; or
- 820 (g) the bureau determines that the petitioner's criminal history makes the petitioner
- 821 ineligible for a certificate of eligibility under Subsection (4) or (5).
- 822 (3) Subsection (2)(a) does not apply to a conviction for a qualifying sexual offense, as
- 823 defined in Section 76-3-209, if, at the time of the offense, a petitioner who committed the
- 824 offense was at least 14 years old but under 18 years old, unless the petitioner was convicted by
- 825 a district court as an adult in accordance with Title 80, Chapter 6, Part 5, Transfer to District
- 826 Court.
- 827 (4) Subject to Subsections (6), (7), and (8), a petitioner is not eligible to receive a
- 828 certificate of eligibility if, at the time the petitioner seeks the certificate of eligibility, the
- 829 bureau determines that the petitioner's criminal history, including previously expunged
- 830 convictions, contains any of the following:
- 831 (a) two or more felony convictions other than for drug possession offenses, each of

832 which is contained in a separate criminal episode;

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

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

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

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

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

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

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

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

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

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

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

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

- 863 (i) a class B misdemeanor;
- 864 (ii) a class C misdemeanor;
- 865 (iii) a drug possession offense if none of the non-drug possession offenses in the
- 866 criminal episode are a felony or a class A misdemeanor; or
- 867 (iv) an infraction.

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

- 871 (a) an infraction;
- 872 (b) a traffic offense;
- 873 (c) a minor regulatory offense; or
- 874 (d) a clean slate eligible case that was automatically expunged [~~in accordance with~~  
 875 ~~Section 77-40a-201~~].

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

879 Section 17. Section 77-40a-304 is amended to read:

880 **77-40a-304. Certificate of eligibility process -- Issuance of certificate -- Fees.**

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

883 (i) the bureau shall perform a check of records of governmental agencies, including  
 884 national criminal data bases, to determine whether the petitioner is eligible to receive a  
 885 certificate of eligibility under this chapter[~~];~~ and

886 (ii) the petitioner shall pay an application fee at the time the petitioner submits an  
 887 application for a certificate of eligibility to the bureau.

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

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

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

893 [~~(i) the bureau shall issue a certificate of eligibility that is valid for a period of 180 days~~

894 from the day on which the certificate is issued;]

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

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

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

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

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

907 (iii) the petitioner is currently incarcerated, on parole, or on probation, unless the  
908 petitioner is on probation or parole for an infraction, a traffic offense, or a minor regulatory  
909 offense.

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

911 (b) If the petitioner meets all of the criteria under Section [77-40a-302](#) or [77-40a-303](#)  
912 and the bureau determines that the issuance of a certificate of eligibility or special certificate is  
913 appropriate:

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

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

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

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

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

924 [~~(c) If the bureau determines that the issuance of a certificate of eligibility or special~~

925 ~~certificate is appropriate, the petitioner will be charged an additional fee for the issuance of a~~  
926 ~~certificate of eligibility or special certificate unless Subsection (2)(d) applies.]~~

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

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

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

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

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

939 ~~[(3)]~~ (4) The bureau shall include on the certificate of eligibility all information that is  
940 needed for the court to issue a valid expungement order.

941 ~~[(4)]~~ (5) The bureau shall provide clear written instructions to the petitioner that  
942 explain:

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

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

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

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

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

954 (7) If the bureau issues a certificate of eligibility or a special certificate without  
955 requiring payment of the issuance fee as described in Subsection (3)(b), the bureau shall charge

956 the petitioner the issuance fee upon the bureau's receipt of an order deciding a petition for  
957 expungement unless the court communicates to the bureau that the fee to file the petition for  
958 expungement was waived because the petitioner is indigent.

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

963 (b) If the petitioner does not qualify for a waiver of the issuance fee under Subsection  
964 (7) and the expungement order grants the petition for expungement, the bureau may not process  
965 the expungement order as described in Section [77-40a-401](#), or notify other agencies affected by  
966 the expungement order as described in Section [77-40a-307](#), until the petitioner pays the  
967 issuance fee.

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

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

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

977 Section 18. Section **77-40a-305** is amended to read:

978 **77-40a-305. Petition for expungement -- Prosecutorial responsibility -- Hearing.**

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

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

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

986 (b) A court may not accept a petition for expungement if the certificate of eligibility is



987 no longer valid as described in Subsection [~~77-40a-304(1)(d)(i)~~] [77-40a-304\(2\)\(b\)\(i\)](#).

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

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

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

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

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

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

998 (4) Notwithstanding Subsection (2), a petitioner may file a petition for expungement of  
999 a record for a conviction related to cannabis possession without a certificate of eligibility if the  
1000 petition demonstrates that:

1001 (a) the petitioner had, at the time of the relevant arrest or citation leading to the  
1002 conviction, a qualifying condition, as that term is defined in Section [26B-4-201](#); and

1003 (b) the possession of cannabis in question was in a form and an amount to medicinally  
1004 treat the qualifying condition described in Subsection (4)(a).

1005 (5) (a) The court shall provide notice of a filing of a petition and certificate of  
1006 eligibility to the prosecutorial office that handled the court proceedings within three days after  
1007 the day on which the petitioner's filing fee is paid or waived.

1008 (b) If there were no court proceedings, the court shall provide notice of a filing of a  
1009 petition and certificate of eligibility to the county attorney's office in the jurisdiction where the  
1010 arrest occurred.

1011 (c) If the prosecuting agency with jurisdiction over the arrest, investigation, detention,  
1012 or conviction, was a city attorney's office, the county attorney's office in the jurisdiction where  
1013 the arrest occurred shall immediately notify the city attorney's office that the county attorney's  
1014 office has received a notice of a filing of a petition for expungement.

1015 (6) (a) Upon receipt of a notice of a filing of a petition for expungement of a conviction  
1016 or a charge dismissed in accordance with a plea in abeyance, the prosecuting attorney shall  
1017 make a reasonable effort to provide notice to any victim of the conviction or charge.

- 1018 (b) The notice under Subsection (6)(a) shall:
- 1019 (i) include a copy of the petition, certificate of eligibility, statutes, and rules applicable
- 1020 to the petition;
- 1021 (ii) state that the victim has a right to object to the expungement; and
- 1022 (iii) provide instructions for registering an objection with the court.
- 1023 (7) (a) The prosecuting attorney may respond to the petition by filing a
- 1024 recommendation or objection with the court within 35 days after the day on which the notice of
- 1025 the filing of the petition is sent by the court to the prosecuting attorney.
- 1026 (b) If there is a victim of the offense for which expungement is sought, the victim may
- 1027 respond to the petition by filing a recommendation or objection with the court within 60 days
- 1028 after the day on which the petition for expungement was filed with the court.
- 1029 (8) (a) The court may request a written response to the petition from the Division of
- 1030 Adult Probation and Parole within the Department of Corrections.
- 1031 (b) If requested, the response prepared by the Division of Adult Probation and Parole
- 1032 shall include:
- 1033 (i) the reasons probation was terminated; and
- 1034 (ii) certification that the petitioner has completed all requirements of sentencing and
- 1035 probation or parole.
- 1036 (c) The Division of Adult Probation and Parole shall provide a copy of the response to
- 1037 the petitioner and the prosecuting attorney.
- 1038 (9) The petitioner may respond in writing to any objections filed by the prosecuting
- 1039 attorney or the victim and the response prepared by the Division of Adult Probation and Parole
- 1040 within 14 days after the day on which the objection or response is received.
- 1041 (10) (a) If the court receives an objection concerning the petition from any party, the
- 1042 court shall set a date for a hearing and notify the petitioner and the prosecuting attorney of the
- 1043 date set for the hearing.
- 1044 (b) The prosecuting attorney shall notify the victim of the date set for the hearing.
- 1045 (c) The petitioner, the prosecuting attorney, the victim, and any other person who has
- 1046 relevant information about the petitioner may testify at the hearing.
- 1047 (d) The court shall review the petition, the certificate of eligibility, and any written
- 1048 responses submitted regarding the petition.

1049 (11) If no objection is received within 60 days from the day on which the petition for  
1050 expungement is filed with the court, the expungement may be granted without a hearing.

1051 (12) (a) If the petitioner seeks a waiver of the fee required for a petition for  
1052 expungement in accordance with Section 78A-2-302, the court shall consider the total number  
1053 of cases for which the petitioner has received a certificate of eligibility and is seeking  
1054 expungement in determining whether the petitioner is indigent under Subsection  
1055 78A-2-302(3)(e) even if the court does not have jurisdiction over a case for which the  
1056 petitioner is seeking expungement.

1057 (b) If a court grants a waiver of the fee required for a petition for expungement in  
1058 accordance with Section 78A-2-302, and only upon a request from the petitioner, a subsequent  
1059 court shall grant a waiver of a fee for a petition for expungement if the prior court waived the  
1060 fee for a petition for expungement within 180 days before the day on which the petitioner filed  
1061 the petition for expungement with the subsequent court.

1062 Section 19. Section 77-40a-306 is amended to read:

1063 **77-40a-306. Order of expungement.**

1064 (1) If a petition is filed in accordance with Section 77-40a-305, the court shall issue an  
1065 order of expungement if the court finds, by clear and convincing evidence, that:

1066 (a) except as provided in Subsection 77-40a-305(3) or (4), the petition and certificate  
1067 of eligibility are sufficient;

1068 (b) the statutory requirements have been met;

1069 (c) if the petitioner seeks expungement after a case is dismissed without prejudice or  
1070 without condition, the prosecuting attorney provided written consent and has not filed and does  
1071 not intend to refile related charges;

1072 (d) if the petitioner seeks expungement without a certificate of eligibility for  
1073 expungement under Subsection 77-40a-305(4) for a record of conviction related to cannabis  
1074 possession:

1075 (i) the petitioner had, at the time of the relevant arrest or citation leading to the  
1076 conviction, a qualifying condition, as that term is defined in Section 26B-4-201; and

1077 (ii) the possession of cannabis in question was in a form and an amount to medicinally  
1078 treat the qualifying condition described in Subsection (1)(d)(i);

1079 (e) if an objection is received, the petition for expungement is for a charge dismissed in

1080 accordance with a plea in abeyance agreement, and the charge is an offense eligible to be used  
1081 for enhancement, there is good cause for the court to grant the expungement; and

1082 (f) the interests of the public would not be harmed by granting the expungement.

1083 (2) (a) If the court denies a petition described in Subsection (1)(c) because the  
1084 prosecuting attorney intends to refile charges, the petitioner may apply again for a certificate of  
1085 eligibility if charges are not refiled within 180 days after the day on which the court denies the  
1086 petition.

1087 (b) A prosecuting attorney who opposes an expungement of a case dismissed without  
1088 prejudice, or without condition, shall have a good faith basis for the intention to refile the case.

1089 (c) A court shall consider the number of times that good faith basis of intention to  
1090 refile by the prosecuting attorney is presented to the court in making the court's determination  
1091 to grant the petition for expungement described in Subsection (1)(c).

1092 (3) If the court grants a petition described in Subsection (1)(e), the court shall make the  
1093 court's findings in a written order.

1094 (4) A court may not expunge a conviction of an offense for which a certificate of  
1095 eligibility may not be, or should not have been, issued under Section [77-40a-302](#) or  
1096 [77-40a-303](#).

1097 (5) If a court grants a petition for expungement, the court shall:

1098 (a) expunge all records of the case as described in Section [77-40a-401](#); and

1099 (b) notify the bureau of the order of expungement.

1100 Section 20. Section **77-40a-307** is enacted to read:

1101 **77-40a-307. Distribution of expungement order based on a petition to all agencies.**

1102 (1) (a) Upon receiving notice from the court of an expungement order as described in  
1103 Subsection [77-40a-306](#)(5), the bureau shall notify all agencies affected by the expungement  
1104 order.

1105 (b) For purposes of Subsection (1)(a), the bureau may not notify the Board of Pardons  
1106 and Parole of an expungement order if the individual has never been:

1107 (i) sentenced to prison in this state; or

1108 (ii) under the jurisdiction of the Board of Pardons and Parole.

1109 (c) The bureau shall forward a copy of the expungement order to the Federal Bureau of  
1110 Investigation.

1111 (2) A petitioner may deliver copies of the expungement to all agencies affected by the  
1112 order of expungement.

1113 (3) If an agency receives an expungement order under this part, the agency shall  
1114 expunge all records for the case in accordance with Section [77-40a-401](#).

1115 Section 21. Section **77-40a-401** is amended to read:

1116 **Part 4. Expungement of Criminal Records**

1117 **77-40a-401. Processing of expungement order -- Written confirmation of**  
1118 **expungement -- Effect of an expungement.**

1119 ~~[(1)(a) The bureau, upon receiving notice from the court, shall notify all criminal~~  
1120 ~~justice agencies affected by the expungement order.]~~

1121 ~~[(b) For purposes of Subsection (1)(a), the bureau may not notify the Board of Pardons~~  
1122 ~~and Parole of an expungement order if the individual has never been:]~~

1123 ~~[(i) sentenced to prison in this state; or]~~

1124 ~~[(ii) under the jurisdiction of the Board of Pardons and Parole.]~~

1125 ~~[(c) A petitioner may deliver copies of the expungement to all criminal justice agencies~~  
1126 ~~affected by the order of expungement.]~~

1127 ~~[(d) An individual, who receives an expungement order under Section [77-27-5.1](#), shall~~  
1128 ~~pay a processing fee to the bureau, established in accordance with the process in Section~~  
1129 ~~[63J-1-504](#), before the bureau's record may be expunged.]~~

1130 ~~[(2) Unless otherwise provided by law or ordered by a court to respond differently, an~~  
1131 ~~individual or agency who has received an expungement of an arrest or conviction under this~~  
1132 ~~chapter or Section [77-27-5.1](#) may respond to any inquiry as though the arrest or conviction did~~  
1133 ~~not occur.]~~

1134 ~~[(3) The bureau shall forward a copy of the expungement order to the Federal Bureau~~  
1135 ~~of Investigation.]~~

1136 ~~[(4) An agency receiving an expungement order shall expunge the individual's~~  
1137 ~~identifying information contained in records in the agency's possession relating to the incident~~  
1138 ~~for which expungement is ordered.]~~

1139 ~~[(5) Unless ordered by a court to do so, or in accordance with Section [77-40a-403](#), a~~  
1140 ~~government agency or official may not divulge information or records that have been~~  
1141 ~~expunged.]~~

- 1142 (1) In processing an expungement order, a court and the bureau shall give priority to:  
1143 (a) first, an expungement order granting a petition for expungement under Part 3,  
1144 Petition for Expungement;  
1145 (b) second, an expungement order upon a pardon by the Board of Pardons and Parole  
1146 as described in Section [77-27-5.1](#);  
1147 (c) third, an expungement order upon a plea in abeyance as described in Section  
1148 [77-2a-3](#);  
1149 (d) fourth, an expungement order where an individual submitted a form requesting  
1150 automatic expungement under Part 2, Automatic Expungement and Deletion; and  
1151 (e) fifth, an expungement order where the court identified the case as being eligible for  
1152 automatic expungement under Part 2, Automatic Expungement and Deletion.  
1153 (2) An individual, who receives an expungement order under Section [77-27-5.1](#), shall  
1154 pay a processing fee to the bureau, established in accordance with the process in Section  
1155 [63J-1-504](#), before the bureau's record may be expunged.  
1156 (3) An agency shall:  
1157 (a) develop and implement a process to identify an expunged record; and  
1158 (b) keep, index, and maintain all expunged records of arrests and convictions.  
1159 (4) (a) If an individual who receives an expungement requests confirmation from an  
1160 agency, the agency shall provide the individual with written confirmation that:  
1161 (i) the agency has identified all records subject to expungement; and  
1162 (ii) except as otherwise provided by Sections [77-40a-402](#) and [77-40a-403](#), the agency  
1163 will restrict or deny access to all of the expunged records.  
1164 (b) The bureau may charge a fee for providing a written confirmation under Subsection  
1165 (4)(a) in accordance with the process in Section [63J-1-504](#).  
1166 (5) Upon entry of an expungement order, an individual, who received the  
1167 expungement, may respond to any inquiry as though the arrest, investigation, detention,  
1168 prosecution, or conviction did not occur unless otherwise provided by law or ordered by a court  
1169 to respond differently.  
1170 (6) (a) An expungement order may not restrict an agency's use or dissemination of  
1171 records in the agency's ordinary course of business until the agency has received a copy of the  
1172 order.

1173 (b) Any action taken by an agency after issuance of the order but prior to the agency's  
1174 receipt of a copy of the order may not be invalidated by the order.

1175 (7) An expungement order may not:

1176 (a) terminate or invalidate any pending administrative proceedings or actions of which  
1177 the individual had notice according to the records of the administrative body prior to issuance  
1178 of the expungement order;

1179 (b) affect the enforcement of any order or findings issued by an administrative body  
1180 pursuant to the administrative body's lawful authority prior to issuance of the expungement  
1181 order;

1182 (c) remove any evidence relating to the individual including records of arrest, which  
1183 the administrative body has used or may use in these proceedings; or

1184 (d) prevent an agency from maintaining, sharing, or distributing any record required by  
1185 law.

1186 Section 22. Section **77-40a-402** is amended to read:

1187 **77-40a-402. Distribution for order for vacatur.**

1188 (1) An individual who receives an order for vacatur under Subsection **78B-9-108(2)**  
1189 shall be responsible for delivering a copy of the order for vacatur to all affected [~~criminal~~  
1190 ~~justice agencies and officials~~] agencies.

1191 (2) To complete delivery of the order for vacatur to the bureau, the individual shall  
1192 complete and attach to the order for vacatur an application for a certificate of eligibility for  
1193 expungement, including identifying information and fingerprints, in accordance with Section  
1194 **77-40a-301**.

1195 (3) Except as otherwise provided in this section, the bureau shall treat the order for  
1196 vacatur and attached certificate of eligibility for expungement the same as a valid order for  
1197 expungement under Section **77-40a-401**.

1198 (4) Unless otherwise provided by law or ordered by a court to respond differently, an  
1199 individual who has received a vacatur of conviction under Subsection **78B-9-108(2)** may  
1200 respond to any inquiry as though the conviction did not occur.

1201 (5) The bureau shall forward a copy of the order for vacatur to the Federal Bureau of  
1202 Investigation.

1203 (6) An agency receiving an order for vacatur shall expunge the individual's identifying

1204 information contained in records in the agency's possession relating to the incident for which  
1205 vacatur is ordered.

1206 (7) [~~A government~~] An agency or official may not divulge information contained in a  
1207 record of arrest, investigation, detention, or conviction after receiving an order for vacatur to  
1208 any person or agency, except for:

1209 (a) the individual for whom vacatur was ordered; or

1210 (b) Peace Officer Standards and Training, in accordance with Section 53-6-203 and  
1211 Subsection [~~77-40a-403(4)(b)~~] 77-40a-403(2)(b).

1212 (8) The bureau may not count vacated convictions against any future expungement  
1213 eligibility.

1214 Section 23. Section 77-40a-403 is amended to read:

1215 **77-40a-403. Release and use of expunged records.**

1216 [~~(1) (a) The bureau, after receiving an expungement order, shall keep, index, and  
1217 maintain all expunged records of arrests and convictions.]~~

1218 [~~(b) Any agency, other than the bureau, receiving an expungement order shall develop  
1219 and implement a process to identify and maintain an expunged record.]~~

1220 [~~(2) (a) An agency shall provide an individual who receives an expungement with  
1221 written confirmation that the agency has expunged all records of the offense for which the  
1222 individual received the expungement if the individual requests confirmation from the agency.]~~

1223 [~~(b) The bureau may charge a fee for providing a written confirmation under  
1224 Subsection (2)(a) in accordance with the process in Section 63J-1-504.]~~

1225 [~~(3) (1) (a) [An employee of the bureau, or any agency with an expunged record, may  
1226 not] An agency with an expunged record, or any employee of an agency with an expunged  
1227 record, may not knowingly or intentionally divulge any information contained in the expunged  
1228 record to any person, or another agency, without a court order unless:~~

1229 (i) specifically authorized by statute; or

1230 (ii) subject to Subsection [~~(3)(b)~~] (1)(b), the information in an expunged record is  
1231 being shared with another agency through a records management system that both agencies use  
1232 for the purpose of record management.

1233 (b) An agency with a records management system may not disclose any information in  
1234 an expunged record with another agency or person that does not use the records management



1235 system for the purpose of record management.

1236 ~~[(4)]~~ (2) The following entities or agencies may receive information contained in  
1237 expunged records upon specific request:

1238 (a) the Board of Pardons and Parole;

1239 (b) Peace Officer Standards and Training;

1240 (c) federal authorities if required by federal law;

1241 (d) the State Board of Education;

1242 (e) the Commission on Criminal and Juvenile Justice, for purposes of investigating  
1243 applicants for judicial office; and

1244 (f) a research institution or an agency engaged in research regarding the criminal justice  
1245 system if:

1246 (i) the research institution or agency provides a legitimate research purpose for  
1247 gathering information from the expunged records;

1248 (ii) the research institution or agency enters into a data sharing agreement with the  
1249 court or agency with custody of the expunged records that protects the confidentiality of any  
1250 identifying information in the expunged records;

1251 (iii) any research using expunged records does not include any individual's name or  
1252 identifying information in any product of that research; and

1253 (iv) any product resulting from research using expunged records includes a disclosure  
1254 that expunged records were used for research purposes.

1255 ~~[(5)]~~ (3) Except as otherwise provided by this section or by court order, a person, an  
1256 agency, or an entity authorized by this section to view expunged records may not reveal or  
1257 release any information obtained from the expunged records to anyone outside the specific  
1258 request, including distribution on a public website.

1259 ~~[(6)]~~ (4) A prosecuting attorney may communicate with another prosecuting attorney,  
1260 or another prosecutorial agency, regarding information in an expunged record that includes a  
1261 conviction, or a charge dismissed as a result of a successful completion of a plea in abeyance  
1262 agreement, for:

1263 (a) stalking as described in Section [76-5-106.5](#);

1264 (b) a domestic violence offense as defined in Section [77-36-1](#);

1265 (c) an offense that would require the individual to register as a sex offender, as defined

1266 in Section [77-41-102](#); or

1267 (d) a weapons offense under Title 76, Chapter 10, Part 5, Weapons.

1268 ~~[(7)]~~ (5) Except as provided in Subsection ~~[(9)]~~ (7), a prosecuting attorney may not use  
1269 an expunged record for the purpose of a sentencing enhancement or as a basis for charging an  
1270 individual with an offense that requires a prior conviction.

1271 ~~[(8)]~~ (6) The bureau may also use the information in the bureau's index as provided in  
1272 Section [53-5-704](#).

1273 ~~[(9)]~~ (7) If ~~[, after obtaining an expungement,]~~ an individual is charged with a felony or  
1274 an offense eligible for enhancement based on a prior conviction ~~[, the state]~~ after obtaining an  
1275 expungement, the prosecuting attorney may petition the court to open the expunged records  
1276 upon a showing of good cause.

1277 ~~[(10)]~~ (8) (a) For judicial sentencing, a court may order any records expunged under  
1278 this chapter or Section [77-27-5.1](#) to be opened and admitted into evidence.

1279 (b) The records are confidential and are available for inspection only by the court,  
1280 parties, counsel for the parties, and any other person who is authorized by the court to inspect  
1281 them.

1282 (c) At the end of the action or proceeding, the court shall order the records expunged  
1283 again.

1284 (d) Any person authorized by this Subsection ~~[(10)]~~ (8) to view expunged records may  
1285 not reveal or release any information obtained from the expunged records to anyone outside the  
1286 court.

1287 ~~[(11)]~~ (9) Records released under this chapter are classified as protected under Section  
1288 [63G-2-305](#) and are accessible only as provided under Title 63G, Chapter 2, Part 2, Access to  
1289 Records, and Subsection [53-10-108](#)(2)(k) for records held by the bureau.

1290 Section 24. Section **77-40a-404** is amended to read:

1291 **77-40a-404. Confirmation of expungement -- Access to expunged records by**  
1292 **individuals.**

1293 (1) An individual who receives an expungement may request a written confirmation  
1294 from an agency under Subsection ~~[77-40a-403(2)]~~ [77-40a-401](#)(4) to confirm that the agency  
1295 has expunged all records of the offense for which the individual received the expungement.

1296 (2) The following individuals may view or obtain an expunged record under this

1297 chapter or Section [77-27-5.1](#):

1298 (a) the petitioner or an individual who receives an automatic expungement under  
1299 ~~[Section [77-40a-201](#)]~~ Part 2, Automatic Expungement and Deletion;

1300 (b) a law enforcement officer, who was involved in the case, for use solely in the  
1301 officer's defense of a civil action arising out of the officer's involvement with the petitioner in  
1302 that particular case; and

1303 (c) a party to a civil action arising out of the expunged incident if the information is  
1304 kept confidential and utilized only in the action.

1305 Section 25. Section **78A-2-302** is amended to read:

1306 **78A-2-302. Waiver of fees, costs, and security -- Indigent litigants -- Affidavit.**

1307 (1) As used in Sections [78A-2-302](#) through [78A-2-309](#):

1308 (a) "Convicted" means:

1309 (i) a conviction by entry of a plea of guilty or nolo contendere, guilty with a mental  
1310 condition, no contest; and

1311 (ii) a conviction of any crime or offense.

1312 (b) "Indigent" means ~~[an individual who is financially unable to pay fees and costs or~~  
1313 ~~give security]~~ a financial status that results from a court finding that a petitioner is financially  
1314 unable to pay the fee, a cost, or give security.

1315 (c) "Prisoner" means an individual who has been convicted of a crime and is  
1316 incarcerated for that crime or is being held in custody for trial or sentencing.

1317 (2) An individual may institute, prosecute, defend, or appeal any cause in a court in this  
1318 state without prepayment of fees and costs or security if:

1319 (a) the individual submits an affidavit demonstrating that the individual is indigent[-];  
1320 or

1321 (b) the individual is seeking a waiver of the fee for a petition for expungement and the  
1322 individual provides the court with proof that another court granted a waiver for a petition for  
1323 expungement as described in Subsection [77-40a-305\(12\)\(b\)](#).

1324 (3) A court shall find an individual indigent if the individual's affidavit under  
1325 Subsection (2) demonstrates:

1326 (a) if the cause is not a petition for expungement, the individual has an income level at  
1327 or below 150% of the United States poverty level as defined by the most recent poverty income

1328 guidelines published by the United States Department of Health and Human Services;

1329 (b) if the cause is a petition for expungement, the individual has an income level at or  
1330 below 175% of the United States poverty level as defined by the most recent poverty income  
1331 guidelines published by the United States Department of Health and Human Services;

1332 [~~(b)~~] (c) the individual receives benefits from a means-tested government program,  
1333 including Temporary Assistance to Needy Families, Supplemental Security Income, the  
1334 Supplemental Nutrition Assistance Program, or Medicaid;

1335 [~~(c)~~] (d) the individual receives legal services from a nonprofit provider or a pro bono  
1336 attorney through the Utah State Bar; or

1337 [~~(d)~~] (e) the individual has insufficient income or other means to pay the necessary fees  
1338 and costs or security without depriving the individual, or the individual's family, of food,  
1339 shelter, clothing, or other necessities.

1340 (4) An affidavit demonstrating that an individual is indigent under Subsection [~~(3)~~]~~(d)~~  
1341 (3)(e) shall contain complete information on the individual's:

1342 (a) identity and residence;

1343 (b) amount of income, including any government financial support, alimony, or child  
1344 support;

1345 (c) assets owned, including real and personal property;

1346 (d) business interests;

1347 (e) accounts receivable;

1348 (f) securities, checking and savings account balances;

1349 (g) debts; and

1350 (h) monthly expenses.

1351 (5) If the individual under Subsection (3) is a prisoner, the prisoner shall disclose the  
1352 amount of money held in the prisoner's trust account at the time the affidavit under Subsection  
1353 (2) is executed in accordance with Section [78A-2-305](#).

1354 (6) An affidavit of indigency under this section shall state the following:

1355 I, (insert name), do solemnly swear or affirm that due to my poverty I am unable to bear  
1356 the expenses of the action or legal proceedings which I am about to commence or the appeal  
1357 which I am about to take, and that I believe I am entitled to the relief sought by the action, legal  
1358 proceedings, or appeal.

1359           (7) The Administrative Office of the Courts shall include on a form for an affidavit of  
1360 indigency the following warning: "It is a crime for anyone to intentionally or knowingly  
1361 provide false or misleading information to the court when seeking a waiver of a court fee."

1362           Section 26. Section **78A-7-209.5** is amended to read:

1363           **78A-7-209.5. Presiding judge -- Associate presiding judge -- Election -- Powers --**  
1364 **Duties.**

1365           (1) (a) In judicial districts having more than one justice court judge, the justice court  
1366 judges shall elect one judge of the district to the office of presiding judge.

1367           (b) The presiding judge shall receive an additional \$2,000 per annum as compensation  
1368 from the Justice Court Technology, Security, and Training Account described in Section  
1369 **78A-7-301** for the period served as presiding judge.

1370           (2) (a) In judicial districts having more than two justice court judges, the justice court  
1371 judges may elect one judge of the district to the office of associate presiding judge.

1372           (b) The associate presiding judge shall receive an additional \$1,000 per annum as  
1373 compensation from the Justice Court Technology, Security, and Training Account described in  
1374 Section **78A-7-301** for the period served as associate presiding judge.

1375           (3) The presiding judge has the following authority and responsibilities, consistent with  
1376 the policies of the Judicial Council:

1377           (a) working with each justice court judge in the district to implement policies and rules  
1378 of the Judicial Council;

1379           (b) exercising powers and performing administrative duties as authorized by the  
1380 Judicial Council;

1381           (c) if there is no other appointed justice court judge in that court available, assigning a  
1382 justice court judge to hear a case in which a judge has been disqualified in accordance with  
1383 rules of the Supreme Court;

1384           (d) if a justice court judge of the district cannot perform the justice court judge's duties  
1385 in a case or cases due to illness, death, or other incapacity, and the governing body has not  
1386 appointed a temporary justice court judge in accordance with Section **78A-7-208**:

1387           (i) assigning, on an emergency basis, a justice court judge to hear a case or cases; and

1388           (ii) facilitating judicial coverage with the appointing municipal or county authority  
1389 until a temporary justice court judge can be appointed, in accordance with Section **78A-7-208**,

1390 or a new justice court judge is formally appointed and takes office, in accordance with Section  
1391 [78A-7-202](#); and

1392 (e) entering orders of expungement in cases expunged in accordance with [~~Section~~  
1393 ~~77-40a-201~~] Title 77, Chapter 40a, Part 2, Automatic Expungement and Deletion.

1394 (4) (a) When the presiding judge is unavailable, the associate presiding judge shall  
1395 assume the responsibilities of the presiding judge.

1396 (b) The associate presiding judge shall perform other duties assigned by the presiding  
1397 judge.

1398 Section 27. Section **78B-7-1001** is amended to read:

1399 **78B-7-1001. Definitions.**

1400 As used in this part:

1401 (1) (a) [~~Except as provided in Subsection (1)(b), "agency"~~] "Agency" means, except as  
1402 provided in Subsection (1)(b), a state, county, or local government entity that generates or  
1403 maintains records relating to a civil order for which expungement may be ordered.

1404 (b) "Agency" does not include the Division of Child and Family Services created in  
1405 Section [80-2-201](#).

1406 (2) "Civil order" means:

- 1407 (a) an ex parte civil protective order;
- 1408 (b) an ex parte civil stalking injunction;
- 1409 (c) a civil protective order; or
- 1410 (d) a civil stalking injunction.

1411 [~~(3) "Expunge" means to seal or otherwise restrict access to an individual's record held~~  
1412 ~~by an agency when the record includes a civil order.]~~

1413 (3) (a) "Expunge" means to remove a record from public inspection by:

- 1414 (i) sealing the record; or
- 1415 (ii) restricting or denying access to the record.

1416 (b) "Expunge" does not include the destruction of a record.

1417 (4) "Petitioner" means an individual petitioning for expungement of a civil order under  
1418 this part.

1419 Section 28. Section **78B-7-1004** is amended to read:

1420 **78B-7-1004. Distribution and effect of order of expungement -- Penalty.**

1421 (1) An individual who receives an order of expungement under Section 78B-7-1003  
1422 shall be responsible for delivering a copy of the order of expungement to any affected agency.

1423 ~~[(2) Upon receipt of an order of expungement as described in Subsection (1), an agency~~  
1424 ~~shall expunge all records described in the expungement order that are under the control of the~~  
1425 ~~agency.]~~

1426 (2) If an agency receives an expungement order as described in Subsection (1), the  
1427 agency shall expunge all records affected by the expungement order.

1428 (3) Upon entry of an expungement order by a court under Section 78B-7-1003:

1429 (a) the civil order is considered to never have occurred; and

1430 (b) the petitioner may reply to an inquiry on the matter as though there was never a  
1431 civil order.

1432 (4) (a) Unless ordered by a court to do so, an agency or official may not divulge  
1433 information or records that have been expunged under this part.

1434 (b) An expungement order may not restrict an agency's use or dissemination of records  
1435 in the agency's ordinary course of business until the agency has received a copy of the  
1436 expungement order.

1437 (c) Any action taken by an agency after issuance of the expungement order but before  
1438 the agency's receipt of a copy of the expungement order may not be invalidated by the order.

1439 (5) An expungement order under this part may not:

1440 (a) terminate or invalidate any pending administrative proceedings or actions of which  
1441 the individual had notice according to the records of the administrative body before issuance of  
1442 the expungement order;

1443 (b) affect the enforcement of any order or findings issued by an administrative body  
1444 pursuant to the administrative body's lawful authority prior to issuance of the expungement  
1445 order; or

1446 (c) prevent an agency from maintaining, sharing, or distributing any record required by  
1447 law.

1448 (6) An employee or agent of an agency that is prohibited from disseminating  
1449 information from an expunged record under this section who knowingly or intentionally  
1450 discloses identifying information from the expunged record, unless allowed by law, is guilty of  
1451 a class A misdemeanor.

1452 (7) Records expunged under this part may be released to, or viewed by, the following  
1453 individuals:

1454 (a) the petitioner; or

1455 (b) parties to a civil action arising out of the expunged civil order, providing the  
1456 information is kept confidential and utilized only in the action.

1457 (8) This part does not preclude a court from considering the same circumstances or  
1458 evidence for which an expunged civil order was issued in any proceeding that occurs after the  
1459 civil order is expunged.

1460 Section 29. Section **80-6-1001** is amended to read:

1461 **80-6-1001. Definitions.**

1462 As used in this part:

1463 (1) "Abstract" means a copy or summary of a court's disposition.

1464 (2) (a) "Agency" means a state, county, or local government entity that generates or  
1465 maintains records for which expungement may be ordered under this part.

1466 (b) "Agency" includes a local education agency, as defined in Section [53E-1-102](#), for  
1467 purposes of this part.

1468 (3) (a) "Expunge" means ~~[to seal or otherwise restrict access to a record that is part of~~  
1469 ~~an individual's juvenile record and in the custody of the juvenile court or an agency]~~ to remove  
1470 a juvenile record from public inspection by:

1471 (i) sealing the juvenile record; or

1472 (ii) restricting or denying access to the juvenile record.

1473 (b) "Expunge" does not include the destruction of a juvenile record.

1474 (4) (a) "Juvenile record" means all records for all incidents of delinquency involving an  
1475 individual that are in the custody of the juvenile court or an agency.

1476 (b) "Juvenile record" does not include a record of an adjudication under Chapter 3,  
1477 Abuse, Neglect, and Dependency Proceedings, or Chapter 4, Termination and Restoration of  
1478 Parental Rights.

1479 (5) "Petitioner" means an individual requesting an expungement or vacatur under this  
1480 part.

1481 Section 30. Section **80-6-1006.1** is amended to read:

1482 **80-6-1006.1. Exceptions to expungement order -- Distribution of expungement**



1483 **order -- Agency duties -- Effect of expungement -- Access to expunged record.**

1484 (1) This section applies to an expungement order under Section [80-6-1004.1](#),  
1485 [80-6-1004.2](#), [80-6-1004.3](#), [80-6-1004.4](#), or [80-6-1004.5](#).

1486 (2) The juvenile court may not order:

1487 (a) the Board of Pardons and Parole and the Department of Corrections to seal a record  
1488 in the possession of the Board of Pardons and Parole or the Department of Corrections, except  
1489 that the juvenile court may order the Board of Pardons and Parole and the Department of  
1490 Corrections to restrict access to a record if the record is specifically identified in the  
1491 expungement order as a record in the possession of the Board of Pardons and Parole or the  
1492 Department of Corrections; or

1493 (b) the Division of Child and Family Services to expunge a record in an individual's  
1494 juvenile record that is contained in the Management Information System or the Licensing  
1495 Information System unless:

1496 (i) the record is unsupported; or

1497 (ii) after notice and an opportunity to be heard, the Division of Child and Family  
1498 Services stipulates in writing to expunging the record.

1499 (3) (a) If the juvenile court issues an expungement order, the juvenile court shall send a  
1500 copy of the expungement order to any affected agency or official identified in the juvenile  
1501 record.

1502 (b) An individual who is the subject of an expungement order may deliver copies of the  
1503 expungement order to all agencies and officials affected by the expungement order.

1504 (4) (a) Upon receipt of an expungement order, an agency shall:

1505 (i) ~~[to avoid destruction or expungement of records in whole or in part, expunge only~~  
1506 ~~the references to the individual's name in the records relating to the individual's adjudication,~~  
1507 ~~nonjudicial adjustment, petition, arrest, investigation, or detention for which expungement is~~  
1508 ~~ordered]~~ expunge all records affected by the expungement order; and

1509 (ii) destroy all photographs and records created under Section [80-6-608](#), except that a  
1510 record of a minor's fingerprints may not be destroyed by an agency.

1511 (b) An agency that receives a copy of an expungement order shall mail an affidavit to  
1512 the individual who is the subject of the expungement order, or the individual's attorney, that the  
1513 agency has complied with the expungement order.

- 1514 (5) Notwithstanding Subsection (4), the Board of Pardons and Parole and the  
1515 Department of Corrections:
- 1516 (a) may not disclose records expunged in an expungement order unless required by  
1517 law;
- 1518 (b) are not required to destroy any photograph or record created under Section  
1519 80-6-608;
- 1520 (c) may use an expunged record for purposes related to incarceration and supervision  
1521 of an individual under the jurisdiction of the Board of Pardons and Parole, including for the  
1522 purpose of making decisions about:
- 1523 (i) the treatment and programming of the individual;
- 1524 (ii) housing of the individual;
- 1525 (iii) applicable guidelines regarding the individual; or
- 1526 (iv) supervision conditions for the individual;
- 1527 (d) are not prohibited from disclosing or sharing any information in an expunged  
1528 record with another agency that uses the same record management system as the Board of  
1529 Pardons and Parole or the Department of Corrections; and
- 1530 (e) are not required to mail an affidavit under Subsection (4)(b).
- 1531 (6) Upon entry of an expungement order:
- 1532 (a) an adjudication, a nonjudicial adjustment, a petition, an arrest, an investigation, or a  
1533 detention for which the record is expunged is considered to have never occurred; and
- 1534 (b) the individual, who is the subject of the expungement order, may reply to an inquiry  
1535 on the matter as though there never was an adjudication, a nonjudicial adjustment, a petition,  
1536 an arrest, an investigation, or a detention.
- 1537 (7) A record expunged under Section 80-6-1004.1, 80-6-1004.2, 80-6-1004.3,  
1538 80-6-1004.4, or 80-6-1004.5 may be released to, or viewed by, the individual who is the subject  
1539 of the record.

1540 Section 31. **Repealer.**

1541 This bill repeals:

1542 Section **77-40a-203, Time periods for expungement or deletion -- Identification and**  
1543 **processing of clean slate eligible cases.**

1544 Section 32. **Effective date.**

1545 (1) Except as provided in Subsection (2), this bill takes effect on October 1, 2024.

1546 (2) Section [63M-7-221](#) takes effect on May 1, 2024.