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EXPUNGEMENT REVISIONS
2024 GENERAL SESSION
STATE OF UTAH
Chief Sponsor: Jerry W. Stevenson
House Sponsor: Tyler Clancy

LONG TITLE

General Description:

This bill amends provisions related to expungement.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ provides a timeline for a prosecuting attorney to respond to a motion to reduce a conviction for purposes of expungement;
- ▶ modifies a chapter title related to expungement;
- ▶ clarifies the requirements for applying for the expungement of a criminal record;
- ▶ clarifies provisions related to a special certificate that is issued by the Bureau of Criminal Identification;
- ▶ clarifies the certificate of eligibility process;
- ▶ addresses venue for the filing of a petition for expungement of a criminal record, an eviction record, a record of a protective order or stalking injunction, or a juvenile record;
- ▶ requires a court to notify the Bureau of Criminal Identification that an order of expungement for a criminal case has been issued and to provide the Bureau of Criminal Identification with all information needed for expungement;
- ▶ requires a court to provide a petitioner with certified copies of an order of expungement;
- ▶ addresses the expungement of criminal records when an agency has a retention schedule;
- ▶ addresses the redaction of an expunged record when the record pertains to more than one individual;
- ▶ clarifies the opening of expunged records when the individual is charged with a felony or an offense eligible for enhancement;
- ▶ modifies the requirements for indigency to address the waiver of a fee for a petition for

- 28 expungement;
- 29 ▸ requires the Administrative Office of the Courts to include a warning on an affidavit of
- 30 indigency;
- 31 ▸ clarifies the jurisdiction of the justice court over a petition for expungement;
- 32 ▸ moves a provision regarding removing the link between an individual's personal
- 33 identifying information and a dismissed case regarding a protective order or stalking injunction
- 34 from Title 77, Chapter 40a, Expungement of Criminal Records, to Title 78B, Chapter 7, Part
- 35 10, Expungement of Protective Orders and Stalking Injunctions; and
- 36 ▸ makes technical and conforming changes.

37 **Money Appropriated in this Bill:**

38 None

39 **Other Special Clauses:**

40 This bill provides a special effective date.

41 This bill provides coordination clauses.

42 **Utah Code Sections Affected:**

43 AMENDS:

- 44 **20A-2-101.3 (Effective 05/01/24)**, as enacted by Laws of Utah 2011, Chapter 395
- 45 **41-6a-501 (Effective 05/01/24)**, as last amended by Laws of Utah 2023, Chapters 328,
- 46 415
- 47 **53-3-414 (Effective 05/01/24)**, as last amended by Laws of Utah 2022, Chapters 46, 116
- 48 **53-6-302 (Effective 05/01/24)**, as last amended by Laws of Utah 2021, First Special
- 49 Session, Chapter 13
- 50 **53-9-108 (Effective 05/01/24)**, as last amended by Laws of Utah 2020, Fifth Special
- 51 Session, Chapter 18
- 52 **63G-4-107 (Effective 05/01/24)**, as last amended by Laws of Utah 2021, Chapters 84, 344
- 53 **76-3-402 (Effective 05/01/24)**, as last amended by Laws of Utah 2023, Chapter 132
- 54 **77-2-2.3 (Effective 05/01/24)**, as renumbered and amended by Laws of Utah 2021,
- 55 Chapter 260
- 56 **77-27-5.1 (Effective 05/01/24)**, as last amended by Laws of Utah 2017, Chapter 356
- 57 **77-40a-101 (Effective 05/01/24)**, as last amended by Laws of Utah 2023, Chapter 265
- 58 **77-40a-105 (Effective 05/01/24)**, as renumbered and amended by Laws of Utah 2022,
- 59 Chapter 250
- 60 **77-40a-301 (Effective 05/01/24)**, as enacted by Laws of Utah 2022, Chapter 250
- 61 **77-40a-304 (Effective 05/01/24)**, as last amended by Laws of Utah 2023, Chapter 265

62 **77-40a-305 (Effective 05/01/24)**, as last amended by Laws of Utah 2023, Chapters 265,
 63 330
 64 **77-40a-306 (Effective 05/01/24)**, as last amended by Laws of Utah 2023, Chapter 330
 65 **77-40a-403 (Effective 05/01/24)**, as last amended by Laws of Utah 2023, Chapter 265
 66 **77-40a-404 (Effective 05/01/24)**, as last amended by Laws of Utah 2023, Chapter 265
 67 **77-41-109 (Effective 05/01/24)**, as last amended by Laws of Utah 2023, Chapter 123
 68 **78A-2-302 (Effective 05/01/24)**, as last amended by Laws of Utah 2023, Chapter 184
 69 **78A-6-350 (Effective 05/01/24) (Superseded 07/01/24)**, as renumbered and amended by
 70 Laws of Utah 2021, Chapter 261
 71 **78A-6-350 (Effective 07/01/24)**, as last amended by Laws of Utah 2023, Chapter 401
 72 **78A-7-106 (Effective 05/01/24)**, as last amended by Laws of Utah 2023, Chapter 34
 73 **78A-7-209.5 (Effective 05/01/24)**, as enacted by Laws of Utah 2022, Chapter 276
 74 **78B-6-853 (Effective 05/01/24)**, as enacted by Laws of Utah 2022, Chapter 372
 75 **78B-7-1003 (Effective 05/01/24)**, as last amended by Laws of Utah 2023, Chapters 139,
 76 265

77 ENACTS:

78 **78B-7-1002.1 (Effective 05/01/24)**, Utah Code Annotated 1953
 79 **80-6-1001.2 (Effective 05/01/24)**, Utah Code Annotated 1953

80 **Utah Code Sections affected by Coordination Clause:**

81 **78A-2-302**, as last amended by Laws of Utah 2023, Chapter 184
 82 **78A-7-106**, as last amended by Laws of Utah 2023, Chapter 34



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

85 Section 1. Section **20A-2-101.3** is amended to read:

86 **20A-2-101.3 (Effective 05/01/24). Convicted misdemeanants -- Restoration of**
 87 **right to vote or hold office.**

88 (1) As used in this section, "misdemeanant" means a person convicted of a misdemeanor
 89 for an offense under this title.

90 (2) A misdemeanant's right to register to vote and to vote in an election is restored when the
 91 misdemeanant:

92 (a) is sentenced to probation; or

93 (b) has successfully completed the term of incarceration to which the misdemeanant was
 94 sentenced.

95 (3) A misdemeanant's right to hold elective office is restored when:

- 96 (a) the misdemeanor for an offense under this title is expunged as provided in [~~Title 77,~~
 97 ~~Chapter 40a, Expungement~~] Title 77, Chapter 40a, Expungement of Criminal Records;
 98 or
 99 (b) (i) five years have passed since the date of the misdemeanant's most recent
 100 misdemeanor conviction of an offense under this title;
 101 (ii) the misdemeanant has paid all court-ordered restitution and fines; and
 102 (iii) for each misdemeanor conviction that has not been expunged, the misdemeanant
 103 has:
 104 (A) completed probation in relation to the misdemeanor; or
 105 (B) successfully completed the term of incarceration associated with the
 106 misdemeanor.

107 Section 2. Section **41-6a-501** is amended to read:

108 **41-6a-501 (Effective 05/01/24). Definitions.**

- 109 (1) As used in this part:
- 110 (a) "Actual physical control" is determined by a consideration of the totality of the
 111 circumstances, but does not include a circumstance in which:
 112 (i) the person is asleep inside the vehicle;
 113 (ii) the person is not in the driver's seat of the vehicle;
 114 (iii) the engine of the vehicle is not running;
 115 (iv) the vehicle is lawfully parked; and
 116 (v) under the facts presented, it is evident that the person did not drive the vehicle to
 117 the location while under the influence of alcohol, a drug, or the combined
 118 influence of alcohol and any drug.
- 119 (b) "Assessment" means an in-depth clinical interview with a licensed mental health
 120 therapist:
 121 (i) used to determine if a person is in need of:
 122 (A) substance abuse treatment that is obtained at a substance abuse program;
 123 (B) an educational series; or
 124 (C) a combination of Subsections (1)(b)(i)(A) and (B); and
 125 (ii) that is approved by the Division of Integrated Healthcare in accordance with
 126 Section 26B-5-104.
- 127 (c) "Driving under the influence court" means a court that is approved as a driving under
 128 the influence court by the Judicial Council according to standards established by the
 129 Judicial Council.

- 130 (d) "Drug" or "drugs" means:
- 131 (i) a controlled substance as defined in Section 58-37-2;
- 132 (ii) a drug as defined in Section 58-17b-102; or
- 133 (iii) a substance that, when knowingly, intentionally, or recklessly taken into the
- 134 human body, can impair the ability of a person to safely operate a motor vehicle.
- 135 (e) "Educational series" means an educational series obtained at a substance abuse
- 136 program that is approved by the Division of Integrated Healthcare in accordance with
- 137 Section 26B-5-104.
- 138 (f) "Negligence" means simple negligence, the failure to exercise that degree of care that
- 139 an ordinarily reasonable and prudent person exercises under like or similar
- 140 circumstances.
- 141 (g) "Novice learner driver" means an individual who:
- 142 (i) has applied for a Utah driver license;
- 143 (ii) has not previously held a driver license in this state or another state; and
- 144 (iii) has not completed the requirements for issuance of a Utah driver license.
- 145 (h) "Screening" means a preliminary appraisal of a person:
- 146 (i) used to determine if the person is in need of:
- 147 (A) an assessment; or
- 148 (B) an educational series; and
- 149 (ii) that is approved by the Division of Integrated Healthcare in accordance with
- 150 Section 26B-5-104.
- 151 (i) "Serious bodily injury" means bodily injury that creates or causes:
- 152 (i) serious permanent disfigurement;
- 153 (ii) protracted loss or impairment of the function of any bodily member or organ; or
- 154 (iii) a substantial risk of death.
- 155 (j) "Substance abuse treatment" means treatment obtained at a substance abuse program
- 156 that is approved by the Division of Integrated Healthcare in accordance with Section
- 157 26B-5-104.
- 158 (k) "Substance abuse treatment program" means a state licensed substance abuse
- 159 program.
- 160 (l) (i) "Vehicle" or "motor vehicle" means a vehicle or motor vehicle as defined in
- 161 Section 41-6a-102; and
- 162 (ii) "Vehicle" or "motor vehicle" includes:
- 163 (A) an off-highway vehicle as defined under Section 41-22-2; and

- 164 (B) a motorboat as defined in Section 73-18-2.
- 165 (2) As used in Sections 41-6a-502 and 41-6a-520.1:
- 166 (a) "Conviction" means any conviction arising from a separate episode of driving for a
167 violation of:
- 168 (i) driving under the influence under Section 41-6a-502;
- 169 (ii) (A) for an offense committed before July 1, 2008, alcohol, any drug, or a
170 combination of both-related reckless driving under Sections 41-6a-512 and
171 41-6a-528; or
- 172 (B) for an offense committed on or after July 1, 2008, impaired driving under
173 Section 41-6a-502.5;
- 174 (iii) driving with any measurable controlled substance that is taken illegally in the
175 body under Section 41-6a-517;
- 176 (iv) local ordinances similar to Section 41-6a-502, alcohol, any drug, or a
177 combination of both-related reckless driving, or impaired driving under Section
178 41-6a-502.5 adopted in compliance with Section 41-6a-510;
- 179 (v) Section 76-5-207;
- 180 (vi) operating a motor vehicle with any amount of a controlled substance in an
181 individual's body and causing serious bodily injury or death, as codified before
182 May 4, 2022, Laws of Utah 2021, Chapter 236, Section 1, Subsection 58-37-8
183 (2)(g);
- 184 (vii) negligently operating a vehicle resulting in injury under Section 76-5-102.1;
- 185 (viii) a violation described in Subsections (2)(a)(i) through (vii), which judgment of
186 conviction is reduced under Section 76-3-402;
- 187 (ix) refusal of a chemical test under Subsection 41-6a-520.1(1); or
- 188 (x) statutes or ordinances previously in effect in this state or in effect in any other
189 state, the United States, or any district, possession, or territory of the United States
190 which would constitute a violation of Section 41-6a-502 or alcohol, any drug, or a
191 combination of both-related reckless driving if committed in this state, including
192 punishments administered under 10 U.S.C. Sec. 815.
- 193 (b) A plea of guilty or no contest to a violation described in Subsections (2)(a)(i)
194 through (x) which plea was held in abeyance under Title 77, Chapter 2a, Pleas in
195 Abeyance, prior to July 1, 2008, is the equivalent of a conviction, even if the charge
196 has been subsequently reduced or dismissed in accordance with the plea in abeyance
197 agreement, for purposes of:

198 (i) enhancement of penalties under this part; and
199 (ii) expungement under [~~Title 77, Chapter 40a, Expungement~~] Title 77, Chapter 40a,
200 Expungement of Criminal Records.

201 (c) An admission to a violation of Section 41-6a-502 in juvenile court is the equivalent
202 of a conviction even if the charge has been subsequently dismissed in accordance
203 with the Utah Rules of Juvenile Procedure for the purposes of enhancement of
204 penalties under:

205 (i) this part;
206 (ii) negligently operating a vehicle resulting in injury under Section 76-5-102.1; and
207 (iii) negligently operating a vehicle resulting in death under Section 76-5-207.

208 (3) As used in Section 41-6a-505, "controlled substance" does not include an inactive
209 metabolite of a controlled substance.

210 Section 3. Section **53-3-414** is amended to read:

211 **53-3-414 (Effective 05/01/24). CDL disqualification or suspension -- Grounds**
212 **and duration -- Procedure.**

213 (1) (a) An individual who holds or is required to hold a CDL is disqualified from driving
214 a commercial motor vehicle for a period of not less than one year effective seven
215 days from the date of notice to the driver if convicted of a first offense of:

216 (i) driving a motor vehicle while under the influence of alcohol, drugs, a controlled
217 substance, or more than one of these;

218 (ii) driving a commercial motor vehicle while the concentration of alcohol in the
219 person's blood, breath, or urine is .04 grams or more;

220 (iii) leaving the scene of an accident involving a motor vehicle the person was
221 driving;

222 (iv) failing to provide reasonable assistance or identification when involved in an
223 accident resulting in:

224 (A) personal injury in accordance with Section 41-6a-401.3;

225 (B) death in accordance with Section 41-6a-401.5; or

226 (v) using a motor vehicle in the commission of a felony;

227 (vi) refusal to submit to a test to determine the concentration of alcohol in the
228 person's blood, breath, or urine;

229 (vii) driving a commercial motor vehicle while the person's commercial driver license
230 is disqualified in accordance with the provisions of this section for violating an
231 offense described in this section; or

- 232 (viii) operating a commercial motor vehicle in a negligent manner causing the death
233 of another including the offenses of manslaughter under Section 76-5-205,
234 negligent homicide under Section 76-5-206, or negligently operating a vehicle
235 resulting in death under Section 76-5-207.
- 236 (b) The division shall subtract from any disqualification period under Subsection (1)(a)(i)
237 the number of days for which a license was previously disqualified under Subsection
238 (1)(a)(ii) or (14) if the previous disqualification was based on the same occurrence
239 upon which the record of conviction is based.
- 240 (2) If any of the violations under Subsection (1) occur while the driver is transporting a
241 hazardous material required to be placarded, the driver is disqualified for not less than
242 three years.
- 243 (3) (a) Except as provided under Subsection (4), a driver of a motor vehicle who holds
244 or is required to hold a CDL is disqualified for life from driving a commercial motor
245 vehicle if convicted of or administrative action is taken for two or more of any of the
246 offenses under Subsection (1), (5), or (14) arising from two or more separate
247 incidents.
- 248 (b) Subsection (3)(a) applies only to those offenses committed after July 1, 1989.
- 249 (4) (a) Any driver disqualified for life from driving a commercial motor vehicle under
250 this section may apply to the division for reinstatement of the driver's CDL if the
251 driver:
- 252 (i) has both voluntarily enrolled in and successfully completed an appropriate
253 rehabilitation program that:
- 254 (A) meets the standards of the division; and
255 (B) complies with 49 C.F.R. Sec. 383.51;
- 256 (ii) has served a minimum disqualification period of 10 years; and
257 (iii) has fully met the standards for reinstatement of commercial motor vehicle
258 driving privileges established by rule of the division.
- 259 (b) If a reinstated driver is subsequently convicted of another disqualifying offense
260 under this section, the driver is permanently disqualified for life and is ineligible to
261 again apply for a reduction of the lifetime disqualification.
- 262 (5) A driver of a motor vehicle who holds or is required to hold a CDL is disqualified for
263 life from driving a commercial motor vehicle if the driver uses a motor vehicle in the
264 commission of any felony involving:
- 265 (a) the manufacturing, distributing, or dispensing of a controlled substance, or

- 266 possession with intent to manufacture, distribute, or dispense a controlled substance
267 and is ineligible to apply for a reduction of the lifetime disqualification under
268 Subsection (4); or
- 269 (b) an act or practice of severe forms of trafficking in persons as defined and described
270 in 22 U.S.C. Sec. 7102(11).
- 271 (6) (a) Subject to Subsection (6)(b), a driver of a commercial motor vehicle who holds or
272 is required to hold a CDL is disqualified for not less than:
- 273 (i) 60 days from driving a commercial motor vehicle if the driver is convicted of two
274 serious traffic violations; and
- 275 (ii) 120 days if the driver is convicted of three or more serious traffic violations.
- 276 (b) The disqualifications under Subsection (6)(a) are effective only if the serious traffic
277 violations:
- 278 (i) occur within three years of each other;
- 279 (ii) arise from separate incidents; and
- 280 (iii) involve the use or operation of a commercial motor vehicle.
- 281 (c) If a driver of a commercial motor vehicle who holds or is required to hold a CDL is
282 disqualified from driving a commercial motor vehicle and the division receives notice
283 of a subsequent conviction for a serious traffic violation that results in an additional
284 disqualification period under this Subsection (6), the subsequent disqualification
285 period is effective beginning on the ending date of the current serious traffic violation
286 disqualification period.
- 287 (7) (a) A driver of a commercial motor vehicle who is convicted of violating an
288 out-of-service order while driving a commercial motor vehicle is disqualified from
289 driving a commercial motor vehicle for a period not less than:
- 290 (i) 180 days if the driver is convicted of a first violation;
- 291 (ii) two years if, during any 10 year period, the driver is convicted of two violations
292 of out-of-service orders in separate incidents;
- 293 (iii) three years but not more than five years if, during any 10 year period, the driver
294 is convicted of three or more violations of out-of-service orders in separate
295 incidents;
- 296 (iv) 180 days but not more than two years if the driver is convicted of a first violation
297 of an out-of-service order while transporting hazardous materials required to be
298 placarded or while operating a motor vehicle designed to transport 16 or more
299 passengers, including the driver; or

- 300 (v) three years but not more than five years if, during any 10 year period, the driver is
301 convicted of two or more violations, in separate incidents, of an out-of-service
302 order while transporting hazardous materials required to be placarded or while
303 operating a motor vehicle designed to transport 16 or more passengers, including
304 the driver.
- 305 (b) A driver of a commercial motor vehicle who is convicted of a first violation of an
306 out-of-service order is subject to a civil penalty of not less than \$2,500.
- 307 (c) A driver of a commercial motor vehicle who is convicted of a second or subsequent
308 violation of an out-of-service order is subject to a civil penalty of not less than \$5,000.
- 309 (8) A driver of a commercial motor vehicle who holds or is required to hold a CDL is
310 disqualified for not less than 60 days if the division determines, in its check of the
311 driver's driver license status, application, and record prior to issuing a CDL or at any
312 time after the CDL is issued, that the driver has falsified information required to apply
313 for a CDL in this state.
- 314 (9) A driver of a commercial motor vehicle who is convicted of violating a
315 railroad-highway grade crossing provision under Section 41-6a-1205, while driving a
316 commercial motor vehicle is disqualified from driving a commercial motor vehicle for a
317 period not less than:
- 318 (a) 60 days if the driver is convicted of a first violation;
- 319 (b) 120 days if, during any three-year period, the driver is convicted of a second
320 violation in separate incidents; or
- 321 (c) one year if, during any three-year period, the driver is convicted of three or more
322 violations in separate incidents.
- 323 (10) (a) The division shall update its records and notify the CDLIS within 10 days of
324 suspending, revoking, disqualifying, denying, or cancelling a CDL to reflect the
325 action taken.
- 326 (b) When the division suspends, revokes, cancels, or disqualifies a nonresident CDL, the
327 division shall notify the licensing authority of the issuing state or other jurisdiction
328 and the CDLIS within 10 days after the action is taken.
- 329 (c) When the division suspends, revokes, cancels, or disqualifies a CDL issued by this
330 state, the division shall notify the CDLIS within 10 days after the action is taken.
- 331 (11) (a) The division may immediately suspend or disqualify the CDL of a driver
332 without a hearing or receiving a record of the driver's conviction when the division
333 has reason to believe that the:

- 334 (i) CDL was issued by the division through error or fraud;
335 (ii) applicant provided incorrect or incomplete information to the division;
336 (iii) applicant cheated on any part of a CDL examination;
337 (iv) driver no longer meets the fitness standards required to obtain a CDL; or
338 (v) driver poses an imminent hazard.
- 339 (b) Suspension of a CDL under this Subsection (11) shall be in accordance with Section
340 53-3-221.
- 341 (c) If a hearing is held under Section 53-3-221, the division shall then rescind the
342 suspension order or cancel the CDL.
- 343 (12) (a) Subject to Subsection (12)(b), a driver of a motor vehicle who holds or is
344 required to hold a CDL is disqualified for not less than:
- 345 (i) 60 days from driving a commercial motor vehicle if the driver is convicted of two
346 serious traffic violations; and
347 (ii) 120 days if the driver is convicted of three or more serious traffic violations.
- 348 (b) The disqualifications under Subsection (12)(a) are effective only if the serious traffic
349 violations:
- 350 (i) occur within three years of each other;
351 (ii) arise from separate incidents; and
352 (iii) result in a denial, suspension, cancellation, or revocation of the non-CDL driving
353 privilege from at least one of the violations.
- 354 (c) If a driver of a motor vehicle who holds or is required to hold a CDL is disqualified
355 from driving a commercial motor vehicle and the division receives notice of a
356 subsequent conviction for a serious traffic violation that results in an additional
357 disqualification period under this Subsection (12), the subsequent disqualification
358 period is effective beginning on the ending date of the current serious traffic violation
359 disqualification period.
- 360 (13) (a) Upon receiving a notice that a person has entered into a plea of guilty or no
361 contest to a violation of a disqualifying offense described in this section which plea is
362 held in abeyance pursuant to a plea in abeyance agreement, the division shall
363 disqualify, suspend, cancel, or revoke the person's CDL for the period required under
364 this section for a conviction of that disqualifying offense, even if the charge has been
365 subsequently reduced or dismissed in accordance with the plea in abeyance
366 agreement.
- 367 (b) The division shall report the plea in abeyance to the CDLIS within 10 days of taking

- 368 the action under Subsection (13)(a).
- 369 (c) A plea which is held in abeyance may not be removed from a person's driving record
370 for 10 years from the date of the plea in abeyance agreement, even if the charge is:
371 (i) reduced or dismissed in accordance with the plea in abeyance agreement; or
372 (ii) expunged under [~~Title 77, Chapter 40a, Expungement~~] Title 77, Chapter 40a,
373 Expungement of Criminal Records.
- 374 (14) The division shall disqualify the CDL of a driver for an arrest of a violation of Section
375 41-6a-502 when administrative action is taken against the operator's driving privilege
376 pursuant to Section 53-3-223 for a period of:
377 (a) one year; or
378 (b) three years if the violation occurred while transporting hazardous materials.
- 379 (15) The division may concurrently impose any disqualification periods that arise under this
380 section while a driver is disqualified by the Secretary of the United States Department of
381 Transportation under 49 C.F.R. Sec. 383.52 for posing an imminent hazard.
- 382 Section 4. Section **53-6-302** is amended to read:
383 **53-6-302 (Effective 05/01/24). Applicants for certification examination --**
384 **Requirements.**
- 385 (1) Before being allowed to take a dispatcher certification examination, each applicant shall
386 meet the following requirements:
387 (a) be either:
388 (i) a United States citizen; or
389 (ii) a lawful permanent resident of the United States who:
390 (A) has been in the United States legally for the five years immediately before the
391 day on which the application is made; and
392 (B) has legal authorization to work in the United States;
393 (b) be 18 years old or older at the time of employment as a dispatcher;
394 (c) be a high school graduate or have a G.E.D. equivalent;
395 (d) have not been convicted of a crime for which the applicant could have been punished
396 by imprisonment in a federal penitentiary or by imprisonment in the penitentiary of
397 this or another state;
398 (e) have demonstrated good moral character, as determined by a background
399 investigation;
400 (f) be free of any physical, emotional, or mental condition that might adversely affect the
401 performance of the applicant's duty as a dispatcher; and

- 402 (g) meet all other standards required by POST.
- 403 (2) (a) An application for certification shall be accompanied by a criminal history
404 background check of local, state, and national criminal history files and a background
405 investigation.
- 406 (b) The costs of the background check and investigation shall be borne by the applicant
407 or the applicant's employing agency.
- 408 (3) (a) Notwithstanding [~~Title 77, Chapter 40a, Expungement~~] Title 77, Chapter 40a,
409 Expungement of Criminal Records, regarding expungements, or a similar statute or
410 rule of any other jurisdiction, any conviction obtained in this state or other
411 jurisdiction, including a conviction that has been expunged, dismissed, or treated in a
412 similar manner to either of these procedures, may be considered for purposes of this
413 section.
- 414 (b) Subsection (3)(a) applies to convictions entered both before and after May 1, 1995.
- 415 (4) Any background check or background investigation performed under the requirements
416 of this section shall be to determine eligibility for admission to training programs or
417 qualification for certification examinations and may not be used as a replacement for
418 any background investigations that may be required of an employing agency.
- 419 (5) An applicant is considered to be of good moral character under Subsection (1)(e) if the
420 applicant has not engaged in conduct that would be a violation of Subsection 53-6-309(1).
421 Section 5. Section **53-9-108** is amended to read:
422 **53-9-108 (Effective 05/01/24). Qualifications for licensure.**
- 423 (1) (a) An applicant under this chapter shall be at least:
424 (i) 21 years [~~of age~~] old to apply for an agency license or a registrant license; or
425 (ii) 18 years [~~of age~~] old to apply for an apprentice license.
- 426 (b) An applicant may not have been:
427 (i) convicted of a felony;
428 (ii) convicted of an act involving illegally using, carrying, or possessing a dangerous
429 weapon;
430 (iii) convicted of an act of personal violence or force on any person or convicted of
431 threatening to commit an act of personal violence or force against another person;
432 (iv) convicted of an act constituting dishonesty or fraud;
433 (v) convicted of an act involving moral turpitude within the past 10 years unless the
434 conviction has been expunged under the provisions of [~~Title 77, Chapter 40a,~~
435 Expungement] Title 77, Chapter 40a, Expungement of Criminal Records;

- 436 (vi) placed on probation or parole;
- 437 (vii) named in an outstanding arrest warrant; or
- 438 (viii) convicted of illegally obtaining or disclosing private, controlled, or protected
- 439 records as provided in Section 63G-2-801.
- 440 (c) If previously or currently licensed in another state or jurisdiction, the applicant shall
- 441 be in good standing within that state or jurisdiction.
- 442 (2) In assessing if an applicant meets the requirements under Subsection (1)(b), the board
- 443 shall consider mitigating circumstances presented by an applicant.
- 444 (3) (a) An applicant for an agency license shall have:
- 445 (i) a minimum of 5,000 hours of investigative experience that consists of actual work
- 446 performed as a licensed private investigator, an investigator in the private sector,
- 447 an investigator for the federal government, or an investigator for a state, county, or
- 448 municipal government; or
- 449 (ii) if the applicant held a registrant license or an apprentice license under this chapter
- 450 on or before May 1, 2010, a minimum of 2,000 hours of investigative experience
- 451 that consists of actual work performed as a licensed private investigator, an
- 452 investigator in the private sector, an investigator for the federal government, or an
- 453 investigator for a state, county, or municipal government.
- 454 (b) An applicant for a registrant license shall have a minimum of 2,000 hours of
- 455 investigative experience that consists of actual investigative work performed as a
- 456 licensed private investigator, an investigator in the private sector, an investigator for
- 457 the federal government, an investigator for a state, county, or municipal government,
- 458 or a process server.
- 459 (c) At least 1,000 hours of the investigative experience required under this Subsection (3)
- 460 shall have been performed within 10 years immediately prior to the application.
- 461 (d) An applicant shall substantiate investigative work experience required under this
- 462 Subsection (3) by providing:
- 463 (i) the exact details as to the character and nature of the investigative work on a form
- 464 prescribed by the bureau and certified by the applicant's employers; or
- 465 (ii) if the applicant is applying for the reinstatement of an agency license, internal
- 466 records of the applicant that demonstrate the investigative work experience
- 467 requirement has previously been met.
- 468 (e) (i) The applicant shall prove completion of the investigative experience required
- 469 under this Subsection (3) to the satisfaction of the board and the board may

- 470 independently verify the certification offered on behalf of the applicant.
- 471 (ii) The board may independently confirm the claimed investigative experience and
472 the verification of the applicant's employers.
- 473 (4) An applicant for an apprentice license, lacking the investigative experience required for
474 a registrant license, shall meet all of the qualification standards in Subsection (1), and
475 shall complete an apprentice application.
- 476 (5) An applicant for an agency or registrant license may receive credit toward the hours of
477 investigative experience required under Subsection (3) as follows:
- 478 (a) an applicant may receive credit for 2,000 hours of investigative experience if the
479 applicant:
- 480 (i) has an associate's degree in criminal justice or police science from an accredited
481 college or university; or
- 482 (ii) is certified as a peace officer; and
- 483 (b) an applicant may receive credit for 4,000 hours of investigative experience if the
484 applicant has a bachelor's degree in criminal justice or police science from an
485 accredited college or university.
- 486 (6) The board shall determine if the applicant may receive credit under Subsection (5)
487 toward the investigative and educational experience requirements under Subsection (3).
- 488 Section 6. Section **63G-4-107** is amended to read:
- 489 **63G-4-107 (Effective 05/01/24). Petition to remove agency action from public**
490 **access.**
- 491 (1) An individual may petition the agency that maintains, on a state-controlled website
492 available to the public, a record of administrative disciplinary action, to remove the
493 record of administrative disciplinary action from public access on the state-controlled
494 website, if:
- 495 (a) (i) five years have passed since:
- 496 (A) the date the final order was issued; or
- 497 (B) if no final order was issued, the date the administrative disciplinary action was
498 commenced; or
- 499 (ii) the individual has obtained a criminal expungement order under [~~Title 77,~~
500 ~~Chapter 40a, Expungement~~] Title 77, Chapter 40a, Expungement of Criminal
501 Records, for the individual's criminal records related to the same incident or
502 conviction upon which the administrative disciplinary action was based;
- 503 (b) the individual has successfully completed all action required by the agency relating

- 504 to the administrative disciplinary action within the time frame set forth in the final
505 order, or if no time frame is specified in the final order, within the time frame set
506 forth in Title 63G, Chapter 4, Administrative Procedures Act;
- 507 (c) from the time that the original administrative disciplinary action was filed, the
508 individual has not violated the same statutory provisions or administrative rules
509 related to those statutory provisions that resulted in the original administrative
510 disciplinary action; and
- 511 (d) the individual pays an application fee determined by the agency in accordance with
512 Section 63J-1-504.
- 513 (2) The individual petitioning the agency under Subsection (1) shall provide the agency
514 with a written request containing the following information:
- 515 (a) the petitioner's full name, address, telephone number, and date of birth;
516 (b) the information the petitioner seeks to remove from public access; and
517 (c) an affidavit certifying that the petitioner is in compliance with the provisions of
518 Subsection (1).
- 519 (3) Within 30 days of receiving the documents and information described in Subsection (2):
- 520 (a) the agency shall review the petition and all documents submitted with the petition to
521 determine whether the petitioner has met the requirements of Subsections (1) and (2);
522 and
- 523 (b) if the agency determines that the petitioner has met the requirements of Subsections
524 (1) and (2), the agency shall immediately remove the record of administrative
525 disciplinary action from public access on the state-controlled website.
- 526 (4) Notwithstanding the provisions of Subsection (3), an agency is not required to remove a
527 recording, written minutes, or other electronic information from the Utah Public Notice
528 Website, created under Section 63A-16-601, if the recording, written minutes, or other
529 electronic information is required to be available to the public on the Utah Public Notice
530 Website under the provisions of Title 52, Chapter 4, Open and Public Meetings Act.

531 Section 7. Section **76-3-402** is amended to read:

532 **76-3-402 (Effective 05/01/24). Conviction of lower degree of offense -- Procedure**
533 **and limitations.**

- 534 (1) As used in this section:
- 535 (a) "Lower degree of offense" includes an offense for which:
- 536 (i) a statutory enhancement is charged in the information or indictment that would
537 increase either the maximum or the minimum sentence; and

- 538 (ii) the court removes the statutory enhancement in accordance with this section.
- 539 (b) "Minor regulatory offense" means the same as that term is defined in Section
540 77-40a-101.
- 541 (c) (i) "Rehabilitation program" means a program designed to reduce criminogenic
542 and recidivism risks.
- 543 (ii) "Rehabilitation program" includes:
- 544 (A) a domestic violence treatment program, as that term is defined in Section
545 62A-2-101;
- 546 (B) a residential, vocational, and life skills program, as that term is defined in
547 Section 13-53-102;
- 548 (C) a substance abuse treatment program, as that term is defined in Section
549 62A-2-101;
- 550 (D) a substance use disorder treatment program, as that term is defined in Section
551 62A-2-101;
- 552 (E) a youth program, as that term is defined in Section 62A-2-101;
- 553 (F) a program that meets the standards established by the Department of
554 Corrections under Section 64-13-25;
- 555 (G) a drug court, a veterans court, or a mental health court certified by the Judicial
556 Council; or
- 557 (H) a program that is substantially similar to a program described in Subsections
558 (1)(c)(ii)(A) through (G).
- 559 (d) "Serious offense" means a felony or misdemeanor offense that is not a minor
560 regulatory offense or a traffic offense.
- 561 (e) "Traffic offense" means the same as that term is defined in Section 77-40a-101.
- 562 (f) (i) Except as provided in Subsection (1)(f)(ii), "violent felony" means the same as
563 that term is defined in Section 76-3-203.5.
- 564 (ii) "Violent felony" does not include an offense, or any attempt, solicitation, or
565 conspiracy to commit an offense, for:
- 566 (A) the possession, use, or removal of explosive, chemical, or incendiary devices
567 under Subsection 76-10-306(3), (5), or (6); or
- 568 (B) the purchase or possession of a dangerous weapon or handgun by a restricted
569 person under Section 76-10-503.
- 570 (2) The court may enter a judgment of conviction for a lower degree of offense than
571 established by statute and impose a sentence at the time of sentencing for the lower

- 572 degree of offense if the court:
- 573 (a) takes into account:
- 574 (i) the nature and circumstances of the offense of which the defendant was found
- 575 guilty; and
- 576 (ii) the history and character of the defendant;
- 577 (b) gives any victim present at the sentencing and the prosecuting attorney an
- 578 opportunity to be heard; and
- 579 (c) concludes that the degree of offense established by statute would be unduly harsh to
- 580 record as a conviction on the record for the defendant.
- 581 (3) Upon a motion from the prosecuting attorney or the defendant, the court may enter a
- 582 judgment of conviction for a lower degree of offense than established by statute:
- 583 (a) after the defendant is successfully discharged from probation or parole for the
- 584 conviction; and
- 585 (b) if the court finds that entering a judgment of conviction for a lower degree of offense
- 586 is in the interest of justice in accordance with Subsection (7).
- 587 (4) Upon a motion from the prosecuting attorney or the defendant, the court may enter a
- 588 judgment of conviction for a lower degree of offense than established by statute if:
- 589 (a) the defendant's probation or parole for the conviction did not result in a successful
- 590 discharge but the defendant is successfully discharged from probation or parole for a
- 591 subsequent conviction of an offense;
- 592 (b) (i) at least five years have passed after the day on which the defendant is
- 593 sentenced for the subsequent conviction; or
- 594 (ii) at least three years have passed after the day on which the defendant is sentenced
- 595 for the subsequent conviction and the prosecuting attorney consents to the
- 596 reduction;
- 597 (c) the defendant is not convicted of a serious offense during the time period described
- 598 in Subsection (4)(b);
- 599 (d) there are no criminal proceedings pending against the defendant;
- 600 (e) the defendant is not on probation, on parole, or currently incarcerated for any other
- 601 offense;
- 602 (f) if the offense for which the reduction is sought is a violent felony, the prosecuting
- 603 attorney consents to the reduction; and
- 604 (g) the court finds that entering a judgment of conviction for a lower degree of offense is
- 605 in the interest of justice in accordance with Subsection (7).

- 606 (5) Upon a motion from the prosecuting attorney or the defendant, the court may enter a
607 judgment of conviction for a lower degree of offense than established by statute if:
- 608 (a) the defendant's probation or parole for the conviction did not result in a successful
609 discharge but the defendant is successfully discharged from a rehabilitation program;
 - 610 (b) at least three years have passed after the day on which the defendant is successfully
611 discharged from the rehabilitation program;
 - 612 (c) the defendant is not convicted of a serious offense during the time period described
613 in Subsection (5)(b);
 - 614 (d) there are no criminal proceedings pending against the defendant;
 - 615 (e) the defendant is not on probation, on parole, or currently incarcerated for any other
616 offense;
 - 617 (f) if the offense for which the reduction is sought is a violent felony, the prosecuting
618 attorney consents to the reduction; and
 - 619 (g) the court finds that entering a judgment of conviction for a lower degree of offense is
620 in the interest of justice in accordance with Subsection (7).
- 621 (6) Upon a motion from the prosecuting attorney or the defendant, the court may enter a
622 judgment of conviction for a lower degree of offense than established by statute if:
- 623 (a) at least five years have passed after the day on which the defendant's probation or
624 parole for the conviction did not result in a successful discharge;
 - 625 (b) the defendant is not convicted of a serious offense during the time period described
626 in Subsection (6)(a);
 - 627 (c) there are no criminal proceedings pending against the defendant;
 - 628 (d) the defendant is not on probation, on parole, or currently incarcerated for any other
629 offense;
 - 630 (e) if the offense for which the reduction is sought is a violent felony, the prosecuting
631 attorney consents to the reduction; and
 - 632 (f) the court finds that entering a judgment of conviction for a lower degree of offense is
633 in the interest of justice in accordance with Subsection (7).
- 634 (7) In determining whether entering a judgment of a conviction for a lower degree of
635 offense is in the interest of justice under Subsection (3), (4), (5), or (6):
- 636 (a) the court shall consider:
 - 637 (i) the nature, circumstances, and severity of the offense for which a reduction is
638 sought;
 - 639 (ii) the physical, emotional, or other harm that the defendant caused any victim of the

- 640 offense for which the reduction is sought; and
- 641 (iii) any input from a victim of the offense; and
- 642 (b) the court may consider:
- 643 (i) any special characteristics or circumstances of the defendant, including the
- 644 defendant's criminogenic risks and needs;
- 645 (ii) the defendant's criminal history;
- 646 (iii) the defendant's employment and community service history;
- 647 (iv) whether the defendant participated in a rehabilitative program and successfully
- 648 completed the program;
- 649 (v) any effect that a reduction would have on the defendant's ability to obtain or
- 650 reapply for a professional license from the Department of Commerce;
- 651 (vi) whether the level of the offense has been reduced by law after the defendant's
- 652 conviction;
- 653 (vii) any potential impact that the reduction would have on public safety; or
- 654 (viii) any other circumstances that are reasonably related to the defendant or the
- 655 offense for which the reduction is sought.
- 656 (8) (a) A court may only enter a judgment of conviction for a lower degree of offense
- 657 under Subsection (3), (4), (5), or (6) after:
- 658 (i) notice is provided to the other party;
- 659 (ii) reasonable efforts have been made by the prosecuting attorney to provide notice
- 660 to any victims; and
- 661 (iii) a hearing is held if a hearing is requested by either party.
- 662 (b) A prosecuting attorney is entitled to a hearing on a motion seeking to reduce a
- 663 judgment of conviction for a lower degree of offense under Subsection (3), (4), (5),
- 664 or (6).
- 665 (c) In a motion under Subsection (3), (4), (5), or (6) and at a requested hearing on the
- 666 motion, the moving party has the burden to provide evidence sufficient to
- 667 demonstrate that the requirements under Subsection (3), (4), (5), or (6) are met.
- 668 (d) If a defendant files a motion under this section, the prosecuting attorney shall
- 669 respond to the motion within 35 days after the day on which the motion is filed with
- 670 the court.
- 671 (9) A court has jurisdiction to consider and enter a judgment of conviction for a lower
- 672 degree of offense under Subsection (3), (4), (5), or (6) regardless of whether the
- 673 defendant is committed to jail as a condition of probation or is sentenced to prison.

- 674 (10) (a) An offense may be reduced only one degree under this section, unless the
675 prosecuting attorney specifically agrees in writing or on the court record that the
676 offense may be reduced two degrees.
- 677 (b) An offense may not be reduced under this section by more than two degrees.
- 678 (11) This section does not preclude an individual from obtaining or being granted an
679 expungement of the individual's record in accordance with [~~Title 77, Chapter 40a,~~
680 ~~Expungement~~] Title 77, Chapter 40a, Expungement of Criminal Records.
- 681 (12) The court may not enter a judgment for a conviction for a lower degree of offense
682 under this section if:
- 683 (a) the reduction is specifically precluded by law; or
- 684 (b) any unpaid balance remains on court-ordered restitution for the offense for which the
685 reduction is sought.
- 686 (13) When the court enters a judgment for a lower degree of offense under this section, the
687 actual title of the offense for which the reduction is made may not be altered.
- 688 (14) (a) An individual may not obtain a reduction under this section of a conviction that
689 requires the individual to register as a sex offender until the registration requirements
690 under Title 77, Chapter 41, Sex and Kidnap Offender Registry, have expired.
- 691 (b) An individual required to register as a sex offender for the individual's lifetime under
692 Subsection 77-41-105(3)(c) may not be granted a reduction of the conviction for the
693 offense or offenses that require the individual to register as a sex offender.
- 694 (15) (a) An individual may not obtain a reduction under this section of a conviction that
695 requires the individual to register as a child abuse offender until the registration
696 requirements under Title 77, Chapter 43, Child Abuse Offender Registry, have
697 expired.
- 698 (b) An individual required to register as a child abuse offender for the individual's
699 lifetime under Subsection 77-43-105(3)(c) may not be granted a reduction of the
700 conviction for the offense or offenses that require the individual to register as a child
701 abuse offender.
- 702 Section 8. Section **77-2-2.3** is amended to read:
- 703 **77-2-2.3 (Effective 05/01/24). Reducing the level of an offense.**
- 704 (1) Notwithstanding any other provision of law, a prosecuting attorney may:
- 705 (a) present and file an information charging an individual for an offense under
706 Subsections 76-3-103(1)(b) through (d), Subsection 76-3-103(2), or Section 76-3-104
707 with a classification of the offense at one degree lower than the classification that is

708 provided in statute if the prosecuting attorney believes that the sentence would be
709 disproportionate to the offense because there are special circumstances relating to the
710 offense; or

711 (b) subject to the approval of the court, amend an information, as part of a plea
712 agreement, to charge an individual for an offense under Subsections 76-3-103(1)(b)
713 through (d), Subsection 76-3-103(2), or Section 76-3-104 with a classification of the
714 offense at one degree lower than the classification that is provided in statute.

715 (2) A court may:

716 (a) enter a judgment of conviction for an offense filed under Subsection (1) at one
717 degree lower than classified in statute; and

718 (b) impose a sentence for the offense filed under Subsection (1) at one degree lower than
719 classified in statute.

720 (3) A conviction of an offense at one degree lower than classified in statute under
721 Subsection (2) does not affect the requirements for registration of the offense under Title
722 77, Chapter 41, Sex and Kidnap Offender Registry, or Title 77, Chapter 43, Child Abuse
723 Offender Registry, if the elements of the offense for which the defendant is convicted
724 are the same as the elements of an offense described in Section 77-41-102 or 77-43-102.

725 (4) This section does not preclude an individual from obtaining and being granted an
726 expungement for the individual's record in accordance with [~~Title 77, Chapter 40a,~~
727 ~~Expungement~~] Title 77, Chapter 40a, Expungement of Criminal Records.

728 Section 9. Section ~~77-27-5.1~~ is amended to read:

729 **77-27-5.1 (Effective 05/01/24). Board authority to order expungement.**

730 (1) Upon granting a pardon, the board shall issue an expungement order, directing any
731 criminal justice agency to remove the recipient's identifying information relating to the
732 expunged convictions from its records.

733 (a) When a pardon has been granted, employees of the Board of Pardons and Parole may
734 not divulge any identifying information regarding the pardoned person to any person
735 or agency, except for the pardoned person.

736 (b) The Bureau of Criminal Identification may not count pardoned convictions against
737 any future expungement eligibility.

738 (2) An expungement order, issued by the board, has at least the same legal effect and
739 authority as an order of expungement issued by a court, pursuant to [~~Title 77, Chapter~~
740 ~~40a, Expungement~~] Title 77, Chapter 40a, Expungement of Criminal Records.

741 (3) The board shall provide clear written directions to the recipient along with a list of

742 agencies known to be affected by the expungement order.

743 Section 10. Section **77-40a-101** is amended to read:

744

CHAPTER 40a. EXPUNGEMENT OF CRIMINAL RECORDS

745 **77-40a-101 (Effective 05/01/24). Definitions.**

746 As used in this chapter:

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

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

752 [~~(2)~~] (3) "Bureau" means the Bureau of Criminal Identification of the Department of Public
753 Safety established in Section 53-10-201.

754 [~~(3)~~] (4) "Certificate of eligibility" means a document issued by the bureau stating that the
755 criminal record and all records of arrest, investigation, and detention associated with a
756 case that is the subject of a petition for expungement is eligible for expungement.

757 (5) "Civil accounts receivable" means the same as that term is defined in Section
758 77-32b-102.

759 (6) "Civil judgment of restitution" means the same as that term is defined in Section
760 77-32b-102.

761 [~~(4)~~] (7) (a) "Clean slate eligible case" means, except as provided in Subsection [~~(4)~~](e),
762 (7)(c) a case:

763 (i) where each conviction within the case is:

764 (A) a misdemeanor conviction for possession of a controlled substance in
765 violation of Subsection 58-37-8(2)(a)(i);

766 (B) a class B or class C misdemeanor conviction; or

767 (C) an infraction conviction;

768 (ii) that involves an individual:

769 (A) whose total number of convictions in Utah state courts, not including
770 infractions, traffic offenses, or minor regulatory offenses, does not exceed the
771 limits described in Subsections 77-40a-303(4) and (5) without taking into
772 consideration the exception in Subsection 77-40a-303(7); and

773 (B) against whom no criminal proceedings are pending in the state; and

774 (iii) for which the following time periods have elapsed from the day on which the

- 775 case is adjudicated:
- 776 (A) at least five years for a class C misdemeanor or an infraction;
- 777 (B) at least six years for a class B misdemeanor; and
- 778 (C) at least seven years for a class A conviction for possession of a controlled
- 779 substance in violation of Subsection 58-37-8(2)(a)(i).
- 780 (b) "Clean slate eligible case" includes a case:
- 781 (i) that is dismissed as a result of a successful completion of a plea in abeyance
- 782 agreement governed by Subsection 77-2a-3(2)(b) if:
- 783 (A) except as provided in Subsection [~~(4)(e)~~] (7)(c), each charge within the case is
- 784 a misdemeanor for possession of a controlled substance in violation of
- 785 Subsection 58-37-8(2)(a)(i), a class B or class C misdemeanor, or an infraction;
- 786 (B) the individual involved meets the requirements of Subsection [~~(4)(a)(ii)~~]
- 787 (7)(a)(ii); and
- 788 (C) the time periods described in Subsections [~~(4)(a)(iii)(A)~~] (7)(a)(iii)(A) through
- 789 (C) have elapsed from the day on which the case is dismissed; or
- 790 (ii) where charges are dismissed without prejudice if each conviction, or charge that
- 791 was dismissed, in the case would otherwise meet the requirements under
- 792 Subsection [~~(4)(a)~~] (7)(a) or (b)(i).
- 793 (c) "Clean slate eligible case" does not include a case:
- 794 (i) where the individual is found not guilty by reason of insanity;
- 795 (ii) where the case establishes a criminal accounts receivable, as defined in Section
- 796 77-32b-102, that:
- 797 (A) has been entered as a civil accounts receivable or a civil judgment of
- 798 restitution, as those terms are defined in Section 77-32b-102, and transferred to
- 799 the Office of State Debt Collection under Section 77-18-114; or
- 800 (B) has not been satisfied according to court records; or
- 801 (iii) that resulted in one or more pleas held in abeyance or convictions for the
- 802 following offenses:
- 803 (A) any of the offenses listed in Subsection 77-40a-303(2)(a);
- 804 (B) an offense against the person in violation of Title 76, Chapter 5, Offenses
- 805 Against the Individual;
- 806 (C) a weapons offense in violation of Title 76, Chapter 10, Part 5, Weapons;
- 807 (D) sexual battery in violation of Section 76-9-702.1;
- 808 (E) an act of lewdness in violation of Section 76-9-702 or 76-9-702.5;

- 809 (F) an offense in violation of Title 41, Chapter 6a, Part 5, Driving Under the
810 Influence and Reckless Driving;
- 811 (G) damage to or interruption of a communication device in violation of Section
812 76-6-108;
- 813 (H) a domestic violence offense as defined in Section 77-36-1; or
- 814 (I) any other offense classified in the Utah Code as a felony or a class A
815 misdemeanor other than a class A misdemeanor conviction for possession of a
816 controlled substance in violation of Subsection 58-37-8(2)(a)(i).
- 817 ~~[(5)]~~ (8) "Conviction" means judgment by a criminal court on a verdict or finding of guilty
818 after trial, a plea of guilty, or a plea of nolo contendere.
- 819 (9) "Court" means a district court or a justice court.
- 820 (10) "Criminal accounts receivable" means the same as that term is defined in Section
821 77-32b-102.
- 822 ~~[(6)]~~ (11) "Criminal protective order" means the same as that term is defined in Section
823 78B-7-102.
- 824 ~~[(7)]~~ (12) "Criminal stalking injunction" means the same as that term is defined in Section
825 78B-7-102.
- 826 ~~[(8)]~~ (13) "Department" means the Department of Public Safety established in Section
827 53-1-103.
- 828 ~~[(9)]~~ (14) "Drug possession offense" means an offense under:
- 829 (a) Subsection 58-37-8(2), except:
- 830 (i) any offense under Subsection 58-37-8(2)(b)(i), possession of 100 pounds or more
831 of marijuana;
- 832 (ii) any offense enhanced under Subsection 58-37-8(2)(e), violation in a correctional
833 facility; or
- 834 (iii) driving with a controlled substance illegally in the person's body and negligently
835 causing serious bodily injury or death of another, as codified before May 4, 2022,
836 Laws of Utah 2021, Chapter 236, Section 1, Subsection 58-37-8(2)(g);
- 837 (b) Subsection 58-37a-5(1), use or possession of drug paraphernalia;
- 838 (c) Section 58-37b-6, possession or use of an imitation controlled substance; or
- 839 (d) any local ordinance which is substantially similar to any of the offenses described in
840 this Subsection ~~[(9)]~~ (14).
- 841 ~~[(10)]~~ (15) "Expunge" means to seal or otherwise restrict access to the individual's record
842 held by an agency when the record includes a criminal investigation, detention, arrest, or

- 843 conviction.
- 844 ~~[(11)]~~ (16) "Jurisdiction" means a state, district, province, political subdivision, territory, or
 845 possession of the United States or any foreign country.
- 846 ~~[(12)]~~ (17) (a) "Minor regulatory offense" means, except as provided in Subsection [
 847 ~~(12)(e)]~~ (17)(c), a class B or C misdemeanor offense or a local ordinance.
- 848 (b) "Minor regulatory offense" includes an offense under Section 76-9-701 or 76-10-105.
- 849 (c) "Minor regulatory offense" does not include:
- 850 (i) any drug possession offense;
- 851 (ii) an offense under Title 41, Chapter 6a, Part 5, Driving Under the Influence and
 852 Reckless Driving;
- 853 (iii) an offense under Sections 73-18-13 through 73-18-13.6;
- 854 (iv) except as provided in Subsection ~~[(12)(b)]~~ (17)(b), an offense under Title 76,
 855 Utah Criminal Code; or
- 856 (v) any local ordinance that is substantially similar to an offense listed in Subsections [
 857 ~~(12)(e)(i)]~~ (17)(c)(i) through (iv).
- 858 ~~[(13)]~~ (18) "Petitioner" means an individual applying for expungement under this chapter.
- 859 ~~[(14)]~~ (19) "Plea in abeyance" means the same as that term is defined in Section 77-2a-1.
- 860 (20) "Special certificate" means a document issued as described in Subsection 77-40a-304
 861 (1)(c) by the bureau stating that the criminal record and all records of arrest,
 862 investigation, and detention associated with a case that is the subject of a petition for
 863 expungement is eligible for expungement.
- 864 ~~[(15)]~~ (21) (a) "Traffic offense" means, except as provided in Subsection ~~[(15)(b)]~~ (21)(b):
 865 (i) an infraction, a class B misdemeanor offense, or a class C misdemeanor offense
 866 under Title 41, Chapter 6a, Traffic Code;
- 867 (ii) an infraction, a class B misdemeanor offense, or a class C misdemeanor offense
 868 under Title 53, Chapter 3, Part 2, Driver Licensing Act;
- 869 (iii) an infraction, a class B misdemeanor offense, or a class C misdemeanor offense
 870 under Title 73, Chapter 18, State Boating Act; and
- 871 (iv) all local ordinances that are substantially similar to an offense listed in
 872 Subsections ~~[(15)(a)(i)]~~ (21)(a)(i) through (iii).
- 873 (b) "Traffic offense" does not mean:
- 874 (i) an offense under Title 41, Chapter 6a, Part 5, Driving Under the Influence and
 875 Reckless Driving;
- 876 (ii) an offense under Sections 73-18-13 through 73-18-13.6; or

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

879 ~~[(16)]~~ (22) "Traffic offense case" means that each offense in the case is a traffic offense.

880 Section 11. Section **77-40a-105** is amended to read:

881 **77-40a-105 (Effective 05/01/24). Eligibility for removing the link between**
882 **personal identifying information and court case dismissed.**

883 (1) As used in this section:

884 (a) "Domestic violence offense" means the same as that term is defined in Section
885 77-36-1.

886 (b) "Personal identifying information" means:

887 (i) a current name, former name, nickname, or alias; and

888 (ii) date of birth.

889 (2) (a) An individual whose criminal case is dismissed~~[, or civil case filed in accordance~~
890 ~~with Title 78B, Chapter 7, Protective Orders and Stalking Injunctions, is denied,]~~
891 may move the court for an order to remove the link between the individual's personal
892 identifying information from the dismissed case in any publicly searchable database
893 of the Utah state courts.

894 (b) If a motion is filed under Subsection (2)(a), the court shall grant the motion if:

895 (i) 30 days have passed from the day on which the case is dismissed ~~[or denied];~~

896 (ii) no appeal is filed for the dismissed ~~[or denied]~~ case within the 30-day period
897 described in Subsection (2)(b)(i); and

898 (iii) no charge in the case was a domestic violence offense.

899 (3) Removing the link to personal identifying information of a court record under

900 Subsection (2) does not affect a prosecuting, arresting, or other agency's records.

901 (4) A case history, unless expunged under this chapter, remains public and accessible
902 through a search by case number.

903 Section 12. Section **77-40a-301** is amended to read:

904 **77-40a-301 (Effective 05/01/24). Requirements for expunging a criminal record**
905 **-- Penalty for false or misleading information on application.**

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

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

- 911 ~~[(b) if the individual is qualified to receive a certificate of eligibility, pay the issuance~~
 912 ~~fee for the certificate of eligibility as described in Section 77-40a-304; and]~~
- 913 (b) except as provided in Subsection 77-40a-304(2), pay the issuance fee for the
 914 certificate of eligibility or special certificate as described in Section 77-40a-304 if the
 915 individual is eligible to receive a certificate of eligibility or special certificate; and
- 916 (c) file a petition for expungement in accordance with Section 77-40a-305.
- 917 (2) (a) An individual who intentionally or knowingly provides any false or misleading
 918 information to the bureau when applying for a certificate of eligibility is guilty of a
 919 class B misdemeanor and subject to prosecution under Section 76-8-504.6.
- 920 (b) Regardless of whether the individual is prosecuted, the bureau may deny a certificate
 921 of eligibility to anyone who knowingly provides false information on an application.
- 922 Section 13. Section **77-40a-304** is amended to read:
- 923 **77-40a-304 (Effective 05/01/24). Certificate of eligibility process -- Issuance of**
 924 **certificate -- Fees.**
- 925 (1) (a) When a petitioner applies for a certificate of eligibility as described in Subsection
 926 77-40a-301(1)[,-] :
- 927 (i) the petitioner shall pay an application fee at the time the petitioner submits an
 928 application for a certificate of eligibility to the bureau; and
- 929 (ii) the bureau shall perform a check of records of governmental agencies, including
 930 national criminal data bases, to determine whether the petitioner is eligible to
 931 receive a certificate of eligibility under this chapter.
- 932 (b) For purposes of determining eligibility under this chapter, the bureau may review
 933 records of arrest, investigation, detention, and conviction that have been previously
 934 expunged, regardless of the jurisdiction in which the expungement occurred.
- 935 ~~[(e) Once the eligibility process is complete, the bureau shall notify the petitioner.]~~
- 936 ~~[(d) If the petitioner meets all of the criteria under Section 77-40a-302 or 77-40a-303:]~~
- 937 ~~[(i) the bureau shall issue a certificate of eligibility that is valid for a period of 180 days~~
 938 ~~from the day on which the certificate is issued;]~~
- 939 ~~[(ii) the bureau shall provide a petitioner with an identification number for the~~
 940 ~~certificate of eligibility; and]~~
- 941 ~~[(iii) the petitioner shall pay the issuance fee established by the department as described~~
 942 ~~in Subsection (2).]~~
- 943 ~~[(e)]~~ (c) If ~~[,- after reasonable research,]~~ a disposition for an arrest on the criminal history
 944 file is unobtainable after reasonable research, the bureau may issue a special

945 certificate giving determination of eligibility to the court, except that the bureau may
946 not issue the special certificate if:

- 947 (i) there is a criminal proceeding for a misdemeanor or felony offense pending
948 against the petitioner, unless the criminal proceeding is for a traffic offense;
949 (ii) there is a plea in abeyance for a misdemeanor or felony offense pending against
950 the petitioner, unless the plea in abeyance is for a traffic offense; or
951 (iii) the petitioner is currently incarcerated, on parole, or on probation, unless the
952 petitioner is on probation or parole for an infraction, a traffic offense, or a minor
953 regulatory offense.

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

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

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

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

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

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

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

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

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

972 (3) The bureau shall issue a certificate of eligibility or special certificate without requiring
973 the payment of the issuance fee if the petitioner qualifies for a certificate of eligibility
974 under Section 77-40a-302 unless the charges were dismissed pursuant to a plea in
975 abeyance agreement under Title 77, Chapter 2a, Pleas in Abeyance, or a diversion
976 agreement under Title 77, Chapter 2, Prosecution, Screening, and Diversion.

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

979 ~~[(3)]~~ (4) The bureau shall include on ~~[the]~~ a certificate of eligibility all information that is
 980 needed for the court to issue a valid expungement order.

981 ~~[(4)]~~ (5) The bureau shall provide clear written instructions to the petitioner that explain:

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

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

985 (6) The bureau shall charge application and issuance fees for a certificate of eligibility or
 986 special certificate in accordance with the process in Section 63J-1-504.

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

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

991 **77-40a-305 (Effective 05/01/24). Petition for expungement -- Venue --**

992 **Prosecutorial responsibility -- Hearing.**

993 (1) (a) The petitioner shall file a petition for expungement~~[,]~~ in accordance with Rule 42
 994 of the Utah Rules of Criminal Procedure~~[, that includes]~~ .

995 (b) A petitioner shall include the identification number for the certificate of eligibility or
 996 special certificate described in Subsection ~~[77-40a-304(1)(d)(ii)]~~ 77-40a-304(2)(b)(ii)
 997 in the petition for expungement, unless the petitioner is not required to obtain a
 998 certificate of eligibility under Subsection (3) or (4).

999 ~~[(b)]~~ (c) Information on a certificate of eligibility is incorporated into a petition by
 1000 reference to the identification number for the certificate of eligibility.

1001 (d) A petitioner shall bring a petition for expungement:

1002 (i) in the court where the criminal case was filed; or

1003 (ii) if charges were never filed, in the district court in the county in which the arrest
 1004 occurred or the citation was issued.

1005 (2) (a) If a petition for expungement is filed under Subsection (1)(a), the court shall
 1006 obtain a certificate of eligibility or special certificate from the bureau.

1007 (b) A court may not accept a petition for expungement if the certificate of eligibility or
 1008 special certificate is no longer valid as described in Subsection ~~[77-40a-304(1)(d)(i)]~~
 1009 77-40a-304(2)(b)(i).

1010 (3) Notwithstanding Subsection (2), the petitioner may file a petition for expungement of a
 1011 traffic offense case without obtaining a certificate of eligibility if:

1012 (a) (i) for a traffic offense case with a class C misdemeanor or infraction, at least

- 1013 three years have passed after the day on which the [~~petitioner was convicted~~] case
1014 was adjudicated or dismissed; or
- 1015 (ii) for a traffic offense case with a class B misdemeanor, at least four years have
1016 passed after the day on which the [~~petitioner was convicted~~] case was adjudicated
1017 or dismissed;
- 1018 (b) there is no traffic offense case pending against the petitioner;
- 1019 (c) there is no plea in abeyance for a traffic offense case pending against the petitioner;
- 1020 and
- 1021 (d) the petitioner is not currently on probation for a traffic offense case.
- 1022 (4) Notwithstanding Subsection (2), a petitioner may file a petition for expungement of a
1023 record for a conviction related to cannabis possession without a certificate of eligibility
1024 if the petition demonstrates that:
- 1025 (a) the petitioner had, at the time of the relevant arrest or citation leading to the
1026 conviction, a qualifying condition, as that term is defined in Section 26B-4-201; and
- 1027 (b) the possession of cannabis in question was in a form and an amount to medicinally
1028 treat the qualifying condition described in Subsection (4)(a).
- 1029 (5) (a) The court shall provide notice of a filing of a petition and certificate of eligibility
1030 or special certificate to the prosecutorial office that handled the court proceedings
1031 within three days after the day on which the petitioner's filing fee is paid or waived.
- 1032 (b) If there were no court proceedings, the court shall provide notice of a filing of a
1033 petition and certificate of eligibility or special certificate to the county attorney's
1034 office in the jurisdiction where the arrest occurred.
- 1035 (c) If the prosecuting agency with jurisdiction over the arrest, investigation, detention, or
1036 conviction, was a city attorney's office, the county attorney's office in the jurisdiction
1037 where the arrest occurred shall immediately notify the city attorney's office that the
1038 county attorney's office has received a notice of a filing of a petition for expungement.
- 1039 (6) (a) Upon receipt of a notice of a filing of a petition for expungement of a conviction
1040 or a charge dismissed in accordance with a plea in abeyance, the prosecuting attorney
1041 shall make a reasonable effort to provide notice to any victim of the conviction or
1042 charge.
- 1043 (b) The notice under Subsection (6)(a) shall:
- 1044 (i) include a copy of the petition, certificate of eligibility or special certificate,
1045 statutes, and rules applicable to the petition;
- 1046 (ii) state that the victim has a right to object to the expungement; and

- 1047 (iii) provide instructions for registering an objection with the court.
- 1048 (7) (a) The prosecuting attorney may respond to the petition by filing a recommendation
1049 or objection with the court within 35 days after the day on which the notice of the
1050 filing of the petition is sent by the court to the prosecuting attorney.
- 1051 (b) If there is a victim of the offense for which expungement is sought, the victim may
1052 respond to the petition by filing a recommendation or objection with the court within
1053 60 days after the day on which the petition for expungement was filed with the court.
- 1054 (8) (a) The court may request a written response to the petition from the Division of
1055 Adult Probation and Parole within the Department of Corrections.
- 1056 (b) If requested, the response prepared by the Division of Adult Probation and Parole
1057 shall include:
- 1058 (i) the reasons probation was terminated; and
- 1059 (ii) certification that the petitioner has completed all requirements of sentencing and
1060 probation or parole.
- 1061 (c) The Division of Adult Probation and Parole shall provide a copy of the response to
1062 the petitioner and the prosecuting attorney.
- 1063 (9) The petitioner may respond in writing to any objections filed by the prosecuting
1064 attorney or the victim and the response prepared by the Division of Adult Probation and
1065 Parole within 14 days after the day on which the objection or response is received.
- 1066 (10) (a) If the court receives an objection concerning the petition from any party, the
1067 court shall set a date for a hearing and notify the petitioner and the prosecuting
1068 attorney of the date set for the hearing.
- 1069 (b) The prosecuting attorney shall notify the victim of the date set for the hearing.
- 1070 (c) The petitioner, the prosecuting attorney, the victim, and any other person who has
1071 relevant information about the petitioner may testify at the hearing.
- 1072 (d) The court shall review the petition, the certificate of eligibility or special certificate,
1073 and any written responses submitted regarding the petition.
- 1074 (11) If no objection is received within 60 days from the day on which the petition for
1075 expungement is filed with the court, the expungement may be granted without a hearing.
- 1076 Section 15. Section **77-40a-306** is amended to read:
- 1077 **77-40a-306 (Effective 05/01/24). Order of expungement.**
- 1078 (1) If a petition for expungement is filed in accordance with Section 77-40a-305, the court
1079 shall issue an order of expungement if the court finds, by clear and convincing evidence,
1080 that:

- 1081 [~~(a) except as provided in Subsection 77-40a-305(3) or (4), the petition and certificate~~
1082 ~~of eligibility are sufficient;~~]
- 1083 [~~(b) the statutory requirements have been met;~~]
- 1084 (a) ~~except as provided in Subsection (1)(b) and Subsection 77-40a-305(3) or (4):~~
- 1085 ~~(i) the certificate of eligibility is valid and contains the information needed for the~~
1086 ~~court to issue an order for expungement; and~~
- 1087 ~~(ii) the statutory requirements for expungement have been met;~~
- 1088 (b) ~~if the petitioner obtained a special certificate from the bureau:~~
- 1089 ~~(i) the special certificate is valid; and~~
- 1090 ~~(ii) there is sufficient information in the petition for the court to determine that the~~
1091 ~~statutory requirements for expungement have been met;~~
- 1092 (c) if the petitioner seeks expungement after a case is dismissed without prejudice or
1093 without condition, the prosecuting attorney provided written consent and has not filed
1094 and does not intend to refile related charges;
- 1095 (d) if the petitioner seeks expungement without a certificate of eligibility for
1096 expungement under Subsection 77-40a-305(4) for a record of conviction related to
1097 cannabis possession:
- 1098 (i) the petitioner had, at the time of the relevant arrest or citation leading to the
1099 conviction, a qualifying condition, as that term is defined in Section 26B-4-201;
1100 and
- 1101 (ii) the possession of cannabis in question was in a form and an amount to
1102 medicinally treat the qualifying condition described in Subsection (1)(d)(i);
- 1103 (e) if an objection is received, the petition for expungement is for a charge dismissed in
1104 accordance with a plea in abeyance agreement, and the charge is an offense eligible
1105 to be used for enhancement, there is good cause for the court to grant the
1106 expungement; and
- 1107 (f) the interests of the public would not be harmed by granting the expungement.
- 1108 (2) (a) If the court denies a petition described in Subsection (1)(c) because the
1109 prosecuting attorney intends to refile charges, the petitioner may apply again for a
1110 certificate of eligibility if charges are not refiled within 180 days after the day on
1111 which the court denies the petition.
- 1112 (b) A prosecuting attorney who opposes an expungement of a case dismissed without
1113 prejudice, or without condition, shall have a good faith basis for the intention to refile
1114 the case.

1115 (c) A court shall consider the number of times that good faith basis of intention to refile
 1116 by the prosecuting attorney is presented to the court in making the court's
 1117 determination to grant the petition for expungement described in Subsection (1)(c).

1118 (3) If the court grants a petition described in Subsection (1)(e), the court shall make the
 1119 court's findings in a written order.

1120 (4) A court may not expunge a conviction of an offense for which a certificate of eligibility
 1121 may not be, or should not have been, issued under Section 77-40a-302 or 77-40a-303.

1122 (5) If the court issues an order of expungement under this section, the court shall:

1123 (a) expunge all records of the case as described in Section 77-40a-401;

1124 (b) notify the bureau of the order of expungement; and

1125 (c) provide the bureau with the order of expungement and all relevant information
 1126 available to the court that the bureau will need to identify an expunged record.

1127 (6) (a) The petitioner may request certified copies of an order of expungement within 28
 1128 days after the day on which the court issues an order of expungement.

1129 (b) If a petitioner makes a request under Subsection (6)(a), the court shall provide the
 1130 petitioner with certified copies of the order of expungement.

1131 Section 16. Section **77-40a-403** is amended to read:

1132 **77-40a-403 (Effective 05/01/24). Retention and release of expunged records --**

1133 **Agencies.**

1134 ~~[(1) (a) The bureau, after receiving an expungement order,]~~

1135 (1) (a) After receiving an order of expungement, the bureau shall keep, index, and
 1136 maintain all expunged records of arrests and convictions.

1137 (b) ~~[Any]~~ An agency, other than the bureau, receiving an [expungement order] order of
 1138 expungement shall develop and implement a process to identify and maintain an
 1139 expunged record.

1140 (c) Subsection (1)(b) does not prevent an agency from maintaining or destroying a
 1141 record in accordance with a retention schedule when the record is an expunged record.

1142 (d) An agency is not required to redact an expunged record, or a record referencing an
 1143 expunged record, that pertains to more than one individual until the agency is
 1144 required to release the record.

1145 (2) (a) An agency shall provide an individual who receives an expungement with written
 1146 confirmation that the agency has expunged all records of the offense for which the
 1147 individual received the expungement if the individual requests confirmation from the
 1148 agency.

- 1149 (b) The bureau may charge a fee for providing a written confirmation under Subsection
1150 (2)(a) in accordance with the process in Section 63J-1-504.
- 1151 (3) (a) An employee of the bureau, or any agency with an expunged record, may not
1152 divulge any information contained in the expunged record to any person or agency
1153 without a court order unless:
- 1154 (i) specifically authorized by [statute] Subsection (4) or Section 77-40a-404; or
1155 (ii) subject to Subsection (3)(b), the information in an expunged record is being
1156 shared with another agency through a records management system that both
1157 agencies use for the purpose of record management.
- 1158 (b) An agency with a records management system may not disclose any information in
1159 an expunged record [~~with~~] to another agency or person [that] , or allow another agency
1160 or person access to an expunged record, if that agency or person does not use the
1161 records management system for the purpose of record management.
- 1162 (4) The following entities or agencies may receive information contained in expunged
1163 records upon specific request:
- 1164 (a) the Board of Pardons and Parole;
1165 (b) Peace Officer Standards and Training;
1166 (c) federal authorities if required by federal law;
1167 (d) the State Board of Education;
1168 (e) the Commission on Criminal and Juvenile Justice, for purposes of investigating
1169 applicants for judicial office; and
1170 (f) a research institution or an agency engaged in research regarding the criminal justice
1171 system if:
- 1172 (i) the research institution or agency provides a legitimate research purpose for
1173 gathering information from the expunged records;
1174 (ii) the research institution or agency enters into a data sharing agreement with the
1175 court or agency with custody of the expunged records that protects the
1176 confidentiality of any identifying information in the expunged records;
1177 (iii) any research using expunged records does not include any individual's name or
1178 identifying information in any product of that research; and
1179 (iv) any product resulting from research using expunged records includes a disclosure
1180 that expunged records were used for research purposes.
- 1181 (5) Except as otherwise provided by this section or by court order, a person, an agency, or
1182 an entity authorized by this section to view expunged records may not reveal or release

- 1183 any information obtained from the expunged records to anyone outside the specific
1184 request, including distribution on a public website.
- 1185 (6) A prosecuting attorney may communicate with another prosecuting attorney, or another
1186 prosecutorial agency, regarding information in an expunged record that includes a
1187 conviction, or a charge dismissed as a result of a successful completion of a plea in
1188 abeyance agreement, for:
- 1189 (a) stalking as described in Section 76-5-106.5;
1190 (b) a domestic violence offense as defined in Section 77-36-1;
1191 (c) an offense that would require the individual to register as a sex offender, as defined
1192 in Section 77-41-102; or
1193 (d) a weapons offense under Title 76, Chapter 10, Part 5, Weapons.
- 1194 (7) Except as provided in Subsection (9), a prosecuting attorney may not use an expunged
1195 record for the purpose of a sentencing enhancement or as a basis for charging an
1196 individual with an offense that requires a prior conviction.
- 1197 (8) The bureau may also use the information in the bureau's index as provided in Section
1198 53-5-704.
- 1199 (9) If an individual is charged with a felony, or an offense eligible for enhancement based
1200 on a prior conviction, after obtaining an order of expungement, the prosecuting attorney
1201 may petition the court in which the individual is charged to open the expunged records
1202 upon a showing of good cause.
- 1203 [~~(9) If, after obtaining an expungement, an individual is charged with a felony or an~~
1204 ~~offense eligible for enhancement based on a prior conviction, the state may petition the~~
1205 ~~court to open the expunged records upon a showing of good cause.]~~
- 1206 (10) (a) For judicial sentencing, a court may order any records expunged under this
1207 chapter or Section 77-27-5.1 to be opened and admitted into evidence.
- 1208 (b) The records are confidential and are available for inspection only by the court,
1209 parties, counsel for the parties, and any other person who is authorized by the court to
1210 inspect them.
- 1211 (c) At the end of the action or proceeding, the court shall order the records expunged
1212 again.
- 1213 (d) Any person authorized by this Subsection (10) to view expunged records may not
1214 reveal or release any information obtained from the expunged records to anyone
1215 outside the court.
- 1216 (11) Records released under this chapter are classified as protected under Section 63G-2-305

1217 and are accessible only as provided under Title 63G, Chapter 2, Part 2, Access to
1218 Records, and Subsection 53-10-108(2)(k) for records held by the bureau.

1219 Section 17. Section **77-40a-404** is amended to read:

1220 **77-40a-404 (Effective 05/01/24). Confirmation of expungement -- Access to**
1221 **expunged records by individuals.**

1222 (1) An individual who receives an expungement may request a written confirmation from
1223 an agency under Subsection 77-40a-403(2) to confirm that the agency has expunged all
1224 records of the offense for which the individual received the expungement.

1225 (2) The following individuals may view or obtain an expunged record under this chapter or
1226 Section 77-27-5.1:

1227 (a) the petitioner or an individual who receives an automatic expungement under [
1228 ~~Section 77-40a-201~~] Part 2, Automatic Expungement and Deletion;

1229 (b) a law enforcement officer, who was involved in the case, for use solely in the
1230 officer's defense of a civil action arising out of the officer's involvement with the
1231 petitioner in that particular case; and

1232 (c) a party to a civil action arising out of the expunged incident if the information is kept
1233 confidential and utilized only in the action.

1234 Section 18. Section **77-41-109** is amended to read:

1235 **77-41-109 (Effective 05/01/24). Miscellaneous provisions.**

1236 (1) (a) If an offender is to be temporarily sent on any assignment outside a secure facility
1237 in which the offender is confined on any assignment, including, without limitation,
1238 firefighting or disaster control, the official who has custody of the offender shall,
1239 within a reasonable time prior to removal from the secure facility, notify the local law
1240 enforcement agencies where the assignment is to be filled.

1241 (b) This Subsection (1) does not apply to any person temporarily released under guard
1242 from the institution in which the person is confined.

1243 (2) Notwithstanding [~~Title 77, Chapter 40a, Expungement~~] Title 77, Chapter 40a,
1244 Expungement of Criminal Records, a person convicted of any offense listed in
1245 Subsection 77-41-102(10) or (18) is not relieved from the responsibility to register as
1246 required under this section, unless the offender is removed from the registry under
1247 Section 77-41-112 or Section 77-41-113.

1248 Section 19. Section **78A-2-302** is amended to read:

1249 **78A-2-302 (Effective 05/01/24). Indigent litigants -- Affidavit.**

1250 (1) As used in Sections 78A-2-302 through 78A-2-309:

- 1251 (a) "Convicted" means:
- 1252 (i) a conviction by entry of a plea of guilty or nolo contendere, guilty with a mental
- 1253 condition, no contest; and
- 1254 (ii) a conviction of any crime or offense.
- 1255 (b) "Indigent" means an individual who is financially unable to pay fees and costs or
- 1256 give security.
- 1257 (c) "Prisoner" means an individual who has been convicted of a crime and is
- 1258 incarcerated for that crime or is being held in custody for trial or sentencing.
- 1259 (2) An individual may institute, prosecute, defend, or appeal any cause in a court in this
- 1260 state without prepayment of fees and costs or security if the individual submits an
- 1261 affidavit demonstrating that the individual is indigent.
- 1262 (3) A court shall find an individual indigent if the individual's affidavit under Subsection (2)
- 1263 demonstrates:
- 1264 (a) for a cause that is not a petition for expungement, the individual has an income level
- 1265 at or below 150% of the United States poverty level, as defined by the most recent
- 1266 poverty income guidelines published by the United States Department of Health and
- 1267 Human Services;
- 1268 (b) for a cause that is a petition for expungement:
- 1269 (i) if the individual has a household size of one, two, or three, the individual has an
- 1270 income level at or below 150% of the United States poverty level for a household
- 1271 size of three, as defined by the most recent poverty income guidelines published
- 1272 by the United States Department of Health and Human Services; or
- 1273 (ii) if the individual has a household size of four or more, the individual has an
- 1274 income level at or below 150% of the United States poverty level for that
- 1275 individual's household size, as defined by the most recent poverty income
- 1276 guidelines published by the United States Department of Health and Human
- 1277 Services;
- 1278 ~~(b)~~ (c) the individual receives benefits from a means-tested government program,
- 1279 including Temporary Assistance to Needy Families, Supplemental Security Income,
- 1280 the Supplemental Nutrition Assistance Program, or Medicaid;
- 1281 ~~(e)~~ (d) the individual receives legal services from a nonprofit provider or a pro bono
- 1282 attorney through the Utah State Bar; or
- 1283 ~~(d)~~ (e) the individual has insufficient income or other means to pay the necessary fees
- 1284 and costs or security without depriving the individual, or the individual's family, of

1285 food, shelter, clothing, or other necessities.

1286 (4) An affidavit demonstrating that an individual is indigent under Subsection [~~(3)(d)~~] (3)(e)

1287 shall contain complete information on the individual's:

1288 (a) identity and residence;

1289 (b) amount of income, including any government financial support, alimony, or child
1290 support;

1291 (c) assets owned, including real and personal property;

1292 (d) business interests;

1293 (e) accounts receivable;

1294 (f) securities, checking and savings account balances;

1295 (g) debts; and

1296 (h) monthly expenses.

1297 (5) If the individual under Subsection (3) is a prisoner, the prisoner shall disclose the
1298 amount of money held in the prisoner's trust account at the time the affidavit under
1299 Subsection (2) is executed in accordance with Section 78A-2-305.

1300 (6) An affidavit of indigency under this section shall state the following:

1301 I, (insert name), do solemnly swear or affirm that due to my poverty I am unable to bear the
1302 expenses of the action or legal proceedings which I am about to commence or the appeal
1303 which I am about to take, and that I believe I am entitled to the relief sought by the action,
1304 legal proceedings, or appeal.

1305 (7) The Administrative Office of the Courts shall include on a form for an affidavit of
1306 indigency the following warning: "It is a crime for anyone to intentionally or knowingly
1307 provide false or misleading information to the court when seeking a waiver of a court
1308 fee."

1309 Section 20. Section **78A-6-350** is amended to read:

1310 **78A-6-350 (Effective 05/01/24) (Superseded 07/01/24). Venue -- Dismissal**
1311 **without adjudication on merits.**

1312 (1) Notwithstanding Title 78B, Chapter 3, Part 3, Place of Trial -- Venue, a proceeding for
1313 a minor's case in the juvenile court shall be commenced in the court of the district in
1314 which:

1315 (a) except as provided in Section 80-6-1001.2, for a proceeding under Title 80, Chapter
1316 6, Juvenile Justice:

1317 (i) the minor is living or found; or

1318 (ii) the alleged offense occurred; or

- 1319 (b) for [~~all other proceedings~~] any other proceeding, the minor is living or found.
- 1320 (2) If a party seeks to transfer a case to another district after a petition has been filed in the
- 1321 juvenile court, the juvenile court may transfer the case in accordance with the Utah
- 1322 Rules of Juvenile Procedure.
- 1323 (3) The dismissal of a petition in one district where the dismissal is without prejudice and
- 1324 where there has been no adjudication upon the merits may not preclude refileing within
- 1325 the same district or another district where there is venue for the case.

1326 Section 21. Section **78A-6-350** is amended to read:

1327 **78A-6-350 (Effective 07/01/24). Venue -- Dismissal without adjudication on**

1328 **merits.**

- 1329 (1) Notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, a proceeding for a
- 1330 minor's case in the juvenile court shall be commenced in the court of the district in
- 1331 which:
- 1332 (a) except as provided in Section 80-6-1001.2, for a proceeding under Title 80, Chapter
- 1333 6, Juvenile Justice:
- 1334 (i) the minor is living or found; or
- 1335 (ii) the alleged offense occurred; or
- 1336 (b) for [~~all other proceedings~~] any other proceeding, the minor is living or found.
- 1337 (2) If a party seeks to transfer a case to another district after a petition has been filed in the
- 1338 juvenile court, the juvenile court may transfer the case in accordance with the Utah
- 1339 Rules of Juvenile Procedure.
- 1340 (3) The dismissal of a petition in one district where the dismissal is without prejudice and
- 1341 where there has been no adjudication upon the merits may not preclude refileing within
- 1342 the same district or another district where there is venue for the case.

1343 *The following section is affected by a coordination clause at the end of this bill.*

1344 Section 22. Section **78A-7-106** is amended to read:

1345 **78A-7-106 (Effective 05/01/24). Jurisdiction.**

- 1346 (1) (a) Except for an offense for which the district court has original jurisdiction under
- 1347 Subsection 78A-5-102(8) or an offense for which the juvenile court has original
- 1348 jurisdiction under Subsection 78A-6-103(1)(c), a justice court has original
- 1349 jurisdiction over class B and C misdemeanors, violation of ordinances, and
- 1350 infractions committed within the justice court's territorial jurisdiction by an
- 1351 individual who is 18 years old or older.
- 1352 (b) A justice court has original jurisdiction over the following offenses committed within

- 1353 the justice court's territorial jurisdiction by an individual who is 18 years old or older:
- 1354 (i) class C misdemeanor and infraction violations of Title 53, Chapter 3, Part 2,
- 1355 Driver Licensing Act; and
- 1356 (ii) class B and C misdemeanor and infraction violations of:
- 1357 (A) Title 23A, Wildlife Resources Act;
- 1358 (B) Title 41, Chapter 1a, Motor Vehicle Act;
- 1359 (C) Title 41, Chapter 6a, Traffic Code, except Title 41, Chapter 6a, Part 5, Driving
- 1360 Under the Influence and Reckless Driving;
- 1361 (D) Title 41, Chapter 12a, Financial Responsibility of Motor Vehicle Owners and
- 1362 Operators Act;
- 1363 (E) Title 41, Chapter 22, Off-highway Vehicles;
- 1364 (F) Title 73, Chapter 18, State Boating Act, except Section 73-18-12;
- 1365 (G) Title 73, Chapter 18a, Boating - Litter and Pollution Control;
- 1366 (H) Title 73, Chapter 18b, Water Safety; and
- 1367 (I) Title 73, Chapter 18c, Financial Responsibility of Motorboat Owners and
- 1368 Operators Act.
- 1369 (2) Except for an offense for which the district court has exclusive jurisdiction under
- 1370 Section 78A-5-102.5 or an offense for which the juvenile court has exclusive
- 1371 jurisdiction under Section 78A-6-103.5, a justice court has original jurisdiction over the
- 1372 following offenses committed within the justice court's territorial jurisdiction by an
- 1373 individual who is 16 or 17 years old:
- 1374 (a) class C misdemeanor and infraction violations of Title 53, Chapter 3, Part 2, Driver
- 1375 Licensing Act; and
- 1376 (b) class B and C misdemeanor and infraction violations of:
- 1377 (i) Title 23A, Wildlife Resources Act;
- 1378 (ii) Title 41, Chapter 1a, Motor Vehicle Act;
- 1379 (iii) Title 41, Chapter 6a, Traffic Code, except Title 41, Chapter 6a, Part 5, Driving
- 1380 Under the Influence and Reckless Driving;
- 1381 (iv) Title 41, Chapter 12a, Financial Responsibility of Motor Vehicle Owners and
- 1382 Operators Act;
- 1383 (v) Title 41, Chapter 22, Off-highway Vehicles;
- 1384 (vi) Title 73, Chapter 18, State Boating Act, except for an offense under Section
- 1385 73-18-12;
- 1386 (vii) Title 73, Chapter 18a, Boating - Litter and Pollution Control;

- 1387 (viii) Title 73, Chapter 18b, Water Safety; and
1388 (ix) Title 73, Chapter 18c, Financial Responsibility of Motorboat Owners and
1389 Operators Act.
- 1390 (3) (a) As used in this Subsection (3), "body of water" includes any stream, river, lake,
1391 or reservoir, whether natural or man-made.
- 1392 (b) An offense is committed within the territorial jurisdiction of a justice court if:
- 1393 (i) conduct constituting an element of the offense or a result constituting an element
1394 of the offense occurs within the court's jurisdiction, regardless of whether the
1395 conduct or result is itself unlawful;
- 1396 (ii) either an individual committing an offense or a victim of an offense is located
1397 within the court's jurisdiction at the time the offense is committed;
- 1398 (iii) either a cause of injury occurs within the court's jurisdiction or the injury occurs
1399 within the court's jurisdiction;
- 1400 (iv) an individual commits any act constituting an element of an inchoate offense
1401 within the court's jurisdiction, including an agreement in a conspiracy;
- 1402 (v) an individual solicits, aids, or abets, or attempts to solicit, aid, or abet another
1403 individual in the planning or commission of an offense within the court's
1404 jurisdiction;
- 1405 (vi) the investigation of the offense does not readily indicate in which court's
1406 jurisdiction the offense occurred, and:
- 1407 (A) the offense is committed upon or in any railroad car, vehicle, watercraft, or
1408 aircraft passing within the court's jurisdiction;
- 1409 (B) the offense is committed on or in any body of water bordering on or within
1410 this state if the territorial limits of the justice court are adjacent to the body of
1411 water;
- 1412 (C) an individual who commits theft exercises control over the affected property
1413 within the court's jurisdiction; or
- 1414 (D) the offense is committed on or near the boundary of the court's jurisdiction;
- 1415 (vii) the offense consists of an unlawful communication that was initiated or received
1416 within the court's jurisdiction; or
- 1417 (viii) jurisdiction is otherwise specifically provided by law.
- 1418 (4) If in a criminal case the defendant is 16 or 17 years old, a justice court judge may
1419 transfer the case to the juvenile court for further proceedings if the justice court judge
1420 determines and the juvenile court concurs that the best interests of the defendant would

- 1421 be served by the continuing jurisdiction of the juvenile court.
- 1422 (5) ~~[Justice courts have jurisdiction of small claims cases]~~ A justice court has jurisdiction
- 1423 over:
- 1424 (a) a small claims case under Title 78A, Chapter 8, Small Claims Courts, if a defendant
- 1425 resides in or the debt arose within the territorial jurisdiction of the justice court[-] ; or
- 1426 (b) a petition for expungement under Title 77, Chapter 40a, Expungement of Criminal
- 1427 Records.
- 1428 (6) (a) As used in this Subsection (6), "domestic violence offense" means the same as
- 1429 that term is defined in Section 77-36-1.
- 1430 (b) If a justice court has jurisdiction over a criminal action involving a domestic violence
- 1431 offense and the criminal action is set for trial, the prosecuting attorney or the
- 1432 defendant may file a notice of transfer in the justice court to transfer the criminal
- 1433 action from the justice court to the district court.
- 1434 (c) If a justice court receives a notice of transfer from the prosecuting attorney or the
- 1435 defendant as described in Subsection (6)(b), the justice court shall transfer the
- 1436 criminal action to the district court.
- 1437 Section 23. Section **78A-7-209.5** is amended to read:
- 1438 **78A-7-209.5 (Effective 05/01/24). Presiding judge -- Associate presiding judge --**
- 1439 **Election -- Powers -- Duties.**
- 1440 (1) (a) In judicial districts having more than one justice court judge, the justice court
- 1441 judges shall elect one judge of the district to the office of presiding judge.
- 1442 (b) The presiding judge shall receive an additional \$2,000 per annum as compensation
- 1443 from the Justice Court Technology, Security, and Training Account described in
- 1444 Section 78A-7-301 for the period served as presiding judge.
- 1445 (2) (a) In judicial districts having more than two justice court judges, the justice court
- 1446 judges may elect one judge of the district to the office of associate presiding judge.
- 1447 (b) The associate presiding judge shall receive an additional \$1,000 per annum as
- 1448 compensation from the Justice Court Technology, Security, and Training Account
- 1449 described in Section 78A-7-301 for the period served as associate presiding judge.
- 1450 (3) The presiding judge has the following authority and responsibilities, consistent with the
- 1451 policies of the Judicial Council:
- 1452 (a) working with each justice court judge in the district to implement policies and rules
- 1453 of the Judicial Council;
- 1454 (b) exercising powers and performing administrative duties as authorized by the Judicial

- 1455 Council;
- 1456 (c) if there is no other appointed justice court judge in that court available, assigning a
1457 justice court judge to hear a case in which a judge has been disqualified in
1458 accordance with rules of the Supreme Court;
- 1459 (d) if a justice court judge of the district cannot perform the justice court judge's duties
1460 in a case or cases due to illness, death, or other incapacity, and the governing body
1461 has not appointed a temporary justice court judge in accordance with Section
1462 78A-7-208:
- 1463 (i) assigning, on an emergency basis, a justice court judge to hear a case or cases; and
1464 (ii) facilitating judicial coverage with the appointing municipal or county authority
1465 until a temporary justice court judge can be appointed, in accordance with Section
1466 78A-7-208, or a new justice court judge is formally appointed and takes office, in
1467 accordance with Section 78A-7-202; and
- 1468 (e) entering orders of expungement in cases expunged in accordance with [~~Section~~
1469 ~~77-40a-201~~] Title 77, Chapter 40a, Part 2, Automatic Expungement and Deletion.
- 1470 (4) (a) When the presiding judge is unavailable, the associate presiding judge shall
1471 assume the responsibilities of the presiding judge.
- 1472 (b) The associate presiding judge shall perform other duties assigned by the presiding
1473 judge.
- 1474 Section 24. Section **78B-6-853** is amended to read:
- 1475 **78B-6-853 (Effective 05/01/24). Expungement by petition for eviction -- Venue --**
1476 **Objection.**
- 1477 (1) Any party to an eviction may petition the court to expunge all records of the eviction if:
1478 (a) the eviction was for:
- 1479 (i) remaining after the end of the lease as described in Subsection 78B-6-802(1)(a); or
1480 (ii) the nonpayment of rent as described in Subsection 78B-6-802(1)(c); and
- 1481 (b) any judgment for the eviction has been satisfied and a satisfaction of judgment has
1482 been filed for the judgment.
- 1483 (2) (a) A petitioner shall file a petition and provide notice to any other party to the
1484 eviction in accordance with the Utah Rules of Civil Procedure.
- 1485 (b) A petitioner shall bring a petition to expunge records of an eviction in the court that
1486 issued the order of restitution.
- 1487 (3) (a) Any party to the eviction may file a written objection to the petition with the
1488 court.

1489 (b) If the court receives a written objection to the petition, the court may not expunge the
1490 eviction.

1491 (4) Except as provided in Subsection (5), the court shall order expungement of all records
1492 of the eviction if the court does not receive a written objection within 60 days from the
1493 day on which the petition is filed.

1494 (5) A court may not expunge an eviction if the judgment for the eviction has not been
1495 satisfied.

1496 Section 25. Section **78B-7-1002.1** is enacted to read:

1497 **78B-7-1002.1 (Effective 05/01/24). Eligibility for removing the link between**
1498 **personal identifying information and court case dismissed.**

1499 (1) As used in this section, "personal identifying information" means:

1500 (a) a current name, former name, nickname, or alias; and

1501 (b) date of birth.

1502 (2) If a civil order is sought against an individual and the court denies the civil order, the
1503 individual may move the court for an order to remove the link between the individual's
1504 personal identifying information from the dismissed case in any publicly searchable
1505 database of the Utah state courts.

1506 (3) If a motion is filed under Subsection (2), the court shall grant the motion if:

1507 (a) 30 days have passed from the day on which the case is denied; and

1508 (b) an appeal has not been filed in the denied case within the 30-day period described in
1509 Subsection (3)(a).

1510 (4) Removing the link to personal identifying information of a court record under
1511 Subsection (3) does not affect another agency's records.

1512 (5) A case history, unless expunged under this chapter, remains public and accessible
1513 through a search by case number.

1514 Section 26. Section **78B-7-1003** is amended to read:

1515 **78B-7-1003 (Effective 05/01/24). Requirements for expungement of protective**
1516 **order or stalking injunction -- Venue.**

1517 (1) (a) An individual against whom a civil order is sought may petition the court to
1518 expunge records of the civil order.

1519 (b) A petitioner shall bring a petition for expungement under Subsection (1) in the court
1520 that issued the civil order.

1521 [~~(b) A petition under Subsection (1)(a) shall be filed.]~~

1522 (2) The petitioner shall file the petition for expungement under Subsection (1) in

- 1523 accordance with the Utah Rules of Civil Procedure.
- 1524 ~~[(2)]~~ (3) (a) The petitioner shall provide notice to the individual filed the civil order
- 1525 against the petitioner in accordance with Rule 4 of the Utah Rules of Civil Procedure.
- 1526 (b) The individual who filed the civil order against the petitioner:
- 1527 (i) may file a written objection with the court within 30 days after the day on which
- 1528 the petition is received by the individual; and
- 1529 (ii) if the individual files a written objection, provide a copy of the written objection
- 1530 to the petitioner.
- 1531 (c) If the court receives a written objection to the petition for expungement of a civil
- 1532 order, the court shall:
- 1533 (i) set a date for a hearing on the petition;
- 1534 (ii) provide notice at least 30 days before the day on which the hearing is held to:
- 1535 (A) all parties of the civil order; and
- 1536 (B) any other person or agency that the court has reason to believe may have
- 1537 relevant information related to the expungement of the civil order.
- 1538 (d) The petitioner may respond, in writing, to any written objection within 14 days after
- 1539 the day on which the written objection is received by the court.
- 1540 ~~[(3)]~~ (4) If no written objection is received within 60 days from the day on which the
- 1541 petition for expungement is filed under Subsection (1), the court may grant the
- 1542 expungement in accordance with Subsection ~~[(4) or (5)]~~ (5) or (6) without a hearing.
- 1543 ~~[(4)]~~ (5) A court may expunge an ex parte civil protective order or an ex parte civil stalking
- 1544 injunction if:
- 1545 (a) the ex parte civil protective order or the ex parte civil stalking injunction was issued
- 1546 but:
- 1547 (i) the ex parte civil protective order or the ex parte civil stalking injunction is
- 1548 dismissed, dissolved, or expired upon a hearing by the court;
- 1549 (ii) the court did not issue a civil protective order or a civil stalking injunction on the
- 1550 same circumstances for which the ex parte civil protective order or the ex parte
- 1551 civil stalking injunction was issued;
- 1552 (iii) at least 30 days have passed from the day on which the ex parte civil protective
- 1553 order or the ex parte civil stalking injunction was issued;
- 1554 (iv) the petitioner has not been arrested, charged, or convicted for violating the ex
- 1555 parte civil protective order or ex parte civil stalking injunction; and
- 1556 (v) there are no criminal proceedings pending against the petitioner in the state; or

- 1557 (b) (i) the individual who filed the ex parte civil protective order or the ex parte civil
 1558 stalking injunction failed to appear for the hearing on the ex parte civil protective
 1559 order or ex parte civil stalking injunction;
- 1560 (ii) at least 30 days have passed from the day on which the hearing on the ex parte
 1561 civil protective order or the ex parte civil stalking injunction was set to occur,
 1562 including any continuance, postponement, or rescheduling of the hearing;
- 1563 (iii) the petitioner has not been arrested, charged, or convicted for violating the ex
 1564 parte civil protective order or ex parte civil stalking injunction; and
- 1565 (iv) there are no criminal proceedings pending against the petitioner in the state.

1566 ~~[(5)]~~ (6) A court may expunge a civil protective order or a civil stalking injunction if:

- 1567 (a) the civil protective order or the civil stalking injunction has been dismissed,
 1568 dissolved, vacated, or expired;
- 1569 (b) three years have passed from the day on which the civil protective order or the civil
 1570 stalking injunction is dismissed, dissolved, vacated, or expired;
- 1571 (c) the petitioner has not been arrested, charged, or convicted for violating the civil
 1572 protective order or the civil stalking injunction; and
- 1573 (d) there are no criminal proceedings pending against the petitioner in the state.

1574 Section 27. Section **80-6-1001.2** is enacted to read:

1575 **80-6-1001.2 (Effective 05/01/24). Venue for petition seeking expungement.**

1576 Notwithstanding Section 78A-6-350 and Title 78B, Chapter 3a, Venue for Civil

1577 Actions, a petitioner shall bring a petition for expungement under this part:

- 1578 (1) in the court where the petition for delinquency was filed; or
- 1579 (2) if a petition for delinquency was never filed, in the juvenile court in the county in which
 1580 the arrest occurred or the citation was issued.

1581 Section 28. **Effective date.**

1582 (1) Except as provided in Subsection (2), this bill takes effect on May 1, 2024.

1583 (2) The actions affecting Section 78A-6-350 (Effective 07/01/24) take effect on July 1,
 1584 2024.

1585 Section 29. **Coordinating S.B. 163 with S.B. 180.**

1586 If S.B. 163, Expungement Revisions, and S.B. 180, Court Jurisdiction

1587 Modifications, both pass and become law, the Legislature intends that, on May 1, 2024,

1588 Subsection 78A-7-106(4) enacted in S.B. 180 be amended to read:

1589 "(4) A justice court has jurisdiction over:

- 1590 (a) a small claims case under Chapter 8, Small Claims Courts, if a defendant resides

1591 in or the debt arose within the territorial jurisdiction of the justice court; and
1592 (b) a petition for expungement as described in Title 77, Chapter 40a, Expungement
1593 of Criminal Records."

1594 **Section 30. Coordinating S.B. 163 with H.B. 352.**

1595 If S.B. 163, Expungement Revisions, and H.B. 352, Amendments to
1596 Expungement, both pass and become law, the Legislature intends that, on October 1,
1597 2024, Subsection (4) in the coordination clause in H.B. 352 affecting Subsection
1598 78A-2-302(2) not be implemented.