

**EXPUNGEMENT CHANGES**

2024 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Todd D. Weiler**

House Sponsor: \_\_\_\_\_

**LONG TITLE**

**General Description:**

This bill amends provisions related to expungement.

**Highlighted Provisions:**

This bill:

- ▶ 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;
- ▶ defines terms related to expungement;
- ▶ clarifies provisions related to the automatic expungement and deletion of criminal records;
- ▶ provides that an agency is not required to expunge records within one year for a case that is automatically expunged if the agency is notified that the defendant in the case is deceased;
- ▶ 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 filing requirements for a petition for expungement;
- ▶ 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;



- 28           ▶ requires a court to notify the Bureau of Criminal Identification that an order of
- 29 expungement for a criminal case has been issued and to provide the Bureau of
- 30 Criminal Identification with all information needed for expungement;
- 31           ▶ requires a court to provide a petitioner with certified copies of an order of
- 32 expungement;
- 33           ▶ addresses the expungement of criminal records when an agency has a retention
- 34 schedule;
- 35           ▶ addresses the redaction of an expunged record when the record pertains to more
- 36 than one individual;
- 37           ▶ addresses the opening of expunged records when the individual is charged with a
- 38 felony or an offense eligible for enhancement;
- 39           ▶ clarifies the jurisdiction of the justice court over a petition for expungement;
- 40           ▶ moves a provision regarding removing the link between an individual's personal
- 41 identifying information and a dismissed case regarding a protective order or stalking
- 42 injunction from Title 77, Chapter 40a, Expungement of Criminal Records, to Title
- 43 78B, Chapter 7, Part 10, Expungement of Protective Orders and Stalking
- 44 Injunctions; and
- 45           ▶ makes technical and conforming changes.

46 **Money Appropriated in this Bill:**

47           None

48 **Other Special Clauses:**

49           This bill provides a special effective date.

50 **Utah Code Sections Affected:**

51 AMENDS:

- 52           **20A-2-101.3**, as enacted by Laws of Utah 2011, Chapter 395
- 53           **41-6a-501**, as last amended by Laws of Utah 2023, Chapters 328, 415
- 54           **53-3-414**, as last amended by Laws of Utah 2022, Chapters 46, 116
- 55           **53-6-302**, as last amended by Laws of Utah 2021, First Special Session, Chapter 13
- 56           **53-9-108**, as last amended by Laws of Utah 2020, Fifth Special Session, Chapter 18
- 57           **63G-4-107**, as last amended by Laws of Utah 2021, Chapters 84, 344
- 58           **76-3-402**, as last amended by Laws of Utah 2023, Chapter 132

- 59           77-2-2.3, as renumbered and amended by Laws of Utah 2021, Chapter 260
- 60           77-27-5.1, as last amended by Laws of Utah 2017, Chapter 356
- 61           77-40a-101, as last amended by Laws of Utah 2023, Chapter 265
- 62           77-40a-105, as renumbered and amended by Laws of Utah 2022, Chapter 250
- 63           77-40a-201, as renumbered and amended by Laws of Utah 2022, Chapter 250
- 64           77-40a-202, as renumbered and amended by Laws of Utah 2022, Chapter 250
- 65           77-40a-203, as renumbered and amended by Laws of Utah 2022, Chapter 250
- 66           77-40a-301, as enacted by Laws of Utah 2022, Chapter 250
- 67           77-40a-303, as last amended by Laws of Utah 2023, Chapter 265
- 68           77-40a-304, as last amended by Laws of Utah 2023, Chapter 265
- 69           77-40a-305, as last amended by Laws of Utah 2023, Chapters 265, 330
- 70           77-40a-306, as last amended by Laws of Utah 2023, Chapter 330
- 71           77-40a-403, as last amended by Laws of Utah 2023, Chapter 265
- 72           77-40a-404, as last amended by Laws of Utah 2023, Chapter 265
- 73           77-41-109, as last amended by Laws of Utah 2023, Chapter 123
- 74           78A-6-350 (Superseded 07/01/24), as renumbered and amended by Laws of Utah
- 75 2021, Chapter 261
- 76           78A-6-350 (Effective 07/01/24), as last amended by Laws of Utah 2023, Chapter 401
- 77           78A-7-106, as last amended by Laws of Utah 2023, Chapter 34
- 78           78A-7-209.5, as enacted by Laws of Utah 2022, Chapter 276
- 79           78B-6-853, as enacted by Laws of Utah 2022, Chapter 372
- 80           78B-7-1003, as last amended by Laws of Utah 2023, Chapters 139, 265

81 ENACTS:

- 82           77-40a-202.1, Utah Code Annotated 1953
- 83           77-40a-202.2, Utah Code Annotated 1953
- 84           77-40a-204, Utah Code Annotated 1953
- 85           78B-7-1002.1, Utah Code Annotated 1953
- 86           80-6-1001.2, Utah Code Annotated 1953



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

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

90           **20A-2-101.3. Convicted misdemeanants -- Restoration of right to vote or hold**  
91 **office.**

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

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

96           (a) is sentenced to probation; or

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

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

100           (a) the misdemeanor for an offense under this title is expunged as provided in [~~Title 77,~~  
101 ~~Chapter 40a, Expungement~~] Title 77, Chapter 40a, Expungement of Criminal Records; or

102           (b) (i) five years have passed since the date of the misdemeanant's most recent  
103 misdemeanor conviction of an offense under this title;

104           (ii) the misdemeanant has paid all court-ordered restitution and fines; and

105           (iii) for each misdemeanor conviction that has not been expunged, the misdemeanant  
106 has:

107           (A) completed probation in relation to the misdemeanor; or

108           (B) successfully completed the term of incarceration associated with the misdemeanor.

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

110           **41-6a-501. Definitions.**

111           (1) As used in this part:

112           (a) "Actual physical control" is determined by a consideration of the totality of the  
113 circumstances, but does not include a circumstance in which:

114           (i) the person is asleep inside the vehicle;

115           (ii) the person is not in the driver's seat of the vehicle;

116           (iii) the engine of the vehicle is not running;

117           (iv) the vehicle is lawfully parked; and

118           (v) under the facts presented, it is evident that the person did not drive the vehicle to  
119 the location while under the influence of alcohol, a drug, or the combined influence of alcohol  
120 and any drug.

121 (b) "Assessment" means an in-depth clinical interview with a licensed mental health  
122 therapist:

123 (i) used to determine if a person is in need of:

124 (A) substance abuse treatment that is obtained at a substance abuse program;

125 (B) an educational series; or

126 (C) a combination of Subsections (1)(b)(i)(A) and (B); and

127 (ii) that is approved by the Division of Integrated Healthcare in accordance with  
128 Section 26B-5-104.

129 (c) "Driving under the influence court" means a court that is approved as a driving  
130 under the influence court by the Judicial Council according to standards established by the  
131 Judicial Council.

132 (d) "Drug" or "drugs" means:

133 (i) a controlled substance as defined in Section 58-37-2;

134 (ii) a drug as defined in Section 58-17b-102; or

135 (iii) a substance that, when knowingly, intentionally, or recklessly taken into the human  
136 body, can impair the ability of a person to safely operate a motor vehicle.

137 (e) "Educational series" means an educational series obtained at a substance abuse  
138 program that is approved by the Division of Integrated Healthcare in accordance with Section  
139 26B-5-104.

140 (f) "Negligence" means simple negligence, the failure to exercise that degree of care  
141 that an ordinarily reasonable and prudent person exercises under like or similar circumstances.

142 (g) "Novice learner driver" means an individual who:

143 (i) has applied for a Utah driver license;

144 (ii) has not previously held a driver license in this state or another state; and

145 (iii) has not completed the requirements for issuance of a Utah driver license.

146 (h) "Screening" means a preliminary appraisal of a person:

147 (i) used to determine if the person is in need of:

148 (A) an assessment; or

149 (B) an educational series; and

150 (ii) that is approved by the Division of Integrated Healthcare in accordance with  
151 Section 26B-5-104.

152 (i) "Serious bodily injury" means bodily injury that creates or causes:  
153 (i) serious permanent disfigurement;  
154 (ii) protracted loss or impairment of the function of any bodily member or organ; or  
155 (iii) a substantial risk of death.  
156 (j) "Substance abuse treatment" means treatment obtained at a substance abuse  
157 program that is approved by the Division of Integrated Healthcare in accordance with Section  
158 26B-5-104.

159 (k) "Substance abuse treatment program" means a state licensed substance abuse  
160 program.

161 (l) (i) "Vehicle" or "motor vehicle" means a vehicle or motor vehicle as defined in  
162 Section 41-6a-102; and

163 (ii) "Vehicle" or "motor vehicle" includes:

164 (A) an off-highway vehicle as defined under Section 41-22-2; and

165 (B) a motorboat as defined in Section 73-18-2.

166 (2) As used in Sections 41-6a-502 and 41-6a-520.1:

167 (a) "Conviction" means any conviction arising from a separate episode of driving for a  
168 violation of:

169 (i) driving under the influence under Section 41-6a-502;

170 (ii) (A) for an offense committed before July 1, 2008, alcohol, any drug, or a  
171 combination of both-related reckless driving under Sections 41-6a-512 and 41-6a-528; or

172 (B) for an offense committed on or after July 1, 2008, impaired driving under Section  
173 41-6a-502.5;

174 (iii) driving with any measurable controlled substance that is taken illegally in the body  
175 under Section 41-6a-517;

176 (iv) local ordinances similar to Section 41-6a-502, alcohol, any drug, or a combination  
177 of both-related reckless driving, or impaired driving under Section 41-6a-502.5 adopted in  
178 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 May 4, 2022,  
182 Laws of Utah 2021, Chapter 236, Section 1, Subsection 58-37-8(2)(g);

183 (vii) negligently operating a vehicle resulting in injury under Section 76-5-102.1;  
 184 (viii) a violation described in Subsections (2)(a)(i) through (vii), which judgment of  
 185 conviction is reduced under Section 76-3-402;

186 (ix) refusal of a chemical test under Subsection 41-6a-520.1(1); or

187 (x) statutes or ordinances previously in effect in this state or in effect in any other state,  
 188 the United States, or any district, possession, or territory of the United States which would  
 189 constitute a violation of Section 41-6a-502 or alcohol, any drug, or a combination of  
 190 both-related reckless driving if committed in this state, including punishments administered  
 191 under 10 U.S.C. Sec. 815.

192 (b) A plea of guilty or no contest to a violation described in Subsections (2)(a)(i)  
 193 through (x) which plea was held in abeyance under Title 77, Chapter 2a, Pleas in Abeyance,  
 194 prior to July 1, 2008, is the equivalent of a conviction, even if the charge has been subsequently  
 195 reduced or dismissed in accordance with the plea in abeyance agreement, for purposes of:

196 (i) enhancement of penalties under this part; and

197 (ii) expungement under [~~Title 77, Chapter 40a, Expungement~~] Title 77, Chapter 40a,  
 198 Expungement of Criminal Records.

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

202 (i) this part;

203 (ii) negligently operating a vehicle resulting in injury under Section 76-5-102.1; and

204 (iii) negligently operating a vehicle resulting in death under Section 76-5-207.

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

207 Section 3. Section 53-3-414 is amended to read:

208 **53-3-414. CDL disqualification or suspension -- Grounds and duration --**

209 **Procedure.**

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

213 (i) driving a motor vehicle while under the influence of alcohol, drugs, a controlled

214 substance, or more than one of these;

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

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

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

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

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

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

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

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

228 (viii) operating a commercial motor vehicle in a negligent manner causing the death of  
229 another including the offenses of manslaughter under Section 76-5-205, negligent homicide  
230 under Section 76-5-206, or negligently operating a vehicle resulting in death under Section  
231 76-5-207.

232 (b) The division shall subtract from any disqualification period under Subsection  
233 (1)(a)(i) the number of days for which a license was previously disqualified under Subsection  
234 (1)(a)(ii) or (14) if the previous disqualification was based on the same occurrence upon which  
235 the record of conviction is based.

236 (2) If any of the violations under Subsection (1) occur while the driver is transporting a  
237 hazardous material required to be placarded, the driver is disqualified for not less than three  
238 years.

239 (3) (a) Except as provided under Subsection (4), a driver of a motor vehicle who holds  
240 or is required to hold a CDL is disqualified for life from driving a commercial motor vehicle if  
241 convicted of or administrative action is taken for two or more of any of the offenses under  
242 Subsection (1), (5), or (14) arising from two or more separate incidents.

243 (b) Subsection (3)(a) applies only to those offenses committed after July 1, 1989.

244 (4) (a) Any driver disqualified for life from driving a commercial motor vehicle under



245 this section may apply to the division for reinstatement of the driver's CDL if the driver:

246 (i) has both voluntarily enrolled in and successfully completed an appropriate  
247 rehabilitation program that:

248 (A) meets the standards of the division; and

249 (B) complies with 49 C.F.R. Sec. 383.51;

250 (ii) has served a minimum disqualification period of 10 years; and

251 (iii) has fully met the standards for reinstatement of commercial motor vehicle driving  
252 privileges established by rule of the division.

253 (b) If a reinstated driver is subsequently convicted of another disqualifying offense  
254 under this section, the driver is permanently disqualified for life and is ineligible to again apply  
255 for a reduction of the lifetime disqualification.

256 (5) A driver of a motor vehicle who holds or is required to hold a CDL is disqualified  
257 for life from driving a commercial motor vehicle if the driver uses a motor vehicle in the  
258 commission of any felony involving:

259 (a) the manufacturing, distributing, or dispensing of a controlled substance, or  
260 possession with intent to manufacture, distribute, or dispense a controlled substance and is  
261 ineligible to apply for a reduction of the lifetime disqualification under Subsection (4); or

262 (b) an act or practice of severe forms of trafficking in persons as defined and described  
263 in 22 U.S.C. Sec. 7102(11).

264 (6) (a) Subject to Subsection (6)(b), a driver of a commercial motor vehicle who holds  
265 or is required to hold a CDL is disqualified for not less than:

266 (i) 60 days from driving a commercial motor vehicle if the driver is convicted of two  
267 serious traffic violations; and

268 (ii) 120 days if the driver is convicted of three or more serious traffic violations.

269 (b) The disqualifications under Subsection (6)(a) are effective only if the serious traffic  
270 violations:

271 (i) occur within three years of each other;

272 (ii) arise from separate incidents; and

273 (iii) involve the use or operation of a commercial motor vehicle.

274 (c) If a driver of a commercial motor vehicle who holds or is required to hold a CDL is  
275 disqualified from driving a commercial motor vehicle and the division receives notice of a

276 subsequent conviction for a serious traffic violation that results in an additional disqualification  
277 period under this Subsection (6), the subsequent disqualification period is effective beginning  
278 on the ending date of the current serious traffic violation disqualification period.

279 (7) (a) A driver of a commercial motor vehicle who is convicted of violating an  
280 out-of-service order while driving a commercial motor vehicle is disqualified from driving a  
281 commercial motor vehicle for a period not less than:

282 (i) 180 days if the driver is convicted of a first violation;

283 (ii) two years if, during any 10 year period, the driver is convicted of two violations of  
284 out-of-service orders in separate incidents;

285 (iii) three years but not more than five years if, during any 10 year period, the driver is  
286 convicted of three or more violations of out-of-service orders in separate incidents;

287 (iv) 180 days but not more than two years if the driver is convicted of a first violation  
288 of an out-of-service order while transporting hazardous materials required to be placarded or  
289 while operating a motor vehicle designed to transport 16 or more passengers, including the  
290 driver; or

291 (v) three years but not more than five years if, during any 10 year period, the driver is  
292 convicted of two or more violations, in separate incidents, of an out-of-service order while  
293 transporting hazardous materials required to be placarded or while operating a motor vehicle  
294 designed to transport 16 or more passengers, including the driver.

295 (b) A driver of a commercial motor vehicle who is convicted of a first violation of an  
296 out-of-service order is subject to a civil penalty of not less than \$2,500.

297 (c) A driver of a commercial motor vehicle who is convicted of a second or subsequent  
298 violation of an out-of-service order is subject to a civil penalty of not less than \$5,000.

299 (8) A driver of a commercial motor vehicle who holds or is required to hold a CDL is  
300 disqualified for not less than 60 days if the division determines, in its check of the driver's  
301 driver license status, application, and record prior to issuing a CDL or at any time after the  
302 CDL is issued, that the driver has falsified information required to apply for a CDL in this  
303 state.

304 (9) A driver of a commercial motor vehicle who is convicted of violating a  
305 railroad-highway grade crossing provision under Section 41-6a-1205, while driving a  
306 commercial motor vehicle is disqualified from driving a commercial motor vehicle for a period

307 not less than:

308 (a) 60 days if the driver is convicted of a first violation;

309 (b) 120 days if, during any three-year period, the driver is convicted of a second  
310 violation in separate incidents; or

311 (c) one year if, during any three-year period, the driver is convicted of three or more  
312 violations in separate incidents.

313 (10) (a) The division shall update its records and notify the CDLIS within 10 days of  
314 suspending, revoking, disqualifying, denying, or cancelling a CDL to reflect the action taken.

315 (b) When the division suspends, revokes, cancels, or disqualifies a nonresident CDL,  
316 the division shall notify the licensing authority of the issuing state or other jurisdiction and the  
317 CDLIS within 10 days after the action is taken.

318 (c) When the division suspends, revokes, cancels, or disqualifies a CDL issued by this  
319 state, the division shall notify the CDLIS within 10 days after the action is taken.

320 (11) (a) The division may immediately suspend or disqualify the CDL of a driver  
321 without a hearing or receiving a record of the driver's conviction when the division has reason  
322 to believe that the:

323 (i) CDL was issued by the division through error or fraud;

324 (ii) applicant provided incorrect or incomplete information to the division;

325 (iii) applicant cheated on any part of a CDL examination;

326 (iv) driver no longer meets the fitness standards required to obtain a CDL; or

327 (v) driver poses an imminent hazard.

328 (b) Suspension of a CDL under this Subsection (11) shall be in accordance with  
329 Section [53-3-221](#).

330 (c) If a hearing is held under Section [53-3-221](#), the division shall then rescind the  
331 suspension order or cancel the CDL.

332 (12) (a) Subject to Subsection (12)(b), a driver of a motor vehicle who holds or is  
333 required to hold a CDL is disqualified for not less than:

334 (i) 60 days from driving a commercial motor vehicle if the driver is convicted of two  
335 serious traffic violations; and

336 (ii) 120 days if the driver is convicted of three or more serious traffic violations.

337 (b) The disqualifications under Subsection (12)(a) are effective only if the serious

338 traffic violations:

339 (i) occur within three years of each other;

340 (ii) arise from separate incidents; and

341 (iii) result in a denial, suspension, cancellation, or revocation of the non-CDL driving  
342 privilege from at least one of the violations.

343 (c) If a driver of a motor vehicle who holds or is required to hold a CDL is disqualified  
344 from driving a commercial motor vehicle and the division receives notice of a subsequent  
345 conviction for a serious traffic violation that results in an additional disqualification period  
346 under this Subsection (12), the subsequent disqualification period is effective beginning on the  
347 ending date of the current serious traffic violation disqualification period.

348 (13) (a) Upon receiving a notice that a person has entered into a plea of guilty or no  
349 contest to a violation of a disqualifying offense described in this section which plea is held in  
350 abeyance pursuant to a plea in abeyance agreement, the division shall disqualify, suspend,  
351 cancel, or revoke the person's CDL for the period required under this section for a conviction of  
352 that disqualifying offense, even if the charge has been subsequently reduced or dismissed in  
353 accordance with the plea in abeyance agreement.

354 (b) The division shall report the plea in abeyance to the CDLIS within 10 days of  
355 taking the action under Subsection (13)(a).

356 (c) A plea which is held in abeyance may not be removed from a person's driving  
357 record for 10 years from the date of the plea in abeyance agreement, even if the charge is:

358 (i) reduced or dismissed in accordance with the plea in abeyance agreement; or

359 (ii) expunged under [~~Title 77, Chapter 40a, Expungement~~] Title 77, Chapter 40a,  
360 Expungement of Criminal Records.

361 (14) The division shall disqualify the CDL of a driver for an arrest of a violation of  
362 Section [41-6a-502](#) when administrative action is taken against the operator's driving privilege  
363 pursuant to Section [53-3-223](#) for a period of:

364 (a) one year; or

365 (b) three years if the violation occurred while transporting hazardous materials.

366 (15) The division may concurrently impose any disqualification periods that arise  
367 under this section while a driver is disqualified by the Secretary of the United States  
368 Department of Transportation under 49 C.F.R. Sec. 383.52 for posing an imminent hazard.

369 Section 4. Section **53-6-302** is amended to read:

370 **53-6-302. Applicants for certification examination -- Requirements.**

371 (1) Before being allowed to take a dispatcher certification examination, each applicant  
372 shall meet the following requirements:

373 (a) be either:

374 (i) a United States citizen; or

375 (ii) a lawful permanent resident of the United States who:

376 (A) has been in the United States legally for the five years immediately before the day  
377 on which the application is made; and

378 (B) has legal authorization to work in the United States;

379 (b) be 18 years old or older at the time of employment as a dispatcher;

380 (c) be a high school graduate or have a G.E.D. equivalent;

381 (d) have not been convicted of a crime for which the applicant could have been

382 punished by imprisonment in a federal penitentiary or by imprisonment in the penitentiary of  
383 this or another state;

384 (e) have demonstrated good moral character, as determined by a background  
385 investigation;

386 (f) be free of any physical, emotional, or mental condition that might adversely affect  
387 the performance of the applicant's duty as a dispatcher; and

388 (g) meet all other standards required by POST.

389 (2) (a) An application for certification shall be accompanied by a criminal history  
390 background check of local, state, and national criminal history files and a background  
391 investigation.

392 (b) The costs of the background check and investigation shall be borne by the applicant  
393 or the applicant's employing agency.

394 (3) (a) Notwithstanding [~~Title 77, Chapter 40a, Expungement~~] Title 77, Chapter 40a,  
395 Expungement of Criminal Records, regarding expungements, or a similar statute or rule of any  
396 other jurisdiction, any conviction obtained in this state or other jurisdiction, including a  
397 conviction that has been expunged, dismissed, or treated in a similar manner to either of these  
398 procedures, may be considered for purposes of this section.

399 (b) Subsection (3)(a) applies to convictions entered both before and after May 1, 1995.

400 (4) Any background check or background investigation performed under the  
401 requirements of this section shall be to determine eligibility for admission to training programs  
402 or qualification for certification examinations and may not be used as a replacement for any  
403 background investigations that may be required of an employing agency.

404 (5) An applicant is considered to be of good moral character under Subsection (1)(e) if  
405 the applicant has not engaged in conduct that would be a violation of Subsection 53-6-309(1).

406 Section 5. Section 53-9-108 is amended to read:

407 **53-9-108. Qualifications for licensure.**

408 (1) (a) An applicant under this chapter shall be at least:

409 (i) 21 years of age to apply for an agency license or a registrant license; or

410 (ii) 18 years of age to apply for an apprentice license.

411 (b) An applicant may not have been:

412 (i) convicted of a felony;

413 (ii) convicted of an act involving illegally using, carrying, or possessing a dangerous  
414 weapon;

415 (iii) convicted of an act of personal violence or force on any person or convicted of  
416 threatening to commit an act of personal violence or force against another person;

417 (iv) convicted of an act constituting dishonesty or fraud;

418 (v) convicted of an act involving moral turpitude within the past 10 years unless the  
419 conviction has been expunged under the provisions of [~~Title 77, Chapter 40a, Expungement~~]

420 Title 77, Chapter 40a, Expungement of Criminal Records;

421 (vi) placed on probation or parole;

422 (vii) named in an outstanding arrest warrant; or

423 (viii) convicted of illegally obtaining or disclosing private, controlled, or protected  
424 records as provided in Section 63G-2-801.

425 (c) If previously or currently licensed in another state or jurisdiction, the applicant shall  
426 be in good standing within that state or jurisdiction.

427 (2) In assessing if an applicant meets the requirements under Subsection (1)(b), the  
428 board shall consider mitigating circumstances presented by an applicant.

429 (3) (a) An applicant for an agency license shall have:

430 (i) a minimum of 5,000 hours of investigative experience that consists of actual work

431 performed as a licensed private investigator, an investigator in the private sector, an  
432 investigator for the federal government, or an investigator for a state, county, or municipal  
433 government; or

434 (ii) if the applicant held a registrant license or an apprentice license under this chapter  
435 on or before May 1, 2010, a minimum of 2,000 hours of investigative experience that consists  
436 of actual work performed as a licensed private investigator, an investigator in the private  
437 sector, an investigator for the federal government, or an investigator for a state, county, or  
438 municipal government.

439 (b) An applicant for a registrant license shall have a minimum of 2,000 hours of  
440 investigative experience that consists of actual investigative work performed as a licensed  
441 private investigator, an investigator in the private sector, an investigator for the federal  
442 government, an investigator for a state, county, or municipal government, or a process server.

443 (c) At least 1,000 hours of the investigative experience required under this Subsection  
444 (3) shall have been performed within 10 years immediately prior to the application.

445 (d) An applicant shall substantiate investigative work experience required under this  
446 Subsection (3) by providing:

447 (i) the exact details as to the character and nature of the investigative work on a form  
448 prescribed by the bureau and certified by the applicant's employers; or

449 (ii) if the applicant is applying for the reinstatement of an agency license, internal  
450 records of the applicant that demonstrate the investigative work experience requirement has  
451 previously been met.

452 (e) (i) The applicant shall prove completion of the investigative experience required  
453 under this Subsection (3) to the satisfaction of the board and the board may independently  
454 verify the certification offered on behalf of the applicant.

455 (ii) The board may independently confirm the claimed investigative experience and the  
456 verification of the applicant's employers.

457 (4) An applicant for an apprentice license, lacking the investigative experience required  
458 for a registrant license, shall meet all of the qualification standards in Subsection (1), and shall  
459 complete an apprentice application.

460 (5) An applicant for an agency or registrant license may receive credit toward the hours  
461 of investigative experience required under Subsection (3) as follows:

462 (a) an applicant may receive credit for 2,000 hours of investigative experience if the  
463 applicant:

464 (i) has an associate's degree in criminal justice or police science from an accredited  
465 college or university; or

466 (ii) is certified as a peace officer; and

467 (b) an applicant may receive credit for 4,000 hours of investigative experience if the  
468 applicant has a bachelor's degree in criminal justice or police science from an accredited  
469 college or university.

470 (6) The board shall determine if the applicant may receive credit under Subsection (5)  
471 toward the investigative and educational experience requirements under Subsection (3).

472 Section 6. Section **63G-4-107** is amended to read:

473 **63G-4-107. Petition to remove agency action from public access.**

474 (1) An individual may petition the agency that maintains, on a state-controlled website  
475 available to the public, a record of administrative disciplinary action, to remove the record of  
476 administrative disciplinary action from public access on the state-controlled website, if:

477 (a) (i) five years have passed since:

478 (A) the date the final order was issued; or

479 (B) if no final order was issued, the date the administrative disciplinary action was  
480 commenced; or

481 (ii) the individual has obtained a criminal expungement order under [~~Title 77, Chapter~~  
482 ~~40a, Expungement~~] Title 77, Chapter 40a, Expungement of Criminal Records, for the  
483 individual's criminal records related to the same incident or conviction upon which the  
484 administrative disciplinary action was based;

485 (b) the individual has successfully completed all action required by the agency relating  
486 to the administrative disciplinary action within the time frame set forth in the final order, or if  
487 no time frame is specified in the final order, within the time frame set forth in Title 63G,  
488 Chapter 4, Administrative Procedures Act;

489 (c) from the time that the original administrative disciplinary action was filed, the  
490 individual has not violated the same statutory provisions or administrative rules related to those  
491 statutory provisions that resulted in the original administrative disciplinary action; and

492 (d) the individual pays an application fee determined by the agency in accordance with



493 Section 63J-1-504.

494 (2) The individual petitioning the agency under Subsection (1) shall provide the agency  
495 with a written request containing the following information:

496 (a) the petitioner's full name, address, telephone number, and date of birth;

497 (b) the information the petitioner seeks to remove from public access; and

498 (c) an affidavit certifying that the petitioner is in compliance with the provisions of  
499 Subsection (1).

500 (3) Within 30 days of receiving the documents and information described in

501 Subsection (2):

502 (a) the agency shall review the petition and all documents submitted with the petition  
503 to determine whether the petitioner has met the requirements of Subsections (1) and (2); and

504 (b) if the agency determines that the petitioner has met the requirements of Subsections  
505 (1) and (2), the agency shall immediately remove the record of administrative disciplinary  
506 action from public access on the state-controlled website.

507 (4) Notwithstanding the provisions of Subsection (3), an agency is not required to  
508 remove a recording, written minutes, or other electronic information from the Utah Public  
509 Notice Website, created under Section 63A-16-601, if the recording, written minutes, or other  
510 electronic information is required to be available to the public on the Utah Public Notice  
511 Website under the provisions of Title 52, Chapter 4, Open and Public Meetings Act.

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

513 **76-3-402. Conviction of lower degree of offense -- Procedure and limitations.**

514 (1) As used in this section:

515 (a) "Lower degree of offense" includes an offense for which:

516 (i) a statutory enhancement is charged in the information or indictment that would  
517 increase either the maximum or the minimum sentence; and

518 (ii) the court removes the statutory enhancement in accordance with this section.

519 (b) "Minor regulatory offense" means the same as that term is defined in Section  
520 77-40a-101.

521 (c) (i) "Rehabilitation program" means a program designed to reduce criminogenic and  
522 recidivism risks.

523 (ii) "Rehabilitation program" includes:

- 524 (A) a domestic violence treatment program, as that term is defined in Section
- 525 62A-2-101;
- 526 (B) a residential, vocational, and life skills program, as that term is defined in Section
- 527 13-53-102;
- 528 (C) a substance abuse treatment program, as that term is defined in Section 62A-2-101;
- 529 (D) a substance use disorder treatment program, as that term is defined in Section
- 530 62A-2-101;
- 531 (E) a youth program, as that term is defined in Section 62A-2-101;
- 532 (F) a program that meets the standards established by the Department of Corrections
- 533 under Section 64-13-25;
- 534 (G) a drug court, a veterans court, or a mental health court certified by the Judicial
- 535 Council; or
- 536 (H) a program that is substantially similar to a program described in Subsections
- 537 (1)(c)(ii)(A) through (G).
- 538 (d) "Serious offense" means a felony or misdemeanor offense that is not a minor
- 539 regulatory offense or a traffic offense.
- 540 (e) "Traffic offense" means the same as that term is defined in Section 77-40a-101.
- 541 (f) (i) Except as provided in Subsection (1)(f)(ii), "violent felony" means the same as
- 542 that term is defined in Section 76-3-203.5.
- 543 (ii) "Violent felony" does not include an offense, or any attempt, solicitation, or
- 544 conspiracy to commit an offense, for:
- 545 (A) the possession, use, or removal of explosive, chemical, or incendiary devices under
- 546 Subsection 76-10-306(3), (5), or (6); or
- 547 (B) the purchase or possession of a dangerous weapon or handgun by a restricted
- 548 person under Section 76-10-503.
- 549 (2) The court may enter a judgment of conviction for a lower degree of offense than
- 550 established by statute and impose a sentence at the time of sentencing for the lower degree of
- 551 offense if the court:
- 552 (a) takes into account:
- 553 (i) the nature and circumstances of the offense of which the defendant was found
- 554 guilty; and

555 (ii) the history and character of the defendant;

556 (b) gives any victim present at the sentencing and the prosecuting attorney an  
557 opportunity to be heard; and

558 (c) concludes that the degree of offense established by statute would be unduly harsh to  
559 record as a conviction on the record for the defendant.

560 (3) Upon a motion from the prosecuting attorney or the defendant, the court may enter  
561 a judgment of conviction for a lower degree of offense than established by statute:

562 (a) after the defendant is successfully discharged from probation or parole for the  
563 conviction; and

564 (b) if the court finds that entering a judgment of conviction for a lower degree of  
565 offense is in the interest of justice in accordance with Subsection (7).

566 (4) Upon a motion from the prosecuting attorney or the defendant, the court may enter  
567 a judgment of conviction for a lower degree of offense than established by statute if:

568 (a) the defendant's probation or parole for the conviction did not result in a successful  
569 discharge but the defendant is successfully discharged from probation or parole for a  
570 subsequent conviction of an offense;

571 (b) (i) at least five years have passed after the day on which the defendant is sentenced  
572 for the subsequent conviction; or

573 (ii) at least three years have passed after the day on which the defendant is sentenced  
574 for the subsequent conviction and the prosecuting attorney consents to the reduction;

575 (c) the defendant is not convicted of a serious offense during the time period described  
576 in Subsection (4)(b);

577 (d) there are no criminal proceedings pending against the defendant;

578 (e) the defendant is not on probation, on parole, or currently incarcerated for any other  
579 offense;

580 (f) if the offense for which the reduction is sought is a violent felony, the prosecuting  
581 attorney consents to the reduction; and

582 (g) the court finds that entering a judgment of conviction for a lower degree of offense  
583 is in the interest of justice in accordance with Subsection (7).

584 (5) Upon a motion from the prosecuting attorney or the defendant, the court may enter  
585 a judgment of conviction for a lower degree of offense than established by statute if:

586 (a) the defendant's probation or parole for the conviction did not result in a successful  
587 discharge but the defendant is successfully discharged from a rehabilitation program;

588 (b) at least three years have passed after the day on which the defendant is successfully  
589 discharged from the rehabilitation program;

590 (c) the defendant is not convicted of a serious offense during the time period described  
591 in Subsection (5)(b);

592 (d) there are no criminal proceedings pending against the defendant;

593 (e) the defendant is not on probation, on parole, or currently incarcerated for any other  
594 offense;

595 (f) if the offense for which the reduction is sought is a violent felony, the prosecuting  
596 attorney consents to the reduction; and

597 (g) the court finds that entering a judgment of conviction for a lower degree of offense  
598 is in the interest of justice in accordance with Subsection (7).

599 (6) Upon a motion from the prosecuting attorney or the defendant, the court may enter  
600 a judgment of conviction for a lower degree of offense than established by statute if:

601 (a) at least five years have passed after the day on which the defendant's probation or  
602 parole for the conviction did not result in a successful discharge;

603 (b) the defendant is not convicted of a serious offense during the time period described  
604 in Subsection (6)(a);

605 (c) there are no criminal proceedings pending against the defendant;

606 (d) the defendant is not on probation, on parole, or currently incarcerated for any other  
607 offense;

608 (e) if the offense for which the reduction is sought is a violent felony, the prosecuting  
609 attorney consents to the reduction; and

610 (f) the court finds that entering a judgment of conviction for a lower degree of offense  
611 is in the interest of justice in accordance with Subsection (7).

612 (7) In determining whether entering a judgment of a conviction for a lower degree of  
613 offense is in the interest of justice under Subsection (3), (4), (5), or (6):

614 (a) the court shall consider:

615 (i) the nature, circumstances, and severity of the offense for which a reduction is  
616 sought;

617 (ii) the physical, emotional, or other harm that the defendant caused any victim of the  
618 offense for which the reduction is sought; and

619 (iii) any input from a victim of the offense; and

620 (b) the court may consider:

621 (i) any special characteristics or circumstances of the defendant, including the  
622 defendant's criminogenic risks and needs;

623 (ii) the defendant's criminal history;

624 (iii) the defendant's employment and community service history;

625 (iv) whether the defendant participated in a rehabilitative program and successfully  
626 completed the program;

627 (v) any effect that a reduction would have on the defendant's ability to obtain or  
628 reapply for a professional license from the Department of Commerce;

629 (vi) whether the level of the offense has been reduced by law after the defendant's  
630 conviction;

631 (vii) any potential impact that the reduction would have on public safety; or

632 (viii) any other circumstances that are reasonably related to the defendant or the  
633 offense for which the reduction is sought.

634 (8) (a) A court may only enter a judgment of conviction for a lower degree of offense  
635 under Subsection (3), (4), (5), or (6) after:

636 (i) notice is provided to the other party;

637 (ii) reasonable efforts have been made by the prosecuting attorney to provide notice to  
638 any victims; and

639 (iii) a hearing is held if a hearing is requested by either party.

640 (b) A prosecuting attorney is entitled to a hearing on a motion seeking to reduce a  
641 judgment of conviction for a lower degree of offense under Subsection (3), (4), (5), or (6).

642 (c) In a motion under Subsection (3), (4), (5), or (6) and at a requested hearing on the  
643 motion, the moving party has the burden to provide evidence sufficient to demonstrate that the  
644 requirements under Subsection (3), (4), (5), or (6) are met.

645 (d) If a defendant files a motion under this section, the prosecuting attorney shall  
646 respond to the motion within 35 days after the day on which the motion is filed with the court.

647 (9) A court has jurisdiction to consider and enter a judgment of conviction for a lower

648 degree of offense under Subsection (3), (4), (5), or (6) regardless of whether the defendant is  
649 committed to jail as a condition of probation or is sentenced to prison.

650 (10) (a) An offense may be reduced only one degree under this section, unless the  
651 prosecuting attorney specifically agrees in writing or on the court record that the offense may  
652 be reduced two degrees.

653 (b) An offense may not be reduced under this section by more than two degrees.

654 (11) This section does not preclude an individual from obtaining or being granted an  
655 expungement of the individual's record in accordance with [~~Title 77, Chapter 40a,~~  
656 ~~Expungement~~] Title 77, Chapter 40a, Expungement of Criminal Records.

657 (12) The court may not enter a judgment for a conviction for a lower degree of offense  
658 under this section if:

659 (a) the reduction is specifically precluded by law; or

660 (b) any unpaid balance remains on court-ordered restitution for the offense for which  
661 the reduction is sought.

662 (13) When the court enters a judgment for a lower degree of offense under this section,  
663 the actual title of the offense for which the reduction is made may not be altered.

664 (14) (a) An individual may not obtain a reduction under this section of a conviction  
665 that requires the individual to register as a sex offender until the registration requirements  
666 under Title 77, Chapter 41, Sex and Kidnap Offender Registry, have expired.

667 (b) An individual required to register as a sex offender for the individual's lifetime  
668 under Subsection [77-41-105\(3\)\(c\)](#) may not be granted a reduction of the conviction for the  
669 offense or offenses that require the individual to register as a sex offender.

670 (15) (a) An individual may not obtain a reduction under this section of a conviction  
671 that requires the individual to register as a child abuse offender until the registration  
672 requirements under Title 77, Chapter 43, Child Abuse Offender Registry, have expired.

673 (b) An individual required to register as a child abuse offender for the individual's  
674 lifetime under Subsection [77-43-105\(3\)\(c\)](#) may not be granted a reduction of the conviction for  
675 the offense or offenses that require the individual to register as a child abuse offender.

676 Section 8. Section **77-2-2.3** is amended to read:

677 **77-2-2.3. Reducing the level of an offense.**

678 (1) Notwithstanding any other provision of law, a prosecuting attorney may:

679 (a) present and file an information charging an individual for an offense under  
680 Subsections 76-3-103(1)(b) through (d), Subsection 76-3-103(2), or Section 76-3-104 with a  
681 classification of the offense at one degree lower than the classification that is provided in  
682 statute if the prosecuting attorney believes that the sentence would be disproportionate to the  
683 offense because there are special circumstances relating to the offense; or

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

688 (2) A court may:

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

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

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

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

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

702 **77-27-5.1. Board authority to order expungement.**

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

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

709 (b) The Bureau of Criminal Identification may not count pardoned convictions against

710 any future expungement eligibility.

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

714 (3) The board shall provide clear written directions to the recipient along with a list of  
715 agencies known to be affected by the expungement order.

716 Section 10. Section ~~77-40a-101~~ is amended to read:

717 **CHAPTER 40a. EXPUNGEMENT OF CRIMINAL RECORDS**

718 **77-40a-101. Definitions.**

719 As used in this chapter:

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

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

725 [~~(2)~~] (3) "Bureau" means the Bureau of Criminal Identification of the Department of  
726 Public Safety established in Section [53-10-201](#).

727 [~~(3)~~] (4) "Certificate of eligibility" means a document issued by the bureau stating that  
728 the criminal record and all records of arrest, investigation, and detention associated with a case  
729 that is the subject of a petition for expungement is eligible for expungement.

730 (5) "Civil accounts receivable" means the same as that term is defined in Section  
731 [77-32b-102](#).

732 (6) "Civil judgment of restitution" means the same as that term is defined in Section  
733 [77-32b-102](#).

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

736 (8) "Court" means a district court or a justice court.

737 (9) "Criminal accounts receivable" means the same as that term is defined in Section  
738 [77-32b-102](#).

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



741 ~~[(i) where each conviction within the case is:]~~  
742 ~~[(A) a misdemeanor conviction for possession of a controlled substance in violation of~~  
743 ~~Subsection [58-37-8\(2\)\(a\)\(i\)](#);~~  
744 ~~[(B) a class B or class C misdemeanor conviction; or]~~  
745 ~~[(C) an infraction conviction;]~~  
746 ~~[(ii) that involves an individual:]~~  
747 ~~[(A) whose total number of convictions in Utah state courts, not including infractions,~~  
748 ~~traffic offenses, or minor regulatory offenses, does not exceed the limits described in~~  
749 ~~Subsections [77-40a-303\(4\)](#) and (5) without taking into consideration the exception in~~  
750 ~~Subsection [77-40a-303\(7\)](#); and]~~  
751 ~~[(B) against whom no criminal proceedings are pending in the state; and]~~  
752 ~~[(iii) for which the following time periods have elapsed from the day on which the case~~  
753 ~~is adjudicated:]~~  
754 ~~[(A) at least five years for a class C misdemeanor or an infraction;]~~  
755 ~~[(B) at least six years for a class B misdemeanor; and]~~  
756 ~~[(C) at least seven years for a class A conviction for possession of a controlled~~  
757 ~~substance in violation of Subsection [58-37-8\(2\)\(a\)\(i\)](#).]~~  
758 ~~[(b) "Clean slate eligible case" includes a case:]~~  
759 ~~[(i) that is dismissed as a result of a successful completion of a plea in abeyance~~  
760 ~~agreement governed by Subsection [77-2a-3\(2\)\(b\)](#) if:]~~  
761 ~~[(A) except as provided in Subsection (4)(c), each charge within the case is a~~  
762 ~~misdemeanor for possession of a controlled substance in violation of Subsection~~  
763 ~~[58-37-8\(2\)\(a\)\(i\)](#), a class B or class C misdemeanor, or an infraction;]~~  
764 ~~[(B) the individual involved meets the requirements of Subsection (4)(a)(ii); and]~~  
765 ~~[(C) the time periods described in Subsections (4)(a)(iii)(A) through (C) have elapsed~~  
766 ~~from the day on which the case is dismissed; or]~~  
767 ~~[(ii) where charges are dismissed without prejudice if each conviction, or charge that~~  
768 ~~was dismissed, in the case would otherwise meet the requirements under Subsection (4)(a) or~~  
769 ~~(b)(i).]~~  
770 ~~[(c) "Clean slate eligible case" does not include a case:]~~  
771 ~~[(i) where the individual is found not guilty by reason of insanity;]~~

772 ~~[(ii) where the case establishes a criminal accounts receivable, as defined in Section~~  
773 ~~77-32b-102, that:]~~

774 ~~[(A) has been entered as a civil accounts receivable or a civil judgment of restitution,~~  
775 ~~as those terms are defined in Section 77-32b-102, and transferred to the Office of State Debt~~  
776 ~~Collection under Section 77-18-114, or]~~

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

778 ~~[(iii) that resulted in one or more pleas held in abeyance or convictions for the~~  
779 ~~following offenses:]~~

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

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

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

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

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

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

788 ~~[(G) damage to or interruption of a communication device in violation of Section~~  
789 ~~76-6-108;]~~

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

791 ~~[(I) any other offense classified in the Utah Code as a felony or a class A misdemeanor~~  
792 ~~other than a class A misdemeanor conviction for possession of a controlled substance in~~  
793 ~~violation of Subsection 58-37-8(2)(a)(i).]~~

794 ~~[(5)] (10) "Conviction" means judgment by a criminal court on a verdict or finding of~~  
795 ~~guilty after trial, a plea of guilty, or a plea of nolo contendere.~~

796 ~~[(6)] (11) "Criminal protective order" means the same as that term is defined in Section~~  
797 ~~78B-7-102.~~

798 ~~[(7)] (12) "Criminal stalking injunction" means the same as that term is defined in~~  
799 ~~Section 78B-7-102.~~

800 ~~[(8)] (13) "Department" means the Department of Public Safety established in Section~~  
801 ~~53-1-103.~~

802 ~~[(9)] (14) "Drug possession offense" means an offense under:~~

803 (a) Subsection 58-37-8(2), except:

804 (i) any offense under Subsection 58-37-8(2)(b)(i), possession of 100 pounds or more of  
805 marijuana;

806 (ii) any offense enhanced under Subsection 58-37-8(2)(e), violation in a correctional  
807 facility; or

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

811 (b) Subsection 58-37a-5(1), use or possession of drug paraphernalia;

812 (c) Section 58-37b-6, possession or use of an imitation controlled substance; or

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

815 [~~(10)~~] (15) "Expunge" means to seal or otherwise restrict access to the individual's  
816 record held by an agency when the record includes a criminal investigation, detention, arrest, or  
817 conviction.

818 [~~(11)~~] (16) "Jurisdiction" means a state, district, province, political subdivision,  
819 territory, or possession of the United States or any foreign country.

820 [~~(12)~~] (17) (a) "Minor regulatory offense" means, except as provided in Subsection  
821 [~~(12)(c)~~] (17)(c), a class B or C misdemeanor offense or a local ordinance.

822 (b) "Minor regulatory offense" includes:

823 (i) an offense under Section 76-9-701 or 76-10-105[-]; or

824 (ii) an offense under Title 76, Chapter 9, Part 3, Cruelty to Animals.

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

826 (i) any drug possession offense;

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

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

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

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

834 ~~[(13)]~~ (18) "Petitioner" means an individual applying for expungement under this  
835 chapter.

836 ~~[(14)]~~ (19) "Plea in abeyance" means the same as that term is defined in Section  
837 [77-2a-1](#).

838 (20) "Special certificate" means a document issued as described in Subsection  
839 [77-40a-304\(1\)\(c\)](#) by the bureau stating that the criminal record and all records of arrest,  
840 investigation, and detention associated with a case that is the subject of a petition for  
841 expungement is eligible for expungement.

842 ~~[(15)]~~ (21) (a) "Traffic offense" means, except as provided in Subsection ~~[(15)(b)]~~  
843 ~~(21)(b)~~:

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

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

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

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

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

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

855 (ii) an offense under Sections [73-18-13](#) through [73-18-13.6](#); or

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

858 ~~[(16)]~~ (22) "Traffic offense case" means that each offense in the case is a traffic  
859 offense.

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

861 **77-40a-105. Eligibility for removing the link between personal identifying**  
862 **information and court case dismissed.**

863 (1) As used in this section:

864 (a) "Domestic violence offense" means the same as that term is defined in Section

865 77-36-1.

866 (b) "Personal identifying information" means:

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

868 (ii) date of birth.

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

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

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

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

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

879 (3) Removing the link to personal identifying information of a court record under  
880 Subsection (2) does not affect a prosecuting, arresting, or other agency's records.

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

883 Section 12. Section ~~77-40a-201~~ is amended to read:

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

885 **77-40a-201. General provisions for automatic expungement and deletion.**

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

888 ~~[(i) except as provided in Subsection (2)(c), a case that resulted in an acquittal on all~~  
889 ~~charges;]~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

925 ~~[(4) (a) The process for the automatic expungement of a clean slate eligible case is as~~  
926 ~~described in Subsections (4)(b) through (g) and in accordance with any rules made by the~~

927 ~~Judicial Council or the Supreme Court.]~~

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

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

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

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

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

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

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

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

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

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

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

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

958           [(5)] (1) Nothing in this section precludes an individual from filing a petition for  
959 expungement of records that are eligible for automatic expungement or deletion under this  
960 section if an automatic expungement or deletion has not occurred pursuant to this section.

961           [(6)] (2) An automatic expungement performed under this [section] part does not  
962 preclude a person from requesting access to expunged records in accordance with Section  
963 77-40a-403 or 77-40a-404.

964           [(7)] (3) (a) The Judicial Council and the Supreme Court shall make rules to govern the  
965 process for automatic expungement.

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

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

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

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

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

976           (b) automatically expunge or delete the records of a case that is eligible under this part.  
977 Section 13. Section **77-40a-202** is amended to read:

978 **77-40a-202. Automatic deletion for traffic offense.**

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

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

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

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

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

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



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

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

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

997           Section 14. Section **77-40a-202.1** is enacted to read:

998           **77-40a-202.1. Automatic expungement of state records for a clean slate case.**

999           (1) A court shall issue an order of expungement, without the filing of a petition, for all  
1000 records of the case that are held by an agency if:

1001           (a) the case is eligible for expungement under this section; and

1002           (b) the prosecuting agency does not object to the expungement of the case as described  
1003 in Subsection (6).

1004           (2) Except as otherwise provided in Subsection (3), a case is eligible for expungement  
1005 under this section if:

1006           (a) (i) each conviction within the case is a conviction for:

1007           (A) a misdemeanor offense for possession of a controlled substance in violation of  
1008 Subsection [58-37-8\(2\)\(a\)\(i\)](#);

1009           (B) a class B misdemeanor offense;

1010           (C) a class C misdemeanor offense; or

1011           (D) an infraction; and

1012           (ii) the following time periods have passed after the day on which the individual is  
1013 adjudicated:

1014           (A) at least five years for the conviction of a class C misdemeanor offense or an  
1015 infraction;

1016           (B) at least six years for the conviction of a class B misdemeanor offense; or

1017           (C) at least seven years for the conviction of a class A misdemeanor offense for  
1018 possession of a controlled substance in violation of Subsection [58-37-8\(2\)\(a\)\(i\)](#); or

1019           (b) (i) the case is dismissed as a result of a successful completion of a plea in abeyance

1020 agreement governed by Subsection 77-2a-3(2)(b) or the case is dismissed without prejudice;  
1021 (ii) each charge within the case is:  
1022 (A) a misdemeanor offense for possession of a controlled substance in violation of  
1023 Subsection 58-37-8(2)(a)(i);  
1024 (B) a class B misdemeanor offense;  
1025 (C) a class C misdemeanor offense; or  
1026 (D) an infraction; and  
1027 (iii) the following time periods have passed after the day on which the case is  
1028 dismissed:  
1029 (A) at least five years for a charge in the case for a class C misdemeanor offense or an  
1030 infraction;  
1031 (B) at least six years for a charge in the case for a class B misdemeanor offense; or  
1032 (C) at least seven years for a charge in the case for a class A misdemeanor offense for  
1033 possession of a controlled substance in violation of Subsection 58-37-8(2)(a)(i).  
1034 (3) A case is not eligible for expungement under this section if:  
1035 (a) the individual has a total number of convictions in courts of this state that exceed  
1036 the limits under Subsection 77-40a-303(4) or (5) without taking into consideration:  
1037 (i) the exception in Subsection 77-40a-303(7); or  
1038 (ii) any infraction, traffic offense, or minor regulatory offense;  
1039 (b) there is a criminal proceeding for a misdemeanor or felony offense pending in a  
1040 court of this state against the individual, unless the proceeding is for a traffic offense;  
1041 (c) the case resulted in the individual being found not guilty by reason of insanity;  
1042 (d) the case establishes a criminal accounts receivable that:  
1043 (i) has been entered as a civil accounts receivable or a civil judgment of restitution and  
1044 transferred to the Office of State Debt Collection under Section 77-18-114; or  
1045 (ii) has not been satisfied according to court records; or  
1046 (e) the case resulted in a plea held in abeyance or a conviction for the following  
1047 offenses:  
1048 (i) any of the offenses listed in Subsection 77-40a-303(2)(a);  
1049 (ii) an offense against the person in violation of Title 76, Chapter 5, Offenses Against  
1050 the Individual;

- 1051 (iii) a weapons offense in violation of Title 76, Chapter 10, Part 5, Weapons;  
1052 (iv) sexual battery in violation of Section [76-9-702.1](#);  
1053 (v) an act of lewdness in violation of Section [76-9-702](#) or [76-9-702.5](#);  
1054 (vi) an offense in violation of Title 41, Chapter 6a, Part 5, Driving Under the Influence  
1055 and Reckless Driving;  
1056 (vii) damage to or interruption of a communication device in violation of Section  
1057 [76-6-108](#);  
1058 (viii) a domestic violence offense as defined in Section [77-36-1](#); or  
1059 (ix) any other offense classified in the Utah Code as a felony or a class A misdemeanor  
1060 other than a class A misdemeanor conviction for possession of a controlled substance in  
1061 violation of Subsection [58-37-8\(2\)\(a\)\(i\)](#).
- 1062 (4) A prosecuting agency that has complied with Rule 42 of the Utah Rules of Criminal  
1063 Procedure shall receive notice on a monthly basis for any case prosecuted by that agency that  
1064 appears to be eligible for automatic expungement under this section.
- 1065 (5) Within 35 days after the day on which the notice described in Subsection (4) is  
1066 sent, the prosecuting agency shall provide written notice in accordance with Rule 42 of the  
1067 Utah Rules of Criminal Procedure if the prosecuting agency objects to an automatic  
1068 expungement for any of the following reasons:
- 1069 (a) the prosecuting agency believes that the case is not eligible for expungement under  
1070 this section after reviewing the agency record;
- 1071 (b) the individual has not paid restitution to the victim as ordered by the court; or  
1072 (c) the prosecuting agency has a reasonable belief, grounded in supporting facts, that an  
1073 individual involved in the case is continuing to engage in criminal activity within or outside of  
1074 the state.
- 1075 (6) If a prosecuting agency provides written notice of an objection for a reason  
1076 described in Subsection (5) within 35 days after the day on which the notice under Subsection  
1077 (4) is sent, the court may not proceed with automatic expungement of the case.
- 1078 (7) If 35 days pass after the day on which the notice described in Subsection (4) is sent  
1079 without the prosecuting agency providing written notice of an objection under Subsection (5),  
1080 the court shall proceed with automatic expungement of the case.
- 1081 (8) If a court issues an order of expungement under Subsection (1), the court shall:

1082 (a) expunge all records of the case held by the court in accordance with Sections  
1083 77-40a-204 and 77-40a-401; and

1084 (b) notify the bureau and the prosecuting agency identified in the case, based on  
1085 information available to the court, of the order of expungement.

1086 Section 15. Section **77-40a-202.2** is enacted to read:

1087 **77-40a-202.2. Automatic expungement of state records for a case resulting in an**  
1088 **acquittal or dismissal with prejudice.**

1089 (1) A court shall issue an order of expungement, without the filing of a petition, for all  
1090 records of the case that are held by an agency if the case is eligible for expungement under this  
1091 section.

1092 (2) Except as provided in Subsection (3), a case is eligible for expungement under this  
1093 section if:

1094 (a) (i) the case resulted in an acquittal on all charges; and

1095 (ii) at least 60 days have passed after the day on which the case resulted in an acquittal;

1096 or

1097 (b) (i) the case is dismissed with prejudice; and

1098 (ii) at least 180 days have passed after the day on which:

1099 (A) for a case in which no appeal was filed, the entire case against the individual is  
1100 dismissed with prejudice; or

1101 (B) for a case in which an appeal was filed, a court issues a final nonappealable order.

1102 (3) A case is not eligible for expungement under Subsection (2) if:

1103 (a) the case resulted in an acquittal because the individual is found not guilty by reason  
1104 of insanity; or

1105 (b) the case is dismissed with prejudice as a result of successful completion of a plea in  
1106 abeyance agreement governed by Subsection 77-2a-3(2)(b).

1107 (4) If a court issues an order of expungement under Subsection (1), the court shall:

1108 (a) expunge all records of the case held by the court as described in Sections  
1109 77-40a-204 and 77-40a-401; and

1110 (b) notify the bureau and the prosecuting agency identified in the case, based on  
1111 information available to the court, of the order of expungement.

1112 Section 16. Section **77-40a-203** is amended to read:

1113 **77-40a-203. Time periods for expungement by a court.**  
1114 ~~[(1) Reasonable efforts within available funding shall be made to expunge or delete a~~  
1115 ~~case] A court shall make reasonable efforts, within available funding, to expunge a case under~~  
1116 ~~this part as quickly as is practicable with the goal of:~~  
1117 ~~[(a) for cases adjudicated on or after May 1, 2020:]~~  
1118 ~~[(i) (1) expunging a case that resulted in an acquittal on all charges on or after May 1,~~  
1119 ~~2020, 60 days after the acquittal;~~  
1120 ~~[(ii) (2) expunging a case that resulted in a dismissal with prejudice, other than a case~~  
1121 ~~that is dismissed with prejudice as a result of successful completion of a plea in abeyance~~  
1122 ~~agreement governed by Subsection 77-2a-3(2)(b), on or after May 1, 2020, 180 days after:~~  
1123 ~~[(A) (a) for a case in which no appeal was filed, the day on which the entire case~~  
1124 ~~against the individual is dismissed with prejudice; or~~  
1125 ~~[(B) (b) for a case in which an appeal was filed, the day on which a court issues a final~~  
1126 ~~unappealable order;~~  
1127 ~~[(iii) (3) expunging a clean slate eligible case that is adjudicated or dismissed on or~~  
1128 ~~after May 1, 2020, and that is not a traffic offense, within 30 days of the court~~[- in accordance~~~~  
1129 ~~~~with Section 77-40a-201;~~] determining that the requirements for expungement have been~~  
1130 ~~satisfied under Section 77-40a-201.2; ~~[or] and~~~~  
1131 ~~[(iv) deleting a traffic offense case described in Subsection 77-40a-202(1)(c) upon~~  
1132 ~~identification; and]~~  
1133 ~~[(b) for cases adjudicated before May 1, 2020, expunging or deleting a case]~~  
1134 ~~(4) expunging a case adjudicated or dismissed before May 1, 2020, within one year of~~  
1135 ~~the day on which the case is identified as eligible for automatic expungement ~~[or deletion]~~.~~  
1136 ~~[(2) (a) The Judicial Council or the Supreme Court shall make rules governing the~~  
1137 ~~identification and processing of clean slate eligible cases in accordance with Section~~  
1138 ~~77-40a-201;~~  
1139 ~~[(b) Reasonable efforts shall be made to identify and process all clean slate eligible~~  
1140 ~~cases in accordance with Section 77-40a-201;~~  
1141 ~~[(c) An individual does not have a cause of action for damages as a result of the failure~~  
1142 ~~to identify an individual's case as a clean slate eligible case or to automatically expunge or~~  
1143 ~~delete the records of a clean slate eligible case.]~~

1144 Section 17. Section **77-40a-204** is enacted to read:

1145 **77-40a-204. Automatic expungement by an agency.**

1146 (1) Upon receiving notice from a court of an expungement order under this part, the  
1147 bureau shall notify all agencies affected by the expungement order.

1148 (2) For a case that resulted in an acquittal on all charges, was dismissed, or was  
1149 adjudicated, before May 1, 2020, an agency shall expunge records for the case within one year  
1150 after the day on which the agency receives notice from the bureau.

1151 (3) Notwithstanding Subsection (2), an agency is not required to expunge records for a  
1152 case within one year if the defendant in the case is deceased.

1153 Section 18. Section **77-40a-301** is amended to read:

1154 **77-40a-301. Requirements for expunging a criminal record -- Penalty for false or**  
1155 **misleading information on application.**

1156 (1) If an individual seeks to expunge the individual's criminal record in regard to an  
1157 arrest, investigation, detention, or conviction, the individual shall:

1158 (a) except as provided in Subsection **77-40a-305**(3) or (4), apply to the bureau for a  
1159 certificate of eligibility for expungement of the criminal record and pay the application fee as  
1160 described in Section **77-40a-304**;

1161 (b) ~~[if the individual is qualified to receive a certificate of eligibility]~~ except as  
1162 provided in Subsection **77-40a-304**(2), pay the issuance fee for the certificate of eligibility or  
1163 special certificate as described in Section **77-40a-304** if the individual is eligible to receive a  
1164 certificate of eligibility or special certificate; and

1165 (c) file a petition for expungement in accordance with Section **77-40a-305**.

1166 (2) (a) An individual who intentionally or knowingly provides any false or misleading  
1167 information to the bureau when applying for a certificate of eligibility is guilty of a class B  
1168 misdemeanor and subject to prosecution under Section **76-8-504.6**.

1169 (b) Regardless of whether the individual is prosecuted, the bureau may deny a  
1170 certificate of eligibility to anyone who knowingly provides false information on an application.

1171 Section 19. Section **77-40a-303** is amended to read:

1172 **77-40a-303. Requirements for a certificate of eligibility to expunge records of a**  
1173 **conviction.**

1174 (1) Except as otherwise provided by this section, a petitioner is eligible to receive a

1175 certificate of eligibility from the bureau to expunge the records of a conviction if:

1176 (a) the petitioner has paid in full all fines and interest ordered by the court related to the  
1177 conviction for which expungement is sought;

1178 (b) the petitioner has paid in full all restitution ordered by the court under Section  
1179 77-38b-205; and

1180 (c) the following time periods have passed after the day on which the petitioner was  
1181 convicted or released from incarceration, parole, or probation, whichever occurred last, for the  
1182 conviction that the petitioner seeks to expunge:

1183 (i) 10 years for the conviction of a misdemeanor under Subsection 41-6a-501(2);

1184 (ii) 10 years for the conviction of a felony for operating a motor vehicle with any  
1185 amount of a controlled substance in an individual's body and causing serious bodily injury or  
1186 death, as codified before May 4, 2022, Laws of Utah 2021,

1187 Chapter 236, Section 1, Subsection 58-37-8(2)(g);

1188 (iii) seven years for the conviction of a felony;

1189 (iv) five years for the conviction of a drug possession offense that is a felony;

1190 (v) five years for the conviction of a class A misdemeanor;

1191 (vi) four years for the conviction of a class B misdemeanor; or

1192 (vii) three years for the conviction of a class C misdemeanor or infraction.

1193 (2) A petitioner is not eligible to receive a certificate of eligibility from the bureau to  
1194 expunge the records of a conviction under Subsection (1) if:

1195 (a) except as provided in Subsection (3), the conviction for which expungement is  
1196 sought is:

1197 (i) a capital felony;

1198 (ii) a first degree felony;

1199 (iii) a felony conviction of a violent felony as defined in Subsection

1200 76-3-203.5(1)(c)(i); or

1201 (iv) a felony conviction described in Subsection 41-6a-501(2);

1202 [~~(v) an offense, or a combination of offenses, that would require the individual to~~  
1203 ~~register as a sex offender, as defined in Section 77-41-102; or]~~

1204 [~~(vi) a registerable child abuse offense as defined in Subsection 77-43-102(2);]~~

1205 (b) there is a criminal proceeding for a misdemeanor or felony offense pending against

1206 the petitioner, unless the criminal proceeding is for a traffic offense;

1207 (c) there is a plea in abeyance for a misdemeanor or felony offense pending against the  
1208 petitioner, unless the plea in abeyance is for a traffic offense;

1209 (d) the petitioner is currently incarcerated, on parole, or on probation, unless the  
1210 petitioner is on probation or parole for an infraction, a traffic offense, or a minor regulatory  
1211 offense;

1212 (e) the petitioner is required to register, at the time that the petition for expungement is  
1213 filed, as a sex offender or kidnap offender under Chapter 41, Sex and Kidnap Offender  
1214 Registry, or a child abuse offender under Title 43, Child Abuse Offender Registry, as a result of  
1215 the conviction that the petitioner seeks to expunge;

1216 [~~(e)~~] (f) the petitioner intentionally or knowingly provides false or misleading  
1217 information on the application for a certificate of eligibility;

1218 [~~(f)~~] (g) there is a criminal protective order or a criminal stalking injunction in effect  
1219 for the case; or

1220 [~~(g)~~] (h) the bureau determines that the petitioner's criminal history makes the  
1221 petitioner ineligible for a certificate of eligibility under Subsection (4) or (5).

1222 (3) Subsection (2)(a) does not apply to a conviction for a qualifying sexual offense, as  
1223 defined in Section 76-3-209, if, at the time of the offense, a petitioner who committed the  
1224 offense was at least 14 years old but under 18 years old, unless the petitioner was convicted by  
1225 a district court as an adult in accordance with Title 80, Chapter 6, Part 5, Transfer to District  
1226 Court.

1227 (4) Subject to Subsections (6), (7), and (8), a petitioner is not eligible to receive a  
1228 certificate of eligibility if, at the time the petitioner seeks the certificate of eligibility, the  
1229 bureau determines that the petitioner's criminal history, including previously expunged  
1230 convictions, contains any of the following:

1231 (a) two or more felony convictions other than for drug possession offenses, each of  
1232 which is contained in a separate criminal episode;

1233 (b) any combination of three or more convictions other than for drug possession  
1234 offenses that include two class A misdemeanor convictions, each of which is contained in a  
1235 separate criminal episode;

1236 (c) any combination of four or more convictions other than for drug possession



1237 offenses that include three class B misdemeanor convictions, each of which is contained in a  
1238 separate criminal episode; or

1239 (d) five or more convictions other than for drug possession offenses of any degree  
1240 whether misdemeanor or felony, each of which is contained in a separate criminal episode.

1241 (5) Subject to Subsections (7) and (8), a petitioner is not eligible to receive a certificate  
1242 of eligibility if, at the time the petitioner seeks the certificate of eligibility, the bureau  
1243 determines that the petitioner's criminal history, including previously expunged convictions,  
1244 contains any of the following:

1245 (a) three or more felony convictions for drug possession offenses, each of which is  
1246 contained in a separate criminal episode; or

1247 (b) any combination of five or more convictions for drug possession offenses, each of  
1248 which is contained in a separate criminal episode.

1249 (6) If the petitioner's criminal history contains convictions for both a drug possession  
1250 offense and a non-drug possession offense arising from the same criminal episode, the bureau  
1251 shall count that criminal episode as a conviction under Subsection (4) if any non-drug  
1252 possession offense in that episode:

1253 (a) is a felony or class A misdemeanor; or

1254 (b) has the same or a longer waiting period under Subsection (1)(c) than any drug  
1255 possession offense in that episode.

1256 (7) Except as provided in Subsection (8), if at least 10 years have passed after the day  
1257 on which the petitioner was convicted or released from incarceration, parole, or probation,  
1258 whichever occurred last, for all convictions:

1259 (a) each numerical eligibility limit under Subsections (4)(a) and (b) shall be increased  
1260 by one; and

1261 (b) each numerical eligibility limit under Subsections (4)(c) and (d) is not applicable if  
1262 the highest level of convicted offense in the criminal episode is:

1263 (i) a class B misdemeanor;

1264 (ii) a class C misdemeanor;

1265 (iii) a drug possession offense if none of the non-drug possession offenses in the  
1266 criminal episode are a felony or a class A misdemeanor; or

1267 (iv) an infraction.

1268 (8) When determining whether a petitioner is eligible for a certificate of eligibility  
1269 under Subsection (4), (5), or (7), the bureau may not consider a petitioner's pending case or  
1270 prior conviction for:

1271 (a) an infraction;

1272 (b) a traffic offense;

1273 (c) a minor regulatory offense; or

1274 (d) a clean slate eligible case that was automatically expunged [~~in accordance with~~  
1275 ~~Section 77-40a-201~~].

1276 (9) If the petitioner received a pardon before May 14, 2013, from the Utah Board of  
1277 Pardons and Parole, the petitioner is entitled to an expungement order for all pardoned crimes  
1278 in accordance with Section ~~77-27-5.1~~.

1279 Section 20. Section ~~77-40a-304~~ is amended to read:

1280 **~~77-40a-304. Certificate of eligibility process -- Issuance of certificate -- Fees.~~**

1281 (1) (a) When a petitioner applies for a certificate of eligibility as described in  
1282 Subsection ~~77-40a-301(1)~~;

1283 (i) the petitioner shall pay an application fee at the time the petitioner submits an  
1284 application for a certificate of eligibility to the bureau; and

1285 (ii) the bureau shall perform a check of records of governmental agencies, including  
1286 national criminal data bases, to determine whether the petitioner is eligible to receive a  
1287 certificate of eligibility under this chapter.

1288 (b) For purposes of determining eligibility under this chapter, the bureau may review  
1289 records of arrest, investigation, detention, and conviction that have been previously expunged,  
1290 regardless of the jurisdiction in which the expungement occurred.

1291 [~~(c) Once the eligibility process is complete, the bureau shall notify the petitioner.]~~

1292 [~~(d) If the petitioner meets all of the criteria under Section ~~77-40a-302~~ or ~~77-40a-303~~.]~~

1293 [~~(i) the bureau shall issue a certificate of eligibility that is valid for a period of 180 days~~  
1294 ~~from the day on which the certificate is issued;]~~

1295 [~~(ii) the bureau shall provide a petitioner with an identification number for the~~  
1296 ~~certificate of eligibility; and]~~

1297 [~~(iii) the petitioner shall pay the issuance fee established by the department as~~  
1298 ~~described in Subsection (2).]~~

1299 ~~[(e)]~~ (c) If ~~[, after reasonable research,]~~ a disposition for an arrest on the criminal  
1300 history file is unobtainable after reasonable research, the bureau may issue a special certificate  
1301 giving determination of eligibility to the court, except that the bureau may not issue the special  
1302 certificate if:

1303 (i) there is a criminal proceeding for a misdemeanor or felony offense pending against  
1304 the petitioner, unless the criminal proceeding is for a traffic offense;

1305 (ii) there is a plea in abeyance for a misdemeanor or felony offense pending against the  
1306 petitioner, unless the plea in abeyance is for a traffic offense; or

1307 (iii) the petitioner is currently incarcerated, on parole, or on probation, unless the  
1308 petitioner is on probation or parole for an infraction, a traffic offense, or a minor regulatory  
1309 offense.

1310 (2) (a) Once the eligibility process is complete, the bureau shall notify the petitioner.

1311 (b) If the petitioner meets all of the criteria under Section [77-40a-302](#) or [77-40a-303](#)  
1312 and the bureau determines that the issuance of a certificate of eligibility or special certificate is  
1313 appropriate:

1314 (i) the bureau shall issue a certificate of eligibility or special certificate that is valid for  
1315 a period of 180 days from the day on which the certificate is issued;

1316 (ii) the bureau shall provide a petitioner with an identification number for the  
1317 certificate of eligibility or special certificate; and

1318 (iii) except as provided in Subsection (3), the petitioner shall pay an additional fee for  
1319 the issuance of a certificate of eligibility or special certificate.

1320 ~~[(2) (a) The bureau shall charge application and issuance fees for a certificate of~~  
1321 ~~eligibility or special certificate in accordance with the process in Section [63J-1-504](#).]~~

1322 ~~[(b) The application fee shall be paid at the time the petitioner submits an application~~  
1323 ~~for a certificate of eligibility to the bureau.]~~

1324 ~~[(c) If the bureau determines that the issuance of a certificate of eligibility or special~~  
1325 ~~certificate is appropriate, the petitioner will be charged an additional fee for the issuance of a~~  
1326 ~~certificate of eligibility or special certificate unless Subsection (2)(d) applies.]~~

1327 ~~[(d) An issuance fee may not be assessed against a petitioner who]~~

1328 (3) The bureau shall issue a certificate of eligibility without requiring the payment of  
1329 the issuance fee if the petitioner qualifies for a certificate of eligibility under Section

1330 [77-40a-302](#) unless the charges were dismissed pursuant to a plea in abeyance agreement under  
1331 Title 77, Chapter 2a, Pleas in Abeyance, or a diversion agreement under Title 77, Chapter 2,  
1332 Prosecution, Screening, and Diversion.

1333 ~~[(e) Funds generated under this Subsection (2) shall be deposited in the General Fund~~  
1334 ~~as a dedicated credit by the department to cover the costs incurred in determining eligibility.]~~

1335 ~~[(3)]~~ (4) The bureau shall include on ~~[the]~~ a certificate of eligibility all information that  
1336 is needed for the court to issue a valid expungement order.

1337 ~~[(4)]~~ (5) The bureau shall provide clear written instructions to the petitioner that  
1338 explain:

1339 (a) the process for a petition for expungement; and

1340 (b) what is required of the petitioner to complete the process for a petition for  
1341 expungement.

1342 (6) The bureau shall charge application and issuance fees for a certificate of eligibility  
1343 or special certificate in accordance with the process in Section [63J-1-504](#).

1344 (7) The department shall deposit funds generated by application and issuance fees  
1345 under this section in the General Fund as a dedicated credit by the department to cover the  
1346 costs incurred in determining eligibility.

1347 Section 21. Section **77-40a-305** is amended to read:

1348 **77-40a-305. Petition for expungement -- Venue -- Prosecutorial responsibility --**  
1349 **Hearing.**

1350 (1) (a) The petitioner shall file a petition for expungement~~;~~ in accordance with Rule  
1351 42 of the Utah Rules of Criminal Procedure~~;~~ that includes.

1352 (b) A petitioner shall include the identification number for the certificate of eligibility  
1353 or special certificate described in Subsection ~~[77-40a-304(1)(d)(ii)]~~ [77-40a-304\(2\)\(b\)\(ii\)](#) in the  
1354 petition for expungement, unless the petitioner is not required to obtain a certificate of  
1355 eligibility under Subsection (3) or (4).

1356 ~~[(b)]~~ (c) Information on a certificate of eligibility is incorporated into a petition by  
1357 reference to the identification number for the certificate of eligibility.

1358 (d) A petitioner shall bring a petition for expungement:

1359 (i) in the court where the criminal case was filed; or

1360 (ii) if charges were never filed, in the district court in the county in which the arrest

1361 occurred or the citation was issued.

1362 (2) (a) If a petition for expungement is filed under Subsection (1)(a), the court shall  
1363 obtain a certificate of eligibility or special certificate from the bureau.

1364 (b) A court may not accept a petition for expungement if the certificate of eligibility or  
1365 special certificate is no longer valid as described in Subsection [~~77-40a-304(1)(d)(i)~~]  
1366 77-40a-304(2)(b)(i).

1367 (3) Notwithstanding Subsection (2), the petitioner may file a petition for expungement  
1368 of a traffic offense case without obtaining a certificate of eligibility if:

1369 (a) (i) for a traffic offense case with a class C misdemeanor or infraction, at least three  
1370 years have passed after the day on which the [~~petitioner was convicted~~] case was adjudicated or  
1371 dismissed; or

1372 (ii) for a traffic offense case with a class B misdemeanor, at least four years have  
1373 passed after the day on which the [~~petitioner was convicted~~] case was adjudicated or dismissed;

1374 (b) there is no traffic offense case pending against the petitioner;

1375 (c) there is no plea in abeyance for a traffic offense case pending against the petitioner;  
1376 and

1377 (d) the petitioner is not currently on probation for a traffic offense case.

1378 (4) Notwithstanding Subsection (2), a petitioner may file a petition for expungement of  
1379 a record for a conviction related to cannabis possession without a certificate of eligibility if the  
1380 petition demonstrates that:

1381 (a) the petitioner had, at the time of the relevant arrest or citation leading to the  
1382 conviction, a qualifying condition, as that term is defined in Section 26B-4-201; and

1383 (b) the possession of cannabis in question was in a form and an amount to medicinally  
1384 treat the qualifying condition described in Subsection (4)(a).

1385 (5) (a) The court shall provide notice of a filing of a petition and certificate of  
1386 eligibility or special certificate to the prosecutorial office that handled the court proceedings  
1387 within three days after the day on which the petitioner's filing fee is paid or waived.

1388 (b) If there were no court proceedings, the court shall provide notice of a filing of a  
1389 petition and certificate of eligibility or special certificate to the county attorney's office in the  
1390 jurisdiction where the arrest occurred.

1391 (c) If the prosecuting agency with jurisdiction over the arrest, investigation, detention,

1392 or conviction, was a city attorney's office, the county attorney's office in the jurisdiction where  
1393 the arrest occurred shall immediately notify the city attorney's office that the county attorney's  
1394 office has received a notice of a filing of a petition for expungement.

1395 (6) (a) Upon receipt of a notice of a filing of a petition for expungement of a conviction  
1396 or a charge dismissed in accordance with a plea in abeyance, the prosecuting attorney shall  
1397 make a reasonable effort to provide notice to any victim of the conviction or charge.

1398 (b) The notice under Subsection (6)(a) shall:

1399 (i) include a copy of the petition, certificate of eligibility or special certificate, statutes,  
1400 and rules applicable to the petition;

1401 (ii) state that the victim has a right to object to the expungement; and

1402 (iii) provide instructions for registering an objection with the court.

1403 (7) (a) The prosecuting attorney may respond to the petition by filing a  
1404 recommendation or objection with the court within 35 days after the day on which the notice of  
1405 the filing of the petition is sent by the court to the prosecuting attorney.

1406 (b) If there is a victim of the offense for which expungement is sought, the victim may  
1407 respond to the petition by filing a recommendation or objection with the court within 60 days  
1408 after the day on which the petition for expungement was filed with the court.

1409 (8) (a) The court may request a written response to the petition from the Division of  
1410 Adult Probation and Parole within the Department of Corrections.

1411 (b) If requested, the response prepared by the Division of Adult Probation and Parole  
1412 shall include:

1413 (i) the reasons probation was terminated; and

1414 (ii) certification that the petitioner has completed all requirements of sentencing and  
1415 probation or parole.

1416 (c) The Division of Adult Probation and Parole shall provide a copy of the response to  
1417 the petitioner and the prosecuting attorney.

1418 (9) The petitioner may respond in writing to any objections filed by the prosecuting  
1419 attorney or the victim and the response prepared by the Division of Adult Probation and Parole  
1420 within 14 days after the day on which the objection or response is received.

1421 (10) (a) If the court receives an objection concerning the petition from any party, the  
1422 court shall set a date for a hearing and notify the petitioner and the prosecuting attorney of the

1423 date set for the hearing.

1424 (b) The prosecuting attorney shall notify the victim of the date set for the hearing.

1425 (c) The petitioner, the prosecuting attorney, the victim, and any other person who has  
1426 relevant information about the petitioner may testify at the hearing.

1427 (d) The court shall review the petition, the certificate of eligibility or special certificate,  
1428 and any written responses submitted regarding the petition.

1429 (11) If no objection is received within 60 days from the day on which the petition for  
1430 expungement is filed with the court, the expungement may be granted without a hearing.

1431 Section 22. Section **77-40a-306** is amended to read:

1432 **77-40a-306. Order of expungement.**

1433 (1) If a petition for expungement is filed in accordance with Section 77-40a-305, the  
1434 court shall issue an order of expungement if the court finds, by clear and convincing evidence,  
1435 that:

1436 [~~(a) except as provided in Subsection 77-40a-305(3) or (4), the petition and certificate  
1437 of eligibility are sufficient;~~]

1438 [~~(b) the statutory requirements have been met;~~]

1439 (a) except as provided in Subsection (1)(b) and Subsection 77-40a-305(3) or (4):

1440 (i) the certificate of eligibility is valid and contains the information needed for the court  
1441 to issue an order for expungement; and

1442 (ii) the statutory requirements for expungement have been met;

1443 (b) if the petitioner obtained a special certificate from the bureau:

1444 (i) the special certificate is valid; and

1445 (ii) there is sufficient information in the petition for the court to determine that the  
1446 statutory requirements for expungement have been met;

1447 (c) if the petitioner seeks expungement after a case is dismissed without prejudice or  
1448 without condition, the prosecuting attorney provided written consent and has not filed and does  
1449 not intend to refile related charges;

1450 (d) if the petitioner seeks expungement without a certificate of eligibility for  
1451 expungement under Subsection 77-40a-305(4) for a record of conviction related to cannabis  
1452 possession:

1453 (i) the petitioner had, at the time of the relevant arrest or citation leading to the

1454 conviction, a qualifying condition, as that term is defined in Section [26B-4-201](#); and

1455 (ii) the possession of cannabis in question was in a form and an amount to medicinally  
1456 treat the qualifying condition described in Subsection (1)(d)(i);

1457 (e) if an objection is received, the petition for expungement is for a charge dismissed in  
1458 accordance with a plea in abeyance agreement, and the charge is an offense eligible to be used  
1459 for enhancement, there is good cause for the court to grant the expungement; and

1460 (f) the interests of the public would not be harmed by granting the expungement.

1461 (2) (a) If the court denies a petition described in Subsection (1)(c) because the  
1462 prosecuting attorney intends to refile charges, the petitioner may apply again for a certificate of  
1463 eligibility if charges are not refiled within 180 days after the day on which the court denies the  
1464 petition.

1465 (b) A prosecuting attorney who opposes an expungement of a case dismissed without  
1466 prejudice, or without condition, shall have a good faith basis for the intention to refile the case.

1467 (c) A court shall consider the number of times that good faith basis of intention to  
1468 refile by the prosecuting attorney is presented to the court in making the court's determination  
1469 to grant the petition for expungement described in Subsection (1)(c).

1470 (3) If the court grants a petition described in Subsection (1)(e), the court shall make the  
1471 court's findings in a written order.

1472 [~~(4) A court may not expunge a conviction of an offense for which a certificate of~~  
1473 ~~eligibility may not be, or should not have been, issued under Section [77-40a-302](#) or~~  
1474 ~~[77-40a-303](#).]~~

1475 (4) If the court issues an order of expungement under this section, the court shall:

1476 (a) notify the bureau that the court has issued an order of expungement; and

1477 (b) provide the bureau with the order of expungement and all relevant information  
1478 available to the court that the bureau will need to identify an expunged record.

1479 (5) (a) The petitioner may request certified copies of an order of expungement within  
1480 28 days after the day on which the court issues an order of expungement.

1481 (b) If a petitioner makes a request under Subsection (5)(a), the court shall provide the  
1482 petitioner with certified copies of the order of expungement.

1483 Section 23. Section [77-40a-403](#) is amended to read:

1484 **[77-40a-403. Retention and release of expunged records -- Agencies.](#)**



1485 ~~[(1) (a) The bureau, after receiving an expungement order,]~~

1486 (1) (a) After receiving an order of expungement, the bureau shall keep, index, and  
1487 maintain all expunged records of arrests and convictions.

1488 (b) ~~[Any]~~ An agency, other than the bureau, receiving an ~~[expungement order]~~ order of  
1489 expungement shall develop and implement a process to identify and maintain an expunged  
1490 record.

1491 (c) Subsection (1)(b) does not prevent an agency from maintaining or destroying a  
1492 record in accordance with a retention schedule when the record is an expunged record.

1493 (d) An agency is not required to redact an expunged record, or a record referencing an  
1494 expunged record, that pertains to more than one individual until the agency is required to  
1495 release the record.

1496 (2) (a) An agency shall provide an individual who receives an expungement with  
1497 written confirmation that the agency has expunged all records of the offense for which the  
1498 individual received the expungement if the individual requests confirmation from the agency.

1499 (b) The bureau may charge a fee for providing a written confirmation under Subsection  
1500 (2)(a) in accordance with the process in Section [63J-1-504](#).

1501 (3) (a) An employee of the bureau, or any agency with an expunged record, may not  
1502 divulge any information contained in the expunged record to any person or agency without a  
1503 court order unless:

1504 (i) specifically authorized by ~~[statute]~~ Subsection (4) or Section [77-40a-404](#); or

1505 (ii) subject to Subsection (3)(b), the information in an expunged record is being shared  
1506 with another agency through a records management system that both agencies use for the  
1507 purpose of record management.

1508 (b) An agency with a records management system may not disclose any information in  
1509 an expunged record ~~[with]~~ to another agency or person, or allow another agency or person  
1510 access to an expunged record, if that agency or person that does not use the records  
1511 management system for the purpose of record management.

1512 (4) The following entities or agencies may receive information contained in expunged  
1513 records upon specific request:

1514 (a) the Board of Pardons and Parole;

1515 (b) Peace Officer Standards and Training;

- 1516 (c) federal authorities if required by federal law;
- 1517 (d) the State Board of Education;
- 1518 (e) the Commission on Criminal and Juvenile Justice, for purposes of investigating
- 1519 applicants for judicial office; and
- 1520 (f) a research institution or an agency engaged in research regarding the criminal justice
- 1521 system if:
  - 1522 (i) the research institution or agency provides a legitimate research purpose for
  - 1523 gathering information from the expunged records;
  - 1524 (ii) the research institution or agency enters into a data sharing agreement with the
  - 1525 court or agency with custody of the expunged records that protects the confidentiality of any
  - 1526 identifying information in the expunged records;
  - 1527 (iii) any research using expunged records does not include any individual's name or
  - 1528 identifying information in any product of that research; and
  - 1529 (iv) any product resulting from research using expunged records includes a disclosure
  - 1530 that expunged records were used for research purposes.
- 1531 (5) Except as otherwise provided by this section or by court order, a person, an agency,
- 1532 or an entity authorized by this section to view expunged records may not reveal or release any
- 1533 information obtained from the expunged records to anyone outside the specific request,
- 1534 including distribution on a public website.
- 1535 (6) A prosecuting attorney may communicate with another prosecuting attorney, or
- 1536 another prosecutorial agency, regarding information in an expunged record that includes a
- 1537 conviction, or a charge dismissed as a result of a successful completion of a plea in abeyance
- 1538 agreement, for:
  - 1539 (a) stalking as described in Section [76-5-106.5](#);
  - 1540 (b) a domestic violence offense as defined in Section [77-36-1](#);
  - 1541 (c) an offense that would require the individual to register as a sex offender, as defined
  - 1542 in Section [77-41-102](#); or
  - 1543 (d) a weapons offense under Title 76, Chapter 10, Part 5, Weapons.
- 1544 (7) Except as provided in Subsection (9), a prosecuting attorney may not use an
- 1545 expunged record for the purpose of a sentencing enhancement or as a basis for charging an
- 1546 individual with an offense that requires a prior conviction.

1547 (8) The bureau may also use the information in the bureau's index as provided in  
1548 Section [53-5-704](#).

1549 (9) If an individual is charged with a felony, or an offense eligible for enhancement  
1550 based on a prior conviction, after obtaining an order of expungement, the prosecuting attorney  
1551 may petition the court in which the individual is charged to open the expunged records upon a  
1552 showing of good cause.

1553 [~~(9) If, after obtaining an expungement, an individual is charged with a felony or an~~  
1554 ~~offense eligible for enhancement based on a prior conviction, the state may petition the court to~~  
1555 ~~open the expunged records upon a showing of good cause.]~~

1556 (10) (a) For judicial sentencing, a court may order any records expunged under this  
1557 chapter or Section [77-27-5.1](#) to be opened and admitted into evidence.

1558 (b) The records are confidential and are available for inspection only by the court,  
1559 parties, counsel for the parties, and any other person who is authorized by the court to inspect  
1560 them.

1561 (c) At the end of the action or proceeding, the court shall order the records expunged  
1562 again.

1563 (d) Any person authorized by this Subsection (10) to view expunged records may not  
1564 reveal or release any information obtained from the expunged records to anyone outside the  
1565 court.

1566 (11) Records released under this chapter are classified as protected under Section  
1567 [63G-2-305](#) and are accessible only as provided under Title 63G, Chapter 2, Part 2, Access to  
1568 Records, and Subsection [53-10-108\(2\)\(k\)](#) for records held by the bureau.

1569 Section 24. Section **77-40a-404** is amended to read:

1570 **77-40a-404. Confirmation of expungement -- Access to expunged records by**  
1571 **individuals.**

1572 (1) An individual who receives an expungement may request a written confirmation  
1573 from an agency under Subsection [77-40a-403\(2\)](#) to confirm that the agency has expunged all  
1574 records of the offense for which the individual received the expungement.

1575 (2) The following individuals may view or obtain an expunged record under this  
1576 chapter or Section [77-27-5.1](#):

1577 (a) the petitioner or an individual who receives an automatic expungement under

1578 [~~Section 77-40a-201~~] Part 2, Automatic Expungement and Deletion;

1579 (b) a law enforcement officer, who was involved in the case, for use solely in the  
1580 officer's defense of a civil action arising out of the officer's involvement with the petitioner in  
1581 that particular case; and

1582 (c) a party to a civil action arising out of the expunged incident if the information is  
1583 kept confidential and utilized only in the action.

1584 Section 25. Section **77-41-109** is amended to read:

1585 **77-41-109. Miscellaneous provisions.**

1586 (1) (a) If an offender is to be temporarily sent on any assignment outside a secure  
1587 facility in which the offender is confined on any assignment, including, without limitation,  
1588 firefighting or disaster control, the official who has custody of the offender shall, within a  
1589 reasonable time prior to removal from the secure facility, notify the local law enforcement  
1590 agencies where the assignment is to be filled.

1591 (b) This Subsection (1) does not apply to any person temporarily released under guard  
1592 from the institution in which the person is confined.

1593 (2) Notwithstanding [~~Title 77, Chapter 40a, Expungement~~] Title 77, Chapter 40a,  
1594 Expungement of Criminal Records, a person convicted of any offense listed in Subsection  
1595 **77-41-102**(10) or (18) is not relieved from the responsibility to register as required under this  
1596 section, unless the offender is removed from the registry under Section **77-41-112** or Section  
1597 **77-41-113**.

1598 Section 26. Section **78A-6-350 (Superseded 07/01/24)** is amended to read:

1599 **78A-6-350 (Superseded 07/01/24). Venue -- Dismissal without adjudication on**  
1600 **merits.**

1601 (1) Notwithstanding Title 78B, Chapter 3, Part 3, Place of Trial -- Venue, a proceeding  
1602 for a minor's case in the juvenile court shall be commenced in the court of the district in which:

1603 (a) except as provided in Section 80-6-1001.2, for a proceeding under Title 80, Chapter  
1604 6, Juvenile Justice:

1605 (i) the minor is living or found; or

1606 (ii) the alleged offense occurred; or

1607 (b) for [~~all other proceedings~~] any other proceeding, the minor is living or found.

1608 (2) If a party seeks to transfer a case to another district after a petition has been filed in

1609 the juvenile court, the juvenile court may transfer the case in accordance with the Utah Rules of  
1610 Juvenile Procedure.

1611 (3) The dismissal of a petition in one district where the dismissal is without prejudice  
1612 and where there has been no adjudication upon the merits may not preclude refiling within the  
1613 same district or another district where there is venue for the case.

1614 Section 27. Section **78A-6-350 (Effective 07/01/24)** is amended to read:

1615 **78A-6-350 (Effective 07/01/24). Venue -- Dismissal without adjudication on**  
1616 **merits.**

1617 (1) Notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, a proceeding for a  
1618 minor's case in the juvenile court shall be commenced in the court of the district in which:

1619 (a) except as provided in Section [80-6-1001.2](#), for a proceeding under Title 80, Chapter  
1620 6, Juvenile Justice:

1621 (i) the minor is living or found; or

1622 (ii) the alleged offense occurred; or

1623 (b) for [~~all other proceedings~~] any other proceeding, the minor is living or found.

1624 (2) If a party seeks to transfer a case to another district after a petition has been filed in  
1625 the juvenile court, the juvenile court may transfer the case in accordance with the Utah Rules of  
1626 Juvenile Procedure.

1627 (3) The dismissal of a petition in one district where the dismissal is without prejudice  
1628 and where there has been no adjudication upon the merits may not preclude refiling within the  
1629 same district or another district where there is venue for the case.

1630 Section 28. Section **78A-7-106** is amended to read:

1631 **78A-7-106. Jurisdiction.**

1632 (1) (a) Except for an offense for which the district court has original jurisdiction under  
1633 Subsection [78A-5-102\(8\)](#) or an offense for which the juvenile court has original jurisdiction  
1634 under Subsection [78A-6-103\(1\)\(c\)](#), a justice court has original jurisdiction over class B and C  
1635 misdemeanors, violation of ordinances, and infractions committed within the justice court's  
1636 territorial jurisdiction by an individual who is 18 years old or older.

1637 (b) A justice court has original jurisdiction over the following offenses committed  
1638 within the justice court's territorial jurisdiction by an individual who is 18 years old or older:

1639 (i) class C misdemeanor and infraction violations of Title 53, Chapter 3, Part 2, Driver

1640 Licensing Act; and  
1641 (ii) class B and C misdemeanor and infraction violations of:  
1642 (A) Title 23A, Wildlife Resources Act;  
1643 (B) Title 41, Chapter 1a, Motor Vehicle Act;  
1644 (C) Title 41, Chapter 6a, Traffic Code, except Title 41, Chapter 6a, Part 5, Driving  
1645 Under the Influence and Reckless Driving;  
1646 (D) Title 41, Chapter 12a, Financial Responsibility of Motor Vehicle Owners and  
1647 Operators Act;  
1648 (E) Title 41, Chapter 22, Off-highway Vehicles;  
1649 (F) Title 73, Chapter 18, State Boating Act, except Section 73-18-12;  
1650 (G) Title 73, Chapter 18a, Boating - Litter and Pollution Control;  
1651 (H) Title 73, Chapter 18b, Water Safety; and  
1652 (I) Title 73, Chapter 18c, Financial Responsibility of Motorboat Owners and Operators  
1653 Act.  
1654 (2) Except for an offense for which the district court has exclusive jurisdiction under  
1655 Section 78A-5-102.5 or an offense for which the juvenile court has exclusive jurisdiction under  
1656 Section 78A-6-103.5, a justice court has original jurisdiction over the following offenses  
1657 committed within the justice court's territorial jurisdiction by an individual who is 16 or 17  
1658 years old:  
1659 (a) class C misdemeanor and infraction violations of Title 53, Chapter 3, Part 2, Driver  
1660 Licensing Act; and  
1661 (b) class B and C misdemeanor and infraction violations of:  
1662 (i) Title 23A, Wildlife Resources Act;  
1663 (ii) Title 41, Chapter 1a, Motor Vehicle Act;  
1664 (iii) Title 41, Chapter 6a, Traffic Code, except Title 41, Chapter 6a, Part 5, Driving  
1665 Under the Influence and Reckless Driving;  
1666 (iv) Title 41, Chapter 12a, Financial Responsibility of Motor Vehicle Owners and  
1667 Operators Act;  
1668 (v) Title 41, Chapter 22, Off-highway Vehicles;  
1669 (vi) Title 73, Chapter 18, State Boating Act, except for an offense under Section  
1670 73-18-12;

- 1671 (vii) Title 73, Chapter 18a, Boating - Litter and Pollution Control;  
1672 (viii) Title 73, Chapter 18b, Water Safety; and  
1673 (ix) Title 73, Chapter 18c, Financial Responsibility of Motorboat Owners and  
1674 Operators Act.
- 1675 (3) (a) As used in this Subsection (3), "body of water" includes any stream, river, lake,  
1676 or reservoir, whether natural or man-made.
- 1677 (b) An offense is committed within the territorial jurisdiction of a justice court if:
- 1678 (i) conduct constituting an element of the offense or a result constituting an element of  
1679 the offense occurs within the court's jurisdiction, regardless of whether the conduct or result is  
1680 itself unlawful;
- 1681 (ii) either an individual committing an offense or a victim of an offense is located  
1682 within the court's jurisdiction at the time the offense is committed;
- 1683 (iii) either a cause of injury occurs within the court's jurisdiction or the injury occurs  
1684 within the court's jurisdiction;
- 1685 (iv) an individual commits any act constituting an element of an inchoate offense  
1686 within the court's jurisdiction, including an agreement in a conspiracy;
- 1687 (v) an individual solicits, aids, or abets, or attempts to solicit, aid, or abet another  
1688 individual in the planning or commission of an offense within the court's jurisdiction;
- 1689 (vi) the investigation of the offense does not readily indicate in which court's  
1690 jurisdiction the offense occurred, and:
- 1691 (A) the offense is committed upon or in any railroad car, vehicle, watercraft, or aircraft  
1692 passing within the court's jurisdiction;
- 1693 (B) the offense is committed on or in any body of water bordering on or within this  
1694 state if the territorial limits of the justice court are adjacent to the body of water;
- 1695 (C) an individual who commits theft exercises control over the affected property within  
1696 the court's jurisdiction; or
- 1697 (D) the offense is committed on or near the boundary of the court's jurisdiction;
- 1698 (vii) the offense consists of an unlawful communication that was initiated or received  
1699 within the court's jurisdiction; or
- 1700 (viii) jurisdiction is otherwise specifically provided by law.
- 1701 (4) If in a criminal case the defendant is 16 or 17 years old, a justice court judge may

1702 transfer the case to the juvenile court for further proceedings if the justice court judge  
1703 determines and the juvenile court concurs that the best interests of the defendant would be  
1704 served by the continuing jurisdiction of the juvenile court.

1705 (5) ~~[Justice courts have jurisdiction of small claims cases]~~ A justice court has  
1706 jurisdiction over:

1707 (a) a small claims case under Title 78A, Chapter 8, Small Claims Courts, if a defendant  
1708 resides in or the debt arose within the territorial jurisdiction of the justice court~~[-];~~ or

1709 (b) a petition for expungement under Title 77, Chapter 40a, Expungement of Criminal  
1710 Records.

1711 (6) (a) As used in this Subsection (6), "domestic violence offense" means the same as  
1712 that term is defined in Section [77-36-1](#).

1713 (b) If a justice court has jurisdiction over a criminal action involving a domestic  
1714 violence offense and the criminal action is set for trial, the prosecuting attorney or the  
1715 defendant may file a notice of transfer in the justice court to transfer the criminal action from  
1716 the justice court to the district court.

1717 (c) If a justice court receives a notice of transfer from the prosecuting attorney or the  
1718 defendant as described in Subsection (6)(b), the justice court shall transfer the criminal action  
1719 to the district court.

1720 Section 29. Section **78A-7-209.5** is amended to read:

1721 **78A-7-209.5. Presiding judge -- Associate presiding judge -- Election -- Powers --**  
1722 **Duties.**

1723 (1) (a) In judicial districts having more than one justice court judge, the justice court  
1724 judges shall elect one judge of the district to the office of presiding judge.

1725 (b) The presiding judge shall receive an additional \$2,000 per annum as compensation  
1726 from the Justice Court Technology, Security, and Training Account described in Section  
1727 [78A-7-301](#) for the period served as presiding judge.

1728 (2) (a) In judicial districts having more than two justice court judges, the justice court  
1729 judges may elect one judge of the district to the office of associate presiding judge.

1730 (b) The associate presiding judge shall receive an additional \$1,000 per annum as  
1731 compensation from the Justice Court Technology, Security, and Training Account described in  
1732 Section [78A-7-301](#) for the period served as associate presiding judge.



1733 (3) The presiding judge has the following authority and responsibilities, consistent with  
1734 the policies of the Judicial Council:

1735 (a) working with each justice court judge in the district to implement policies and rules  
1736 of the Judicial Council;

1737 (b) exercising powers and performing administrative duties as authorized by the  
1738 Judicial Council;

1739 (c) if there is no other appointed justice court judge in that court available, assigning a  
1740 justice court judge to hear a case in which a judge has been disqualified in accordance with  
1741 rules of the Supreme Court;

1742 (d) if a justice court judge of the district cannot perform the justice court judge's duties  
1743 in a case or cases due to illness, death, or other incapacity, and the governing body has not  
1744 appointed a temporary justice court judge in accordance with Section 78A-7-208:

1745 (i) assigning, on an emergency basis, a justice court judge to hear a case or cases; and

1746 (ii) facilitating judicial coverage with the appointing municipal or county authority  
1747 until a temporary justice court judge can be appointed, in accordance with Section 78A-7-208,  
1748 or a new justice court judge is formally appointed and takes office, in accordance with Section  
1749 78A-7-202; and

1750 (e) entering orders of expungement in cases expunged in accordance with [Section  
1751 ~~77-40a-201~~] Title 77, Chapter 40a, Part 2, Automatic Expungement and Deletion.

1752 (4) (a) When the presiding judge is unavailable, the associate presiding judge shall  
1753 assume the responsibilities of the presiding judge.

1754 (b) The associate presiding judge shall perform other duties assigned by the presiding  
1755 judge.

1756 Section 30. Section **78B-6-853** is amended to read:

1757 **78B-6-853. Expungement by petition for eviction -- Venue -- Objection.**

1758 (1) Any party to an eviction may petition the court to expunge all records of the  
1759 eviction if:

1760 (a) the eviction was for:

1761 (i) remaining after the end of the lease as described in Subsection 78B-6-802(1)(a); or

1762 (ii) the nonpayment of rent as described in Subsection 78B-6-802(1)(c); and

1763 (b) any judgment for the eviction has been satisfied and a satisfaction of judgment has

1764 been filed for the judgment.

1765 (2) (a) A petitioner shall file a petition and provide notice to any other party to the  
1766 eviction in accordance with the Utah Rules of Civil Procedure.

1767 (b) A petitioner shall bring a petition to expunge records of an eviction in the court that  
1768 issued the order of restitution.

1769 (3) (a) Any party to the eviction may file a written objection to the petition with the  
1770 court.

1771 (b) If the court receives a written objection to the petition, the court may not expunge  
1772 the eviction.

1773 (4) Except as provided in Subsection (5), the court shall order expungement of all  
1774 records of the eviction if the court does not receive a written objection within 60 days from the  
1775 day on which the petition is filed.

1776 (5) A court may not expunge an eviction if the judgment for the eviction has not been  
1777 satisfied.

1778 Section 31. Section **78B-7-1002.1** is enacted to read:

1779 **78B-7-1002.1. Eligibility for removing the link between personal identifying**  
1780 **information and court case dismissed.**

1781 (1) As used in this section, "personal identifying information" means:

1782 (a) a current name, former name, nickname, or alias; and

1783 (b) date of birth.

1784 (2) If a civil order is sought against an individual and the court denies the civil order,  
1785 the individual may move the court for an order to remove the link between the individual's  
1786 personal identifying information from the dismissed case in any publicly searchable database of  
1787 the Utah state courts.

1788 (3) If a motion is filed under Subsection (2), the court shall grant the motion if:

1789 (a) 30 days have passed from the day on which the case is denied; and

1790 (b) an appeal has not been filed in the denied case within the 30-day period described  
1791 in Subsection (3)(a).

1792 (4) Removing the link to personal identifying information of a court record under  
1793 Subsection (3) does not affect another agency's records.

1794 (5) A case history, unless expunged under this chapter, remains public and accessible

1795 through a search by case number.

1796 Section 32. Section **78B-7-1003** is amended to read:

1797 **78B-7-1003. Requirements for expungement of protective order or stalking**  
1798 **injunction -- Venue.**

1799 (1) (a) An individual against whom a civil order is sought may petition the court to  
1800 expunge records of the civil order.

1801 (b) A petitioner shall bring a petition for expungement under Subsection (1) in the  
1802 court that issued the civil order.

1803 [~~(b) A petition under Subsection (1)(a) shall be filed~~]

1804 (2) The petitioner shall file the petition for expungement under Subsection (1) in  
1805 accordance with the Utah Rules of Civil Procedure.

1806 [~~(2)~~] (3) (a) The petitioner shall provide notice to the individual filed the civil order  
1807 against the petitioner in accordance with Rule 4 of the Utah Rules of Civil Procedure.

1808 (b) The individual who filed the civil order against the petitioner:

1809 (i) may file a written objection with the court within 30 days after the day on which the  
1810 petition is received by the individual; and

1811 (ii) if the individual files a written objection, provide a copy of the written objection to  
1812 the petitioner.

1813 (c) If the court receives a written objection to the petition for expungement of a civil  
1814 order, the court shall:

1815 (i) set a date for a hearing on the petition;

1816 (ii) provide notice at least 30 days before the day on which the hearing is held to:

1817 (A) all parties of the civil order; and

1818 (B) any other person or agency that the court has reason to believe may have relevant  
1819 information related to the expungement of the civil order.

1820 (d) The petitioner may respond, in writing, to any written objection within 14 days after  
1821 the day on which the written objection is received by the court.

1822 [~~(3)~~] (4) If no written objection is received within 60 days from the day on which the  
1823 petition for expungement is filed under Subsection (1), the court may grant the expungement in  
1824 accordance with Subsection [~~(4) or (5)~~] (5) or (6) without a hearing.

1825 [~~(4)~~] (5) A court may expunge an ex parte civil protective order or an ex parte civil

1826 stalking injunction if:

1827 (a) the ex parte civil protective order or the ex parte civil stalking injunction was issued

1828 but:

1829 (i) the ex parte civil protective order or the ex parte civil stalking injunction is

1830 dismissed, dissolved, or expired upon a hearing by the court;

1831 (ii) the court did not issue a civil protective order or a civil stalking injunction on the

1832 same circumstances for which the ex parte civil protective order or the ex parte civil stalking

1833 injunction was issued;

1834 (iii) at least 30 days have passed from the day on which the ex parte civil protective

1835 order or the ex parte civil stalking injunction was issued;

1836 (iv) the petitioner has not been arrested, charged, or convicted for violating the ex parte

1837 civil protective order or ex parte civil stalking injunction; and

1838 (v) there are no criminal proceedings pending against the petitioner in the state; or

1839 (b) (i) the individual who filed the ex parte civil protective order or the ex parte civil

1840 stalking injunction failed to appear for the hearing on the ex parte civil protective order or ex

1841 parte civil stalking injunction;

1842 (ii) at least 30 days have passed from the day on which the hearing on the ex parte civil

1843 protective order or the ex parte civil stalking injunction was set to occur, including any

1844 continuance, postponement, or rescheduling of the hearing;

1845 (iii) the petitioner has not been arrested, charged, or convicted for violating the ex parte

1846 civil protective order or ex parte civil stalking injunction; and

1847 (iv) there are no criminal proceedings pending against the petitioner in the state.

1848 [~~5~~] (6) A court may expunge a civil protective order or a civil stalking injunction if:

1849 (a) the civil protective order or the civil stalking injunction has been dismissed,

1850 dissolved, vacated, or expired;

1851 (b) three years have passed from the day on which the civil protective order or the civil

1852 stalking injunction is dismissed, dissolved, vacated, or expired;

1853 (c) the petitioner has not been arrested, charged, or convicted for violating the civil

1854 protective order or the civil stalking injunction; and

1855 (d) there are no criminal proceedings pending against the petitioner in the state.

1856 Section 33. Section **80-6-1001.2** is enacted to read:

1857            **80-6-1001.2. Venue for petition seeking expungement.**  
1858            Notwithstanding Section 78A-6-350 and Title 78A, Chapter 3a, Venue for Civil  
1859 Actions, a petitioner shall bring a petition for expungement under this part:  
1860            (1) in the court where the petition for delinquency was filed; or  
1861            (2) if a petition for delinquency was never filed, in the juvenile court in the county in  
1862 which the arrest occurred or the citation was issued.  
1863            Section 34. **Effective date.**  
1864            (1) Except as provided in Subsection (2), this bill takes effect on May 1, 2024.  
1865            (2) The actions affecting Section 78A-6-350 (Effective 07/01/24) take effect on July 1,  
1866 2024.