

Senator Todd D. Weiler proposes the following substitute bill:

EXPUNGEMENT REVISIONS

2024 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Jerry W. Stevenson

House Sponsor: Tyler Clancy

LONG TITLE

General Description:

This bill amends provisions related to expungement.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ provides a timeline for a prosecuting attorney to respond to a motion to reduce a conviction for purposes of expungement;
- ▶ modifies a chapter title related to expungement;
- ▶ clarifies the requirements for applying for the expungement of a criminal record;
- ▶ requires the Bureau of Criminal Identification to issue a certificate of eligibility, or a special certificate, for expungement without requiring the payment of an issuance fee when the individual is receiving services for the expungement from a nonprofit organization or a public benefit corporation that provides services to low-income individuals seeking expungement;
- ▶ clarifies provisions related to a special certificate that is issued by the Bureau of Criminal Identification;
- ▶ 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



26 record;

27 ▶ requires a court to notify the Bureau of Criminal Identification that an order of
28 expungement for a criminal case has been issued and to provide the Bureau of
29 Criminal Identification with all information needed for expungement;

30 ▶ requires a court to provide a petitioner with certified copies of an order of
31 expungement;

32 ▶ addresses the expungement of criminal records when an agency has a retention
33 schedule;

34 ▶ addresses the redaction of an expunged record when the record pertains to more
35 than one individual;

36 ▶ clarifies the opening of expunged records when the individual is charged with a
37 felony or an offense eligible for enhancement;

38 ▶ allows an individual to bring a petition for expungement without paying a fee for
39 the petition when the individual is receiving services for the expungement from a
40 nonprofit organization or a public benefit corporation that provides services to
41 low-income individuals seeking expungement; and

42 ▶ makes technical and conforming changes.

43 **Money Appropriated in this Bill:**

44 None

45 **Other Special Clauses:**

46 This bill provides a special effective date.

47 This bill provides a coordination clause.

48 **Utah Code Sections Affected:**

49 AMENDS:

50 **20A-2-101.3**, as enacted by Laws of Utah 2011, Chapter 395

51 **41-6a-501**, as last amended by Laws of Utah 2023, Chapters 328, 415

52 **53-3-414**, as last amended by Laws of Utah 2022, Chapters 46, 116

53 **53-6-302**, as last amended by Laws of Utah 2021, First Special Session, Chapter 13

54 **53-9-108**, as last amended by Laws of Utah 2020, Fifth Special Session, Chapter 18

55 **63G-4-107**, as last amended by Laws of Utah 2021, Chapters 84, 344

56 **76-3-402**, as last amended by Laws of Utah 2023, Chapter 132

- 57 [77-2-2.3](#), as renumbered and amended by Laws of Utah 2021, Chapter 260
- 58 [77-27-5.1](#), as last amended by Laws of Utah 2017, Chapter 356
- 59 [77-40a-101](#), as last amended by Laws of Utah 2023, Chapter 265
- 60 [77-40a-105](#), as renumbered and amended by Laws of Utah 2022, Chapter 250
- 61 [77-40a-301](#), as enacted by Laws of Utah 2022, Chapter 250
- 62 [77-40a-304](#), as last amended by Laws of Utah 2023, Chapter 265
- 63 [77-40a-305](#), as last amended by Laws of Utah 2023, Chapters 265, 330
- 64 [77-40a-306](#), as last amended by Laws of Utah 2023, Chapter 330
- 65 [77-40a-403](#), as last amended by Laws of Utah 2023, Chapter 265
- 66 [77-40a-404](#), as last amended by Laws of Utah 2023, Chapter 265
- 67 [77-41-109](#), as last amended by Laws of Utah 2023, Chapter 123
- 68 [78A-2-302](#), as last amended by Laws of Utah 2023, Chapter 184
- 69 [78A-6-350 \(Superseded 07/01/24\)](#), as renumbered and amended by Laws of Utah
- 70 2021, Chapter 261
- 71 [78A-6-350 \(Effective 07/01/24\)](#), as last amended by Laws of Utah 2023, Chapter 401
- 72 [78A-7-106](#), as last amended by Laws of Utah 2023, Chapter 34
- 73 [78A-7-209.5](#), as enacted by Laws of Utah 2022, Chapter 276
- 74 [78B-6-853](#), as enacted by Laws of Utah 2022, Chapter 372
- 75 [78B-7-1003](#), as last amended by Laws of Utah 2023, Chapters 139, 265

76 ENACTS:

- 77 [78B-7-1002.1](#), Utah Code Annotated 1953
- 78 [80-6-1001.2](#), Utah Code Annotated 1953

79 **Utah Code Sections Affected By Coordination Clause:**

- 80 [78A-7-106](#), as last amended by Laws of Utah 2023, Chapter 34



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

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

84 **20A-2-101.3. Convicted misdemeanants -- Restoration of right to vote or hold**
85 **office.**

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

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

90 (a) is sentenced to probation; or

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

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

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

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

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

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

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

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

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

104 **41-6a-501. Definitions.**

105 (1) As used in this part:

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

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

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

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

111 (iv) the vehicle is lawfully parked; and

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

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

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

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

- 119 (B) an educational series; or
- 120 (C) a combination of Subsections (1)(b)(i)(A) and (B); and
- 121 (ii) that is approved by the Division of Integrated Healthcare in accordance with
- 122 Section [26B-5-104](#).
- 123 (c) "Driving under the influence court" means a court that is approved as a driving
- 124 under the influence court by the Judicial Council according to standards established by the
- 125 Judicial Council.
- 126 (d) "Drug" or "drugs" means:
- 127 (i) a controlled substance as defined in Section [58-37-2](#);
- 128 (ii) a drug as defined in Section [58-17b-102](#); or
- 129 (iii) a substance that, when knowingly, intentionally, or recklessly taken into the human
- 130 body, can impair the ability of a person to safely operate a motor vehicle.
- 131 (e) "Educational series" means an educational series obtained at a substance abuse
- 132 program that is approved by the Division of Integrated Healthcare in accordance with Section
- 133 [26B-5-104](#).
- 134 (f) "Negligence" means simple negligence, the failure to exercise that degree of care
- 135 that an ordinarily reasonable and prudent person exercises under like or similar circumstances.
- 136 (g) "Novice learner driver" means an individual who:
- 137 (i) has applied for a Utah driver license;
- 138 (ii) has not previously held a driver license in this state or another state; and
- 139 (iii) has not completed the requirements for issuance of a Utah driver license.
- 140 (h) "Screening" means a preliminary appraisal of a person:
- 141 (i) used to determine if the person is in need of:
- 142 (A) an assessment; or
- 143 (B) an educational series; and
- 144 (ii) that is approved by the Division of Integrated Healthcare in accordance with
- 145 Section [26B-5-104](#).
- 146 (i) "Serious bodily injury" means bodily injury that creates or causes:
- 147 (i) serious permanent disfigurement;
- 148 (ii) protracted loss or impairment of the function of any bodily member or organ; or
- 149 (iii) a substantial risk of death.

150 (j) "Substance abuse treatment" means treatment obtained at a substance abuse
151 program that is approved by the Division of Integrated Healthcare in accordance with Section
152 [26B-5-104](#).

153 (k) "Substance abuse treatment program" means a state licensed substance abuse
154 program.

155 (l) (i) "Vehicle" or "motor vehicle" means a vehicle or motor vehicle as defined in
156 Section [41-6a-102](#); and

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

158 (A) an off-highway vehicle as defined under Section [41-22-2](#); and

159 (B) a motorboat as defined in Section [73-18-2](#).

160 (2) As used in Sections [41-6a-502](#) and [41-6a-520.1](#):

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

163 (i) driving under the influence under Section [41-6a-502](#);

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

166 (B) for an offense committed on or after July 1, 2008, impaired driving under Section
167 [41-6a-502.5](#);

168 (iii) driving with any measurable controlled substance that is taken illegally in the body
169 under Section [41-6a-517](#);

170 (iv) local ordinances similar to Section [41-6a-502](#), alcohol, any drug, or a combination
171 of both-related reckless driving, or impaired driving under Section [41-6a-502.5](#) adopted in
172 compliance with Section [41-6a-510](#);

173 (v) Section [76-5-207](#);

174 (vi) operating a motor vehicle with any amount of a controlled substance in an
175 individual's body and causing serious bodily injury or death, as codified before May 4, 2022,
176 Laws of Utah 2021, Chapter 236, Section 1, Subsection [58-37-8\(2\)\(g\)](#);

177 (vii) negligently operating a vehicle resulting in injury under Section [76-5-102.1](#);

178 (viii) a violation described in Subsections (2)(a)(i) through (vii), which judgment of
179 conviction is reduced under Section [76-3-402](#);

180 (ix) refusal of a chemical test under Subsection [41-6a-520.1\(1\)](#); or

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

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

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

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

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

196 (i) this part;

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

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

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

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

202 **53-3-414. CDL disqualification or suspension -- Grounds and duration --**

203 **Procedure.**

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

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

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

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

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

214 (A) personal injury in accordance with Section [41-6a-401.3](#);

215 (B) death in accordance with Section [41-6a-401.5](#); or

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

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

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

222 (viii) operating a commercial motor vehicle in a negligent manner causing the death of
223 another including the offenses of manslaughter under Section [76-5-205](#), negligent homicide
224 under Section [76-5-206](#), or negligently operating a vehicle resulting in death under Section
225 [76-5-207](#).

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

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

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

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

238 (4) (a) Any driver disqualified for life from driving a commercial motor vehicle under
239 this section may apply to the division for reinstatement of the driver's CDL if the driver:

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

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

243 (B) complies with 49 C.F.R. Sec. 383.51;
244 (ii) has served a minimum disqualification period of 10 years; and
245 (iii) has fully met the standards for reinstatement of commercial motor vehicle driving
246 privileges established by rule of the division.

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

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

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

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

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

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

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

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

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

266 (ii) arise from separate incidents; and

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

268 (c) If a driver of a commercial motor vehicle who holds or is required to hold a CDL is
269 disqualified from driving a commercial motor vehicle and the division receives notice of a
270 subsequent conviction for a serious traffic violation that results in an additional disqualification
271 period under this Subsection (6), the subsequent disqualification period is effective beginning
272 on the ending date of the current serious traffic violation disqualification period.

273 (7) (a) A driver of a commercial motor vehicle who is convicted of violating an

274 out-of-service order while driving a commercial motor vehicle is disqualified from driving a
275 commercial motor vehicle for a period not less than:

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

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

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

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

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

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

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

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

298 (9) A driver of a commercial motor vehicle who is convicted of violating a
299 railroad-highway grade crossing provision under Section [41-6a-1205](#), while driving a
300 commercial motor vehicle is disqualified from driving a commercial motor vehicle for a period
301 not less than:

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

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

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

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

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

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

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

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

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

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

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

321 (v) driver poses an imminent hazard.

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

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

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

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

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

331 (b) The disqualifications under Subsection (12)(a) are effective only if the serious
332 traffic violations:

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

334 (ii) arise from separate incidents; and

335 (iii) result in a denial, suspension, cancellation, or revocation of the non-CDL driving

336 privilege from at least one of the violations.

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

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

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

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

- 352 (i) reduced or dismissed in accordance with the plea in abeyance agreement; or
- 353 (ii) expunged under [~~Title 77, Chapter 40a, Expungement~~] Title 77, Chapter 40a,
354 Expungement of Criminal Records.

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

- 358 (a) one year; or
- 359 (b) three years if the violation occurred while transporting hazardous materials.

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

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

364 **53-6-302. Applicants for certification examination -- Requirements.**

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

- 367 (a) be either:
- 368 (i) a United States citizen; or
- 369 (ii) a lawful permanent resident of the United States who:
- 370 (A) has been in the United States legally for the five years immediately before the day
- 371 on which the application is made; and
- 372 (B) has legal authorization to work in the United States;
- 373 (b) be 18 years old or older at the time of employment as a dispatcher;
- 374 (c) be a high school graduate or have a G.E.D. equivalent;
- 375 (d) have not been convicted of a crime for which the applicant could have been
- 376 punished by imprisonment in a federal penitentiary or by imprisonment in the penitentiary of
- 377 this or another state;
- 378 (e) have demonstrated good moral character, as determined by a background
- 379 investigation;
- 380 (f) be free of any physical, emotional, or mental condition that might adversely affect
- 381 the performance of the applicant's duty as a dispatcher; and
- 382 (g) meet all other standards required by POST.
- 383 (2) (a) An application for certification shall be accompanied by a criminal history
- 384 background check of local, state, and national criminal history files and a background
- 385 investigation.
- 386 (b) The costs of the background check and investigation shall be borne by the applicant
- 387 or the applicant's employing agency.
- 388 (3) (a) Notwithstanding [~~Title 77, Chapter 40a, Expungement~~] Title 77, Chapter 40a,
- 389 Expungement of Criminal Records, regarding expungements, or a similar statute or rule of any
- 390 other jurisdiction, any conviction obtained in this state or other jurisdiction, including a
- 391 conviction that has been expunged, dismissed, or treated in a similar manner to either of these
- 392 procedures, may be considered for purposes of this section.
- 393 (b) Subsection (3)(a) applies to convictions entered both before and after May 1, 1995.
- 394 (4) Any background check or background investigation performed under the
- 395 requirements of this section shall be to determine eligibility for admission to training programs
- 396 or qualification for certification examinations and may not be used as a replacement for any
- 397 background investigations that may be required of an employing agency.

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

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

401 **53-9-108. Qualifications for licensure.**

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

403 (i) 21 years [~~of age~~] old to apply for an agency license or a registrant license; or

404 (ii) 18 years [~~of age~~] old to apply for an apprentice license.

405 (b) An applicant may not have been:

406 (i) convicted of a felony;

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

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

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

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

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

415 (vi) placed on probation or parole;

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

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

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

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

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

424 (i) a minimum of 5,000 hours of investigative experience that consists of actual work
425 performed as a licensed private investigator, an investigator in the private sector, an
426 investigator for the federal government, or an investigator for a state, county, or municipal
427 government; or

428 (ii) if the applicant held a registrant license or an apprentice license under this chapter

429 on or before May 1, 2010, a minimum of 2,000 hours of investigative experience that consists
430 of actual work performed as a licensed private investigator, an investigator in the private
431 sector, an investigator for the federal government, or an investigator for a state, county, or
432 municipal government.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

467 **63G-4-107. Petition to remove agency action from public access.**

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

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

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

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

475 (ii) the individual has obtained a criminal expungement order under [~~Title 77, Chapter~~
476 ~~40a, Expungement~~] Title 77, Chapter 40a, Expungement of Criminal Records, for the
477 individual's criminal records related to the same incident or conviction upon which the
478 administrative disciplinary action was based;

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

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

486 (d) the individual pays an application fee determined by the agency in accordance with
487 Section [63J-1-504](#).

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

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

491 (b) the information the petitioner seeks to remove from public access; and
492 (c) an affidavit certifying that the petitioner is in compliance with the provisions of
493 Subsection (1).

494 (3) Within 30 days of receiving the documents and information described in
495 Subsection (2):

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

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

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

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

507 **76-3-402. Conviction of lower degree of offense -- Procedure and limitations.**

508 (1) As used in this section:

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

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

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

513 (b) "Minor regulatory offense" means the same as that term is defined in Section
514 77-40a-101.

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

517 (ii) "Rehabilitation program" includes:

518 (A) a domestic violence treatment program, as that term is defined in Section
519 62A-2-101;

520 (B) a residential, vocational, and life skills program, as that term is defined in Section
521 13-53-102;

522 (C) a substance abuse treatment program, as that term is defined in Section 62A-2-101;

523 (D) a substance use disorder treatment program, as that term is defined in Section

524 62A-2-101;

525 (E) a youth program, as that term is defined in Section 62A-2-101;

526 (F) a program that meets the standards established by the Department of Corrections

527 under Section 64-13-25;

528 (G) a drug court, a veterans court, or a mental health court certified by the Judicial

529 Council; or

530 (H) a program that is substantially similar to a program described in Subsections

531 (1)(c)(ii)(A) through (G).

532 (d) "Serious offense" means a felony or misdemeanor offense that is not a minor

533 regulatory offense or a traffic offense.

534 (e) "Traffic offense" means the same as that term is defined in Section 77-40a-101.

535 (f) (i) Except as provided in Subsection (1)(f)(ii), "violent felony" means the same as

536 that term is defined in Section 76-3-203.5.

537 (ii) "Violent felony" does not include an offense, or any attempt, solicitation, or

538 conspiracy to commit an offense, for:

539 (A) the possession, use, or removal of explosive, chemical, or incendiary devices under

540 Subsection 76-10-306(3), (5), or (6); or

541 (B) the purchase or possession of a dangerous weapon or handgun by a restricted

542 person under Section 76-10-503.

543 (2) The court may enter a judgment of conviction for a lower degree of offense than

544 established by statute and impose a sentence at the time of sentencing for the lower degree of

545 offense if the court:

546 (a) takes into account:

547 (i) the nature and circumstances of the offense of which the defendant was found

548 guilty; and

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

550 (b) gives any victim present at the sentencing and the prosecuting attorney an

551 opportunity to be heard; and

552 (c) concludes that the degree of offense established by statute would be unduly harsh to

553 record as a conviction on the record for the defendant.

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

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

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

560 (4) 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 if:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

608 (a) the court shall consider:

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

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

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

614 (b) the court may consider:

- 615 (i) any special characteristics or circumstances of the defendant, including the
616 defendant's criminogenic risks and needs;
- 617 (ii) the defendant's criminal history;
- 618 (iii) the defendant's employment and community service history;
- 619 (iv) whether the defendant participated in a rehabilitative program and successfully
620 completed the program;
- 621 (v) any effect that a reduction would have on the defendant's ability to obtain or
622 reapply for a professional license from the Department of Commerce;
- 623 (vi) whether the level of the offense has been reduced by law after the defendant's
624 conviction;
- 625 (vii) any potential impact that the reduction would have on public safety; or
- 626 (viii) any other circumstances that are reasonably related to the defendant or the
627 offense for which the reduction is sought.
- 628 (8) (a) A court may only enter a judgment of conviction for a lower degree of offense
629 under Subsection (3), (4), (5), or (6) after:
- 630 (i) notice is provided to the other party;
- 631 (ii) reasonable efforts have been made by the prosecuting attorney to provide notice to
632 any victims; and
- 633 (iii) a hearing is held if a hearing is requested by either party.
- 634 (b) A prosecuting attorney is entitled to a hearing on a motion seeking to reduce a
635 judgment of conviction for a lower degree of offense under Subsection (3), (4), (5), or (6).
- 636 (c) In a motion under Subsection (3), (4), (5), or (6) and at a requested hearing on the
637 motion, the moving party has the burden to provide evidence sufficient to demonstrate that the
638 requirements under Subsection (3), (4), (5), or (6) are met.
- 639 (d) If a defendant files a motion under this section, the prosecuting attorney shall
640 respond to the motion within 35 days after the day on which the motion is filed with the court.
- 641 (9) A court has jurisdiction to consider and enter a judgment of conviction for a lower
642 degree of offense under Subsection (3), (4), (5), or (6) regardless of whether the defendant is
643 committed to jail as a condition of probation or is sentenced to prison.
- 644 (10) (a) An offense may be reduced only one degree under this section, unless the
645 prosecuting attorney specifically agrees in writing or on the court record that the offense may

646 be reduced two degrees.

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

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

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

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

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

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

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

661 (b) An individual required to register as a sex offender for the individual's lifetime
662 under Subsection 77-41-105(3)(c) may not be granted a reduction of the conviction for the
663 offense or offenses that require the individual to register as a sex offender.

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

667 (b) An individual required to register as a child abuse offender for the individual's
668 lifetime under Subsection 77-43-105(3)(c) may not be granted a reduction of the conviction for
669 the offense or offenses that require the individual to register as a child abuse offender.

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

671 **77-2-2.3. Reducing the level of an offense.**

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

673 (a) present and file an information charging an individual for an offense under
674 Subsections 76-3-103(1)(b) through (d), Subsection 76-3-103(2), or Section 76-3-104 with a
675 classification of the offense at one degree lower than the classification that is provided in
676 statute if the prosecuting attorney believes that the sentence would be disproportionate to the

677 offense because there are special circumstances relating to the offense; or

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

682 (2) A court may:

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

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

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

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

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

696 **77-27-5.1. Board authority to order expungement.**

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

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

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

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

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

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

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

712 **77-40a-101. Definitions.**

713 As used in this chapter:

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

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

719 ~~[(2)]~~ (3) "Bureau" means the Bureau of Criminal Identification of the Department of
720 Public Safety established in Section [53-10-201](#).

721 ~~[(3)]~~ (4) "Certificate of eligibility" means a document issued by the bureau stating that
722 the criminal record and all records of arrest, investigation, and detention associated with a case
723 that is the subject of a petition for expungement is eligible for expungement.

724 (5) "Civil accounts receivable" means the same as that term is defined in Section
725 [77-32b-102](#).

726 (6) "Civil judgment of restitution" means the same as that term is defined in Section
727 [77-32b-102](#).

728 ~~[(4)]~~ (7) (a) "Clean slate eligible case" means, except as provided in Subsection
729 ~~[(4)(c);]~~ (7)(c) a case:

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

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

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

734 (C) an infraction conviction;

735 (ii) that involves an individual:

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

739 Subsection 77-40a-303(7); and
740 (B) against whom no criminal proceedings are pending in the state; and
741 (iii) for which the following time periods have elapsed from the day on which the case
742 is adjudicated:
743 (A) at least five years for a class C misdemeanor or an infraction;
744 (B) at least six years for a class B misdemeanor; and
745 (C) at least seven years for a class A conviction for possession of a controlled
746 substance in violation of Subsection 58-37-8(2)(a)(i).
747 (b) "Clean slate eligible case" includes a case:
748 (i) that is dismissed as a result of a successful completion of a plea in abeyance
749 agreement governed by Subsection 77-2a-3(2)(b) if:
750 (A) except as provided in Subsection [~~(4)(c)~~] (7)(c), each charge within the case is a
751 misdemeanor for possession of a controlled substance in violation of Subsection
752 58-37-8(2)(a)(i), a class B or class C misdemeanor, or an infraction;
753 (B) the individual involved meets the requirements of Subsection [~~(4)(a)(ii)~~] (7)(a)(ii);
754 and
755 (C) the time periods described in Subsections [~~(4)(a)(iii)(A)~~] (7)(a)(iii)(A) through (C)
756 have elapsed from the day on which the case is dismissed; or
757 (ii) where charges are dismissed without prejudice if each conviction, or charge that
758 was dismissed, in the case would otherwise meet the requirements under Subsection [~~(4)(a)~~]
759 (7)(a) or (b)(i).
760 (c) "Clean slate eligible case" does not include a case:
761 (i) where the individual is found not guilty by reason of insanity;
762 (ii) where the case establishes a criminal accounts receivable, as defined in Section
763 77-32b-102, that:
764 (A) has been entered as a civil accounts receivable or a civil judgment of restitution, as
765 those terms are defined in Section 77-32b-102, and transferred to the Office of State Debt
766 Collection under Section 77-18-114; or
767 (B) has not been satisfied according to court records; or
768 (iii) that resulted in one or more pleas held in abeyance or convictions for the following
769 offenses:

- 770 (A) any of the offenses listed in Subsection [77-40a-303\(2\)\(a\)](#);
- 771 (B) an offense against the person in violation of Title 76, Chapter 5, Offenses Against
772 the Individual;
- 773 (C) a weapons offense in violation of Title 76, Chapter 10, Part 5, Weapons;
- 774 (D) sexual battery in violation of Section [76-9-702.1](#);
- 775 (E) an act of lewdness in violation of Section [76-9-702](#) or [76-9-702.5](#);
- 776 (F) an offense in violation of Title 41, Chapter 6a, Part 5, Driving Under the Influence
777 and Reckless Driving;
- 778 (G) damage to or interruption of a communication device in violation of Section
779 [76-6-108](#);
- 780 (H) a domestic violence offense as defined in Section [77-36-1](#); or
- 781 (I) any other offense classified in the Utah Code as a felony or a class A misdemeanor
782 other than a class A misdemeanor conviction for possession of a controlled substance in
783 violation of Subsection [58-37-8\(2\)\(a\)\(i\)](#).
- 784 ~~[(5)]~~ (8) "Conviction" means judgment by a criminal court on a verdict or finding of
785 guilty after trial, a plea of guilty, or a plea of nolo contendere.
- 786 (9) "Court" means a district court or a justice court.
- 787 (10) "Criminal accounts receivable" means the same as that term is defined in Section
788 [77-32b-102](#).
- 789 ~~[(6)]~~ (11) "Criminal protective order" means the same as that term is defined in Section
790 [78B-7-102](#).
- 791 ~~[(7)]~~ (12) "Criminal stalking injunction" means the same as that term is defined in
792 Section [78B-7-102](#).
- 793 ~~[(8)]~~ (13) "Department" means the Department of Public Safety established in Section
794 [53-1-103](#).
- 795 ~~[(9)]~~ (14) "Drug possession offense" means an offense under:
- 796 (a) Subsection [58-37-8\(2\)](#), except:
- 797 (i) any offense under Subsection [58-37-8\(2\)\(b\)\(i\)](#), possession of 100 pounds or more of
798 marijuana;
- 799 (ii) any offense enhanced under Subsection [58-37-8\(2\)\(e\)](#), violation in a correctional
800 facility; or

801 (iii) driving with a controlled substance illegally in the person's body and negligently
802 causing serious bodily injury or death of another, as codified before May 4, 2022, Laws of Utah
803 2021, Chapter 236, Section 1, Subsection 58-37-8(2)(g);

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

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

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

808 ~~[(10)]~~ (15) "Expunge" means to seal or otherwise restrict access to the individual's
809 record held by an agency when the record includes a criminal investigation, detention, arrest, or
810 conviction.

811 ~~[(11)]~~ (16) "Jurisdiction" means a state, district, province, political subdivision,
812 territory, or possession of the United States or any foreign country.

813 ~~[(12)]~~ (17) (a) "Minor regulatory offense" means, except as provided in Subsection
814 ~~[(12)(c)]~~ (17)(c), a class B or C misdemeanor offense or a local ordinance.

815 (b) "Minor regulatory offense" includes an offense under Section 76-9-701 or
816 76-10-105.

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

818 (i) any drug possession offense;

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

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

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

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

826 ~~[(13)]~~ (18) "Petitioner" means an individual applying for expungement under this
827 chapter.

828 ~~[(14)]~~ (19) "Plea in abeyance" means the same as that term is defined in Section
829 77-2a-1.

830 (20) "Special certificate" means a document issued as described in Subsection
831 77-40a-304(1)(c) by the bureau stating that the criminal record and all records of arrest,

832 investigation, and detention associated with a case that is the subject of a petition for
833 expungement is eligible for expungement.

834 ~~[(15)]~~ (21) (a) "Traffic offense" means, except as provided in Subsection ~~[(15)(b)]~~
835 ~~(21)(b)~~:

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

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

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

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

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

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

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

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

850 ~~[(16)]~~ (22) "Traffic offense case" means that each offense in the case is a traffic
851 offense.

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

853 **77-40a-105. Eligibility for removing the link between personal identifying**
854 **information and court case dismissed.**

855 (1) As used in this section:

856 (a) "Domestic violence offense" means the same as that term is defined in Section
857 77-36-1.

858 (b) "Personal identifying information" means:

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

860 (ii) date of birth.

861 (2) (a) An individual whose criminal case is dismissed~~], or civil case filed in~~
862 ~~accordance with Title 78B, Chapter 7, Protective Orders and Stalking Injunctions, is denied,~~

863 may move the court for an order to remove the link between the individual's personal
864 identifying information from the dismissed case in any publicly searchable database of the Utah
865 state courts.

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

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

868 (ii) no appeal is filed for the dismissed [~~or denied~~] case within the 30-day period

869 described in Subsection (2)(b)(i); and

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

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

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

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

876 **77-40a-301. Requirements for expunging a criminal record -- Penalty for false or**
877 **misleading information on application.**

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

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

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

885 (b) except as provided in Subsection [77-40a-304](#)(2), pay the issuance fee for the
886 certificate of eligibility or special certificate as described in Section [77-40a-304](#) if the
887 individual is eligible to receive a certificate of eligibility or special certificate; and

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

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

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

894 Section 13. Section ~~77-40a-304~~ is amended to read:

895 **77-40a-304. Certificate of eligibility process -- Issuance of certificate -- Fees.**

896 (1) (a) When a petitioner applies for a certificate of eligibility as described in
897 Subsection ~~77-40a-301~~(1)[~~5~~]:

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

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

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

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

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

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

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

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

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

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

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

922 (iii) the petitioner is currently incarcerated, on parole, or on probation, unless the
923 petitioner is on probation or parole for an infraction, a traffic offense, or a minor regulatory
924 offense.

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

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

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

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

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

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

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

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

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

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

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

949 (b) indicates on the application for the certificate of eligibility that the petitioner is
 950 receiving services for the expungement from a nonprofit corporation or a public benefit
 951 corporation, as those terms are defined in Section [78A-2-302](#), that provides services to
 952 low-income individuals seeking expungement.

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

955 ~~[(3)]~~ (4) The bureau shall include on [the] a certificate of eligibility all information that

956 is needed for the court to issue a valid expungement order.

957 ~~[(4)]~~ (5) The bureau shall provide clear written instructions to the petitioner that
958 explain:

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

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

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

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

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

968 **77-40a-305. Petition for expungement -- Venue -- Prosecutorial responsibility --**
969 **Hearing.**

970 (1) (a) The petitioner shall file a petition for expungement~~;~~ in accordance with Rule
971 42 of the Utah Rules of Criminal Procedure~~, that includes~~.

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

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

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

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

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

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

984 (b) A court may not accept a petition for expungement if the certificate of eligibility or
985 special certificate is no longer valid as described in Subsection ~~[77-40a-304(1)(d)(i)]~~
986 [77-40a-304\(2\)\(b\)\(i\)](#).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1051 Section 15. Section **77-40a-306** is amended to read:

1052 **77-40a-306. Order of expungement.**

1053 (1) If a petition for expungement is filed in accordance with Section [77-40a-305](#), the
1054 court shall issue an order of expungement if the court finds, by clear and convincing evidence,
1055 that:

1056 [~~(a) except as provided in Subsection [77-40a-305](#)(3) or (4), the petition and certificate~~
1057 ~~of eligibility are sufficient;~~]

1058 [~~(b) the statutory requirements have been met;~~]

1059 (a) except as provided in Subsection (1)(b) and Subsection [77-40a-305](#)(3) or (4):

1060 (i) the certificate of eligibility is valid and contains the information needed for the court
1061 to issue an order for expungement; and

1062 (ii) the statutory requirements for expungement have been met;

1063 (b) if the petitioner obtained a special certificate from the bureau:

1064 (i) the special certificate is valid; and

1065 (ii) there is sufficient information in the petition for the court to determine that the
1066 statutory requirements for expungement have been met;

1067 (c) if the petitioner seeks expungement after a case is dismissed without prejudice or
1068 without condition, the prosecuting attorney provided written consent and has not filed and does
1069 not intend to refile related charges;

1070 (d) if the petitioner seeks expungement without a certificate of eligibility for
1071 expungement under Subsection [77-40a-305](#)(4) for a record of conviction related to cannabis
1072 possession:

1073 (i) the petitioner had, at the time of the relevant arrest or citation leading to the
1074 conviction, a qualifying condition, as that term is defined in Section [26B-4-201](#); and

1075 (ii) the possession of cannabis in question was in a form and an amount to medically
1076 treat the qualifying condition described in Subsection (1)(d)(i);

1077 (e) if an objection is received, the petition for expungement is for a charge dismissed in
1078 accordance with a plea in abeyance agreement, and the charge is an offense eligible to be used
1079 for enhancement, there is good cause for the court to grant the expungement; and

1080 (f) the interests of the public would not be harmed by granting the expungement.

1081 (2) (a) If the court denies a petition described in Subsection (1)(c) because the
1082 prosecuting attorney intends to refile charges, the petitioner may apply again for a certificate of
1083 eligibility if charges are not refiled within 180 days after the day on which the court denies the
1084 petition.

1085 (b) A prosecuting attorney who opposes an expungement of a case dismissed without
1086 prejudice, or without condition, shall have a good faith basis for the intention to refile the case.

1087 (c) A court shall consider the number of times that good faith basis of intention to
1088 refile by the prosecuting attorney is presented to the court in making the court's determination
1089 to grant the petition for expungement described in Subsection (1)(c).

1090 (3) If the court grants a petition described in Subsection (1)(e), the court shall make the
1091 court's findings in a written order.

1092 (4) A court may not expunge a conviction of an offense for which a certificate of
1093 eligibility may not be, or should not have been, issued under Section [77-40a-302](#) or
1094 [77-40a-303](#).

1095 (5) If the court issues an order of expungement under this section, the court shall:

1096 (a) expunge all records of the case as described in Section [77-40a-401](#);

1097 (b) notify the bureau of the order of expungement; and

1098 (c) provide the bureau with the order of expungement and all relevant information
1099 available to the court that the bureau will need to identify an expunged record.

1100 (6) (a) The petitioner may request certified copies of an order of expungement within
1101 28 days after the day on which the court issues an order of expungement.

1102 (b) If a petitioner makes a request under Subsection (6)(a), the court shall provide the
1103 petitioner with certified copies of the order of expungement.

1104 Section 16. Section **77-40a-403** is amended to read:

1105 **77-40a-403. Retention and release of expunged records -- Agencies.**

1106 [~~(1) (a) The bureau, after receiving an expungement order;~~]

1107 (1) (a) After receiving an order of expungement, the bureau shall keep, index, and
1108 maintain all expunged records of arrests and convictions.

1109 (b) [~~Any~~] An agency, other than the bureau, receiving an [~~expungement order~~] order of
1110 expungement shall develop and implement a process to identify and maintain an expunged

1111 record.

1112 (c) Subsection (1)(b) does not prevent an agency from maintaining or destroying a
1113 record in accordance with a retention schedule when the record is an expunged record.

1114 (d) An agency is not required to redact an expunged record, or a record referencing an
1115 expunged record, that pertains to more than one individual until the agency is required to
1116 release the record.

1117 (2) (a) An agency shall provide an individual who receives an expungement with
1118 written confirmation that the agency has expunged all records of the offense for which the
1119 individual received the expungement if the individual requests confirmation from the agency.

1120 (b) The bureau may charge a fee for providing a written confirmation under Subsection
1121 (2)(a) in accordance with the process in Section [63J-1-504](#).

1122 (3) (a) An employee of the bureau, or any agency with an expunged record, may not
1123 divulge any information contained in the expunged record to any person or agency without a
1124 court order unless:

1125 (i) specifically authorized by ~~[statute]~~ Subsection (4) or Section [77-40a-404](#); or

1126 (ii) subject to Subsection (3)(b), the information in an expunged record is being shared
1127 with another agency through a records management system that both agencies use for the
1128 purpose of record management.

1129 (b) An agency with a records management system may not disclose any information in
1130 an expunged record ~~[with]~~ to another agency or person, or allow another agency or person
1131 access to an expunged record, if that agency or person that does not use the records
1132 management system for the purpose of record management.

1133 (4) The following entities or agencies may receive information contained in expunged
1134 records upon specific request:

1135 (a) the Board of Pardons and Parole;

1136 (b) Peace Officer Standards and Training;

1137 (c) federal authorities if required by federal law;

1138 (d) the State Board of Education;

1139 (e) the Commission on Criminal and Juvenile Justice, for purposes of investigating
1140 applicants for judicial office; and

1141 (f) a research institution or an agency engaged in research regarding the criminal justice

1142 system if:

1143 (i) the research institution or agency provides a legitimate research purpose for
1144 gathering information from the expunged records;

1145 (ii) the research institution or agency enters into a data sharing agreement with the
1146 court or agency with custody of the expunged records that protects the confidentiality of any
1147 identifying information in the expunged records;

1148 (iii) any research using expunged records does not include any individual's name or
1149 identifying information in any product of that research; and

1150 (iv) any product resulting from research using expunged records includes a disclosure
1151 that expunged records were used for research purposes.

1152 (5) Except as otherwise provided by this section or by court order, a person, an agency,
1153 or an entity authorized by this section to view expunged records may not reveal or release any
1154 information obtained from the expunged records to anyone outside the specific request,
1155 including distribution on a public website.

1156 (6) A prosecuting attorney may communicate with another prosecuting attorney, or
1157 another prosecutorial agency, regarding information in an expunged record that includes a
1158 conviction, or a charge dismissed as a result of a successful completion of a plea in abeyance
1159 agreement, for:

1160 (a) stalking as described in Section 76-5-106.5;

1161 (b) a domestic violence offense as defined in Section 77-36-1;

1162 (c) an offense that would require the individual to register as a sex offender, as defined
1163 in Section 77-41-102; or

1164 (d) a weapons offense under Title 76, Chapter 10, Part 5, Weapons.

1165 (7) Except as provided in Subsection (9), a prosecuting attorney may not use an
1166 expunged record for the purpose of a sentencing enhancement or as a basis for charging an
1167 individual with an offense that requires a prior conviction.

1168 (8) The bureau may also use the information in the bureau's index as provided in
1169 Section 53-5-704.

1170 (9) If an individual is charged with a felony, or an offense eligible for enhancement
1171 based on a prior conviction, after obtaining an order of expungement, the prosecuting attorney
1172 may petition the court in which the individual is charged to open the expunged records upon a

1173 showing of good cause.

1174 ~~[(9) If, after obtaining an expungement, an individual is charged with a felony or an~~
1175 ~~offense eligible for enhancement based on a prior conviction, the state may petition the court to~~
1176 ~~open the expunged records upon a showing of good cause.]~~

1177 (10) (a) For judicial sentencing, a court may order any records expunged under this
1178 chapter or Section 77-27-5.1 to be opened and admitted into evidence.

1179 (b) The records are confidential and are available for inspection only by the court,
1180 parties, counsel for the parties, and any other person who is authorized by the court to inspect
1181 them.

1182 (c) At the end of the action or proceeding, the court shall order the records expunged
1183 again.

1184 (d) Any person authorized by this Subsection (10) to view expunged records may not
1185 reveal or release any information obtained from the expunged records to anyone outside the
1186 court.

1187 (11) Records released under this chapter are classified as protected under Section
1188 63G-2-305 and are accessible only as provided under Title 63G, Chapter 2, Part 2, Access to
1189 Records, and Subsection 53-10-108(2)(k) for records held by the bureau.

1190 Section 17. Section 77-40a-404 is amended to read:

1191 **77-40a-404. Confirmation of expungement -- Access to expunged records by**
1192 **individuals.**

1193 (1) An individual who receives an expungement may request a written confirmation
1194 from an agency under Subsection 77-40a-403(2) to confirm that the agency has expunged all
1195 records of the offense for which the individual received the expungement.

1196 (2) The following individuals may view or obtain an expunged record under this
1197 chapter or Section 77-27-5.1:

1198 (a) the petitioner or an individual who receives an automatic expungement under
1199 ~~[Section 77-40a-201]~~ Part 2, Automatic Expungement and Deletion;

1200 (b) a law enforcement officer, who was involved in the case, for use solely in the
1201 officer's defense of a civil action arising out of the officer's involvement with the petitioner in
1202 that particular case; and

1203 (c) a party to a civil action arising out of the expunged incident if the information is

1204 kept confidential and utilized only in the action.

1205 Section 18. Section **77-41-109** is amended to read:

1206 **77-41-109. Miscellaneous provisions.**

1207 (1) (a) If an offender is to be temporarily sent on any assignment outside a secure
1208 facility in which the offender is confined on any assignment, including, without limitation,
1209 firefighting or disaster control, the official who has custody of the offender shall, within a
1210 reasonable time prior to removal from the secure facility, notify the local law enforcement
1211 agencies where the assignment is to be filled.

1212 (b) This Subsection (1) does not apply to any person temporarily released under guard
1213 from the institution in which the person is confined.

1214 (2) Notwithstanding [~~Title 77, Chapter 40a, Expungement~~] Title 77, Chapter 40a,
1215 Expungement of Criminal Records, a person convicted of any offense listed in Subsection
1216 **77-41-102**(10) or (18) is not relieved from the responsibility to register as required under this
1217 section, unless the offender is removed from the registry under Section **77-41-112** or Section
1218 **77-41-113**.

1219 Section 19. Section **78A-2-302** is amended to read:

1220 **78A-2-302. Waiver of court fees, costs, and security -- Indigent litigants --**
1221 **Affidavit.**

1222 (1) As used in Sections **78A-2-302** through **78A-2-309**:

1223 (a) "Convicted" means:

1224 (i) a conviction by entry of a plea of guilty or nolo contendere, guilty with a mental
1225 condition, no contest; and

1226 (ii) a conviction of any crime or offense.

1227 (b) "Indigent" means an individual who is financially unable to pay fees and costs or
1228 give security.

1229 (c) "Nonprofit organization" means an organization that:

1230 (i) qualifies as being tax exempt under Section 501(c)(3), Internal Revenue Code; and

1231 (ii) has a charitable purpose.

1232 [(e)] (d) "Prisoner" means an individual who has been convicted of a crime and is
1233 incarcerated for that crime or is being held in custody for trial or sentencing.

1234 (e) "Public benefit corporation" means:

- 1235 (i) a benefit corporation as defined in Section 16-10b-103; or
1236 (ii) a business corporation that is incorporated as a public benefit corporation in
1237 another state.
- 1238 (2) An individual may institute, prosecute, defend, or appeal any cause in a court in this
1239 state without prepayment of fees and costs or security if:
- 1240 (a) the individual submits an affidavit demonstrating that the individual is indigent[-];
1241 or
1242 (b) the cause is a petition for expungement and the individual is receiving services for
1243 the expungement from a nonprofit organization, or a public benefit corporation, that provides
1244 services to low-income individuals seeking expungement.
- 1245 (3) A court shall find an individual indigent if the individual's affidavit under
1246 Subsection [~~(2)~~] (2)(a) demonstrates:
- 1247 (a) the individual has an income level at or below 150% of the United States poverty
1248 level as defined by the most recent poverty income guidelines published by the United States
1249 Department of Health and Human Services;
- 1250 (b) the individual receives benefits from a means-tested government program,
1251 including Temporary Assistance to Needy Families, Supplemental Security Income, the
1252 Supplemental Nutrition Assistance Program, or Medicaid;
- 1253 (c) the individual receives legal services from a nonprofit provider or a pro bono
1254 attorney through the Utah State Bar; or
- 1255 (d) the individual has insufficient income or other means to pay the necessary fees and
1256 costs or security without depriving the individual, or the individual's family, of food, shelter,
1257 clothing, or other necessities.
- 1258 (4) An affidavit demonstrating that an individual is indigent under Subsection (3)(d)
1259 shall contain complete information on the individual's:
- 1260 (a) identity and residence;
- 1261 (b) amount of income, including any government financial support, alimony, or child
1262 support;
- 1263 (c) assets owned, including real and personal property;
- 1264 (d) business interests;
- 1265 (e) accounts receivable;

- 1266 (f) securities, checking and savings account balances;
- 1267 (g) debts; and
- 1268 (h) monthly expenses.

1269 (5) If the individual under Subsection (3) is a prisoner, the prisoner shall disclose the
1270 amount of money held in the prisoner's trust account at the time the affidavit under Subsection
1271 (2) is executed in accordance with Section [78A-2-305](#).

1272 (6) An affidavit of indigency under this section shall state the following:

1273 I, (insert name), do solemnly swear or affirm that due to my poverty I am unable to bear
1274 the expenses of the action or legal proceedings which I am about to commence or the appeal
1275 which I am about to take, and that I believe I am entitled to the relief sought by the action, legal
1276 proceedings, or appeal.

1277 (7) For a petition for expungement, the signed petition shall indicate whether the
1278 individual is receiving services for the expungement from a nonprofit corporation, or a public
1279 benefit corporation, that provides services to low-income individuals seeking expungement.

1280 Section 20. Section **78A-6-350 (Superseded 07/01/24)** is amended to read:

1281 **78A-6-350 (Superseded 07/01/24). Venue -- Dismissal without adjudication on**
1282 **merits.**

1283 (1) Notwithstanding Title 78B, Chapter 3, Part 3, Place of Trial -- Venue, a proceeding
1284 for a minor's case in the juvenile court shall be commenced in the court of the district in which:

1285 (a) except as provided in Section [80-6-1001.2](#), for a proceeding under Title 80, Chapter
1286 6, Juvenile Justice:

- 1287 (i) the minor is living or found; or
- 1288 (ii) the alleged offense occurred; or
- 1289 (b) for ~~[all other proceedings]~~ any other proceeding, the minor is living or found.

1290 (2) If a party seeks to transfer a case to another district after a petition has been filed in
1291 the juvenile court, the juvenile court may transfer the case in accordance with the Utah Rules of
1292 Juvenile Procedure.

1293 (3) The dismissal of a petition in one district where the dismissal is without prejudice
1294 and where there has been no adjudication upon the merits may not preclude refileing within the
1295 same district or another district where there is venue for the case.

1296 Section 21. Section **78A-6-350 (Effective 07/01/24)** is amended to read:

1297 **78A-6-350 (Effective 07/01/24). Venue -- Dismissal without adjudication on**
 1298 **merits.**

1299 (1) Notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, a proceeding for a
 1300 minor's case in the juvenile court shall be commenced in the court of the district in which:

1301 (a) except as provided in Section 80-6-1001.2, for a proceeding under Title 80, Chapter
 1302 6, Juvenile Justice:

1303 (i) the minor is living or found; or

1304 (ii) the alleged offense occurred; or

1305 (b) for [~~all other proceedings~~] any other proceeding, the minor is living or found.

1306 (2) If a party seeks to transfer a case to another district after a petition has been filed in
 1307 the juvenile court, the juvenile court may transfer the case in accordance with the Utah Rules of
 1308 Juvenile Procedure.

1309 (3) The dismissal of a petition in one district where the dismissal is without prejudice
 1310 and where there has been no adjudication upon the merits may not preclude refileing within the
 1311 same district or another district where there is venue for the case.

1312 *The following section is affected by a coordination clause at the end of this bill.*

1313 Section 22. Section **78A-7-106** is amended to read:

1314 **78A-7-106. Jurisdiction.**

1315 (1) (a) Except for an offense for which the district court has original jurisdiction under
 1316 Subsection **78A-5-102(8)** or an offense for which the juvenile court has original jurisdiction
 1317 under Subsection **78A-6-103(1)(c)**, a justice court has original jurisdiction over class B and C
 1318 misdemeanors, violation of ordinances, and infractions committed within the justice court's
 1319 territorial jurisdiction by an individual who is 18 years old or older.

1320 (b) A justice court has original jurisdiction over the following offenses committed
 1321 within the justice court's territorial jurisdiction by an individual who is 18 years old or older:

1322 (i) class C misdemeanor and infraction violations of Title 53, Chapter 3, Part 2, Driver
 1323 Licensing Act; and

1324 (ii) class B and C misdemeanor and infraction violations of:

1325 (A) Title 23A, Wildlife Resources Act;

1326 (B) Title 41, Chapter 1a, Motor Vehicle Act;

1327 (C) Title 41, Chapter 6a, Traffic Code, except Title 41, Chapter 6a, Part 5, Driving

- 1328 Under the Influence and Reckless Driving;
- 1329 (D) Title 41, Chapter 12a, Financial Responsibility of Motor Vehicle Owners and
- 1330 Operators Act;
- 1331 (E) Title 41, Chapter 22, Off-highway Vehicles;
- 1332 (F) Title 73, Chapter 18, State Boating Act, except Section 73-18-12;
- 1333 (G) Title 73, Chapter 18a, Boating - Litter and Pollution Control;
- 1334 (H) Title 73, Chapter 18b, Water Safety; and
- 1335 (I) Title 73, Chapter 18c, Financial Responsibility of Motorboat Owners and Operators
- 1336 Act.
- 1337 (2) Except for an offense for which the district court has exclusive jurisdiction under
- 1338 Section 78A-5-102.5 or an offense for which the juvenile court has exclusive jurisdiction under
- 1339 Section 78A-6-103.5, a justice court has original jurisdiction over the following offenses
- 1340 committed within the justice court's territorial jurisdiction by an individual who is 16 or 17
- 1341 years old:
- 1342 (a) class C misdemeanor and infraction violations of Title 53, Chapter 3, Part 2, Driver
- 1343 Licensing Act; and
- 1344 (b) class B and C misdemeanor and infraction violations of:
- 1345 (i) Title 23A, Wildlife Resources Act;
- 1346 (ii) Title 41, Chapter 1a, Motor Vehicle Act;
- 1347 (iii) Title 41, Chapter 6a, Traffic Code, except Title 41, Chapter 6a, Part 5, Driving
- 1348 Under the Influence and Reckless Driving;
- 1349 (iv) Title 41, Chapter 12a, Financial Responsibility of Motor Vehicle Owners and
- 1350 Operators Act;
- 1351 (v) Title 41, Chapter 22, Off-highway Vehicles;
- 1352 (vi) Title 73, Chapter 18, State Boating Act, except for an offense under Section
- 1353 73-18-12;
- 1354 (vii) Title 73, Chapter 18a, Boating - Litter and Pollution Control;
- 1355 (viii) Title 73, Chapter 18b, Water Safety; and
- 1356 (ix) Title 73, Chapter 18c, Financial Responsibility of Motorboat Owners and
- 1357 Operators Act.
- 1358 (3) (a) As used in this Subsection (3), "body of water" includes any stream, river, lake,

1359 or reservoir, whether natural or man-made.

1360 (b) An offense is committed within the territorial jurisdiction of a justice court if:

1361 (i) conduct constituting an element of the offense or a result constituting an element of
1362 the offense occurs within the court's jurisdiction, regardless of whether the conduct or result is
1363 itself unlawful;

1364 (ii) either an individual committing an offense or a victim of an offense is located
1365 within the court's jurisdiction at the time the offense is committed;

1366 (iii) either a cause of injury occurs within the court's jurisdiction or the injury occurs
1367 within the court's jurisdiction;

1368 (iv) an individual commits any act constituting an element of an inchoate offense
1369 within the court's jurisdiction, including an agreement in a conspiracy;

1370 (v) an individual solicits, aids, or abets, or attempts to solicit, aid, or abet another
1371 individual in the planning or commission of an offense within the court's jurisdiction;

1372 (vi) the investigation of the offense does not readily indicate in which court's
1373 jurisdiction the offense occurred, and:

1374 (A) the offense is committed upon or in any railroad car, vehicle, watercraft, or aircraft
1375 passing within the court's jurisdiction;

1376 (B) the offense is committed on or in any body of water bordering on or within this
1377 state if the territorial limits of the justice court are adjacent to the body of water;

1378 (C) an individual who commits theft exercises control over the affected property within
1379 the court's jurisdiction; or

1380 (D) the offense is committed on or near the boundary of the court's jurisdiction;

1381 (vii) the offense consists of an unlawful communication that was initiated or received
1382 within the court's jurisdiction; or

1383 (viii) jurisdiction is otherwise specifically provided by law.

1384 (4) If in a criminal case the defendant is 16 or 17 years old, a justice court judge may
1385 transfer the case to the juvenile court for further proceedings if the justice court judge
1386 determines and the juvenile court concurs that the best interests of the defendant would be
1387 served by the continuing jurisdiction of the juvenile court.

1388 (5) [~~Justice courts have jurisdiction of small claims cases~~] A justice court has
1389 jurisdiction over:

1390 (a) a small claims case under Title 78A, Chapter 8, Small Claims Courts, if a defendant
1391 resides in or the debt arose within the territorial jurisdiction of the justice court[-]; or

1392 (b) a petition for expungement under Title 77, Chapter 40a, Expungement of Criminal
1393 Records.

1394 (6) (a) As used in this Subsection (6), "domestic violence offense" means the same as
1395 that term is defined in Section [77-36-1](#).

1396 (b) If a justice court has jurisdiction over a criminal action involving a domestic
1397 violence offense and the criminal action is set for trial, the prosecuting attorney or the
1398 defendant may file a notice of transfer in the justice court to transfer the criminal action from
1399 the justice court to the district court.

1400 (c) If a justice court receives a notice of transfer from the prosecuting attorney or the
1401 defendant as described in Subsection (6)(b), the justice court shall transfer the criminal action
1402 to the district court.

1403 Section 23. Section **78A-7-209.5** is amended to read:

1404 **78A-7-209.5. Presiding judge -- Associate presiding judge -- Election -- Powers --**
1405 **Duties.**

1406 (1) (a) In judicial districts having more than one justice court judge, the justice court
1407 judges shall elect one judge of the district to the office of presiding judge.

1408 (b) The presiding judge shall receive an additional \$2,000 per annum as compensation
1409 from the Justice Court Technology, Security, and Training Account described in Section
1410 [78A-7-301](#) for the period served as presiding judge.

1411 (2) (a) In judicial districts having more than two justice court judges, the justice court
1412 judges may elect one judge of the district to the office of associate presiding judge.

1413 (b) The associate presiding judge shall receive an additional \$1,000 per annum as
1414 compensation from the Justice Court Technology, Security, and Training Account described in
1415 Section [78A-7-301](#) for the period served as associate presiding judge.

1416 (3) The presiding judge has the following authority and responsibilities, consistent with
1417 the policies of the Judicial Council:

1418 (a) working with each justice court judge in the district to implement policies and rules
1419 of the Judicial Council;

1420 (b) exercising powers and performing administrative duties as authorized by the

1421 Judicial Council;

1422 (c) if there is no other appointed justice court judge in that court available, assigning a
1423 justice court judge to hear a case in which a judge has been disqualified in accordance with
1424 rules of the Supreme Court;

1425 (d) if a justice court judge of the district cannot perform the justice court judge's duties
1426 in a case or cases due to illness, death, or other incapacity, and the governing body has not
1427 appointed a temporary justice court judge in accordance with Section 78A-7-208:

1428 (i) assigning, on an emergency basis, a justice court judge to hear a case or cases; and

1429 (ii) facilitating judicial coverage with the appointing municipal or county authority
1430 until a temporary justice court judge can be appointed, in accordance with Section 78A-7-208,
1431 or a new justice court judge is formally appointed and takes office, in accordance with Section
1432 78A-7-202; and

1433 (e) entering orders of expungement in cases expunged in accordance with [Section
1434 ~~77-40a-201~~] Title 77, Chapter 40a, Part 2, Automatic Expungement and Deletion.

1435 (4) (a) When the presiding judge is unavailable, the associate presiding judge shall
1436 assume the responsibilities of the presiding judge.

1437 (b) The associate presiding judge shall perform other duties assigned by the presiding
1438 judge.

1439 Section 24. Section 78B-6-853 is amended to read:

1440 **78B-6-853. Expungement by petition for eviction -- Venue -- Objection.**

1441 (1) Any party to an eviction may petition the court to expunge all records of the
1442 eviction if:

1443 (a) the eviction was for:

1444 (i) remaining after the end of the lease as described in Subsection 78B-6-802(1)(a); or

1445 (ii) the nonpayment of rent as described in Subsection 78B-6-802(1)(c); and

1446 (b) any judgment for the eviction has been satisfied and a satisfaction of judgment has
1447 been filed for the judgment.

1448 (2) (a) A petitioner shall file a petition and provide notice to any other party to the
1449 eviction in accordance with the Utah Rules of Civil Procedure.

1450 (b) A petitioner shall bring a petition to expunge records of an eviction in the court that
1451 issued the order of restitution.

1452 (3) (a) Any party to the eviction may file a written objection to the petition with the
1453 court.

1454 (b) If the court receives a written objection to the petition, the court may not expunge
1455 the eviction.

1456 (4) Except as provided in Subsection (5), the court shall order expungement of all
1457 records of the eviction if the court does not receive a written objection within 60 days from the
1458 day on which the petition is filed.

1459 (5) A court may not expunge an eviction if the judgment for the eviction has not been
1460 satisfied.

1461 Section 25. Section **78B-7-1002.1** is enacted to read:

1462 **78B-7-1002.1. Eligibility for removing the link between personal identifying**
1463 **information and court case dismissed.**

1464 (1) As used in this section, "personal identifying information" means:

1465 (a) a current name, former name, nickname, or alias; and

1466 (b) date of birth.

1467 (2) If a civil order is sought against an individual and the court denies the civil order,
1468 the individual may move the court for an order to remove the link between the individual's
1469 personal identifying information from the dismissed case in any publicly searchable database of
1470 the Utah state courts.

1471 (3) If a motion is filed under Subsection (2), the court shall grant the motion if:

1472 (a) 30 days have passed from the day on which the case is denied; and

1473 (b) an appeal has not been filed in the denied case within the 30-day period described
1474 in Subsection (3)(a).

1475 (4) Removing the link to personal identifying information of a court record under
1476 Subsection (3) does not affect another agency's records.

1477 (5) A case history, unless expunged under this chapter, remains public and accessible
1478 through a search by case number.

1479 Section 26. Section **78B-7-1003** is amended to read:

1480 **78B-7-1003. Requirements for expungement of protective order or stalking**
1481 **injunction -- Venue.**

1482 (1) (a) An individual against whom a civil order is sought may petition the court to

1483 expunge records of the civil order.

1484 (b) A petitioner shall bring a petition for expungement under Subsection (1) in the
1485 court that issued the civil order.

1486 [~~(b)~~ A petition under Subsection (1)(a) shall be filed]

1487 (2) The petitioner shall file the petition for expungement under Subsection (1) in
1488 accordance with the Utah Rules of Civil Procedure.

1489 [~~(2)~~] (3) (a) The petitioner shall provide notice to the individual filed the civil order
1490 against the petitioner in accordance with Rule 4 of the Utah Rules of Civil Procedure.

1491 (b) The individual who filed the civil order against the petitioner:

1492 (i) may file a written objection with the court within 30 days after the day on which the
1493 petition is received by the individual; and

1494 (ii) if the individual files a written objection, provide a copy of the written objection to
1495 the petitioner.

1496 (c) If the court receives a written objection to the petition for expungement of a civil
1497 order, the court shall:

1498 (i) set a date for a hearing on the petition;

1499 (ii) provide notice at least 30 days before the day on which the hearing is held to:

1500 (A) all parties of the civil order; and

1501 (B) any other person or agency that the court has reason to believe may have relevant
1502 information related to the expungement of the civil order.

1503 (d) The petitioner may respond, in writing, to any written objection within 14 days after
1504 the day on which the written objection is received by the court.

1505 [~~(3)~~] (4) If no written objection is received within 60 days from the day on which the
1506 petition for expungement is filed under Subsection (1), the court may grant the expungement in
1507 accordance with Subsection [~~(4)~~ or ~~(5)~~] (5) or (6) without a hearing.

1508 [~~(4)~~] (5) A court may expunge an ex parte civil protective order or an ex parte civil
1509 stalking injunction if:

1510 (a) the ex parte civil protective order or the ex parte civil stalking injunction was issued
1511 but:

1512 (i) the ex parte civil protective order or the ex parte civil stalking injunction is
1513 dismissed, dissolved, or expired upon a hearing by the court;

1514 (ii) the court did not issue a civil protective order or a civil stalking injunction on the
1515 same circumstances for which the ex parte civil protective order or the ex parte civil stalking
1516 injunction was issued;

1517 (iii) at least 30 days have passed from the day on which the ex parte civil protective
1518 order or the ex parte civil stalking injunction was issued;

1519 (iv) the petitioner has not been arrested, charged, or convicted for violating the ex parte
1520 civil protective order or ex parte civil stalking injunction; and

1521 (v) there are no criminal proceedings pending against the petitioner in the state; or

1522 (b) (i) the individual who filed the ex parte civil protective order or the ex parte civil
1523 stalking injunction failed to appear for the hearing on the ex parte civil protective order or ex
1524 parte civil stalking injunction;

1525 (ii) at least 30 days have passed from the day on which the hearing on the ex parte civil
1526 protective order or the ex parte civil stalking injunction was set to occur, including any
1527 continuance, postponement, or rescheduling of the hearing;

1528 (iii) the petitioner has not been arrested, charged, or convicted for violating the ex parte
1529 civil protective order or ex parte civil stalking injunction; and

1530 (iv) there are no criminal proceedings pending against the petitioner in the state.

1531 [~~5~~] (6) A court may expunge a civil protective order or a civil stalking injunction if:

1532 (a) the civil protective order or the civil stalking injunction has been dismissed,
1533 dissolved, vacated, or expired;

1534 (b) three years have passed from the day on which the civil protective order or the civil
1535 stalking injunction is dismissed, dissolved, vacated, or expired;

1536 (c) the petitioner has not been arrested, charged, or convicted for violating the civil
1537 protective order or the civil stalking injunction; and

1538 (d) there are no criminal proceedings pending against the petitioner in the state.

1539 Section 27. Section **80-6-1001.2** is enacted to read:

1540 **80-6-1001.2. Venue for petition seeking expungement.**

1541 Notwithstanding Section 78A-6-350 and Title 78B, Chapter 3a, Venue for Civil
1542 Actions, a petitioner shall bring a petition for expungement under this part:

1543 (1) in the court where the petition for delinquency was filed; or

1544 (2) if a petition for delinquency was never filed, in the juvenile court in the county in

1545 which the arrest occurred or the citation was issued.

1546 Section 28. **Effective date.**

1547 (1) Except as provided in Subsection (2), this bill takes effect on May 1, 2024.

1548 (2) The actions affecting Section [78A-6-350](#) (Effective 07/01/24) take effect on July 1,

1549 2024.

1550 Section 29. **Coordinating S.B. 163 with S.B. 180.**

1551 If S.B. 163, Expungement Revisions, and S.B. 180, Court Jurisdiction Modifications,

1552 both pass and become law, the Legislature intends that, on May 1, 2024, Subsection

1553 [78A-7-106](#)(4) enacted in S.B. 180 be amended to read:

1554 "(4) A justice court has jurisdiction over:

1555 (a) a small claims case under Chapter 8, Small Claims Courts, if a defendant resides in

1556 or the debt arose within the territorial jurisdiction of the justice court; and

1557 (b) a petition for expungement as described in Title 77, Chapter 40a, Expungement of

1558 Criminal Records."