

**EXPUNGEMENT REVISIONS**

2010 GENERAL SESSION

STATE OF UTAH

---

---

**LONG TITLE**

**General Description:**

This bill creates a new chapter known as the Utah Expungement Act

**Highlighted Provisions:**

This bill:

- ▶ creates a more specific definition of expungement;
- ▶ sets out the steps a petitioner must take to obtain an expungement;
- ▶ specifies what cannot be expunged;
- ▶ allows the Bureau of Criminal Identification to charge application and issuance fees for a certificate of eligibility for expungement;
- ▶ provides for notice of a petition for expungement to be given to the prosecutor, victim and, in the court's discretion, Adult Probation and Parole;
- ▶ allows the bureau to deny a petitioner a certificate of eligibility if the petitioner provides false or misleading information on an application;
- ▶ requires the bureau to expedite the eligibility process for a person who is acquitted;
- ▶ provides rulemaking authority to the Department of Public Safety for the expungement process;
- ▶ changes how agencies are to handle expunged records; and
- ▶ makes technical corrections.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**41-6a-501**, as last amended by Laws of Utah 2009, Chapters 75, 201, and 214

**53-3-414**, as last amended by Laws of Utah 2007, Chapters 53 and 132

**53-5-704**, as last amended by Laws of Utah 2008, Chapters 3 and 382

- 33           **53-6-302**, as enacted by Laws of Utah 1995, Chapter 134  
34           **53-10-202.5**, as enacted by Laws of Utah 1999, Chapter 227  
35           **53A-6-306**, as enacted by Laws of Utah 1999, Chapter 108  
36           **76-8-504.6**, as enacted by Laws of Utah 2004, Chapter 354  
37           **77-27-21.5**, as last amended by Laws of Utah 2009, Chapters 117, 126, 249, and 354  
38           **77-38-14**, as last amended by Laws of Utah 1996, Chapter 1  
39           **78A-2-301**, as last amended by Laws of Utah 2009, Chapters 147 and 149

## 40 ENACTS:

- 41           **77-40-101**, Utah Code Annotated 1953  
42           **77-40-103**, Utah Code Annotated 1953  
43           **77-40-104**, Utah Code Annotated 1953  
44           **77-40-105**, Utah Code Annotated 1953  
45           **77-40-106**, Utah Code Annotated 1953  
46           **77-40-107**, Utah Code Annotated 1953  
47           **77-40-108**, Utah Code Annotated 1953  
48           **77-40-111**, Utah Code Annotated 1953  
49           **77-40-112**, Utah Code Annotated 1953

## 50 RENUMBERS AND AMENDS:

- 51           **77-40-102**, (Renumbered from 77-18-9, as last amended by Laws of Utah 1999,  
52           Chapter 21)  
53           **77-40-109**, (Renumbered from 77-18-14, as last amended by Laws of Utah 2009,  
54           Chapter 48)  
55           **77-40-110**, (Renumbered from 77-18-15, as last amended by Laws of Utah 2008,  
56           Chapter 382)  
57           **77-40-113**, (Renumbered from 77-18-16, as enacted by Laws of Utah 1994, Chapter  
58           143)  
59           **77-40-114**, (Renumbered from 77-18-17, as enacted by Laws of Utah 1994, Chapter  
60           143)

## 61 REPEALS:

- 62           **77-18-10**, as last amended by Laws of Utah 2009, Chapter 48  
63           **77-18-11**, as last amended by Laws of Utah 2009, Chapter 183

64           77-18-12, as last amended by Laws of Utah 2008, Chapters 303, 306, and 355

65           77-18-13, as last amended by Laws of Utah 1996, Chapter 35

66           

---

---

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

68           Section 1. Section **41-6a-501** is amended to read:

69           **41-6a-501. Definitions.**

70           (1) As used in this part:

71           (a) "Assessment" means an in-depth clinical interview with a licensed mental health  
72 therapist:

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

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

75           (B) an educational series; or

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

77           (ii) that is approved by the Division of Substance Abuse and Mental Health in  
78 accordance with Section 62A-15-105.

79           (b) "Driving under the influence court" means a court that is approved as a driving  
80 under the influence court by the Utah Judicial Council according to standards established by  
81 the Judicial Council.

82           (c) "Drug" or "drugs" means:

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

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

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

87           (d) "Educational series" means an educational series obtained at a substance abuse  
88 program that is approved by the Division of Substance Abuse and Mental Health in accordance  
89 with Section 62A-15-105.

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

92           (f) "Screening" means a preliminary appraisal of a person:

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

94           (A) an assessment; or

- 95 (B) an educational series; and
- 96 (ii) that is approved by the Division of Substance Abuse and Mental Health in  
97 accordance with Section 62A-15-105.
- 98 (g) "Serious bodily injury" means bodily injury that creates or causes:
- 99 (i) serious permanent disfigurement;
- 100 (ii) protracted loss or impairment of the function of any bodily member or organ; or
- 101 (iii) a substantial risk of death.
- 102 (h) "Substance abuse treatment" means treatment obtained at a substance abuse  
103 program that is approved by the Division of Substance Abuse and Mental Health in accordance  
104 with Section 62A-15-105.
- 105 (i) "Substance abuse treatment program" means a state licensed substance abuse  
106 program.
- 107 (j) (i) "Vehicle" or "motor vehicle" means a vehicle or motor vehicle as defined in  
108 Section 41-6a-102; and
- 109 (ii) "Vehicle" or "motor vehicle" includes:
- 110 (A) an off-highway vehicle as defined under Section 41-22-2; and
- 111 (B) a motorboat as defined in Section 73-18-2.
- 112 (2) As used in Section 41-6a-503:
- 113 (a) "Conviction" means any conviction arising from a separate episode of driving for a  
114 violation of:
- 115 (i) driving under the influence under Section 41-6a-502;
- 116 (ii) (A) for an offense committed before July 1, 2008, alcohol, any drug, or a  
117 combination of both-related reckless driving under:
- 118 (I) Section 41-6a-512; and
- 119 (II) Section 41-6a-528; or
- 120 (B) for an offense committed on or after July 1, 2008, impaired driving under Section  
121 41-6a-502.5;
- 122 (iii) driving with any measurable controlled substance that is taken illegally in the body  
123 under Section 41-6a-517;
- 124 (iv) local ordinances similar to Section 41-6a-502, alcohol, any drug, or a combination  
125 of both-related reckless driving, or impaired driving under Section 41-6a-502.5 adopted in

126 compliance with Section 41-6a-510;

127 (v) automobile homicide under Section 76-5-207;

128 (vi) Subsection 58-37-8(2)(g);

129 (vii) a violation described in Subsections (2)(a)(i) through (vi), which judgment of  
130 conviction is reduced under Section 76-3-402; or

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

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

140 (i) enhancement of penalties under:

141 (A) this Chapter 6a, Part 5, Driving Under the Influence and Reckless Driving; and

142 (B) automobile homicide under Section 76-5-207; and

143 (ii) expungement under [~~Section 77-18-12~~] Title 77, Chapter 40, Utah Expungement  
144 Act.

145 Section 2. Section ~~53-3-414~~ is amended to read:

146 **53-3-414. CDL disqualification or suspension -- Grounds and duration --**  
147 **Procedure.**

148 (1) A person who holds or is required to hold a CDL is disqualified from driving a  
149 commercial motor vehicle for a period of not less than one year if convicted of a first offense  
150 of:

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

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

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

156 (d) failing to provide reasonable assistance or identification when involved in an

157 accident resulting in:

158 (i) death in accordance with Section 41-6a-401.5; or

159 (ii) personal injury in accordance with Section 41-6a-401.3;

160 (e) using a motor vehicle in the commission of a felony;

161 (f) refusal to submit to a test to determine the concentration of alcohol in the person's  
162 blood, breath, or urine;

163 (g) driving a commercial motor vehicle while the person's commercial driver license is  
164 disqualified, suspended, canceled, withdrawn, barred, denied, or revoked; or

165 (h) operating a commercial motor vehicle in a negligent manner causing the death of  
166 another including the offenses of automobile homicide under Section 76-5-207, manslaughter  
167 under Section 76-5-205, or negligent homicide under Section 76-5-206.

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

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

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

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

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

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

181 (B) complies with 49 C.F.R. Part 383.51;

182 (ii) has served a minimum disqualification period of ten years; and

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

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

188 (5) A driver of a motor vehicle who holds or is required to hold a CDL is disqualified  
189 for life from driving a commercial motor vehicle if the driver uses a motor vehicle in the  
190 commission of any felony involving the manufacturing, distributing, or dispensing of a  
191 controlled substance, or possession with intent to manufacture, distribute, or dispense a  
192 controlled substance and is ineligible to apply for a reduction of the lifetime disqualification  
193 under Subsection (4).

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

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

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

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

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

202 (ii) arise from separate incidents; and

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

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

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

212 (i) 90 days but not more than one year if the driver is convicted of a first violation;

213 (ii) one year but not more than five years if, during any ten-year period, the driver is  
214 convicted of two violations of out-of-service orders in separate incidents;

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

217 (iv) 180 days but not more than two years if the driver is convicted of a first violation  
218 of an out-of-service order while transporting hazardous materials required to be placarded or

219 while operating a motor vehicle designed to transport 16 or more passengers, including the  
220 driver; or

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

225 (b) A driver of a commercial motor vehicle who is convicted of violating an  
226 out-of-service order is subject to a civil penalty of not less than \$1,100 nor more than \$2,750.

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

232 (9) A driver of a commercial motor vehicle who is convicted of violating a  
233 railroad-highway grade crossing provision under Section 41-6a-1205, while driving a  
234 commercial motor vehicle is disqualified from driving a commercial motor vehicle for a period  
235 not less than:

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

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

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

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

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

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

248 (11) (a) The division may immediately suspend or disqualify the CDL of a driver  
249 without a hearing or receiving a record of the driver's conviction when the division has reason



250 to believe that the:

- 251 (i) CDL was issued by the division through error or fraud;
- 252 (ii) applicant provided incorrect or incomplete information to the division;
- 253 (iii) applicant cheated on any part of a CDL examination;
- 254 (iv) driver no longer meets the fitness standards required to obtain a CDL; or
- 255 (v) driver poses an imminent hazard.

256 (b) Suspension of a CDL under this Subsection (11) shall be in accordance with  
257 Section 53-3-221.

258 (c) If a hearing is held under Section 53-3-221, the division shall then rescind the  
259 suspension order or cancel the CDL.

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

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

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

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

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

268 (ii) arise from separate incidents; and

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

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

276 (13) (a) Upon receiving a notice that a person has entered into a plea of guilty or no  
277 contest to a violation of a disqualifying offense described in this section which plea is held in  
278 abeyance pursuant to a plea in abeyance agreement, the division shall disqualify, suspend,  
279 cancel, or revoke the person's CDL for the period required under this section for a conviction of  
280 that disqualifying offense, even if the charge has been subsequently reduced or dismissed in

281 accordance with the plea in abeyance agreement.

282 (b) The division shall report the plea in abeyance to the CDLIS within ten days of  
283 taking the action under Subsection (13)(a).

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

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

287 (ii) expunged under Section [~~77-18-11~~] 77-40-105.

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

291 (a) one year; or

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

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

296 Section 3. Section ~~53-5-704~~ is amended to read:

297 **53-5-704. Division duties -- Permit to carry concealed firearm -- Certification for**  
298 **concealed firearms instructor -- Requirements for issuance -- Violation -- Denial,**  
299 **suspension, or revocation -- Appeal procedure.**

300 (1) (a) The division or its designated agent shall issue a permit to carry a concealed  
301 firearm for lawful self defense to an applicant who is 21 years of age or older within 60 days  
302 after receiving an application, unless during the 60-day period the division finds proof that the  
303 applicant is not of good character.

304 (b) The permit is valid throughout the state for five years, without restriction, except as  
305 otherwise provided by Section 53-5-710.

306 (2) (a) An applicant satisfactorily demonstrates good character if the applicant:

307 (i) has not been convicted of a felony;

308 (ii) has not been convicted of a crime of violence;

309 (iii) has not been convicted of an offense involving the use of alcohol;

310 (iv) has not been convicted of an offense involving the unlawful use of narcotics or  
311 other controlled substances;

312 (v) has not been convicted of an offense involving moral turpitude;  
313 (vi) has not been convicted of an offense involving domestic violence;  
314 (vii) has not been adjudicated by a state or federal court as mentally incompetent,  
315 unless the adjudication has been withdrawn or reversed; and  
316 (viii) is qualified to purchase and possess a firearm pursuant to Section 76-10-503 and  
317 federal law.

318 (b) In assessing good character under Subsection (2)(a), the licensing authority shall  
319 consider mitigating circumstances.

320 (3) (a) The division may deny, suspend, or revoke a concealed firearm permit if it has  
321 reasonable cause to believe that the applicant has been or is a danger to self or others as  
322 demonstrated by evidence, including:

323 (i) past pattern of behavior involving unlawful violence or threats of unlawful violence;

324 (ii) past participation in incidents involving unlawful violence or threats of unlawful  
325 violence; or

326 (iii) conviction of an offense in violation of Title 76, Chapter 10, Part 5, Weapons.

327 (b) The division may not deny, suspend, or revoke a concealed firearm permit solely  
328 for a single conviction for an infraction violation of Title 76, Chapter 10, Part 5, Weapons.

329 (c) In determining whether the applicant has been or is a danger to self or others, the  
330 division may inspect:

331 (i) expunged records of arrests and convictions of adults as provided in Section  
332 ~~[77-18-15]~~ 77-40-110; and

333 (ii) juvenile court records as provided in Section 78A-6-209.

334 (d) (i) If a person granted a permit under this part has been charged with a crime of  
335 violence in any state, the division shall suspend the permit.

336 (ii) Upon notice of the acquittal of the person charged, or notice of the charges having  
337 been dropped, the division shall immediately reinstate the suspended permit.

338 (4) A former peace officer who departs full-time employment as a peace officer, in an  
339 honorable manner, shall be issued a concealed firearm permit within five years of that  
340 departure if the officer meets the requirements of this section.

341 (5) Except as provided in Subsection (6), the licensing authority shall also require the  
342 applicant to provide:

343 (a) the address of the applicant's permanent residence;  
344 (b) one recent dated photograph;  
345 (c) one set of fingerprints; and  
346 (d) evidence of general familiarity with the types of firearms to be concealed as defined  
347 in Subsection (7).

348 (6) An applicant who is a law enforcement officer under Section 53-13-103 may  
349 provide a letter of good standing from the officer's commanding officer in place of the evidence  
350 required by Subsection (5)(d).

351 (7) (a) General familiarity with the types of firearms to be concealed includes training  
352 in:

353 (i) the safe loading, unloading, storage, and carrying of the types of firearms to be  
354 concealed; and

355 (ii) current laws defining lawful use of a firearm by a private citizen, including lawful  
356 self-defense, use of force by a private citizen, including use of deadly force, transportation, and  
357 concealment.

358 (b) Evidence of general familiarity with the types of firearms to be concealed may be  
359 satisfied by one of the following:

360 (i) completion of a course of instruction conducted by a national, state, or local  
361 firearms training organization approved by the division;

362 (ii) certification of general familiarity by a person who has been certified by the  
363 division, which may include a law enforcement officer, military or civilian firearms instructor,  
364 or hunter safety instructor; or

365 (iii) equivalent experience with a firearm through participation in an organized  
366 shooting competition, law enforcement, or military service.

367 (c) Instruction taken by a student under Subsection (7)(b) shall be in person and not  
368 through electronic means.

369 (8) (a) An applicant for certification as a Utah concealed firearms instructor shall:

370 (i) be at least 21 years of age;

371 (ii) be currently eligible to possess a firearm under Section 76-10-503 and federal law;

372 (iii) have a current National Rifle Association certification or its equivalent as

373 determined by the division; and

374 (iv) for certificates issued beginning July 1, 2006, have taken a course of instruction  
375 and passed a certification test as described in Subsection (8)(c).

376 (b) An instructor's certification is valid for three years from the date of issuance, unless  
377 revoked by the division.

378 (c) (i) In order to obtain initial certification or renew a certification, an instructor shall  
379 attend an instructional course and pass a test under the direction of the division.

380 (ii) (A) Beginning May 1, 2006, the division shall provide or contract to provide the  
381 course referred to in Subsection (8)(c)(i) twice every year.

382 (B) The course shall include instruction on current Utah law related to firearms,  
383 including concealed carry statutes and rules, and the use of deadly force by private citizens.

384 (d) (i) Each applicant for certification under this Subsection (8) shall pay a fee of  
385 \$50.00 at the time of application for initial certification.

386 (ii) The renewal fee for the certificate is \$25.

387 (iii) The fees paid under Subsections (8)(d)(i) and (ii) may be used by the division as a  
388 dedicated credit to cover the cost incurred in maintaining and improving the instruction  
389 program required for concealed firearm instructors under this Subsection (8).

390 (9) A certified concealed firearms instructor shall provide each of the instructor's  
391 students with the required course of instruction outline approved by the division.

392 (10) (a) (i) A concealed firearms instructor is required to provide a signed certificate to  
393 a person successfully completing the offered course of instruction.

394 (ii) The instructor shall sign the certificate with the exact name indicated on the  
395 instructor's certification issued by the division under Subsection (8).

396 (iii) (A) The certificate shall also have affixed to it the instructor's official seal, which  
397 is the exclusive property of the instructor and may not be used by any other person.

398 (B) The instructor shall destroy the seal upon revocation or expiration of the  
399 instructor's certification under Subsection (8).

400 (C) The division shall determine the design and content of the seal to include at least  
401 the following:

402 (I) the instructor's name as it appears on the instructor's certification;

403 (II) the words "Utah Certified Concealed Firearms Instructor," "state of Utah," and "my  
404 certification expires on (the instructor's certification expiration date)"; and

405 (III) the instructor's business or residence address.

406 (D) The seal shall be affixed to each student certificate issued by the instructor in a  
407 manner that does not obscure or render illegible any information or signatures contained in the  
408 document.

409 (b) The applicant shall provide the certificate to the division in compliance with  
410 Subsection (5)(d).

411 (11) The division may deny, suspend, or revoke the certification of a concealed  
412 firearms instructor if it has reason to believe the applicant has:

413 (a) become ineligible to possess a firearm under Section 76-10-503 or federal law; or

414 (b) knowingly and willfully provided false information to the division.

415 (12) A concealed firearms instructor has the same appeal rights as set forth in  
416 Subsection (15).

417 (13) In providing instruction and issuing a permit under this part, the concealed  
418 firearms instructor and the licensing authority are not vicariously liable for damages caused by  
419 the permit holder.

420 (14) An individual who knowingly and willfully provides false information on an  
421 application filed under this part is guilty of a class B misdemeanor, and the application may be  
422 denied, or the permit may be suspended or revoked.

423 (15) (a) In the event of a denial, suspension, or revocation of a permit, the applicant  
424 may file a petition for review with the board within 60 days from the date the denial,  
425 suspension, or revocation is received by the applicant by certified mail, return receipt  
426 requested.

427 (b) The denial of a permit shall be in writing and shall include the general reasons for  
428 the action.

429 (c) If an applicant appeals the denial to the review board, the applicant may have access  
430 to the evidence upon which the denial is based in accordance with Title 63G, Chapter 2,  
431 Government Records Access and Management Act.

432 (d) On appeal to the board, the agency has the burden of proof by a preponderance of  
433 the evidence.

434 (e) (i) Upon a ruling by the board on the appeal of a denial, the division shall issue a  
435 final order within 30 days stating the board's decision.

436 (ii) The final order shall be in the form prescribed by Subsection 63G-4-203(1)(i).

437 (iii) The final order is final agency action for purposes of judicial review under Section  
438 63G-4-402.

439 (16) The commissioner may make rules in accordance with Title 63G, Chapter 3, Utah  
440 Administrative Rulemaking Act, necessary to administer this chapter.

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

442 **53-6-302. Applicants for certification examination -- Requirements.**

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

445 (a) be a United States citizen;

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

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

448 (d) have not been convicted of a crime for which the applicant could have been  
449 punished by imprisonment in a federal penitentiary or by imprisonment in the penitentiary of  
450 this or another state;

451 (e) have demonstrated good moral character, as determined by a background  
452 investigation; and

453 (f) be free of any physical, emotional, or mental condition that might adversely affect  
454 the performance of the applicant's duty as a dispatcher.

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

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

460 (i) Conviction of any offense not serious enough to be covered under Subsection (1)(d),  
461 involving dishonesty, unlawful sexual conduct, physical violence, or the unlawful use, sale, or  
462 possession for sale of a controlled substance is an indication that an applicant may not be of  
463 good moral character and may be grounds for denial of certification or refusal to give a  
464 certification examination.

465 (ii) An applicant may be allowed to take a certification examination provisionally,  
466 pending completion of any background check or investigation required by this subsection.

467 (3) (a) Notwithstanding [~~Sections 77-18-9 through 77-18-17~~] Title 77, Chapter 40,  
468 Utah Expungement Act, regarding expungements, or a similar statute or rule of any other  
469 jurisdiction, any conviction obtained in this state or other jurisdiction, including a conviction  
470 that has been expunged, dismissed, or treated in a similar manner to either of these procedures,  
471 may be considered for purposes of this section.

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

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

477 Section 5. Section **53-10-202.5** is amended to read:

478 **53-10-202.5. Bureau services -- Fees.**

479 The bureau shall collect fees for the following services:

- 480 (1) applicant fingerprint card as determined by Section 53-10-108;
- 481 (2) bail enforcement licensing as determined by Section 53-11-115;
- 482 (3) concealed firearm permit as determined by Section 53-5-707;
- 483 (4) [~~expungement~~] application for certificate of eligibility for expungement as  
484 determined by Section [~~77-18-11~~] 77-40-107;
- 485 (5) firearm purchase background check as determined by Section 76-10-526;
- 486 (6) name check as determined by Section 53-10-108;
- 487 (7) private investigator licensing as determined by Section 53-9-111; and
- 488 (8) right of access as determined by Section 53-10-108.

489 Section 6. Section **53A-6-306** is amended to read:

490 **53A-6-306. Purpose, powers, and duties of UPPAC.**

491 (1) UPPAC shall:

- 492 (a) adopt rules consistent with applicable law and board rules to carry out its  
493 responsibilities under this chapter;
- 494 (b) make recommendations to the board and professional organizations of educators:
  - 495 (i) concerning standards of professional performance, competence, and ethical conduct  
496 for persons holding licenses issued by the board; and
  - 497 (ii) for the improvement of the education profession;



498 (c) establish procedures for receiving and acting upon reports or allegations regarding  
499 immoral, unprofessional, or incompetent conduct, unfitness for duty, or other violations of  
500 standards of ethical conduct, performance, or professional competence;

501 (d) investigate any allegation of sexual abuse of a student or a minor by an educator;  
502 and

503 (e) establish the manner in which hearings are conducted and reported, and  
504 recommendations are submitted to the board for its action.

505 (2) (a) UPPAC may conduct or authorize investigations relating to any matter before  
506 UPPAC.

507 (b) Those investigations shall be independent of and separate from any criminal  
508 investigation.

509 (c) In conducting an investigation UPPAC or an investigator operating under UPPAC  
510 authorization may:

511 (i) administer oaths and issue subpoenas which may be enforced through the state  
512 district courts;

513 (ii) receive any evidence related to an alleged offense, including sealed or expunged  
514 records released to the board under Section [~~77-18-15~~] 77-40-110; and

515 (iii) where reasonable cause exists, initiate a criminal background check on a license  
516 holder.

517 (d) (i) A license holder shall receive written notice if a fingerprint check is required as  
518 a part of the background check.

519 (ii) Fingerprints of the individual shall be taken, and the Law Enforcement and  
520 Technical Services Division of the Department of Public Safety shall release the individual's  
521 full record, as shown on state, regional, and national records, to UPPAC.

522 (iii) UPPAC shall pay the cost of the background check except as provided under  
523 Section 53A-6-401, and the moneys collected shall be credited to the Law Enforcement and  
524 Technical Services Division to offset its expenses.

525 (3) UPPAC is entitled to a rebuttable evidentiary presumption that a person has  
526 committed a sexual offense against a minor child if the person has:

527 (a) after having had a reasonable opportunity to contest the allegation, been found  
528 pursuant to a criminal, civil, or administrative action to have committed a sexual offense

- 529 against a minor child;
- 530 (b) pled guilty to a reduced charge in the face of a charge of having committed a sexual  
531 offense against a minor child, entered a plea of no contest, entered into a plea in abeyance  
532 resulting in subsequent dismissal of such a charge, or failed to defend himself against such a  
533 charge when given reasonable opportunity to do so; or
- 534 (c) voluntarily surrendered a license or certificate or allowed a license or certificate to  
535 lapse in the face of a charge of having committed a sexual offense against a minor child.
- 536 (4) In resolving a complaint UPPAC may:
- 537 (a) dismiss the complaint;
- 538 (b) issue a warning or reprimand;
- 539 (c) issue an order of probation requiring an educator to comply with specific conditions  
540 in order to retain a license;
- 541 (d) enter into a written agreement requiring an educator to comply with certain  
542 conditions;
- 543 (e) recommend board action such as revocation or suspension of a license or restriction  
544 or prohibition of licensure; or
- 545 (f) take other appropriate action.
- 546 (5) UPPAC may not:
- 547 (a) participate as a party in any dispute relating to negotiations between a school  
548 district and its educators;
- 549 (b) take action against an educator without giving the individual an opportunity for a  
550 fair hearing to contest the allegations upon which the action would be based; or
- 551 (c) take action against an educator unless it finds that the action or the failure of the  
552 educator to act impairs the educator's ability to perform the functions of the educator's position.
- 553 Section 7. Section **76-8-504.6** is amended to read:
- 554 **76-8-504.6. False or misleading information.**
- 555 (1) A person is guilty of a class B misdemeanor if the person, not under oath or  
556 affirmation, intentionally or knowingly [~~gives~~] provides false or misleading material  
557 information to:
- 558 (a) an officer of the court for the purpose of influencing a criminal proceeding; or  
559 (b) the bureau of criminal identification for the purpose of obtaining a certificate of

560 eligibility for expungement.

561 (2) For the purposes of this section "officer of the court" means:

562 (a) prosecutor;

563 (b) judge;

564 (c) court clerk;

565 (d) interpreter;

566 (e) presentence investigator;

567 (f) probation officer;

568 (g) parole officer; and

569 (h) any other person reasonably believed to be gathering information for a criminal  
570 proceeding.

571 (3) This section does not apply under circumstances amounting to Section 76-8-306 or  
572 any other provision of this code carrying a greater penalty.

573 Section 8. Section **77-27-21.5** is amended to read:

574 **77-27-21.5. Sex and kidnap offenders -- Registration -- Information system --**  
575 **Law enforcement and courts to report -- Penalty -- Effect of expungement.**

576 (1) As used in this section:

577 (a) "Business day" means a day on which state offices are open for regular business.

578 (b) "Department" means the Department of Corrections.

579 (c) "Division" means the Division of Juvenile Justice Services.

580 (d) "Employed" or "carries on a vocation" includes employment that is full time or part  
581 time, whether financially compensated, volunteered, or for the purpose of government or  
582 educational benefit.

583 (e) "Indian Country" means:

584 (i) all land within the limits of any Indian reservation under the jurisdiction of the  
585 United States government, regardless of the issuance of any patent, and includes rights-of-way  
586 running through the reservation;

587 (ii) all dependent Indian communities within the borders of the United States whether  
588 within the original or subsequently acquired territory, and whether or not within the limits of a  
589 state; and

590 (iii) all Indian allotments, including the Indian allotments to which the Indian titles to

- 591 have not been extinguished, including rights-of-way running through the allotments.
- 592 (f) "Jurisdiction" means any state, Indian Country, or United States Territory.
- 593 (g) "Kidnap offender" means any person other than a natural parent of the victim who:
- 594 (i) has been convicted in this state of a violation of:
- 595 (A) Section 76-5-301, kidnapping;
- 596 (B) Section 76-5-301.1, child kidnapping;
- 597 (C) Section 76-5-302, aggravated kidnapping; or
- 598 (D) attempting, soliciting, or conspiring to commit any felony offense listed in
- 599 Subsections (1)(g)(i)(A) through (C);
- 600 (ii) has been convicted of any crime, or an attempt, solicitation, or conspiracy to
- 601 commit a crime in another jurisdiction that is substantially equivalent to the offenses listed in
- 602 Subsection (1)(g)(i) and who is:
- 603 (A) a Utah resident; or
- 604 (B) not a Utah resident, but who, in any 12 month period, is in this state for a total of
- 605 ten or more days, regardless of whether or not the offender intends to permanently reside in this
- 606 state;
- 607 (iii) is required to register as an offender in any other jurisdiction, and who, in any 12
- 608 month period, is in this state for a total of ten or more days, regardless of whether or not the
- 609 offender intends to permanently reside in this state;
- 610 (iv) is a nonresident regularly employed or working in this state, or who is a student in
- 611 this state, and was convicted of one or more offenses listed in Subsection (1)(g), or any
- 612 substantially equivalent offense in another jurisdiction, or as a result of the conviction, is
- 613 required to register in the person's state of residence;
- 614 (v) is found not guilty by reason of insanity in this state or in any other jurisdiction of
- 615 one or more offenses listed in Subsection (1)(g); or
- 616 (vi) is adjudicated delinquent based on one or more offenses listed in Subsection
- 617 (1)(g)(i) and who has been committed to the division for secure confinement and remains in the
- 618 division's custody 30 days prior to the person's 21st birthday.
- 619 (h) "Natural parent" means a minor's biological or adoptive parent, and includes the
- 620 minor's noncustodial parent.
- 621 (i) "Offender" means a kidnap offender as defined in Subsection (1)(g) or a sex

622 offender as defined in Subsection (1)(n).

623 (j) "Online identifier" or "Internet identifier":

624 (i) means any electronic mail, chat, instant messenger, social networking, or similar  
625 name used for Internet communication; and

626 (ii) does not include date of birth, Social Security number, PIN number, or Internet  
627 passwords.

628 (k) "Primary residence" means the location where the offender regularly resides, even  
629 if the offender intends to move to another location or return to another location at any future  
630 date.

631 (l) "Register" means to comply with the requirements of this section and administrative  
632 rules of the department made under this section.

633 (m) "Secondary residence" means any real property that the offender owns or has a  
634 financial interest in, and any location where, in any 12 month period, the offender stays  
635 overnight a total of ten or more nights when not staying at the offender's primary residence.

636 (n) "Sex offender" means any person:

637 (i) convicted in this state of:

638 (A) a felony or class A misdemeanor violation of Section 76-4-401, enticing a minor;

639 (B) a felony or class A misdemeanor violation of Section 76-9-702.7, voyeurism;

640 (C) a felony violation of Section 76-5-401, unlawful sexual activity with a minor;

641 (D) Section 76-5-401.1, sexual abuse of a minor;

642 (E) Section 76-5-401.2, unlawful sexual conduct with a 16 or 17 year old;

643 (F) Section 76-5-402, rape;

644 (G) Section 76-5-402.1, rape of a child;

645 (H) Section 76-5-402.2, object rape;

646 (I) Section 76-5-402.3, object rape of a child;

647 (J) a felony violation of Section 76-5-403, forcible sodomy;

648 (K) Section 76-5-403.1, sodomy on a child;

649 (L) Section 76-5-404, forcible sexual abuse;

650 (M) Section 76-5-404.1, sexual abuse of a child or aggravated sexual abuse of a child;

651 (N) Section 76-5-405, aggravated sexual assault;

652 (O) Section 76-5a-3, sexual exploitation of a minor;

- 653 (P) Section 76-7-102, incest;
- 654 (Q) Subsection 76-9-702(1), lewdness, if the person has been convicted of the offense  
655 four or more times;
- 656 (R) Subsection 76-9-702(3), sexual battery, if the person has been convicted of the  
657 offense four or more times;
- 658 (S) any combination of convictions of Subsection 76-9-702(1), lewdness, and of  
659 Subsection 76-9-702(3), sexual battery, that total four or more convictions;
- 660 (T) Section 76-9-702.5, lewdness involving a child;
- 661 (U) Section 76-10-1306, aggravated exploitation of prostitution; or
- 662 (V) attempting, soliciting, or conspiring to commit any felony offense listed in  
663 Subsection (1)(n)(i);
- 664 (ii) who has been convicted of any crime, or an attempt, solicitation, or conspiracy to  
665 commit a crime in another jurisdiction that is substantially equivalent to the offenses listed in  
666 Subsection (1)(n)(i) and who is:
- 667 (A) a Utah resident; or
- 668 (B) not a Utah resident, but who, in any 12 month period, is in this state for a total of  
669 ten or more days, regardless of whether the offender intends to permanently reside in this state;
- 670 (iii) who is required to register as an offender in any other jurisdiction, and who, in any  
671 12 month period, is in the state for a total of ten or more days, regardless of whether or not the  
672 offender intends to permanently reside in this state;
- 673 (iv) who is a nonresident regularly employed or working in this state or who is a  
674 student in this state and was convicted of one or more offenses listed in Subsection (1)(n)(i), or  
675 any substantially equivalent offense in any jurisdiction, or as a result of the conviction, is  
676 required to register in the person's jurisdiction of residence;
- 677 (v) who is found not guilty by reason of insanity in this state, or in any other  
678 jurisdiction of one or more offenses listed in Subsection (1)(n)(i); or
- 679 (vi) who is adjudicated delinquent based on one or more offenses listed in Subsection  
680 (1)(n)(i) and who has been committed to the division for secure confinement and remains in the  
681 division's custody 30 days prior to the person's 21st birthday.
- 682 (o) "Vehicle" means any motor vehicle, aircraft, or watercraft subject to registration in  
683 any jurisdiction.

684 (2) The department, to assist in investigating sex-related crimes and in apprehending  
685 offenders, shall:

686 (a) develop and operate a system to collect, analyze, maintain, and disseminate  
687 information on offenders and sex and kidnap offenses;

688 (b) make information listed in Subsection (27) available to the public; and

689 (c) share information provided by an offender under this section that may not be made  
690 available to the public under Subsection (27), but only:

691 (i) for the purposes under this Subsection (2); or

692 (ii) in accordance with Section 63G-2-206.

693 (3) Any law enforcement agency shall, in the manner prescribed by the department,  
694 inform the department of:

695 (a) the receipt of a report or complaint of an offense listed in Subsection (1)(g) or (n),  
696 within three business days; and

697 (b) the arrest of a person suspected of any of the offenses listed in Subsection (1)(g) or  
698 (n), within five business days.

699 (4) Upon convicting a person of any of the offenses listed in Subsection (1)(g) or (n),  
700 the convicting court shall within three business days forward a copy of the judgment and  
701 sentence to the department.

702 (5) An offender in the custody of the department shall be registered by agents of the  
703 department upon:

704 (a) placement on probation;

705 (b) commitment to a secure correctional facility operated by or under contract to the  
706 department;

707 (c) release from confinement to parole status, termination or expiration of sentence, or  
708 escape;

709 (d) entrance to and release from any community-based residential program operated by  
710 or under contract to the department; or

711 (e) termination of probation or parole.

712 (6) An offender who is not in the custody of the department and who is confined in a  
713 correctional facility not operated by or under contract to the department shall be registered with  
714 the department by the sheriff of the county in which the offender is confined, upon:

715 (a) commitment to the correctional facility; and

716 (b) release from confinement.

717 (7) An offender in the custody of the division shall be registered with the department  
718 by the division prior to release from custody.

719 (8) An offender committed to a state mental hospital shall be registered with the  
720 department by the hospital upon admission and upon discharge.

721 (9) (a) (i) A municipal or county law enforcement agency shall register an offender  
722 who resides within the agency's jurisdiction and is not under the supervision of the Division of  
723 Adult Probation and Parole within the department.

724 (ii) In order to conduct offender registration under this section, the agency shall ensure  
725 the agency staff responsible for registration:

726 (A) has received initial training by the department and has been certified by the  
727 department as qualified and authorized to conduct registrations and enter offender registration  
728 information into the registry database; and

729 (B) certify annually with the department.

730 (b) (i) When the department receives offender registration information regarding a  
731 change of an offender's primary residence location, the department shall within five days  
732 electronically notify the law enforcement agencies that have jurisdiction over the area where:

733 (A) the residence that the offender is leaving is located; and

734 (B) the residence to which the offender is moving is located.

735 (ii) The department shall provide notification under this Subsection (9)(b) if the  
736 offender's change of address is between law enforcement agency jurisdictions, or is within one  
737 jurisdiction.

738 (c) The department shall make available to offenders required to register under this  
739 section the name of the agency, whether it is a local law enforcement agency or the department,  
740 that the offender should contact to register, the location for registering, and the requirements of  
741 registration.

742 (10) An offender convicted by any other jurisdiction is required to register under  
743 Subsection (1)(g) or (n) and Subsection (12) and shall register with the department within ten  
744 days of entering the state, regardless of the offender's length of stay.

745 (11) (a) An offender required to register under Subsection (1)(g) or (n) who is under



746 supervision by the department shall register with Division of Adult Probation and Parole.

747 (b) An offender required to register under Subsection (1)(g) or (n) who is no longer  
748 under supervision by the department shall register with the police department or sheriff's office  
749 that has jurisdiction over the area where the offender resides.

750 (12) (a) Except as provided in Subsections (12)(b), (c), and (d), an offender shall, for  
751 the duration of the sentence and for ten years after termination of sentence or custody of the  
752 division, register every year during the month of the offender's birth, during the month that is  
753 the sixth month after the offender's birth month, and also within three business days of every  
754 change of the offender's primary residence, any secondary residences, place of employment,  
755 vehicle information, or educational information required to be submitted under Subsection  
756 (14).

757 (b) Except as provided Subsections (12)(c) and (d), an offender who is convicted in  
758 another jurisdiction of an offense listed in Subsection (1)(g)(i) or (n)(i), a substantially similar  
759 offense, or any other offense that requires registration in the jurisdiction of conviction, shall:

760 (i) register for the time period, and in the frequency, required by the jurisdiction where  
761 the offender was convicted if that jurisdiction's registration period or registration frequency  
762 requirement for the offense that the offender was convicted of is greater than the ten years from  
763 completion of the sentence registration period that is required under Subsection (12)(a), or is  
764 more frequent than every six months; or

765 (ii) register in accordance with the requirements of Subsection (12)(a), if the  
766 jurisdiction's registration period or frequency requirement for the offense that the offender was  
767 convicted of is less than the registration period required under Subsection (12)(a), or is less  
768 frequent than every six months.

769 (c) (i) (A) An offender convicted as an adult of any of the offenses listed in Subsection  
770 (12)(c)(ii) shall, for the offender's lifetime, register every year during the month of the  
771 offender's birth, during the month that is the sixth month after the offender's birth month, and  
772 also within three business days of every change of the offender's primary residence, any  
773 secondary residences, place of employment, vehicle information, or educational information  
774 required to be submitted under Subsection (14).

775 (B) This registration requirement is not subject to exemptions and may not be  
776 terminated or altered during the offender's lifetime.

- 777 (ii) Offenses referred to in Subsection (12)(c)(i) are:
- 778 (A) any offense listed in Subsection (1)(g) or (n) if, at the time of the conviction, the  
779 offender has previously been convicted of an offense listed in Subsection (1)(g) or (n) or has  
780 previously been required to register as a sex offender for an offense committed as a juvenile;
- 781 (B) a conviction for any of the following offenses, including attempting, soliciting, or  
782 conspiring to commit any felony of:
- 783 (I) Section 76-5-301.1, child kidnapping, except if the offender is a natural parent of  
784 the victim;
- 785 (II) Section 76-5-402, rape;
- 786 (III) Section 76-5-402.1, rape of a child;
- 787 (IV) Section 76-5-402.2, object rape;
- 788 (V) Section 76-5-402.3, object rape of a child;
- 789 (VI) Section 76-5-403.1, sodomy on a child;
- 790 (VII) Subsection 76-5-404.1(4), aggravated sexual abuse of a child; or
- 791 (VIII) Section 76-5-405, aggravated sexual assault;
- 792 (C) Section 76-4-401, a felony violation of enticing a minor over the Internet;
- 793 (D) Section 76-5-302, aggravated kidnapping, except if the offender is a natural parent  
794 of the victim;
- 795 (E) Section 76-5-403, forcible sodomy;
- 796 (F) Section 76-5-404.1, sexual abuse of a child; or
- 797 (G) Section 76-5a-3, sexual exploitation of a minor.
- 798 (d) Notwithstanding Subsections (12)(a), (b), and (c), an offender who is confined in a  
799 secure facility or in a state mental hospital is not required to register during the period of  
800 confinement.
- 801 (e) An offender who is required to register under this Subsection (12) shall surrender  
802 the offender's license, certificate, or identification card as required under Subsection  
803 53-3-216(3) or 53-3-807(4) and may apply for a license certificate or identification card as  
804 provided under Section 53-3-205 or 53-3-804.
- 805 (f) A sex offender who violates Section 77-27-21.8 while required to register under this  
806 section shall register for an additional five years subsequent to the registration period otherwise  
807 required under this section.

808 (13) An agency in the state that registers an offender on probation, an offender who has  
809 been released from confinement to parole status or termination, or an offender whose sentence  
810 has expired shall inform the offender of the duty to comply with:

811 (a) the continuing registration requirements of this section during the period of  
812 registration required in Subsection (12), including:

813 (i) notification to the state agencies in the states where the registrant presently resides  
814 and plans to reside when moving across state lines;

815 (ii) verification of address at least every 60 days pursuant to a parole agreement for  
816 lifetime parolees; and

817 (iii) notification to the out-of-state agency where the offender is living, whether or not  
818 the offender is a resident of that state; and

819 (b) the driver license certificate or identification card surrender requirement under  
820 Subsection 53-3-216(3) or 53-3-807(4) and application provisions under Section 53-3-205 or  
821 53-3-804.

822 (14) An offender shall provide the department or the registering entity with the  
823 following information:

824 (a) all names and aliases by which the offender is or has been known;

825 (b) the addresses of the offender's primary and secondary residences;

826 (c) a physical description, including the offender's date of birth, height, weight, eye and  
827 hair color;

828 (d) the make, model, color, year, plate number, and vehicle identification number of  
829 any vehicle or vehicles the offender owns or regularly drives;

830 (e) a current photograph of the offender;

831 (f) a set of fingerprints, if one has not already been provided;

832 (g) a DNA specimen, taken in accordance with Section 53-10-404, if one has not  
833 already been provided;

834 (h) telephone numbers and any other designations used by the offender for routing or  
835 self-identification in telephonic communications from fixed locations or cellular telephones;

836 (i) Internet identifiers and the addresses the offender uses for routing or  
837 self-identification in Internet communications or postings;

838 (j) the name and Internet address of all websites on which the sex offender is registered

- 839 using an online identifier, including all online identifiers used to access those websites;
- 840 (k) a copy of the offender's passport, if a passport has been issued to the offender;
- 841 (l) if the offender is an alien, all documents establishing the offender's immigration  
842 status;
- 843 (m) all professional licenses that authorize the offender to engage in an occupation or  
844 carry out a trade or business, including any identifiers, such as numbers;
- 845 (n) each educational institution in Utah at which the offender is employed, carries on a  
846 vocation, or is a student, and any change of enrollment or employment status of the offender at  
847 any educational institution;
- 848 (o) the name and the address of any place where the offender is employed or will be  
849 employed;
- 850 (p) the name and the address of any place where the offender works as a volunteer or  
851 will work as a volunteer; and
- 852 (q) the offender's Social Security number.
- 853 (15) The department shall:
- 854 (a) provide the following additional information when available:
- 855 (i) the crimes the offender has been convicted of or adjudicated delinquent for;
- 856 (ii) a description of the offender's primary and secondary targets; and
- 857 (iii) any other relevant identifying information as determined by the department;
- 858 (b) maintain the Sex Offender Notification and Registration website; and
- 859 (c) ensure that the registration information collected regarding an offender's enrollment  
860 or employment at an educational institution is:
- 861 (i) (A) promptly made available to any law enforcement agency that has jurisdiction  
862 where the institution is located if the educational institution is an institution of higher  
863 education; or
- 864 (B) promptly made available to the district superintendent of the school district where  
865 the offender is enrolled if the educational institution is an institution of primary education; and
- 866 (ii) entered into the appropriate state records or data system.
- 867 (16) (a) An offender who knowingly fails to register under this section or provides  
868 false or incomplete information is guilty of:
- 869 (i) a third degree felony and shall be sentenced to serve a term of incarceration for not

870 less than 90 days and also at least one year of probation if:

871 (A) the offender is required to register for a felony conviction or adjudicated delinquent  
872 for what would be a felony if the juvenile were an adult of an offense listed in Subsection  
873 (1)(g)(i) or (n)(i); or

874 (B) the offender is required to register for the offender's lifetime under Subsection  
875 (12)(c); or

876 (ii) a class A misdemeanor and shall be sentenced to serve a term of incarceration for  
877 not fewer than 90 days and also at least one year of probation if the offender is required to  
878 register for a misdemeanor conviction or is adjudicated delinquent for what would be a  
879 misdemeanor if the juvenile were an adult of an offense listed in Subsection (1)(g)(i) or (n)(i).

880 (b) Neither the court nor the Board of Pardons and Parole may release a person who  
881 violates this section from serving the term required under Subsection (16)(a). This Subsection  
882 (16)(b) supersedes any other provision of the law contrary to this section.

883 (c) The offender shall register for an additional year for every year in which the  
884 offender does not comply with the registration requirements of this section.

885 (17) Notwithstanding Title 63G, Chapter 2, Government Records Access and  
886 Management Act, information under Subsection (15) that is collected and released under  
887 Subsection (27) is public information, unless otherwise restricted under Subsection (2)(c).

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

893 (b) This Subsection (18) does not apply to any person temporarily released under guard  
894 from the institution in which the person is confined.

895 (19) Notwithstanding [~~Sections 77-18-9 through 77-18-14 regarding expungement~~]  
896 Title 77, Chapter 40, Utah Expungement Act, a person convicted of any offense listed in  
897 Subsection (1)(g) or (n) is not relieved from the responsibility to register as required under this  
898 section.

899 (20) Notwithstanding Section 42-1-1, an offender:

900 (a) may not change the offender's name:

- 901 (i) while under the jurisdiction of the department; and
- 902 (ii) until the registration requirements of this statute have expired; and
- 903 (b) may not change the offender's name at any time, if registration is for life under
- 904 Subsection (12)(c).
- 905 (21) The department may make administrative rules necessary to implement this
- 906 section, including:
- 907 (a) the method for dissemination of the information; and
- 908 (b) instructions to the public regarding the use of the information.
- 909 (22) Any information regarding the identity or location of a victim shall be redacted by
- 910 the department from information provided under Subsections (14) and (15).
- 911 (23) This section does not create or impose any duty on any person to request or obtain
- 912 information regarding any sex offender from the department.
- 913 (24) The department shall maintain a Sex Offender Notification and Registration
- 914 website on the Internet, which shall contain a disclaimer informing the public:
- 915 (a) the information contained on the site is obtained from offenders and the department
- 916 does not guarantee its accuracy or completeness;
- 917 (b) members of the public are not allowed to use the information to harass or threaten
- 918 offenders or members of their families; and
- 919 (c) harassment, stalking, or threats against offenders or their families are prohibited and
- 920 doing so may violate Utah criminal laws.
- 921 (25) The Sex Offender Notification and Registration website shall be indexed by both
- 922 the surname of the offender and by postal codes.
- 923 (26) The department shall construct the Sex Offender Notification and Registration
- 924 website so that users, before accessing registry information, must indicate that they have read
- 925 the disclaimer, understand it, and agree to comply with its terms.
- 926 (27) The Sex Offender Notification and Registration website shall include the
- 927 following registry information:
- 928 (a) all names and aliases by which the offender is or has been known, but not including
- 929 any online or Internet identifiers;
- 930 (b) the addresses of the offender's primary, secondary, and temporary residences;
- 931 (c) a physical description, including the offender's date of birth, height, weight, and eye

932 and hair color;

933 (d) the make, model, color, year, and plate number of any vehicle or vehicles the  
934 offender owns or regularly drives;

935 (e) a current photograph of the offender;

936 (f) a list of all professional licenses that authorize the offender to engage in an  
937 occupation or carry out a trade or business;

938 (g) each educational institution in Utah at which the offender is employed, carries on a  
939 vocation, or is a student;

940 (h) a list of places where the offender works as a volunteer; and

941 (i) the crimes listed in Subsections (1)(g) and (1)(n) that the offender has been  
942 convicted of or for which the offender has been adjudicated delinquent in juvenile court.

943 (28) The department, its personnel, and any individual or entity acting at the request or  
944 upon the direction of the department are immune from civil liability for damages for good faith  
945 compliance with this section and will be presumed to have acted in good faith by reporting  
946 information.

947 (29) The department shall redact information that, if disclosed, could reasonably  
948 identify a victim.

949 (30) (a) Each offender required to register under Subsection (12) shall, in the month of  
950 the offender's birth, pay to the department an annual fee of \$100 each year the offender is  
951 subject to the registration requirements of this section.

952 (b) Notwithstanding Subsection (30)(a), an offender who is confined in a secure facility  
953 or in a state mental hospital is not required to pay the annual fee.

954 (c) The department shall deposit fees under this Subsection (30) in the General Fund as  
955 a dedicated credit, to be used by the department for maintaining the offender registry under this  
956 section and monitoring offender registration compliance, including the costs of:

957 (i) data entry;

958 (ii) processing registration packets;

959 (iii) updating registry information;

960 (iv) ensuring offender compliance with registration requirements under this section;

961 and

962 (v) apprehending offenders who are in violation of the offender registration

963 requirements under this section.

964 (31) Notwithstanding Subsections (2)(c) and (14)(i) and (j), a sex offender is not  
965 required to provide the department with:

966 (a) the offender's online identifier and password used exclusively for the offender's  
967 employment on equipment provided by an employer and used to access the employer's private  
968 network; or

969 (b) online identifiers for the offender's financial accounts, including any bank,  
970 retirement, or investment accounts.

971 Section 9. Section ~~77-38-14~~ is amended to read:

972 **~~77-38-14. Notice of expungement petition -- Victim's right to object.~~**

973 (1) The Department of Corrections or the Juvenile Probation Department shall prepare  
974 a document explaining the right of a victim or a victim's representative to object to a petition  
975 for expungement under Section [~~77-18-11~~] 77-40-108 or 78A-6-1105 and the procedures for  
976 obtaining notice of any such petition. The department or division shall also provide each trial  
977 court a copy of the document which has jurisdiction over delinquencies or criminal offenses  
978 subject to expungement.

979 (2) The prosecuting attorney in any case leading to a conviction or an adjudication  
980 subject to expungement shall provide a copy of the document to each person who would be  
981 entitled to notice of a petition for expungement under Sections [~~77-18-11~~] 77-40-108 and  
982 78A-6-1105.

983 Section 10. Section ~~77-40-101~~ is enacted to read:

984 **CHAPTER 40. Expungement**

985 **77-40-101. Title.**

986 This chapter is known as the "Utah Expungement Act."

987 Section 11. Section ~~77-40-102~~, which is renumbered from Section 77-18-9 is  
988 renumbered and amended to read:

989 [~~77-18-9~~]. **77-40-102. Definitions.**

990 As used in this chapter:

991 (1) "Administrative finding" means a decision upon a question of fact reached by an  
992 administrative agency following an administrative hearing or other procedure satisfying the  
993 requirements of due process.



994 (2) "Bureau" means the Bureau of Criminal Identification of the Department of Public  
 995 Safety established in Section 53-10-201.

996 ~~[(2)]~~ (3) "Certificate of eligibility" means a document issued by the [division] bureau  
 997 stating that the criminal record which is the subject of a petition for expungement is eligible for  
 998 expungement.

999 ~~[(3)]~~ (4) "Conviction" means judgment by a criminal court on a verdict or finding of  
 1000 guilty after trial, a plea of guilty, or a plea of nolo contendere.

1001 ~~[(4)]~~ (5) ["Division" means the Criminal Investigations and Technical Services  
 1002 Division of] "Department" means the Department of Public Safety established in Section  
 1003 [53-10-103] 53-1-103.

1004 ~~[(5)]~~ (6) "Expungement" means the [sealing or destruction] removal of [a criminal  
 1005 record, including records of] any reference to the petitioner's arrest, investigation, detention,  
 1006 and conviction from the electronic record-keeping systems of all state, county, or local  
 1007 government agencies and the placement of all paper records regarding the petitioner's arrest,  
 1008 investigation, detention, [or] and conviction [of the petitioner] held by any state, county, or  
 1009 local government agency in a secure location to which access is restricted as provided by this  
 1010 chapter .

1011 ~~[(6)]~~ (7) "Jurisdiction" means an area of authority.

1012 ~~[(7)]~~ (8) "Petitioner" means a person seeking expungement under this chapter.

1013 ~~[(8) Second degree forcible felony includes:]~~

1014 ~~[(a) aggravated assault, if the person intentionally causes serious bodily injury;]~~

1015 ~~[(b) aggravated assault by a prisoner;]~~

1016 ~~[(c) aggravated assault on school premises;]~~

1017 ~~[(d) intentional child abuse;]~~

1018 ~~[(e) criminally negligent automobile homicide;]~~

1019 ~~[(f) reckless child abuse homicide;]~~

1020 ~~[(g) mayhem;]~~

1021 ~~[(h) manslaughter;]~~

1022 ~~[(i) kidnaping;]~~

1023 ~~[(j) forcible sexual abuse;]~~

1024 ~~[(k) robbery;]~~

1025 ~~[(f) felony fleeing causing death or serious bodily injury; or]~~

1026 ~~[(m) delivery of an explosive to a common carrier.]~~

1027 Section 12. Section **77-40-103** is enacted to read:

1028 **77-40-103. Expungement procedure overview.**

1029 The process for the expungement of records regarding the arrest, investigation,  
1030 detention, and conviction of a petitioner in this state is as follows.

1031 (1) The petitioner shall apply to the bureau for a certificate of eligibility for  
1032 expungement and pay the application fee established by the department.

1033 (2) Once the eligibility process is complete, the bureau shall notify the petitioner.

1034 (3) If the petitioner is qualified to receive a certificate of eligibility for expungement  
1035 the petitioner shall pay the issuance fee established by the department.

1036 (4) The petitioner shall file the certificate of eligibility with a petition for expungement  
1037 in the court in which the proceedings occurred. If there were no court proceedings, the petition  
1038 may be filed in any court in the jurisdiction where the arrest occurred.

1039 (5) The petitioner shall deliver a copy of the petition and certificate to the prosecutorial  
1040 office that handled the court proceedings. If there were no court proceedings, the copy of the  
1041 petition and certificate shall be delivered to the prosecutorial office in the jurisdiction where  
1042 the arrest occurred.

1043 (6) If an objection to the petition is filed by the prosecutor or victim, a hearing shall be  
1044 set by the court and the prosecutor and victim notified of the date.

1045 (7) If the court requests a response from Adult Probation and Parole and a response is  
1046 received, the petitioner may file a written reply to the response within 15 days of receipt of the  
1047 response.

1048 (8) An expungement may be granted without a hearing if no objection is received.

1049 (9) Upon receipt of an order of expungement, the petitioner shall deliver copies to all  
1050 state, county, and local government agencies in possession of records relating to the expunged  
1051 matter.

1052 Section 13. Section **77-40-104** is enacted to read:

1053 **77-40-104. Expungement of records of arrest, investigation, and detention --**  
1054 **Requirements.**

1055 A person who has been arrested with or without a warrant may petition the court for an

1056 order expunging any and all records of arrest, investigation, and detention which may have  
1057 been made in the case, subject to the following conditions:

1058 (1) at least 30 days have passed since the arrest for which a certificate of expungement  
1059 is sought;

1060 (2) there have been no intervening arrests; and

1061 (3) one of the following occurred:

1062 (a) the person was released from custody and the prosecuting attorney has declined to  
1063 file charges;

1064 (b) the action against the person was dismissed with prejudice;

1065 (c) the person was acquitted at trial; or

1066 (d) the statute of limitations has expired on the charges.

1067 (4) Notwithstanding Subsection 77-40-104(1), a petitioner seeking expungement  
1068 under Subsection 77-40-104(3)(c) shall be issued a certificate of eligibility on an expedited  
1069 basis.

1070 Section 14. Section **77-40-105** is enacted to read:

1071 **77-40-105. Expungement of conviction -- Requirements.**

1072 (1) (a) A person convicted of a crime may petition the convicting court for an  
1073 expungement of the record of conviction as provided in this section.

1074 (b) If a person has received a pardon from the Utah Board of Pardons and Parole, the  
1075 person is entitled to an expungement of all pardoned crimes.

1076 (2) A petitioner is not eligible to receive a certificate of eligibility from the bureau if:

1077 (a) the conviction for which expungement is sought is:

1078 (i) a capital felony;

1079 (ii) a first degree felony;

1080 (iii) a violent felony as defined in Subsection 76-3-203.5(1)(c)(i);

1081 (iv) automobile homicide;

1082 (v) a felony violation of Subsection 41-6a-501(2); or

1083 (vi) a registerable sex offense as defined in Subsection 77-27-21.5(1)(n); or

1084 (b) the petitioner's record includes two or more convictions for any crime which would  
1085 be a felony under Utah law, not arising out of a single criminal episode, regardless of the  
1086 jurisdiction in which the convictions occurred;

1087 (c) the petitioner's record includes three or more convictions for any crime which  
1088 would be a class A misdemeanor under Utah law, not arising out of a single criminal episode,  
1089 regardless of the jurisdiction in which the convictions occurred;

1090 (d) the petitioner has previously obtained expungement in any jurisdiction of a crime  
1091 which would be a felony under Utah law;

1092 (e) the petitioner has previously obtained expungement in any jurisdiction of two or  
1093 more crimes which would be misdemeanors under Utah law;

1094 (f) a proceeding involving a crime is pending or being investigated in any jurisdiction  
1095 against the petitioner; or

1096 (g) the petitioner intentionally or knowingly provides false or misleading information  
1097 on the application for a certificate of eligibility.

1098 (3) A petitioner seeking to obtain expungement for a criminal record may not be  
1099 eligible to receive a certificate of eligibility from the bureau until all of the following have  
1100 occurred:

1101 (a) all fines and interest ordered by the court have been paid in full;

1102 (b) all restitution ordered by the court pursuant to Section 77-38a-302, or by the Board  
1103 of Pardons and Parole pursuant to Section 77-27-6, has been paid in full; and

1104 (c) the following time periods have elapsed from the date the petitioner was convicted  
1105 or released from incarceration, parole, or probation, whichever occurred last, for each  
1106 conviction the petitioner seeks to expunge:

1107 (i) ten years in the case of a misdemeanor conviction of Subsection 41-6a-501(2) or a  
1108 felony violation of Subsection 58-37-8(2)(g);

1109 (ii) seven years in the case of a felony;

1110 (iii) five years in the case of a class A misdemeanor;

1111 (iv) four years in the case of a class B misdemeanor; or

1112 (v) three years in the case of any other misdemeanor or infraction.

1113 (4) A petitioner may expunge no more than four convictions, regardless of the  
1114 jurisdiction in which the expungement was obtained. Only one of those four convictions may  
1115 be a felony. Only three of those four convictions may be a misdemeanor. Infractions are not  
1116 included in determining the total number of convictions a person may expunge.

1117 Section 15. Section **77-40-106** is enacted to read:

1118 **77-40-106. Extraordinary circumstances -- Immediate expungement.**

1119 (1) A person seeking an expungement may petition the court for an immediate  
1120 expungement if the person believes extraordinary circumstances exist.

1121 (2) If the court determines that the petitioner is eligible for relief under this section, it  
1122 may order the bureau to expedite the eligibility process.

1123 (3) A court shall order expungement if the court finds that the petitioner is eligible for  
1124 relief under this section and in the interest of justice an order of immediate expungement  
1125 should be issued.

1126 Section 16. Section **77-40-107** is enacted to read:

1127 **77-40-107. Application for certificate of eligibility -- Fees.**

1128 (1) (a) A petitioner seeking to obtain an expungement for a criminal record shall apply  
1129 for a certificate of eligibility from the bureau.

1130 (b) A petitioner who intentionally or knowingly provides any false or misleading  
1131 information to the bureau when applying for a certificate of eligibility is guilty of a class B  
1132 misdemeanor and subject to prosecution under Section 76-8-504.6.

1133 (c) Regardless of whether the petitioner is prosecuted, the bureau may deny a certificate  
1134 of eligibility to anyone providing false information on an application.

1135 (2) (a) The bureau shall perform a check of records of governmental agencies,  
1136 including national criminal data bases, to determine whether a petitioner is eligible to receive a  
1137 certificate of eligibility under this chapter.

1138 (b) If the petitioner meets all of the criteria under Section 77-40-104 or 77-40-105, the  
1139 bureau shall issue a certificate of eligibility to the petitioner which shall be valid for a period of  
1140 60 days from the date the certificate is issued.

1141 (c) If, after reasonable research, a disposition for an arrest on the criminal history file is  
1142 unobtainable, the bureau may issue a special certificate giving discretion of eligibility to the  
1143 court.

1144 (3) (a) The bureau may charge application and issuance fees for a certificate of  
1145 eligibility in accordance with the process in Section 63J-1-504.

1146 (b) The application fee shall be paid at the time the petitioner submits an application  
1147 for a certificate of eligibility to the bureau.

1148 (c) If the bureau determines that the issuance of a certificate of eligibility is

1149 appropriate, the petitioner will be charged an additional fee for the issuance of a certificate of  
1150 eligibility unless Subsection (3)(d) applies.

1151 (d) An issuance fee may not be assessed against a petitioner who qualifies for a  
1152 certificate of eligibility under Section 77-40-104.

1153 (e) Funds generated under this Subsection shall be deposited in the General Fund as a  
1154 dedicated credit by the department to cover the costs incurred in determining eligibility.

1155 Section 17. Section **77-40-108** is enacted to read:

1156 **77-40-108. Petition for expungement -- Prosecutorial responsibility-- Hearing --**  
1157 **Standard of proof -- Exception.**

1158 (1) (a) Upon receipt of a petition for expungement the prosecuting attorney shall  
1159 provide notice of the expungement request by first-class mail to the victim at the most recent  
1160 address of record on file.

1161 (b) The notice shall include a copy of the petition, certificate of eligibility, statutes and  
1162 rules applicable to the petition, state that the victim has a right to object to the expungement,  
1163 and provide instructions for registering an objection with the court.

1164 (2) The prosecuting attorney and the victim may respond to the court with a  
1165 recommendation or objection to the petition within 30 days after receipt.

1166 (3) (a) The court may request a written response to the petition from the Division of  
1167 Adult Parole and Probation within the Department of Corrections.

1168 (b) If requested, the response prepared by Adult Parole and Probation shall include:

1169 (i) the reasons for terminating probation; and

1170 (ii) certification that the petitioner has completed all requirements of sentencing and  
1171 probation or parole.

1172 (c) A copy of the response shall be provided to the petitioner and the prosecuting  
1173 attorney.

1174 (4) The petitioner may respond in writing to any objections filed by the prosecutor or  
1175 the victim and the response prepared by Adult Parole and Probation within 15 days after  
1176 receipt.

1177 (5) (a) If the court receives an objection concerning the petition from any party, the  
1178 court shall set a date for a hearing and notify the petitioner, the prosecuting attorney, and the  
1179 victim of the date set for the hearing.

1180 (b) The petitioner, the prosecuting attorney, the victim, and any other person who has  
1181 relevant information about the petitioner may testify at the hearing.

1182 (c) The court shall review the petition, the certificate of eligibility, and any written  
1183 responses submitted regarding the petition.

1184 (6) If no objection is received under Subsection (3), the expungement may be granted  
1185 without a hearing.

1186 (7) The court shall issue a certificate to the petitioner, stating the court's finding that  
1187 the petition and certificate of eligibility are sufficient and the statutory requirements for  
1188 expungement have been satisfied unless there is clear and convincing evidence to persuade the  
1189 court that it would be contrary to the interests of the public to grant the requested expungement.

1190 (8) A court may not expunge a conviction of an offense for which a certificate of  
1191 eligibility may not be or should not have been issued under Section 77-18-104 or 77-18-105.

1192 Section 18. Section **77-40-109**, which is renumbered from Section 77-18-14 is  
1193 renumbered and amended to read:

1194 ~~[77-18-14].~~ **77-40-109. Order to expunge -- Distribution of order -- Redaction --**  
1195 **Receipt of order -- Administrative proceedings -- Bureau requirements.**

1196 (1) Except as otherwise provided in this chapter, upon approval of a petition for  
1197 expungement, the court shall enter an order to expunge all records in the petitioner's case which  
1198 are in the custody of that court or in the custody of any other court, agency, or official in this  
1199 state.

1200 (2) Unless otherwise provided by law or ordered by a court of competent jurisdiction to  
1201 respond differently, a person who has received an expungement of an arrest or conviction  
1202 under this chapter may respond to any inquiry as though the arrest or conviction did not occur.

1203 ~~[(2)]~~ (3) The petitioner shall be responsible for ~~[service]~~ delivering a copy of the order  
1204 of expungement to all affected state, county, and local entities, agencies, and officials including  
1205 the court, arresting agency, booking agency, Department of Corrections, and the ~~[division]~~  
1206 bureau.

1207 ~~[(3)]~~ (4) The ~~[division]~~ bureau shall forward a copy of the expungement order to the  
1208 Federal Bureau of Investigation.

1209 ~~[(4)]~~ (5) ~~[In order to avoid destruction or sealing of the records in whole or in part, any]~~  
1210 Any state, county, or local entity, agency, or official receiving an expungement order shall

1211 ~~[only]~~ expunge all references to the ~~[petitioner's name]~~ petitioner. ~~[The petitioner, based on~~  
 1212 ~~good cause, may petition the court to expunge the records in whole or in part.]~~

1213 (5) ~~[No]~~ A state, county, or local entity, agency, or official may not, after receiving  
 1214 ~~[service of]~~ an expungement order, divulge information regarding the petitioner contained in  
 1215 the expunged ~~[portion of the record]~~ records, unless authorized by a court.

1216 (6) (a) An order of expungement ~~[shall]~~ may not restrict an agency's use or  
 1217 dissemination of records in its ordinary course of business until the agency has received  
 1218 ~~[service of]~~ a copy of the order.

1219 (b) Any action taken by an agency after issuance of the order but prior to the agency's  
 1220 receipt of a copy of the order may not be invalidated by the order.

1221 (7) An order of expungement may not:

1222 (a) terminate or invalidate any pending administrative proceedings or actions of which  
 1223 the petitioner had notice according to the records of the administrative body prior to issuance of  
 1224 the expungement order;

1225 (b) affect the enforcement of any order or findings issued by an administrative body  
 1226 pursuant to its lawful authority prior to issuance of the expungement order; or

1227 (c) remove any evidence relating to the petitioner including records of arrest, which the  
 1228 administrative body has used or may use in these proceedings.

1229 (8) The ~~[division]~~ bureau shall provide the petitioner with a list of the agencies affected  
 1230 by this subsection with clear written directions regarding the requirements of this section.

1231 (9) If, after obtaining an expungement, the petitioner is charged with a felony, the state  
 1232 may petition the court to open the expunged records upon a showing of good cause.

1233 Section 19. Section ~~77-40-110~~, which is renumbered from Section 77-18-15 is  
 1234 renumbered and amended to read:

1235 ~~[77-18-15].~~ **77-40-110. Retention and release of expunged records -- Agencies.**

1236 (1) The ~~[division]~~ bureau shall keep, index, and maintain all expunged records of  
 1237 arrests and convictions.

1238 (2) Employees of the ~~[division]~~ bureau may not divulge any information contained in  
 1239 its index to any person or agency without a court order~~[, except to the following:]~~ unless  
 1240 specifically authorized by statute. The following organizations may receive information  
 1241 contained in expunged records upon specific request:



- 1242 (a) the Board of Pardons and Parole;
- 1243 (b) ~~the~~ Peace Officer Standards and Training;
- 1244 (c) federal authorities, unless prohibited by federal law;
- 1245 (d) the Division of Occupational and Professional Licensing; and
- 1246 (e) the State Office of Education.
- 1247 (3) The ~~division~~ bureau may also use the information in its index for the purpose of
- 1248 establishing good character for issuance of a concealed firearm permit as provided in Section
- 1249 53-5-704.
- 1250 (4) A person whose records are released under Subsection (2) shall be given a
- 1251 reasonable opportunity by the recipient agency to challenge and explain any information in the
- 1252 records and to challenge the relevancy of that information before a final determination is made
- 1253 by the agency.
- 1254 (5) A court may permit inspection or release of an expunged record ~~only~~ upon
- 1255 petition by the person who is the subject of the record and only to the persons named in the
- 1256 petition.
- 1257 (6) (a) For judicial sentencing, a court may order any records ~~sealed~~ expunged under
- 1258 this ~~section~~ chapter to be opened and admitted into evidence.
- 1259 (b) The records are confidential and are available for inspection only by the court,
- 1260 parties, counsel for the parties, and any other person who is authorized by the court to inspect
- 1261 them.
- 1262 (c) At the end of the action or proceeding, the court shall order the records ~~sealed~~
- 1263 expunged again.
- 1264 (d) Any person authorized by this subsection to view expunged records may not reveal
- 1265 or release any information obtained from the expunged records to anyone outside the court.
- 1266 (7) Records released under this ~~section~~ chapter are classified as protected under
- 1267 Section 63G-2-305 and are accessible only as provided under Title 63G, Chapter 2, Part 2,
- 1268 Access to Records.
- 1269 Section 20. Section **77-40-111** is enacted to read:
- 1270 **77-40-111. Use of expunged records -- Persons authorized to view expunged**
- 1271 **records.**
- 1272 Records expunged under Section 77-40-104 or 77-40-105 may be released to or viewed

1273 by:

1274 (1) the petitioner under Subsection 77-40-110(5); or

1275 (2) a law enforcement officer who was involved in the case, for use solely in the

1276 officer's defense of a civil action arising out of the officer's involvement with the petitioner in

1277 that particular case.

1278 Section 21. Section **77-40-112** is enacted to read:

1279 **77-40-112. Rulemaking.**

1280 The department may make rules to:

1281 (1) implement procedures for applying for certificates of eligibility;

1282 (2) specify procedures for receiving a certificate of eligibility; and

1283 (3) create forms and determine information necessary to be provided to the bureau.

1284 Section 22. Section **77-40-113**, which is renumbered from Section 77-18-16 is

1285 renumbered and amended to read:

1286 ~~[77-18-16].~~ **77-40-113. Penalty.**

1287 Any person who willfully violates any prohibition in this chapter is guilty of a class A

1288 misdemeanor unless the prohibition specifically indicates a different penalty.

1289 Section 23. Section **77-40-114**, which is renumbered from Section 77-18-17 is

1290 renumbered and amended to read:

1291 ~~[77-18-17].~~ **77-40-114. Retroactive application.**

1292 The provisions of [~~Sections 77-18-9 through 77-18-17~~] this chapter apply retroactively

1293 to all arrests and convictions regardless of the date on which the arrests were made or

1294 convictions were entered.

1295 Section 24. Section **78A-2-301** is amended to read:

1296 **78A-2-301. Civil fees of the courts of record -- Courts complex design.**

1297 (1) (a) The fee for filing any civil complaint or petition invoking the jurisdiction of a

1298 court of record not governed by another subsection is \$360.

1299 (b) The fee for filing a complaint or petition is:

1300 (i) \$75 if the claim for damages or amount in interpleader exclusive of court costs,

1301 interest, and attorney fees is \$2,000 or less;

1302 (ii) \$185 if the claim for damages or amount in interpleader exclusive of court costs,

1303 interest, and attorney fees is greater than \$2,000 and less than \$10,000;

- 1304 (iii) \$360 if the claim for damages or amount in interpleader is \$10,000 or more;
- 1305 (iv) \$310 if the petition is filed under Title 30, Chapter 3, Divorce, or Title 30, Chapter
- 1306 4, Separate Maintenance; and
- 1307 (v) \$35 for a motion for temporary separation order filed under Section 30-3-4.5.
- 1308 (c) The fee for filing a small claims affidavit is:
- 1309 (i) \$60 if the claim for damages or amount in interpleader exclusive of court costs,
- 1310 interest, and attorney fees is \$2,000 or less;
- 1311 (ii) \$100 if the claim for damages or amount in interpleader exclusive of court costs,
- 1312 interest, and attorney fees is greater than \$2,000, but less than \$7,500; and
- 1313 (iii) \$185 if the claim for damages or amount in interpleader exclusive of court costs,
- 1314 interest, and attorney fees is \$7,500 or more.
- 1315 (d) The fee for filing a counter claim, cross claim, complaint in intervention, third party
- 1316 complaint, or other claim for relief against an existing or joined party other than the original
- 1317 complaint or petition is:
- 1318 (i) \$55 if the claim for relief exclusive of court costs, interest, and attorney fees is
- 1319 \$2,000 or less;
- 1320 (ii) \$150 if the claim for relief exclusive of court costs, interest, and attorney fees is
- 1321 greater than \$2,000 and less than \$10,000;
- 1322 (iii) \$155 if the original petition is filed under Subsection (1)(a), the claim for relief is
- 1323 \$10,000 or more, or the party seeks relief other than monetary damages; and
- 1324 (iv) \$115 if the original petition is filed under Title 30, Chapter 3, Divorce, or Title 30,
- 1325 Chapter 4, Separate Maintenance.
- 1326 (e) The fee for filing a small claims counter affidavit is:
- 1327 (i) \$50 if the claim for relief exclusive of court costs, interest, and attorney fees is
- 1328 \$2,000 or less;
- 1329 (ii) \$70 if the claim for relief exclusive of court costs, interest, and attorney fees is
- 1330 greater than \$2,000, but less than \$7,500;
- 1331 (iii) \$120 if the claim for relief exclusive of court costs, interest, and attorney fees is
- 1332 \$7,500 or more.
- 1333 (f) The fee for depositing funds under Section 57-1-29 when not associated with an
- 1334 action already before the court is determined under Subsection (1)(b) based on the amount

1335 deposited.

1336 (g) The fee for filing a petition is:

1337 (i) \$225 for trial de novo of an adjudication of the justice court or of the small claims  
1338 department; and

1339 (ii) \$65 for an appeal of a municipal administrative determination in accordance with  
1340 Section 10-3-703.7.

1341 (h) The fee for filing a notice of appeal, petition for appeal of an interlocutory order, or  
1342 petition for writ of certiorari is \$225.

1343 (i) (i) Except for a petition filed under [~~Subsection 77-18-10(2)~~] Section 77-40-106, the  
1344 fee for filing a petition for expungement is \$135.

1345 (ii) There is no fee for a petition filed under [~~Subsection 77-18-10(2)~~] Section  
1346 77-40-106.

1347 (j) (i) Fifteen dollars of the fees established by Subsections (1)(a) through (i) shall be  
1348 allocated to and between the Judges' Contributory Retirement Trust Fund and the Judges'  
1349 Noncontributory Retirement Trust Fund, as provided in Title 49, Chapter 17, Judges'  
1350 Contributory Retirement Act, and Title 49, Chapter 18, Judges' Noncontributory Retirement  
1351 Act.

1352 (ii) Four dollars of the fees established by Subsections (1)(a) through (i) shall be  
1353 allocated by the state treasurer to be deposited in the restricted account, Children's Legal  
1354 Defense Account, as provided in Section 51-9-408.

1355 (iii) Three dollars of the fees established under Subsections (1)(a) through (e), (1)(g),  
1356 and (1)(r) shall be allocated to and deposited with the Dispute Resolution Fund as provided in  
1357 Section 78B-6-209.

1358 (iv) Fifteen dollars of the fees established by Subsections (1)(a), (1)(b)(iii) and (iv),  
1359 (1)(d)(iii) and (iv), (1)(g)(ii), (1)(h), and (1)(i) shall be allocated by the state treasurer to be  
1360 deposited in the restricted account, Court Security Account, as provided in Section 78A-2-602.

1361 (v) Five dollars of the fees established by Subsections (1)(b)(i) and (ii), (1)(d)(ii) and  
1362 (1)(g)(i) shall be allocated by the state treasurer to be deposited in the restricted account, Court  
1363 Security Account, as provided in Section 78A-2-602.

1364 (k) The fee for filing a judgment, order, or decree of a court of another state or of the  
1365 United States is \$35.

- 1366 (l) The fee for filing probate or child custody documents from another state is \$35.
- 1367 (m) (i) The fee for filing an abstract or transcript of judgment, order, or decree of the  
1368 Utah State Tax Commission is \$30.
- 1369 (ii) The fee for filing an abstract or transcript of judgment of a court of law of this state  
1370 or a judgment, order, or decree of an administrative agency, commission, board, council, or  
1371 hearing officer of this state or of its political subdivisions other than the Utah State Tax  
1372 Commission, is \$50.
- 1373 (n) The fee for filing a judgment by confession without action under Section  
1374 78B-5-205 is \$35.
- 1375 (o) The fee for filing an award of arbitration for confirmation, modification, or  
1376 vacation under Title 78B, Chapter 11, Utah Uniform Arbitration Act, that is not part of an  
1377 action before the court is \$35.
- 1378 (p) The fee for filing a petition or counter-petition to modify a decree of divorce is  
1379 \$100.
- 1380 (q) The fee for filing any accounting required by law is:
- 1381 (i) \$15 for an estate valued at \$50,000 or less;
- 1382 (ii) \$30 for an estate valued at \$75,000 or less but more than \$50,000;
- 1383 (iii) \$50 for an estate valued at \$112,000 or less but more than \$75,000;
- 1384 (iv) \$90 for an estate valued at \$168,000 or less but more than \$112,000; and
- 1385 (v) \$175 for an estate valued at more than \$168,000.
- 1386 (r) The fee for filing a demand for a civil jury is \$250.
- 1387 (s) The fee for filing a notice of deposition in this state concerning an action pending in  
1388 another state under Utah Rule of Civil Procedure 26 is \$35.
- 1389 (t) The fee for filing documents that require judicial approval but are not part of an  
1390 action before the court is \$35.
- 1391 (u) The fee for a petition to open a sealed record is \$35.
- 1392 (v) The fee for a writ of replevin, attachment, execution, or garnishment is \$50 in  
1393 addition to any fee for a complaint or petition.
- 1394 (w) (i) The fee for a petition for authorization for a minor to marry required by Section  
1395 30-1-9 is \$5.
- 1396 (ii) The fee for a petition for emancipation of a minor provided in Title 78A, Chapter 6,

1397 Part 8, Emancipation, is \$50.

1398 (x) The fee for a certificate issued under Section 26-2-25 is \$8.

1399 (y) The fee for a certified copy of a document is \$4 per document plus 50 cents per  
1400 page.

1401 (z) The fee for an exemplified copy of a document is \$6 per document plus 50 cents  
1402 per page.

1403 (aa) The Judicial Council shall by rule establish a schedule of fees for copies of  
1404 documents and forms and for the search and retrieval of records under Title 63G, Chapter 2,  
1405 Government Records Access and Management Act. Fees under this Subsection (1)(aa) shall be  
1406 credited to the court as a reimbursement of expenditures.

1407 (bb) There is no fee for services or the filing of documents not listed in this section or  
1408 otherwise provided by law.

1409 (cc) Except as provided in this section, all fees collected under this section are paid to  
1410 the General Fund. Except as provided in this section, all fees shall be paid at the time the clerk  
1411 accepts the pleading for filing or performs the requested service.

1412 (dd) The filing fees under this section may not be charged to the state, its agencies, or  
1413 political subdivisions filing or defending any action. In judgments awarded in favor of the  
1414 state, its agencies, or political subdivisions, except the Office of Recovery Services, the court  
1415 shall order the filing fees and collection costs to be paid by the judgment debtor. The sums  
1416 collected under this Subsection (1)(dd) shall be applied to the fees after credit to the judgment,  
1417 order, fine, tax, lien, or other penalty and costs permitted by law.

1418 (2) (a) (i) From March 17, 1994 until June 30, 1998, the administrator of the courts  
1419 shall transfer all revenues representing the difference between the fees in effect after May 2,  
1420 1994, and the fees in effect before February 1, 1994, as dedicated credits to the Division of  
1421 Facilities Construction and Management Capital Projects Fund.

1422 (ii) (A) Except as provided in Subsection (2)(a)(ii)(B), the Division of Facilities  
1423 Construction and Management shall use up to \$3,750,000 of the revenue deposited in the  
1424 Capital Projects Fund under this Subsection (2)(a) to design and take other actions necessary to  
1425 initiate the development of a courts complex in Salt Lake City.

1426 (B) If the Legislature approves funding for construction of a courts complex in Salt  
1427 Lake City in the 1995 Annual General Session, the Division of Facilities Construction and

1428 Management shall use the revenue deposited in the Capital Projects Fund under this Subsection  
1429 (2)(a)(ii) to construct a courts complex in Salt Lake City.

1430 (C) After the courts complex is completed and all bills connected with its construction  
1431 have been paid, the Division of Facilities Construction and Management shall use any monies  
1432 remaining in the Capital Projects Fund under this Subsection (2)(a)(ii) to fund the Vernal  
1433 District Court building.

1434 (iii) The Division of Facilities Construction and Management may enter into  
1435 agreements and make expenditures related to this project before the receipt of revenues  
1436 provided for under this Subsection (2)(a)(iii).

1437 (iv) The Division of Facilities Construction and Management shall:

1438 (A) make those expenditures from unexpended and unencumbered building funds  
1439 already appropriated to the Capital Projects Fund; and

1440 (B) reimburse the Capital Projects Fund upon receipt of the revenues provided for  
1441 under this Subsection (2).

1442 (b) After June 30, 1998, the administrator of the courts shall ensure that all revenues  
1443 representing the difference between the fees in effect after May 2, 1994, and the fees in effect  
1444 before February 1, 1994, are transferred to the Division of Finance for deposit in the restricted  
1445 account.

1446 (c) The Division of Finance shall deposit all revenues received from the court  
1447 administrator into the restricted account created by this section.

1448 (d) (i) From May 1, 1995 until June 30, 1998, the administrator of the courts shall  
1449 transfer \$7 of the amount of a fine or bail forfeiture paid for a violation of Title 41, Motor  
1450 Vehicles, in a court of record to the Division of Facilities Construction and Management  
1451 Capital Projects Fund. The division of money pursuant to Section 78A-5-110 shall be  
1452 calculated on the balance of the fine or bail forfeiture paid.

1453 (ii) After June 30, 1998, the administrator of the courts or a municipality shall transfer  
1454 \$7 of the amount of a fine or bail forfeiture paid for a violation of Title 41, Motor Vehicles, in  
1455 a court of record to the Division of Finance for deposit in the restricted account created by this  
1456 section. The division of money pursuant to Section 78A-5-110 shall be calculated on the  
1457 balance of the fine or bail forfeiture paid.

1458 (3) (a) There is created within the General Fund a restricted account known as the State

1459 Courts Complex Account.

1460 (b) The Legislature may appropriate monies from the restricted account to the  
1461 administrator of the courts for the following purposes only:

1462 (i) to repay costs associated with the construction of the court complex that were  
1463 funded from sources other than revenues provided for under this Subsection (3)(b)(i); and

1464 (ii) to cover operations and maintenance costs on the court complex.

1465 Section 25. **Repealer.**

1466 This bill repeals:

1467 Section **77-18-10, Petition -- Expungement of records of arrest, investigation, and**  
1468 **detention -- Eligibility conditions -- No filing fee.**

1469 Section **77-18-11, Petition -- Expungement of conviction -- Certificate of eligibility**  
1470 **-- Fee -- Notice -- Written evaluation -- Objections -- Hearing.**

1471 Section **77-18-12, Grounds for denial of certificate of eligibility -- Effect of prior**  
1472 **convictions.**

1473 Section **77-18-13, Hearing -- Standard of proof -- Exception.**