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EXPUNGEMENT REVISIONS

2023 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Todd D. Weiler

House Sponsor: _____

LONG TITLE

General Description:

This bill amends provisions related to expungement.

Highlighted Provisions:

This bill:

- ▶ amends the requirements for a certificate of eligibility to expunge records of arrest, investigation, and detention;
- ▶ amends the requirements for a certificate of eligibility to expunge records of a conviction;
- ▶ amends the requirements for a petition for expungement for a traffic offense case;
- ▶ addresses a victim's response to a petition for expungement; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

77-40a-101, as last amended by Laws of Utah 2022, Chapters 116, 430 and renumbered and amended by Laws of Utah 2022, Chapter 250

77-40a-302, as renumbered and amended by Laws of Utah 2022, Chapter 250



28 [77-40a-303](#), as last amended by Laws of Utah 2022, Chapter 116 and renumbered and
29 amended by Laws of Utah 2022, Chapter 250

30 [77-40a-305](#), as last amended by Laws of Utah 2022, Chapter 384 and renumbered and
31 amended by Laws of Utah 2022, Chapter 250



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

34 Section 1. Section [77-40a-101](#) is amended to read:

35 **[77-40a-101](#). Definitions.**

36 As used in this chapter:

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

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

42 (3) "Certificate of eligibility" means a document issued by the bureau stating that the
43 criminal record and all records of arrest, investigation, and detention associated with a case that
44 is the subject of a petition for expungement is eligible for expungement.

45 (4) (a) [~~Except as provided in Subsection (4)(c), "clean slate eligible case" means~~]
46 "Clean slate eligible case" means, except as provided in Subsection (4)(c), a case:

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

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

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

51 (C) an infraction conviction;

52 (ii) that involves an individual:

53 (A) whose total number of convictions in Utah state courts, not including infractions,
54 traffic offenses, or minor regulatory offenses, does not exceed the limits described in

55 Subsections [~~[77-40a-303\(5\)](#) and [\(6\)](#)] [77-40a-303\(4\)](#) and [\(5\)](#) without taking into consideration
56 the exception in Subsection [~~[77-40a-303\(8\)](#)] [77-40a-303\(7\)](#); and~~~~

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

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

59 is adjudicated:

60 (A) at least five years for a class C misdemeanor or an infraction;

61 (B) at least six years for a class B misdemeanor; and

62 (C) at least seven years for a class A conviction for possession of a controlled

63 substance in violation of Subsection 58-37-8(2)(a)(i).

64 (b) "Clean slate eligible case" includes a case:

65 (i) that is dismissed as a result of a successful completion of a plea in abeyance

66 agreement governed by Subsection 77-2a-3(2)(b) if:

67 (A) except as provided in Subsection (4)(c), each charge within the case is a

68 misdemeanor for possession of a controlled substance in violation of Subsection

69 58-37-8(2)(a)(i), a class B or class C misdemeanor, or an infraction;

70 (B) the individual involved meets the requirements of Subsection (4)(a)(ii); and

71 (C) the time periods described in Subsections (4)(a)(iii)(A) through (C) have elapsed

72 from the day on which the case is dismissed; or

73 (ii) where charges are dismissed without prejudice if each conviction, or charge that

74 was dismissed, in the case would otherwise meet the requirements under Subsection (4)(a) or

75 (b)(i).

76 (c) "Clean slate eligible case" does not include a case:

77 (i) where the individual is found not guilty by reason of insanity;

78 (ii) where the case establishes a criminal accounts receivable, as defined in Section

79 77-32b-102, that:

80 (A) has been entered as a civil accounts receivable or a civil judgment of restitution, as

81 those terms are defined in Section 77-32b-102, and transferred to the Office of State Debt

82 Collection under Section 77-18-114; or

83 (B) has not been satisfied according to court records; or

84 (iii) that resulted in one or more pleas held in abeyance or convictions for the following

85 offenses:

86 (A) any of the offenses listed in Subsection [77-40a-303(1)(a)] 77-40a-303(2)(a);

87 (B) an offense against the person in violation of Title 76, Chapter 5, Offenses Against
88 the Individual;

89 (C) a weapons offense in violation of Title 76, Chapter 10, Part 5, Weapons;

- 90 (D) sexual battery in violation of Section 76-9-702.1;
- 91 (E) an act of lewdness in violation of Section 76-9-702 or 76-9-702.5;
- 92 (F) an offense in violation of Title 41, Chapter 6a, Part 5, Driving Under the Influence
93 and Reckless Driving;
- 94 (G) damage to or interruption of a communication device in violation of Section
95 76-6-108;
- 96 (H) a domestic violence offense as defined in Section 77-36-1; or
- 97 (I) any other offense classified in the Utah Code as a felony or a class A misdemeanor
98 other than a class A misdemeanor conviction for possession of a controlled substance in
99 violation of Subsection 58-37-8(2)(a)(i).
- 100 (5) "Conviction" means judgment by a criminal court on a verdict or finding of guilty
101 after trial, a plea of guilty, or a plea of nolo contendere.
- 102 (6) "Criminal protective order" means the same as that term is defined in Section
103 78B-7-102.
- 104 (7) "Criminal stalking injunction" means the same as that term is defined in Section
105 78B-7-102.
- 106 (8) "Department" means the Department of Public Safety established in Section
107 53-1-103.
- 108 (9) "Drug possession offense" means an offense under:
109 (a) Subsection 58-37-8(2), except:
110 (i) any offense under Subsection 58-37-8(2)(b)(i), possession of 100 pounds or more of
111 marijuana;
- 112 (ii) any offense enhanced under Subsection 58-37-8(2)(e), violation in a correctional
113 facility; or
- 114 (iii) driving with a controlled substance illegally in the person's body and negligently
115 causing serious bodily injury or death of another, as codified before May 4, 2022, Laws of Utah
116 2021, Chapter 236, Section 1, Subsection 58-37-8(2)(g);
- 117 (b) Subsection 58-37a-5(1), use or possession of drug paraphernalia;
- 118 (c) Section 58-37b-6, possession or use of an imitation controlled substance; or
- 119 (d) any local ordinance which is substantially similar to any of the offenses described
120 in this Subsection (9).

121 (10) "Expunge" means to seal or otherwise restrict access to the individual's record
122 held by an agency when the record includes a criminal investigation, detention, arrest, or
123 conviction.

124 (11) "Jurisdiction" means a state, district, province, political subdivision, territory, or
125 possession of the United States or any foreign country.

126 (12) (a) [~~Except as provided in Subsection (12)(c), "minor regulatory offense" means~~]
127 "Minor regulatory offense" means, except as provided in Subsection (12)(c), a class B or C
128 misdemeanor or a local ordinance.

129 (b) "Minor regulatory offense" includes an offense under Section 76-9-701 or
130 76-10-105.

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

132 (i) any drug possession offense;

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

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

136 (iv) except as provided in Subsection (12)(b), an offense under Title 76, Utah Criminal
137 Code; or

138 (v) any local ordinance that is substantially similar to an offense listed in Subsections
139 (12)(c)(i) through (iv).

140 (13) "Petitioner" means an individual applying for expungement under this chapter.

141 (14) (a) "Traffic offense" means, except as provided in Subsection (14)(b):

142 (i) [~~all infractions, class B misdemeanors, and class C misdemeanors in~~] an infraction,
143 class B misdemeanor, or class C misdemeanor offense under Title 41, Chapter 6a, Traffic
144 Code;

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

147 (iii) an infraction, class B misdemeanor, or class C misdemeanor offense under Title
148 73, Chapter 18, State Boating Act; and

149 (iv) all local ordinances that are substantially similar to an offense listed in Subsections
150 (14)(a)(i) through (iii).

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

- 152 (i) an offense under Title 41, Chapter 6a, Part 5, Driving Under the Influence and
- 153 Reckless Driving;
- 154 (ii) an offense under Sections 73-18-13 through 73-18-13.6; or
- 155 (iii) any local ordinance that is substantially similar to an offense listed in Subsection
- 156 (14)(b)(i) or (ii).

157 (15) "Traffic offense case" means that each offense in the case is a traffic offense.

158 Section 2. Section 77-40a-302 is amended to read:

159 **77-40a-302. Requirements for certificate of eligibility to expunge records of**
160 **arrest, investigation, and detention.**

161 [~~An individual who is arrested or formally charged with an offense is eligible to receive~~
162 ~~a certificate of eligibility from the bureau to expunge the records of arrest, investigation, and~~
163 ~~detention that may have been made in the case if:]~~

164 [~~(1) at least 30 days have passed since the day of the arrest for which a certificate of~~
165 ~~eligibility is sought;]~~

166 [~~(2) there are no criminal proceedings or pleas in abeyance pending against the~~
167 ~~individual;]~~

168 [~~(3) the individual is not currently on probation or parole;]~~

169 [~~(4) there is not a criminal protective order or a criminal stalking injunction in effect~~
170 ~~for the case;]~~

171 [~~(5) there are no convictions in the case for a traffic offense; and]~~

172 [~~(6) one of the following occurs:]~~

173 [~~(a) charges are screened by the investigating law enforcement agency and the~~
174 ~~prosecuting attorney makes a final determination that no charges will be filed in the case;]~~

175 [~~(b) (i) all charges contained in the case are dismissed; and]~~

176 [~~(ii) if any charge contained in the case is dismissed without prejudice or without~~
177 ~~condition:]~~

178 [~~(A) the prosecuting attorney consents in writing to the issuance of a certificate of~~
179 ~~eligibility; or]~~

180 [~~(B) at least 180 days have passed since the day on which the charge is dismissed;]~~

181 [~~(c) the individual is acquitted at trial on all of the charges contained in the case; or]~~

182 [~~(d) the statute of limitations expires on all of the charges contained in the case.]~~

183 (1) Except as provided in Subsection (2), if a petitioner is arrested or charged with an
184 offense, the petitioner is eligible to receive a certificate of eligibility from the bureau to
185 expunge records of the arrest, investigation, and detention in the case for the offense if:

186 (a) except as provided in Subsection (1)(c), at least 30 days have passed from the day
187 on which the individual is arrested or charged for the offense;

188 (b) one of the following occurs:

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

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

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

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

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

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

197 (v) the statute of limitations expires on all of the charges in the case; and

198 (c) (i) there is a conviction in the case for a traffic offense that is a class C
199 misdemeanor or an infraction, at least three years after the day on which the petitioner was
200 convicted of the traffic offense; or

201 (ii) there is a conviction in the case for a traffic offense that is a class B misdemeanor,
202 at least four years after the day on which the petitioner was convicted of the traffic offense.

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

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

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

208 (c) the petitioner is currently incarcerated, on parole, or on probation, unless the
209 petitioner is on probation or parole for an infraction, a traffic offense, or a minor regulatory
210 offense; or

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

213 Section 3. Section **77-40a-303** is amended to read:

214 **77-40a-303. Requirements for a certificate of eligibility to expunge records of a**
215 **conviction.**

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

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

220 (b) the petitioner has paid in full all restitution ordered by the court under Section
221 77-38b-205; and

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

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

226 (ii) 10 years for the conviction of a felony for operating a motor vehicle with any
227 amount of a controlled substance in an individual's body and causing serious bodily injury or
228 death, as codified before May 4, 2022, Laws of Utah 2021, Chapter 236, Section 1, Subsection
229 58-37-8(2)(g);

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

231 (iv) five years for the conviction of a drug possession offense that is a class A
232 misdemeanor or a felony;

233 (v) four years for the conviction of a class B misdemeanor; or

234 (vi) three years for the conviction of a class C misdemeanor or infraction.

235 ~~[(1) Except as provided in Subsections (2) and (4), an individual]~~

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

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

240 (i) a capital felony;

241 (ii) a first degree felony;

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

243 76-3-203.5(1)(c)(i);

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

245 (v) an offense, or a combination of offenses, that would require the individual to
 246 register as a sex offender, as defined in Section [77-41-102](#); or
 247 (vi) a registerable child abuse offense as defined in Subsection [77-43-102\(2\)](#);
 248 (b) there is a criminal proceeding for a misdemeanor or felony offense pending against
 249 the petitioner, unless the criminal proceeding is for a traffic offense;
 250 (c) there is a plea in abeyance for a misdemeanor or felony offense pending against the
 251 petitioner, unless the plea in abeyance is for a traffic offense;
 252 (d) the petitioner is currently incarcerated, on parole, or on probation, unless the
 253 petitioner is on probation or parole for an infraction, a traffic offense, or a minor regulatory
 254 offense;
 255 ~~[(b) a criminal proceeding or a plea in abeyance is pending against the petitioner;]~~
 256 ~~[(c) the petitioner is on probation or parole;]~~
 257 ~~[(d)]~~ (e) the petitioner intentionally or knowingly provides false or misleading
 258 information on the application for a certificate of eligibility; ~~[or]~~
 259 ~~[(e)]~~ (f) there is a criminal protective order or a criminal stalking injunction [is] in
 260 effect for the case[-]; or
 261 (g) the bureau determines that the petitioner's criminal history makes the petitioner
 262 ineligible for a certificate of eligibility under Subsection (4) or (5).
 263 (3) Subsection (2)(a) does not apply to a conviction for a qualifying sexual offense, as
 264 defined in Section [76-3-209](#), if, at the time of the offense, a petitioner who committed the
 265 offense was at least 14 years old but under 18 years old, unless the petitioner was convicted by
 266 a district court as an adult in accordance with Title 80, Chapter 6, Part 5, Transfer to District
 267 Court.
 268 ~~[(2) The eligibility limitation described in Subsection (1) does not apply in relation to a~~
 269 ~~conviction for a qualifying sexual offense, as defined in Subsection [76-3-209\(1\)](#), if, at the time~~
 270 ~~of the offense, the individual who committed the offense was at least 14 years old, but under 18~~
 271 ~~years old, unless the conviction occurred in district court after the individual was:]~~
 272 ~~[(a) charged by criminal information under Section [80-6-502](#) or [80-6-503](#); and]~~
 273 ~~[(b) bound over to district court under Section [80-6-504](#).]~~
 274 ~~[(3) A petitioner seeking to obtain expungement for a record of conviction is not~~
 275 ~~eligible to receive a certificate of eligibility from the bureau until all of the following have~~

276 occurred:]

277 [~~(a) the petitioner has paid in full all fines and interest ordered by the court related to~~
278 ~~the conviction for which expungement is sought;~~]

279 [~~(b) the petitioner has paid in full all restitution ordered by the court under Section~~
280 ~~77-38b-205; and]~~

281 [~~(c) the following time periods have elapsed from the date the petitioner was convicted~~
282 ~~or released from incarceration, parole, or probation, whichever occurred last, for each~~
283 ~~conviction the petitioner seeks to expunge:]~~

284 [~~(i) 10 years in the case of a misdemeanor conviction of Subsection 41-6a-501(2) or a~~
285 ~~felony conviction of operating a motor vehicle with any amount of a controlled substance in an~~
286 ~~individual's body and causing serious bodily injury or death, as codified before May 4, 2022,~~
287 ~~Laws of Utah 2021, Chapter 236, Section 1, Subsection 58-37-8(2)(g);]~~

288 [~~(ii) seven years in the case of a felony;]~~

289 [~~(iii) five years in the case of any class A misdemeanor or a felony drug possession~~
290 ~~offense;]~~

291 [~~(iv) four years in the case of a class B misdemeanor; or]~~

292 [~~(v) three years in the case of any other misdemeanor or infraction.]~~

293 [~~(4) When determining whether to issue a certificate of eligibility for a conviction, the~~
294 ~~bureau may not consider:]~~

295 [~~(a) a petitioner's pending or previous:]~~

296 [~~(i) infraction;]~~

297 [~~(ii) traffic offense;]~~

298 [~~(iii) minor regulatory offense; or]~~

299 [~~(iv) clean slate eligible case that was automatically expunged in accordance with~~
300 ~~Section 77-40a-201; or]~~

301 [~~(b) a fine or fee related to an offense described in Subsection (4)(a).]~~

302 [~~(5) Except as provided in Subsection (8), the bureau may not issue a certificate of~~
303 ~~eligibility for a conviction if, at the time the petitioner seeks a certificate of eligibility,]~~

304 (4) Subject to Subsections (6), (7), and (8), a petitioner is not eligible to receive a
305 certificate of eligibility if, at the time the petitioner seeks the certificate of eligibility, the
306 bureau determines that the petitioner's criminal history, including previously expunged

307 convictions, contains any of the following:

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

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

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

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

318 ~~[(6) Except as provided in Subsection (8), the bureau may not issue a certificate of~~
319 ~~eligibility for a conviction if, at the time the petitioner seeks a certificate of eligibility,]~~

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

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

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

328 ~~[(7)]~~ (6) If the petitioner's criminal history contains convictions for both a drug
329 possession offense and a non-drug possession offense arising from the same criminal episode,
330 ~~[that criminal episode shall be counted as provided in Subsection (5)]~~ the bureau shall count
331 that criminal episode as a conviction under Subsection (4) if any non-drug possession offense
332 in that episode:

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

334 (b) has the same or a longer waiting period under Subsection ~~[(3)]~~ (1)(c) than any drug
335 possession offense in that episode.

336 ~~[(8) If]~~ (7) Except as provided in Subsection (8), if at least 10 years have ~~[elapsed~~
337 ~~from the date]~~ passed from the day on which the petitioner was convicted or released from

338 incarceration, parole, or probation, whichever occurred last, for all convictions:

339 (a) each numerical eligibility limit [~~defined in Subsections (5)(a) and (b)~~] under
 340 Subsections (4)(a) and (b) shall be increased by one; and

341 (b) each numerical eligibility limit [~~defined in Subsections (5)(c), (5)(d), and (6) are~~
 342 ~~not applicable and the bureau may issue a certificate of eligibility if:~~] under Subsections (4)(c)
 343 and (d) is not applicable if the highest level of convicted offense in the criminal episode is:

344 [(i) ~~the individual is otherwise eligible; and]~~

345 [(ii) ~~the highest convicted offense in the criminal episode for each conviction is:~~]

346 [(A)] (i) a class B misdemeanor;

347 [(B)] (ii) a class C misdemeanor;

348 [(C)] (iii) a drug possession offense if none of the non-drug possession offenses in the
 349 criminal episode are a felony or a class A misdemeanor; or

350 [(D)] (iv) an infraction.

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

354 (a) an infraction;

355 (b) a traffic offense;

356 (c) a minor regulatory offense; or

357 (d) a clean slate eligible case that was automatically expunged in accordance with

358 Section [77-40a-201](#).

359 (9) [~~If, prior to May 14, 2013, the petitioner has received a pardon~~] If the petitioner
 360 received a pardon before May 14, 2013, from the Utah Board of Pardons and Parole, the
 361 petitioner is entitled to an expungement order for all pardoned crimes in accordance with
 362 Section [77-27-5.1](#).

363 Section 4. Section **77-40a-305** is amended to read:

364 **77-40a-305. Petition for expungement -- Prosecutorial responsibility -- Hearing.**

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

368 (b) Information on a certificate of eligibility is incorporated into a petition by reference

369 to the identification number for the certificate of eligibility.

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

372 (b) A court may not accept a petition for expungement if the certificate of eligibility is
373 no longer valid as described in Subsection ~~77-40a-304~~(1)(d)(i).

374 (3) Notwithstanding Subsection (2), the petitioner may file a petition for expungement
375 of a traffic ~~[conviction]~~ offense case without obtaining a certificate of eligibility if:

376 (a) (i) for a traffic offense case with a class C misdemeanor or infraction, at least three
377 years have ~~[elapsed]~~ passed from the day on which the petitioner was convicted; or

378 (ii) for a traffic offense case with a class B misdemeanor, at least four years have
379 ~~[elapsed]~~ passed from the day on which the petitioner was convicted~~[-and]~~;

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

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

382 and

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

384 ~~[(b) all convictions in the case for the traffic conviction are for traffic offenses.]~~

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

388 (a) the petitioner had, at the time of the relevant arrest or citation leading to the
389 conviction, a qualifying condition, as that term is defined in Section ~~26-61a-102~~;

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

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

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

398 (c) If the prosecuting agency with jurisdiction over the arrest, investigation, detention,
399 or conviction, was a city attorney's office, the county attorney's office in the jurisdiction where

400 the arrest occurred shall immediately notify the city attorney's office that the county attorney's
401 office has received a notice of a filing of a petition for expungement.

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

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

406 (i) include a copy of the petition, certificate of eligibility, statutes, and rules applicable
407 to the petition;

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

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

410 (7) (a) The prosecuting attorney [~~and the victim, if applicable,~~] may respond to the
411 petition by filing a recommendation or objection with the court within 35 days after the day on
412 which the notice of the filing of the petition is sent by the court to the prosecuting attorney.

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

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

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

420 (i) the reasons probation was terminated; and

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

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

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

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

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

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

434 (d) The court shall review the petition, the certificate of eligibility, and any written
435 responses submitted regarding the petition.

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