



# Utah Petition and Automatic Expungement

Utah Bureau of Criminal Identification



# Recent Changes to Legislation

## HB392

- During the 2022 Legislative session HB392 a pilot bill was passed to wave certificate fees and court filing fees. This bill suspended those fees from May 4, 2022 - June 30, 2023.
- When HB392 was passed this extended the “10 year rule” to not include Misdemeanor B convictions or any drug convictions.
- This bill also changed how BCI receives orders from the courts to being through a digital portal. (Petitioners can still drop off or email their orders to BCI.)
- BCI now sends a broadcast message to all agencies involved in the case to remove incidents from their records.

## HB323

- HB323 was presented in the 2023 session to extend the expungement fee waivers from May 3, 2023 - June 30, 2028 but failed to pass.

## HB431

- HB431 was passed during the 2019 legislative session. This was due to go into effect in 2020 but due to COVID and programming Auto/Clean Slate did not start until April of 2022.



# Petitioned Expungements

Utah Code §77-40a



# Traffic and Minor Regulatory Offenses for Petitioned Expungements

## **Traffic offenses as defined in §77-40a-101(15)(a)**

Most traffic offenses can be expunged without limit as long as time periods have been met and have no pending cases or fines owed.

Traffic charges are not included in determining if a person is eligible for future certificates of eligibility and expungement. A petitioner can petition the courts for their traffic offenses §77-40a-305(3)

When expunging a traffic offense the record will only be deleted from court records and will not affect the Utah State Drivers License files.

## **Minor Regulatory offenses as defined in §77-40a-101(12)(b) and(c)**

"Minor regulatory offense" includes an offense under Section 76-9-701 or 76-10-105

Minor Regulatory charges are not included in determining if a person is eligible for future certificates of eligibility and expungement. But BCI will offer certificates for these cases if they are eligible.

# Certificateless Cannabis Convictions

## **§77-40a-305(4)**

A petitioner may file a petition for expungement of a record for a conviction related to cannabis possession without a certificate of eligibility if the petitioner demonstrates that:

- (a) the petitioner had, at the time of the relevant arrest or citation leading to the conviction, a qualifying condition, as that term is defined in Section 26B-4-201; and
- (b) the possession of cannabis in question was in a form and an amount to medicinally treat the qualifying condition described in Subsection (4)(a)

Once these Orders are signed they are sent through our portal to BCI and we process those orders with no certificates to match to.

# Reasons for Denial for Petitioned Expungements

## Non Drug Offenses

- Capital felony §77-40a-303(2)(a)(i)
- First degree felony §77-40a-303(2)(a)(ii)
- Violent felony outlined In §76-3-203.5(1)(c)(i)
- Felony DUI alcohol/drugs §41-69-501(2)
- Registerable sex offenses §77-41-102
- A registerable child abuse offense as defined in subsection 77-43-102(2)
- A criminal proceeding is pending or being investigated §77-40a-303(2)(b)
- There is a plea in abeyance for a misdemeanor or felony offense pending §77-40a-303(2)(c)
- The petitioner is currently incarcerated, on parole, or on probation §77-40a-303(2)(d)

# Reasons for Denial for Petitioned Expungements (Cont.)

## Non Drug Offenses

- There is a criminal protective order or a criminal stalking injunction in effect for the case §77-40a-303(2)(f)
- Fines, interest, and restitution not paid §77-40a-303(1)(a) and (b)
- Time required by law not met §77-40a-303(1)(c)
- Two or more felony criminal episodes §77-40a-303 (4)(a)
- Any combination of three or more convictions that contain two class A misdemeanors §77-40a-303(4)(b)
- Any combination of four or more convictions that contain three or more class B misdemeanors §77-40a-303(4)(c)
- Five or more misdemeanors or felony episodes §77-40a-303(4)(d)

# Time limits required by law for Petitioned Expungements

## Non Drug Offenses

10 years - Any alcohol/drug related DUI/reckless driving offense

7 years - Eligible felonies

5 years - Class A misdemeanor

4 years - Class B misdemeanor

3 years - Class C misdemeanor and infractions

30 days - Dismissed with prejudice

180 days - Dismissed without prejudice



# Drug Offenses for Petitioned Expungements

## **Drug Possession Offenses defined in U.C.A. 77-40-102(7)**

Possession of controlled substance §58-37-8(2)(a)(i)

Use or possession of drug paraphernalia §58-37a-5(1)

Possession or use of an imitation controlled substance  
§58-37b-6

## **Reasons for denial for Drug Possession Offenses:**

3 or more felony possession convictions.  
§77-40a-303(5)(a)

5 or more possession convictions §77-40-303(5)(b)

## **Time periods for Drug Possession Offenses:**

5 years - Class A misdemeanor or felony

4 years - Class B misdemeanor

3 years - Class C misdemeanor and infractions

30 days - Dismissed with prejudice


180 days - Dismissed without prejudice



## What does BCI require on the “3rd Party Release From”

- Name of person BCI is allowed to talk with
- Agency (if applicable)
- Mailing address of the 3rd party
- Email (if the 3rd party wants to receive all documents through email)
- Name of applicant
- Signed and dated by applicant

BCI only allows 2 people as a contact for 3rd party releases. It is the applicants or the 3rd party responsibilities to notify BCI if they need to be removed or changed.

<b>THIRD PARTY RELEASE FORM</b>		
Utah Department of Public Safety • Bureau of Criminal Identification 4315 South 2700 West, Suite 1300, Taylorsville, Utah 84129		
<b>WHEN FILLING OUT THIS FORM, TYPE OR PRINT IN BLACK INK.</b> If you wish to have your criminal history record or certificate of eligibility sent to an individual other than yourself, you must indicate the name of the person or agency to whom you would like the document sent and the mailing address.		
NAME: _____ <i>(Name of Person to Receive Report)</i>		
AGENCY: _____ (if applicable)		
MAILING ADDRESS: _____ <i>(Street/Box number) (City) (State) (Zip)</i>		
PHONE NUMBER: _____	EMAIL ADDRESS: _____ <i>EMAIL IS FOR EXPUNGMENT APPLICATIONS ONLY</i>	
I request that the criminal history record or certificate of eligibility for which I applied be released to the individual or agency indicated above at the listed address. I hereby release the Bureau of Criminal Identification from any liability resulting from such release.		
Name of applicant <i>(Print)</i> : _____		
Signature of applicant: _____		Date: _____

# Petitioned Expungement Start to Finish

## Step 1 Apply for a certificate of eligibility through BCI

- Expungement application forms can be found at: <https://bci.utah.gov/expungement-forms-and-applications/>, or can be requested in person at BCI
- BCI will conduct research to determine which incident(s) are eligible for expungement.
- BCI will send a Letter indicating which incident(s), If any, are eligible for expungement to the applicant or their 3rd party
- Indicate which eligible incident(s) you want to purchase, and pay all associated fees as indicated in the BCI letter. A certificate will need to be purchased for each eligible incident.
- Then the petitioner will take this list to the court that is listed for that case and give them the certificate number with the petition
- The applicant or 3rd Party will have 180 days to file those certificates and petitions with the courts. (Courts have there own additional fees)

# Petitioned Expungement Start to Finish (cont.)

## **Step 2 File the petition with the court and serve the Prosecutor**

- File a cover sheet, “Petition to Expunge,” and “Order on Petition to Expunge” with the appropriate court
- Find forms and detailed instructions online at: [utcourts.gov/exp](https://utcourts.gov/exp) or use the QR code below
- Call the Utah State Courts' Self-Help Center at 888-683-0009 if they need help with petitions or any court forms



# Petitioned Expungement Start to Finish (cont.)

## **Step 3 - Respond to any possible objections and attend any court hearings.**

- The prosecutor or victim in the case could object
- A petitioner can file a “Reply to Victim’s or Prosecutor's Statement” - find this form at [utcourts.gov/exp](https://utcourts.gov/exp)
- If the court schedules a hearing, be sure to attend
- If the court grants your request, your records will be expunged with the courts

# Petitioned Expungement Start to Finish (cont.)

## **Step 4 Distribution of Expungement Order(s) to Complete Expungement**

- Once the court has expunged that case, the court will send BCI an electronic “Order to Expunge.”
- BCI will notify all available agencies listed on the case of the expungement. The petitioners are still able to send a copy of the “Order to Expunge” to the agencies listed as well as BCI.
- BCI will expunge that case from the Utah Criminal History database and notify the FBI (if applicable) to expunge their record(s).
- A letter will be sent to the petitioner or 3rd Party via mail indicating removal of BCI records and notification to the FBI to remove their records.

**WE ASK THAT THE PETITIONERS KEEP A CERTIFIED COPY OF EXPUNGEMENT ORDER(S) FOR THEIR PERSONAL RECORDS**

# EX Notification to Agencies

- Once BCI has deleted/finalized a case there is a broadcast message sent through UCJIS as an EX message.
- You can find these messages through the BMSG transaction.
- All information that BCI was able to find for the case will be provided in that broadcast message. If BCI did not have information available it will list as “not provided.”
- You can view these messages for 21 days but should be viewed daily.
- If it has been longer than 21 days reach out to your Field Services representative on help to retrieve those messages.

\*\*\*\*Per BCI attorney: “There is nothing in the expungement code that talks about physical evidence or property. Such items are governed under Title 77 Chapter 11C of the Utah Code. Agencies would be able to dispose of the property but must be in compliance with that code. It is best for them to talk with their attorney about the disposition of the property.”\*\*\*\*



## Message Details

ORI:

UT

Message Type:

EX

Message:

Name: [REDACTED] FBI Number: [REDACTED] OTN: [REDACTED] Court Case  
Number: [REDACTED] Agency Case Number: [REDACTED] Citation Number: [REDACTED]  
[REDACTED] Dob: [REDACTED] Arrest Date: [REDACTED] Originating ORI:  
[REDACTED]

Charge Information:

Charge:ILLEGAL POSS/USE OF CONTROLLED SUBSTANCE severity:MA

Charge:GRAFFITI severity:MB

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Start Date:

08-09-2023 17:00

# Board of Pardons

- Applicants who are not able to expunge convictions through BCI due to having too many convictions or convictions that are not eligible to be expunged through statute (77-40a) still have a chance to go through a pardon.
  - To start the pardon process you must reach out to the Utah Board of Pardons [\(801\) 261-6464](tel:8012616464)
- If an applicant is granted a pardon the applicant will have to fill out a Board of Pardons Application with BCI and provide BCI with a copy of the pardon orders.
- There is a \$65 nonrefundable application fee.
- Once the application and orders are submitted, BCI conducts research into that application.
- Once research is completed we remove all pardoned incidents from the Utah Criminal History.
- Once the incidents have been removed BCI notifies all applicable agencies to remove those incidents from their files.
- BCI also sends the applicant or the 3rd party a letter stating what has been removed and BCI has notified the FBI (if applicable)
- Applicants or 3rd parties are still able to send copies of there orders to the applicable agencies involved.



# Current Wait Times for Petitioned Expungements

Currently Processing Applications Received On:

**May 26, 2023**

Currently Processing Orders Received On:

**July 14, 2023**

As this processing date can change daily we ask that applicants or 3rd parties please refer to [bci.utah.gov/expungements/](https://bci.utah.gov/expungements/) to check what dates the Expungement team is processing. This gets updated each Monday.



# Automatic Expungement

Utah Code §77-40a-201 through 77-40a-203



# AUTO EXPUNGEMENTS

Per Utah Code 77-40a-201 through 77-40a-203, a certificate of eligibility is not required for Auto/Clean Slate expungement. These expungements are initiated and completed via an automatic process in place between the Courts and BCI. There is no application process for Auto/Clean Slate-eligible expungement.

Due to the volume of orders BCI is receiving, BCI cannot specify a specific date on which the charge(s) will be removed.

For any help or questions about Automatic / Clean Slate expungements please email - [autoexpungements@utah.gov](mailto:autoexpungements@utah.gov)

# AUTO/CLEAN SLATE ELIGIBILITY

## What is an Auto Expungement case?

- Dismissed with prejudice §77-40a-201(1)(ii)
- Acquittals §77-40a-201(1)(i)
- A “Clean Slate” Eligible case §77-40a-201(1)(iii)

## Traffic Auto Expungements

- Records for the following traffic offenses shall be deleted without a court order or notice to the prosecuting agency
  - A traffic offense case that resulted in an acquittal on all charges §77-40a-202(1)(a)
  - A traffic offense case that is dismissed with prejudice, except for a case that is dismissed with prejudice as a result of successful completion of a plea in abeyance agreement §77-40a-202(1)(b)
  - Time periods have been met. At least 5 years for a Class C misdemeanor and at least 6 years for a Class B misdemeanor.
- Traffic Automatic Expungements are not sent to BCI

## What is an Clean Slate Expungement case?

- A misdemeanor conviction for possession of a controlled substance in violation of Subsection 58-37-8(2)(a)(i)
- A class B or class C misdemeanor conviction or an Infraction that involves an individual whose total number of convictions in Utah state courts, not including infractions, traffic offenses, or minor regulatory offenses, does not exceed the limits described in Subsections 77-40a-303(4) and (5).
- A case dismissed as a result of a successful completion of a plea in abeyance agreement governed by Subsection 77-2a-3(2)(b)
- No criminal proceedings are pending in the state
- Time periods have been met
  - 5 Years for a Class C misdemeanor
  - 6 Years for a Class B misdemeanor
  - 7 Years for a Class A misdemeanor (Only for a conviction for possession of a controlled substance)
- **If a case is connected to another case by Transfer, Bound Over, Refile, Set Aside and etc. it will not be removed from Utah Criminal History.**

# AE Notification to Agencies

- Once BCI has deleted a case there is a broadcast message sent through UCJIS as an AE message.
- You can find these messages through the BMSG transaction.
- All information that BCI was able to find for the case will be provided in that broadcast message. If BCI did not have information available it will list as “not provided.”
- You can view these messages for 21 days but should be viewed daily.
- If it has been longer than 21 days reach out to your Field Services representative on help to retrieve those messages.
- Agencies have 1 year from the date they receive the BMSG AE broadcast message to remove those records from their files.



# What are BCI's Hiccups With Auto/Clean Slate Orders

Why Does BCI have manually touch so many of the orders?

BCI touches these because information the courts are sending to BCI are not matching our Criminal History. Mostly OTNs or SIDs are not matching or being sent over. Sometimes our names don't match. Or BCI never received fingerprints for those cases (meaning not on Utah Criminal History system)

BCI is still receiving convicted DUI orders even after we reached out in November of 2022 to fix the programming.

## Message Details

ORI:

UT

Message Type:

AE

Message:

Name: ██████████ SID: █ FBI Number: ██████████ OTN: ██████████  
██████████ Court Case Number: ██████████ Agency Case Number: █  
██████████ Citation Number: ████ Dob: ██████████ Arrest Date: ████  
██████████

SID was not removed.

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Start Date:

03-17-2022 16:00

# AUTO EXPUNGEMENTS STATS TOTALS

## AUTO EXPUNGEMENTS FOR AUGUST 2023

- Total Sent by AOC - 17,753
- Auto-Processed - 2,879
- Manual Intervention with CH Incident - 787
- Manual Intervention without CH incident - 3,120

***13,988 SIDS(state ID Number) DELETED SINCE JANUARY 2023***

## AUTO EXPUNGEMENTS CUMULATIVE TOTALS

- Total Sent by AOC - 369,617
- Auto-Processed - 53,914
- Manual Intervention with CH incident - 13,779
- Manual Intervention without CH incident - 55,745



“EV” (Expungement  
Verification) Application



# What Is An “EV” Application?

- When someone wants to know what they have had Petitioned AND Auto Expunged they can apply with this application
- What is included?
  - The applicant will receive 2 letters 1 for Auto Expunged information and 1 for Petition Expunged information.
    - The Auto Expungement letter if there are Auto Expungements for that person will include charges, Date of Violation, OTN, Court Case #, Agency Case#, Judgement Code, DOA, and arresting ORI if that information is available
    - If there are no Auto Expungements for that person or aliases they will receive a letter indicating there is no information found as of date.
    - If the applicant does have Automatic Expungements they will receive a copy of the order from the court.

## What Is An “EV” Application? (cont.)

- The Petitioned Expungement letter if there have been Petitioned Expungements for that person will include Charges, Court Case #, Judgement Code, and DOA if that information is available
- If there are no Petitioned Expungements for that person or aliases they will receive a letter indicating there is no information found as of date.
- If the applicant does have previous Petitioned Expungements they will receive a copy of the order from the court and the corresponding certificate.

# What does BCI require to start an application?

- Applicants must fill out
  - Name
  - Previously used names (if applicable)
  - Date of birth
  - Mailing address
  - Drivers license state and #
  - Social Security # (optional)
  - Email address (only if they want everything through email only)
- Applicants must print, sign and date the middle section
- Non refundable \$15 fee must be paid either by cash (in person only), Check, Money Order, or Credit Card.
- A photocopy of valid ID must be provided with the application
- If anything is missing the application will be rejected and sent back to the applicant or corresponding 3rd party.
- Applications can be scanned and emailed to the Expungement section at [bciexpungements@utah.gov](mailto:bciexpungements@utah.gov) or by mailing it to 4315 South 2700 West Suite 1300 Taylorsville, Utah 84129

<https://bci.utah.gov/expungements/expungement-forms/>

EV		APPLICATION FOR AUTOMATIC AND PETITIONED EXPUNGEMENT VERIFICATION	
Utah Department of Public Safety • Bureau of Criminal Identification 4315 South 2700 West, Suite 1300, Taylorsville, Utah 84129 Telephone: (801)965-4445			
Rev 05/01/2023			
WHEN FILLING OUT THIS FORM TYPE OR PRINT IN BLACK INK. Your application will not be processed unless all sections of this form are filled out completely. You need to send a photocopy of your valid government issued picture ID and \$15.00 non refundable fee.			
NAME: _____		DATE OF BIRTH _____	
<small>(Last Name)</small>		<small>(First Name)</small> <small>(Middle Name)</small>	
PREVIOUSLY USED NAME(S) (Maiden, etc.): _____			
MAILING ADDRESS: _____			
<small>(Street/Box number)</small>		<small>(City)</small>	<small>(State)</small> <small>(Zip)</small>
SOCIAL SECURITY: _____			
PRIMARY PHONE NUMBER: _____		DRIVER LICENSE # AND STATE: _____	
TO RECEIVE CORRESPONDENCE VIA ENCRYPTED EMAIL INSTEAD OF REGULAR MAIL, PLEASE PROVIDE YOUR EMAIL ADDRESS BELOW:			
EMAIL: _____			
I am the person listed above and legally entitled to my expunged record information as provided by Utah Code Ann. §77-40a-404(1). I have reviewed all information contained in this document and it is true and correct. I understand that any false statements may subject me to criminal punishment as a class B misdemeanor pursuant to Utah Code Ann. §76-8-504. I declare under criminal penalty under the law of Utah that the foregoing is true and correct.			
Signed on the _____ day of _____, _____ at _____ Date Month Year City or other location, and state or country			
Printed name _____			
Signature _____			
METHOD OF PAYMENT (Only to be filled out if application is mailed/emailed in. Check appropriate box for payment)			
<input type="checkbox"/> Check, Money Order or Cashier's Check (Payable to "BCI") There will be a \$20.00 service charge for any returned check.			
Credit Card: <input type="checkbox"/> Visa <input type="checkbox"/> Master Card <input type="checkbox"/> Discover <input type="checkbox"/> AMEX			
Fill out the information below to pay by credit card.			
□□□□ □□□□ □□□□ □□□□		□□□□	□□□□
		*3 or 4 digit control #	Exp Date MM/YY
Cardholder Signature _____		Name on Credit Card: _____	



Department of Public Safety

JESS L. ANDERSON  
Commissioner

Auto Exp letter  
with no  
incidents

State of Utah

SPENCER J. COX  
Governor

DIEDRE M. HENDERSON  
Lieutenant Governor

DATE

FIRST MIDDLE LAST  
ADDRESS  
STATE, CITY ZIP

Receipt Number:

Dear: FIRST MIDDLE LAST,

This letter is to notify you that as of (DATE), we have not received any orders from the courts to be Automatically Expunged from your record. Due to this being an ongoing process this is subject to change at any time.

If you would like an updated copy of your Utah Criminal History (UCH) Record, you may make a Criminal History Record request from BCI (fees apply).

If you have any questions, you may contact our office at (801) 965-4445 option #8.

Sincerely,

BCI Records Staff

**\*\*Changes are being made to these letters soon\*\***



Department of Public Safety

JESS L. ANDERSON  
Commissioner

Auto Exp letter  
with incidents

State of Utah

SPENCER J. COX  
Governor

DIEDRE M. HENDERSON  
Lieutenant Governor

DATE

FIRST MIDDLE LAST  
ADDRESS  
CITY, STATE ZIP

Receipt Number:

Dear: FIRST MIDDLE LAST,

This letter is to notify you that the following incident(s) has/have been automatically expunged/removed from your record on the Utah Criminal History (UCH) system. When applicable the FBI and other agencies involved have been notified that this/these incident(s) need to be expunged/removed from FBI or other agency files.

OTN: NOT AVAILABLE, Court Case Number: NOT AVAILABLE, Agency Case Number: NOT AVAILABLE, Citation Number: NOT AVAILABLE, DOB: NOT AVAILABLE, Arrest Date: NOT AVAILABLE, Originating ORI: NOT AVAILABLE

Charge #1 Info: Source/State: UT, Statute: NOT AVAILABLE, Violation Date: 2019-04-20, Judgement Code: DI, Severity: NOT AVAILABLE





State of Utah

SPENCER J. COX  
Governor

DIEDRE M. HENDERSON  
Lieutenant Governor

FIRST MIDDLE LAST  
ADDRESS  
CITY, STATE ZIP

Receipt Number:

Dear FIRST MIDDLE LAST,

This letter is to notify you as of (DATE) the following incident(s) has/have been expunged/removed from your record on the Utah Criminal History (UCH) system through the petition based process.

When applicable the FBI and other agencies involved have been notified that this/these incident(s) need to be expunged/removed from FBI or other agency files.

DATE OF ARREST , CASE #, CHARGES, JUDGEMENT CODE

If you would like an updated copy of your Utah Criminal History (UCH) Record, you may make a Criminal History Record request from BCI (fees apply).

If you have any questions, you may contact our office at (801) 965-4445 option #5

Sincerely,

BCI Expungement Staff

Date  
**Petition Exp  
letter with  
incidents**



State of Utah

SPENCER J. COX  
Governor

DIEDRE M. HENDERSON  
Lieutenant Governor

FIRST MIDDLE LAST  
ADDRESS  
CITY, STATE ZIP

Receipt Number:

Dear FIRST MIDDLE LAST ,

This letter is to notify you that as of (DATE), we have not received any orders from the courts to be Petition Expunged from your record. Due to this being an ongoing process this is subject to change at any time.

If you would like an updated copy of your Utah Criminal History (UCH) Record, you may make a Criminal History Record request from BCI (fees apply).

If you have any questions, you may contact our office at (801) 965-4445 option #5

Sincerely,

BCI Expungement Staff

Department of Public Safety

JESS L. ANDERSON  
Commissioner

**Petition Exp letter  
with no incidents**

Date:

**\*\*Changes are being made to these  
letters soon\*\***



# Early Removal From The Sex Offender Registry

[Utah Code §77-41-112](#)





# Other BCI Services Pertaining to a Person's Background

- Challenges: If someone believes their record is incorrect

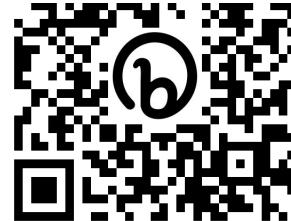
<https://bci.utah.gov/criminal-history-records/>

- Right of Access (ROA): Apply for a copy of their Utah Criminal History

<https://bci.utah.gov/criminal-records/obtain-a-copy-of-your-own-criminal-history-record/>

- If someone would like to schedule an appointment to talk with or meet with Expungements OR the Records section they can fill out our appointment form at the link below or by the QR code. **(Appointments are not required to apply for an expungement or challenge a record.)**

[http://bit.ly/BCI\\_Schedule](http://bit.ly/BCI_Schedule)





QUESTIONS?

