

UTAH EXPUNGEMENT ACT

U.C.A. 77-40-101 *et.al.*

I. Eligibility for Expungement of Records of Arrest, Investigation, and Detention §77-40-104

- A. May apply for certificate of eligibility:
1. At least **30 days** after arrest;
 2. No criminal proceedings pending; and
 3. One of following:
 - a. Charges screened, prosecutor filed no charges; or
 - b. Entire case dismissed with prejudice; or
 - c. Acquitted of all charges; or
 - d. Statute of limitations has expired.

II. Eligibility for Expungement of Conviction §77-40-105

- A. **NOT** eligible for certificate if:
1. Conviction is:
 - a. Capital felony;
 - b. First degree felony;
 - c. Violent felony (*see* §76-3-203.5(1)(c)(I);
 - d. Automobile homicide;
 - e. Felony violation of DUI (*see* §41-6a-501(2)); or
 - f. Registerable sex offense (*see* §77-41-102(16)).
 2. Criminal proceeding is pending;
 3. Petitioner intentionally or knowingly provides false or misleading information on the application for the certificate.
- B. **NOT** eligible to receive expungement until ALL of following have occurred:
1. All fines, interest have been paid;
 2. All restitution is paid;
 3. Following time periods have elapsed from date of conviction or release from incarceration, parole, or probation, whichever occurred last, for each conviction petitioner seeks to expunge:
 - a. **10 years** for misdemeanor conviction of **DUI** (§41-6a-501(2)) or **felony conviction of §58-37-8(2)** (having measurable amount of controlled substance, driving in negligent manner, causing serious bodily injury or death);
 - b. **7 years** in case of **felony**;
 - c. **5 years** in case of **Class A** misdemeanor;
 - d. **4 years** in case of **Class B** misdemeanor;
 - e. **3 years** in case of **Class C** misdemeanor or Infraction.

C. May NOT issue certificate if petitioner's history, including previously expunged convictions, contains any of the following:

1. 1st degree felony;
2. 2 or more felony convictions; each in a separate criminal episode;
3. Any combination of 3 or more convictions that include 2 Class A misdemeanor convictions; each in a separate criminal episode;
4. Any combination of 4 or more convictions that include 3 Class B misdemeanor convictions, each in a separate criminal episode;
5. 5 or more convictions of any degree (felony or misdemeanor), excluding infractions and traffic offenses, each contained in separate criminal episode.