

## Checklist for Petition to Expunge Adult Criminal Records

Keep a copy of all documents for your records.  
Attend all court hearings.

### (1) Application for Certificate of Eligibility

- The Application for a Certificate of Eligibility is available from the Bureau of Criminal Identification (BCI) at: <http://www.publicsafety.utah.gov/bci/forms.html#Expungement>. Follow the instructions provided by BCI.
- If you are eligible to have records of any incidents expunged, BCI will identify them in the certificate. You must file the **original** certificate with the court. If you are not eligible to have any records expunged, BCI will notify you.
- It can take several weeks for BCI to determine your eligibility.

### (2) Coversheet

- Print your name and address and that of the office of the prosecutor who handled your criminal case. If more than one prosecutor handled more than one criminal case, identify all of them.
- You are not claiming damages, so leave that line blank or print "none." A jury trial is not permitted in this type of case, so check "no."
- On page 2, check the box next to "Expungement." The amount listed next to the box is the filing fee.

### (3) Petition to Expunge Records

- Print your name and contact information at the top of the first page. Check whether you are the Petitioner or the attorney for the Petitioner.
- Complete the heading. Check the correct box to show whether you are filing the petition in the district court or the justice court. Print the number of the judicial district, the name of the county and the court address. Print your name in the line above "Petitioner." Leave the "case number" and the "judge" name blank.
- Paragraph (1): Check this box and complete the rest of the information only if you were not convicted of the crime you are trying to expunge. This includes crimes for which you were arrested but never charged.
  - Paragraph (A): The Certificate of Eligibility from the Bureau of Criminal Identification will identify the law enforcement agency and their file numbers of incidents that are eligible to be expunged.
  - Paragraph (B): The Certificate of Eligibility from the Bureau of Criminal Identification will identify the court case numbers of cases that are eligible to be expunged.

- Paragraph (C): Check all of the boxes that are true.
- Paragraph (2): Check this box and complete the rest of the information only if you were convicted of the crime you are trying to expunge.
  - Paragraph (A): The Certificate of Eligibility from the Bureau of Criminal Identification will identify the court case numbers of cases that are eligible to be expunged.
  - Paragraph (B): Check all of the boxes that are true.
- Paragraph (3): Describe why it is not contrary to the public interest to expunge your records.
- Attach the Certificate of Eligibility and any other required documents and forms.
- Date and sign the form.
- File the original form and attachments with the judicial services representative.
- Have the petition and Certificate of Eligibility served on the prosecutors named in the cover sheet and file the Proof of Service.
  - Forms and instructions for Proof of Service are available at: [http://www.utcourts.gov/howto/service/service\\_of\\_process.html#Forms](http://www.utcourts.gov/howto/service/service_of_process.html#Forms)

#### **(4) Victim's Statement or Prosecutor's Statement**

After you have served the prosecutor, the prosecutor notifies the victim of the crime, if there was one. Both the prosecutor and the victim have the opportunity to file a statement with the court. If either files a statement, you can file a reply, and the court will hold a hearing. If neither files a statement, the court can hold a hearing on its own initiative or grant the petition without a hearing.

#### **(5) Reply to Victim's Statement or Prosecutor's Statement**

- Do not complete this form unless either the victim or the prosecutor has filed a statement. Even if the victim or prosecutor has filed a statement, this form is optional. You may file it, but you do not have to. If you file this form, you must do so within 15 days after the victim's statement or the prosecutor's statement was served on you.
- Print your name and contact information at the top of the first page. Check whether you are the Petitioner or the attorney for the Petitioner.
- Complete the heading exactly as it appears in the Petition.
- Paragraphs (1)(A) and (2)(A): Quote the statement that you disagree with exactly.
- Paragraphs (1)(B) and (2)(B): Explain why you disagree.
- Omit any private or protected information. When filed, this document is a public record. Code of Judicial Administration [Rule 4-202.09\(9\)](#) requires that you omit from a public record any information that is not itself public information. For a list

of records, data and information classified as public, private, and protected, see [Rule 4-202.02](#).

- Attach any required documents and forms.
- Date and sign the form.
- Complete the Certificate of Service.
- Serve the form on the prosecutor and the victim.
- File the original form and certificate of service with the judicial services representative.

#### **(6) Response by AP&P**

- The court can ask the Division of Adult Probation and Parole (AP&P) to file a response. AP&P will file the response with the court and serve you, the prosecutor and the victim. You can file a reply.

#### **(7) Reply to AP&P Response**

- Do not complete this form unless the Division of Adult Probation and Parole has filed a response requested by the judge. Even if AP&P files a response, this form is optional. You may file it, but you do not have to. If you file this form, you must do so within 15 days after the AP&P response was served on you.
- Print your name and contact information at the top of the first page. Check whether you are the Petitioner or the attorney for the Petitioner.
- Complete the heading exactly as it appears in the Petition.
- Paragraphs (1)(A) and (2)(A): Quote the statement that you disagree with exactly.
- Paragraphs (1)(B) and (2)(B): Explain why you disagree.
- Omit any private or protected information. When filed, this document is a public record. Code of Judicial Administration [Rule 4-202.09\(9\)](#) requires that you omit from a public record any information that is not itself public information. For a list of records, data and information classified as public, private, and protected, see [Rule 4-202.02](#).
- Attach any required documents and forms.
- Date and sign the form.
- Complete the Certificate of Service.
- Serve the form on the prosecutor, the victim, and AP&P.
- File the original form and certificate of service with the judicial services representative.

**(8) Notice of Hearing**

- Do not complete this form. It is a form for court use. If either the prosecutor or the victim file a statement, the judicial services representative will schedule a hearing and notify you, the prosecutor and the victim.

**(9) Request to Submit for Decision**

- Do not file this form if the court has held a hearing.
- File this form **only** if neither the prosecutor nor the victim has filed a statement and at least 60 days have passed since you filed the petition.
- Print your name and contact information at the top of the first page. Check whether you are the Petitioner the attorney for the Petitioner.
- Complete the heading exactly as it appears in the Petition.
- Paragraph (1): Print the date on which you filed the Petition
- Paragraph (2): Print the date on which the prosecutor was served.
- Paragraphs (3), (4), and (5): Review the statements to make sure that they are true.
- Paragraph (6): Check the correct box to show that the judge has not asked AP&P for a response or that the judge has asked for a response and AP&P has filed it. If AP&P has been asked for a response and has not yet filed it, wait until they do so before filing the Request to Submit for Decision.

**(10) Findings of Fact, Conclusions of Law and Order on Petition to Expunge Records**

- Print your name and contact information at the top of the first page. Check whether you are the Petitioner or the attorney for the Petitioner.
- Complete the heading exactly as it appears in the Petition.
- Do not complete the rest of the form unless you are told to do so.
- Attach the form to the Request to Submit for Decision.

**(11) Certified Copies of the Order**

- If an agency does not receive the expungement order, they are not required to seal their records. You must deliver the order to any agencies with relevant records. You should get as many certified copies of the order as there are agencies with records. You should get the certified copies as soon as the order is entered and before the court records are sealed. You can get copies of the order after the court records are sealed only by a petition to unseal the record. There is a fee for each certified copy.
- You may pick up certified copies of the expungement order at the courthouse or have them mailed. To have certified copies mailed, send a request for a specific number of copies to the clerk of the court and include an 9" x 12" self-addressed

envelope with sufficient return postage. (Note that large envelopes and multiple copies require additional postage.)

### **(12) Serving the Order on Agencies with Records**

- To have the records of a government agency sealed, you must deliver a certified copy of the expungement order on the agency. These might include:
  - the arresting agency (city police, county sheriff, Utah Highway Patrol);
  - the booking agency (county jail);
  - the Department of Corrections;
  - BCI (Attach a copy of the Certificate of Eligibility to the expungement order delivered to BCI.); or
  - Driver License Division.
- There may be other agencies with records. If an agency does not receive the expungement order, they are not required to seal their records. If requested, the clerk will provide addresses for agencies within the jurisdiction of the court. For other agencies, you must find the correct address.
- BCI will provide written directions to you along with a list of agencies known to be affected by the order. You do not have to deliver a copy of the expungement order to the Federal Bureau of Investigation; BCI will forward a copy of the order to the FBI.
- Unless otherwise provided by law or ordered by the court to respond differently, a government agency or official who has received an expungement order will respond to an inquiry as though that arrest or conviction did not occur. Unless ordered by a court to do so, a government agency or official who has received an expungement order may not divulge information identifying the petitioner. A person who has had records expunged may respond to an inquiry as though that arrest or conviction did not occur.