



Expungement Process Overview

Issue: There is a disconnect between the courts and prosecutors regarding the process of filing and service concerning expungement petitions. Petition cannot be filed as a Motion because sometimes it is the original Commencement of Action.

Harm: Petitioner is held to a strict 90-day deadline before certificates of expungement eligibility expire. The refusal to accept service jeopardizes filings. Additionally, the amount of paperwork is unwieldy for Pro Se Litigants. There is a dramatic decline in number of certificates actually filed with the Courts compared to number of certificates purchased by BCI.

	Process	Applicable Rule
<p>Process as instructed by Utah Courts Self-Help Center as based upon Board of District Court Judges Forms Committee</p>	<p>Mail Copy of Petition, Copy of Certificate, Acceptance of Service, and Consent and Waiver of Hearing to the Prosecuting Attorney.</p> <p>“Some courts want you to do this step first, before filing a petition... after your deliver the papers file...any document signed by the prosecutor’s office.”</p> <p>“If the prosecutor signs a Consent and Waiver of Hearing, then file [it with the court]”</p>	<p>Most consistent with Rule 4</p>
<p>Process as understood/preferred by prosecutor’s offices</p>	<p>“Old matters that are not found on Exchange, the Court assigns a new case number. This new case number needs to be entered onto the copy of the Petitions provided to my office. If the matter is not in Exchange and a new case number is not assigned, we need to be provided with something or the documents needs to be date stamped by the Court to verify that it was filed.</p> <p>My office does not file an Acceptance of Service and Consent and Waiver Form. We provide the Petitioner with a copy of the Prosecutor's Statement and we do not need a self-addressed stamped envelope.” - Davis County Attorney Office</p> <p>Salt Lake District Attorney files either an Objection or Waiver of Right to Object and provides notice to Petitioner</p>	<p>Most consistent with Rule 5</p>

BCI INSTRUCTIONS TO PRO SE PETITIONERS:

Step 2 — Court-Issued Expungement Order

Complete an expungement order petition form, through the appropriate court, for each Certificate of Expungement Eligibility purchased from BCI and pay applicable court fees.

- Petition forms and instructions for all courts can be found online at: <https://www.utcourts.gov/howto/expunge/> under the “Forms” section, or can be requested in person at the court. Call Utah State Courts Self-Help Center at 888-683-0009 if you need further assistance.

Submit completed petition form(s) and Certificate(s) of Eligibility to the appropriate court AND prosecutor

- The Judge will review the petition(s) and the court will notify you via phone or mail which expungement Order(s) have been issued.

▶ Statutory Guidance:

▶ 77-40-103 Petition for expungement procedure overview.

▶ (6) (a) The petitioner shall deliver a copy of the petition and certificate of eligibility to the prosecutorial office that handled the court proceedings.

▶ (b) If there were no court proceedings, the petitioner shall deliver the copy of the petition and certificate to the county attorney's office in the jurisdiction where the arrest occurred.

Utah Courts Self-Help Center:

Step 2 - File Documents

File your papers with the court. Remember, the certificate of eligibility is valid for only 90 days from the date it is issued. You must file your Petition to Expunge Records before the 90 days are up. The forms listed here are available in the [forms section](#) below.

- Cover Sheet for Civil Actions: Fill out the coversheet. List yourself as the petitioner and the prosecutor's office as the defendant.
- Petition to Expunge Records: Choose the Petition to Expunge Records that best matches your case. For example, if you were convicted, choose the Petition to Expunge Records (Conviction). Fill it out and bring it with the original of your certificate of eligibility.
- Order on Petition to Expunge Records: Choose the form that best matches your case.

File your documents with the court that decided the criminal case. If a court case was never filed, file the expungement papers in the district where the arrest occurred.

Use the case number of the case that you are asking to expunge. If there is no case on record the court will assign you a case number.

Make two copies of all of these documents before you file the originals with the court, along with the [filing fee](#). If you cannot afford to pay the filing fee, you can ask the court to consider waiving that fee. See the [Fees and Fee Waiver web page](#) for more information and forms.

Utah Courts Self-Help Center:

Step 3 - Serve the Prosecutor

Take or mail the following documents to the prosecutor's office that handled the criminal case. If you are sending the documents by mail, include a self-addressed stamped envelope so they can return the Acceptance of Service and Consent and Waiver of Hearing forms to you if they sign them.

- Copy of Petition to Expunge Criminal Records that you filed with the court
- Copy of the certificate of eligibility that you filed with the court
- Originals of the following documents from the [Forms section](#) below, with the headings filled out with your case information:
 - Acceptance of Service
 - Consent and Waiver of Hearing

If the prosecuting attorney was the state of Utah, serve the county prosecutor. You can find a list of names and addresses for [county prosecutors here](#) . If the prosecuting attorney was for a city you can [use this tool to find contact information for the city's attorney](#) .

If no criminal case was filed, you must [serve](#) a copy of the petition and a copy of the certificate of eligibility on the county attorney or district attorney of the county in which the petitioner was arrested.

Some courts want you to do this step first, before filing your petition with the court. If you go to the prosecutor's office first, after you deliver the papers file the petition, original certificate of eligibility and any documents signed by the prosecutor's office.

Rule 4. Process.

(d)(3) Acceptance of service.

(d)(3)(C) Acceptance of service by attorney for party. An attorney may accept service of a summons and complaint on behalf of the attorney's client by signing a document that acknowledges receipt of the summons and complaint.

Rule 5. Service and filing of pleadings and other papers.

(b) How service is made.

(b)(4) When service is effective. Service by mail or electronic means is complete upon sending.

(d) Certificate of service. A paper required by this rule to be served, including electronically filed papers, must include a signed certificate of service showing the name of the document served, the date and manner of service and on whom it was served...



State of Utah
Department of Public Safety
Bureau of Criminal Identification
CRIMINAL RECORD
SPECIAL EXPUNGEMENT CERTIFICATE

162995

NAME JOHNSON, BRENDA LEE DOB 07-22-1960

PREVIOUSLY USED NAMES:
(BRENDA L JOHNSON), (BRENDA DURAN), (BRENDA LEE JOHNSON), (BRENDA LOVEDAY)

SID # 489554 FBI # 662562MB3

DATE OF ARREST 12/16/1999 DATE OF VIOLATION / OFFENSE 12/16/1999

BOOKING / ARRESTING AGENCY BOX ELDER COUNTY SHERIFF

LAW ENFORCEMENT AGENCY BOX ELDER COUNTY SHERIFF

CHARGE(S):
AMPHETAMINE-POSSESS

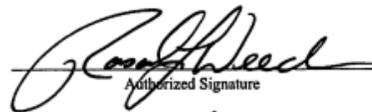
COURT NAME BOX ELDER COUNTY JUSTICE COURT COURT CASE # UNKNOWN

COMMENTS:

Each Expungement Order must contain the above information

This document was researched and prepared by the undersigned representative of the Utah Bureau of Criminal Identification in accordance with Title 77 Chapter 40 of the Utah Code. BCI is unable to obtain a disposition for the above incident. Pursuant to Utah Code Ann. § 77-40-106(2)(d), determination of eligibility is with the court.

NOT VALID WITHOUT EMBOSSED SEAL


Authorized Signature

08/30/2019
Date



This certificate is valid for 90 days and must be received by the court within this time period.

Example of Unknown Case Number



State of Utah
Department of Public Safety
Bureau of Criminal Identification
CERTIFICATE OF
EXPUNGEMENT ELIGIBILITY

164533

NAME DIXON, KIMBERLY HOPE DOB 07-18-1976

PREVIOUSLY USED NAMES:
(KIMBERLY H DIXON), (KIM DIXON), (KIMBERLY DIXON), (KIMBERLY HOPE DIXON)

SID # 433622 FBI # 257210JB2

DATE OF ARREST 02/01/2011 DATE OF VIOLATION / OFFENSE 02/01/2011

BOOKING / ARRESTING AGENCY UNIFIED POLICE DEPT OF GREATER SALT LAKE

LAW ENFORCEMENT AGENCY SALT LAKE CITY PD

CHARGE(S):
POSS CNTRLD SUBST/SYNTHETIC NARCOTICS

COURT NAME SALT LAKE CNTY DIST ATTORNEY COURT CASE # SL11-18154

ACQUITTED CONVICTED DECLINED DISMISSED

FAILED TO FILE CLASS U

COMMENTS:

Each Expungement Order must contain the above information

This document was researched and prepared by the undersigned representative of the Utah Bureau of Criminal Identification in accordance with Title 77 Chapter 40 of the Utah Code. The information contained herein reflects all of the information regarding this incident that the bureau has been able to confirm.

NOT VALID WITHOUT EMBOSSED SEAL

Example of
Old Case
Number no
longer used

Goal: To make this process as simplified as possible for pro se litigants, courts, and prosecutors.

Guidance Needed:
Should this be changed statutorily or does it need to be Rule-based?

Possible Resolution?