

Checklist for Petition to Expunge Adult Criminal Records

- You must complete a form before you file it. These instructions will help you complete the forms.
- Court staff cannot complete a form for you.
- Attach a copy of any document referred to in the form.
- Keep a copy of all documents for your records.
- Attend all court hearings.
- Some forms may not apply in your case.
- Contact the Self-Help Center if you need more help:
<http://www.utcourts.gov/selfhelp/contact/>.

Make sure have all the necessary forms:

- Certificate of eligibility
- Petition to expunge records
- Acceptance of service
- Consent and waiver of hearing
- Prosecutor/Victim statement (if applicable)
- Petitioner's reply (if applicable)
- Findings of fact and conclusions of law

Step 1: Apply for a Certificate of Eligibility

A link to the Application for Certificate of Eligibility from BCI at:
<https://www.utcourts.gov/howto/expunge/index.html#forms>.

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.

The certificate is valid for 90 days. You must file your petition before the 90 days expires. If the petition is not filed on time, you must obtain a new certificate.

Step 2: Select the Correct Petition Packet

There are four types of petitions to expunge records and you should select the correct petition for your situation. You must file a separate petition in each case you are seeking to expunge. The four types of petitions are:

- **Petition to Expunge Records (Conviction)**
Used when you are seeking to expunge records of a conviction.
- **Petition to Expunge Records (Dismissal or Acquittal)**
Used when a court case was filed against you, but the case was dismissed without a conviction or you were acquitted of the charges.
- **Petition to Expunge Records (Charges Never Filed)**
Used if you were arrested but charges were never filed.
- **Petition to Expunge Records (Special Certificate)**
Used when BCI has issued you a Special Certificate instead of a Certificate of Eligibility for expungement. The Special Certificate indicates that BCI was unable to determine whether you are eligible for expungement.
- **Petition to Expunge Records (Drug Possession Conviction)**
Used when you are seeking to expunge records of a drug possession offense. Carefully review this petition to be sure that the petition applies to your situation.

Step 3: Provide the Necessary Information

- Complete each paragraph of the petition that you are filing. The Certificate of Eligibility may contain some of the necessary information.
- Print your name and contact information at the top of the first page. Check whether you are the Petitioner appearing on your own or you have an attorney to represent you.
- Complete the heading. Check the correct box to show whether you are filing the petition in district court or 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." If you are filing the petition in an existing case, list the case number. Otherwise, leave the "case number" and the "judge" name blank.
- Complete other portions of the petition that seek information such as court case numbers and law enforcement file numbers. Do not leave any of the spaces blank.
- Provide a detailed explanation on why expunging your records will not affect the public's interest. Use additional pages if necessary.
- Date and sign the form.
- Attach the Certificate of Eligibility and any other required documents and forms.

Step 4: Complete the Coversheet

- You must provide a coversheet when filing your petition. The coversheet is found on the judiciary's website.
- Print your name and address and that of the office of the prosecutor who handled your criminal case. If charges were never filed, list the prosecutor for the area in which your arrest occurred.
- 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.

Step 5: File the Petition

File the original petition and attachments with the court.

Step 6: Deliver the Petition and Other Appropriate Documents to the Prosecutor

- Deliver a copy of the petition and Certificate of Eligibility to the prosecutor and have the prosecutor sign the Acceptance of Service form.
- Provide the prosecutor with the Consent and Waiver of Hearing. The prosecutor may choose to waive the right to object to the expungement or consent to an expungement order.
- Provide the prosecutor with the prosecutor/victim's statement and victim's checklist.

Step 7: File the Acceptance of Service

- After the prosecutor has signed the Acceptance of Service, file it with the court.
- Instead of having the prosecutor sign the Acceptance of Service, you may also choose to have a process server serve the petition on the prosecutor. The process server should file a return of service.
- Forms and instructions for Proof of Service are available at:
https://www.utcourts.gov/howto/service/service_of_process.html#Forms

Step 8: Follow up with the Prosecutor

- The prosecutor will research the case and decide whether expungement is appropriate. After the prosecutor has had an opportunity to research the case, you may follow-up with the prosecutor to determine whether the prosecutor is willing to sign the Consent and Waiver of Hearing.

- If the prosecutor agrees to sign the Consent and Waiver of Hearing, have the prosecutor designate whether there was a victim in the case.
- If there was a victim, have the prosecutor designate whether the victim has been contacted and waived the right to object.

Step 9: Potential Intermediate Steps

Victim's Statement or Prosecutor's Statement

After the prosecutor has accepted service, the prosecutor notifies the victim, if there was one. Both the prosecutor and the victim have 35 days to file a statement with the court, if they choose. If either files a statement, you may file a reply, and the court will hold a hearing. If neither files a statement, the court may hold a hearing on its own initiative or grant the petition without a hearing.

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 may file a reply.

Reply to Victim's Statement, Prosecutor's Statement, or AP&P Response

- Do not complete this form unless either the victim or the prosecutor has filed a statement or AP&P has filed a response. Even if the victim or prosecutor has filed a statement or AP&P has filed a response, this form is optional. If you file this form, you must do so within 14 days after you receive the victim's or prosecutor's statement, or after you receive AP&P's response.
- Print your name and contact information at the top of the first page. Check whether you are the Petitioner appearing on your own or you have an attorney to represent you.
- Complete the heading exactly as it appears in the Petition.
- Paragraph (1): Quote the statement that you disagree with.
- Paragraph (2): Explain why you disagree with the statement. Use additional pages if necessary.
- 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.
- Date and sign the form.

- Complete the Certificate of Service.
- You must serve everyone who has filed a statement or response in the case. The victim is not required to disclose his or her home address so you may need to have the prosecutor send the reply to the victim.
- File the original form and certificate of service with the court.

Step 10: Submit the Findings of Fact, Conclusions of Law, and Order on Petition to Expunge Records to the Court

- Except as explained below, the Findings of Fact, Conclusions of Law, and Order may be filed 60 days after the Acceptance of Service is filed with the court.
- If the prosecutor consents or waives the right to object to the petition and there was no victim, the Findings of Fact, Conclusions of Law, and Order may be filed after the Consent and Waiver of Hearing is filed with the court.
- If the prosecutor consents or waives the right to object and the victim has also either consented or waived the right to object, the Findings of Fact, Conclusions of Law, and Order may be filed after the Consent and Waiver of Hearing is filed.
- Print your name and contact information at the top of the first page. Check whether you are the Petitioner or you have an attorney to represent you.
- 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.

Step 11: Follow up with the Court to Determine When the Order is Signed

- The court has up to 60 days to decide whether to grant the expungement. You may contact the court from time to time to see if the court has made a decision.
- If the court denies the petition the court will issue an order and you may appeal that decision.

Step 12: Obtain Certified Copies of the Order

If the court grants the expungement it is your responsibility to deliver the order to the agencies who have relevant records. If an agency does not receive the expungement order, it is not required to expunge its 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 but 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 a 9" x 12" self-addressed envelope with sufficient return postage. (Note that large envelopes and multiple copies require additional postage.)
- There is a fee for obtaining certified copies so you will need to pay the appropriate charges before the copies will be mailed or provided.

Step 13: Serve 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 to 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 requested, the clerk may 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, and
- 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.

Name

Address

City, State, Zip

Phone

Email

I am the Petitioner
 Attorney for the Petitioner and my Utah Bar number is _____

In the District Justice Court of Utah

_____ Judicial District _____ County

Court Address _____

| | |
|-----------------------------------|---|
| In Re: _____ Petitioner | Petition to Expunge Records (Dismissal or Acquittal) |
| | _____ Case Number |
| | _____ Judge |

(1) **Arrest record.** I was arrested on _____ (date) by _____ (law enforcement agency). The law enforcement agency's file number is _____.

(a) The following court case was filed as a result of the arrest:
_____.

- (b) Choose all that apply.
- I was not convicted of the offense.
 - At least 30 days have passed since I was arrested.
 - I have not been arrested since this arrest.
 - One of the following has occurred: (Choose one)

Name

Address

City, State, Zip

Phone

Email

I am Plaintiff/Petitioner Defendant/Respondent
 Plaintiff/Petitioner's Attorney Defendant/Respondent's Attorney (Utah Bar #: _____)

In the District Juvenile Justice Court of Utah

_____ Judicial District _____ County

Court Address _____

| | |
|----------------------|---|
| | Certificate of Service (Utah Rule of Civil Procedure 5) |
| Plaintiff/Petitioner | |
| V. | Case Number _____ |
| | |
| Defendant/Respondent | Judge _____ |
| | Commissioner (domestic cases) _____ |

I certify that I served a copy of _____ (document name), which was filed with the court on _____ (date). I delivered the document as indicated below.

| Person's Name | Method of Service | Served at this Address | Served on this Date |
|---------------|--|------------------------|---------------------|
| | <input type="checkbox"/> Mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> E-filed <input type="checkbox"/> Email (Person agreed to service by email.) <input type="checkbox"/> Left at business (With person in charge or in receptacle for deliveries.) <input type="checkbox"/> Left at home (With person of suitable age and discretion residing there.) | | |
| | <input type="checkbox"/> Mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> E-filed <input type="checkbox"/> Email (Person agreed to service by email.) <input type="checkbox"/> Left at business (With person in charge or in receptacle for deliveries.) <input type="checkbox"/> Left at home (With person of suitable age and discretion residing there.) | | |
| | <input type="checkbox"/> Mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> E-filed <input type="checkbox"/> Email (Person agreed to service by email.) <input type="checkbox"/> Left at business (With person in charge or in receptacle for deliveries.) <input type="checkbox"/> Left at home (With person of suitable age and discretion residing there.) | | |

_____ Signature ► _____
 Date _____ Printed Name _____

Certificate of Service

I certify that I filed with the court and served a copy of this Certificate of Service on the following people.

| Person's Name | Method of Service | Served at this Address | Served on this Date |
|---------------|--|------------------------|---------------------|
| | <input type="checkbox"/> Mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> E-filed <input type="checkbox"/> Email (Person agreed to service by email.) <input type="checkbox"/> Left at business (With person in charge or in receptacle for deliveries.) <input type="checkbox"/> Left at home (With person of suitable age and discretion residing there.) | | |
| | <input type="checkbox"/> Mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> E-filed <input type="checkbox"/> Email (Person agreed to service by email.) <input type="checkbox"/> Left at business (With person in charge or in receptacle for deliveries.) <input type="checkbox"/> Left at home (With person of suitable age and discretion residing there.) | | |
| | <input type="checkbox"/> Mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> E-filed <input type="checkbox"/> Email (Person agreed to service by email.) <input type="checkbox"/> Left at business (With person in charge or in receptacle for deliveries.) <input type="checkbox"/> Left at home (With person of suitable age and discretion residing there.) | | |

 Date

Signature ► _____
 Printed Name _____

Name

Address

City, State, Zip

Phone

Email

In the [] District [] Justice Court of Utah

_____ Judicial District _____ County

Court Address _____

In Re:

Petitioner

**Acceptance of Service –
Expungement (Prosecutor)**

Case Number

Judge

The undersigned acknowledges receipt of a copy of the Petition for Expungement.

Date _____ Sign here ►

Prosecutor (print name)

Address

City, State, Zip

Phone

Name

Address

City, State, Zip

Phone

Email

I am the Victim of the crime being considered for expungement
 Attorney for the victim and my Utah Bar number is _____
 Prosecuting Attorney and my Utah Bar number is _____

In the District Justice Court of Utah

_____ Judicial District _____ County

Court Address _____

| | |
|---|--|
| In Re Petition to Expunge the Records of _____ Petitioner | <input type="checkbox"/> Victim's Statement |
| | <input type="checkbox"/> Prosecutor's Statement |
| | _____ Case Number |
| | _____ Judge |

Attach additional pages as needed to complete paragraphs that don't have enough space. Write the paragraph number on the additional page.

(1) I object do not object to expunging the petitioner's records because:

(Choose (2) if you have a recommendation and then choose the box(es) that describe your recommendation.)

(2) I recommend:

The court expunge the records.

The court not expunge the records.

Other recommendation:

I declare under criminal penalty under the law of Utah that everything stated in this document is true.

Signed at _____ (city, and state or country).

Date

Signature ► _____

Printed Name _____

Certificate of Service

I certify that I filed with the court and served a copy of this Statement by the Victim Prosecutor on the following people.

| Person's Name | Method of Service | Served at this Address | Served on this Date |
|---------------|--|------------------------|---------------------|
| (Petitioner) | <input type="checkbox"/> Mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> E-filed <input type="checkbox"/> Email (Person agreed to service by email.) <input type="checkbox"/> Left at business (With person in charge or in receptacle for deliveries.) <input type="checkbox"/> Left at home (With person of suitable age and discretion residing there.) | | |
| (Prosecutor) | <input type="checkbox"/> Mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> E-filed <input type="checkbox"/> Email (Person agreed to service by email.) <input type="checkbox"/> Left at business (With person in charge or in receptacle for deliveries.) <input type="checkbox"/> Left at home (With person of suitable age and discretion residing there.) | | |
| (Victim) | <input type="checkbox"/> Mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> E-filed <input type="checkbox"/> Email (Person agreed to service by email.) <input type="checkbox"/> Left at business (With person in charge or in receptacle for deliveries.) <input type="checkbox"/> Left at home (With person of suitable age and discretion residing there.) | | |

Sign here ► _____

Date _____

Typed or Printed Name _____

Prosecutor's Name

Prosecutor's Address

City, State, Zip

Phone

Email

In the [] District [] Justice Court of Utah

_____ Judicial District _____ County

Court Address _____

In Re:

Petitioner

**Consent and Waiver of Hearing –
Expungement
(Prosecutor)**

Case Number

Judge

The undersigned has reviewed Petitioner's Petition to Expunge Records and the case file.

- The undersigned waives the right to object to Petitioner's Petition to Expunge Records.
- The undersigned consents to this court entering an order for expungement.
- The case was dismissed without prejudice or without condition, but the prosecution has not filed and does not intend to refile related charges.
- There:
 - is a victim in this case.
 - is not a victim in this case.

The victim has been notified of the Petition to Expunge Records.

The victim has been notified and has authorized the undersigned to waive the victim's right to object to the Petition and to consent to this court entering an order for expungement without further notice.

Date _____ Sign here ► _____
Prosecutor (print name) _____
Address _____
City, State, Zip _____
Phone _____

Name

Address

City, State, Zip

Phone

Email

I am the Petitioner
 Attorney for the Petitioner and my Utah Bar number is _____

In the District Justice Court of Utah

_____ Judicial District _____ County

Court Address _____

| | |
|---|---|
| In Re Petition to Expunge the Records of _____ Petitioner | Reply to Victim's Statement or Prosecutor's Statement or AP&P Response _____ Case Number _____ Judge |
|---|---|

Instructions: You may file a Reply only if the victim or the prosecutor has filed a statement or if Adult Probation and Parole has filed 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 14 days after the victim's statement or the prosecutor's statement or the AP&P response was served on you.

- (1) Statement made by the prosecutor, victim or Adult Probation and Parole that I disagree with:
- _____
- _____
- _____
- _____

(2) I disagree because:

I declare under criminal penalty under the law of Utah that everything stated in this document is true.

Signed at _____ (city, and state or country).

Date

Signature ► _____

Printed Name _____

Certificate of Service

I certify that I filed with the court and served a copy of this Reply to Victim's Statement or Prosecutor's Statement or AP&P Response on the following people.

| Person's Name | Method of Service | Served at this Address | Served on this Date |
|--|--|------------------------|---------------------|
| (Prosecutor) | <input type="checkbox"/> Mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> E-filed <input type="checkbox"/> Email (Person agreed to service by email.) <input type="checkbox"/> Left at business (With person in charge or in receptacle for deliveries.) <input type="checkbox"/> Left at home (With person of suitable age and discretion residing there.) | | |
| (Victim) (if victim has filed statement) | <input type="checkbox"/> Mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> E-filed <input type="checkbox"/> Email (Person agreed to service by email.) <input type="checkbox"/> Left at business (With person in charge or in receptacle for deliveries.) <input type="checkbox"/> Left at home (With person of suitable age and discretion residing there.) | | |
| (AP&P) (if AP&P has filed response) | <input type="checkbox"/> Mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> E-filed <input type="checkbox"/> Email (Person agreed to service by email.) <input type="checkbox"/> Left at business (With person in charge or in receptacle for deliveries.) <input type="checkbox"/> Left at home (With person of suitable age and discretion residing there.) | | |

 Date

 Signature ►

 Printed Name

In the [] District [] Justice Court of Utah

_____ Judicial District _____ County

Court Address _____

In Re Petition to Expunge the Records of

Notice of Hearing

Petitioner _____

Case Number _____

Judge _____

To:

Petitioner _____

Prosecuting Attorney _____

Victim _____

Other person with relevant information _____

The court has scheduled a hearing on this Petition to Expunge Records at the following date and time.

Date _____ Time _____ : _____ [] a.m. [] p.m.

Room _____ Judicial Officer _____

Attendance. You must attend and bring all relevant evidence and witnesses. If you do not attend, an order may be entered against you. You have the right to be represented by a lawyer.

Disability Accommodation. If you have a disability requiring accommodation, including an ASL interpreter, contact a judicial services representative at least 3 days before the hearing.

Date _____

Sign here ► _____

Court Clerk _____

Certificate of Service

I certify that I served a copy of this document on the following people.

| Person's Name | Method of Service | Served at this Address | Served on this Date |
|------------------------|---|------------------------|---------------------|
| (Petitioner) | <input type="checkbox"/> Mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> Fax (Person agreed to service by fax.) <input type="checkbox"/> Email (Person agreed to service by email.) <input type="checkbox"/> Left at business (With person in charge or in receptacle for deliveries.) <input type="checkbox"/> Left at home (With person of suitable age and discretion residing there.) | | |
| (Prosecuting Attorney) | <input type="checkbox"/> Mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> Fax (Person agreed to service by fax.) <input type="checkbox"/> Email (Person agreed to service by email.) <input type="checkbox"/> Left at business (With person in charge or in receptacle for deliveries.) <input type="checkbox"/> Left at home (With person of suitable age and discretion residing there.) | | |
| (Victim) | <input type="checkbox"/> Mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> Fax (Person agreed to service by fax.) <input type="checkbox"/> Email (Person agreed to service by email.) <input type="checkbox"/> Left at business (With person in charge or in receptacle for deliveries.) <input type="checkbox"/> Left at home (With person of suitable age and discretion residing there.) | | |
| (Other Person) | <input type="checkbox"/> Mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> Fax (Person agreed to service by fax.) <input type="checkbox"/> Email (Person agreed to service by email.) <input type="checkbox"/> Left at business (With person in charge or in receptacle for deliveries.) <input type="checkbox"/> Left at home (With person of suitable age and discretion residing there.) | | |

Sign here ► _____

Date _____

Typed or Printed Name _____

 Name

 Address

 City, State, Zip

 Phone

 Email

In the [] District [] Justice Court of Utah

_____ Judicial District _____ County

Court Address _____

| | |
|--|---|
| <p>In Re:</p> <p>_____</p> <p>Petitioner</p> | <p>Order on Petition to Expunge Records (Dismissal or acquittal)</p> <p>_____</p> <p>Case Number</p> <p>_____</p> <p>Judge</p> |
|--|---|

The matter before the court is a Petition to Expunge Records. This matter is being resolved by:

- [] The pleadings and other papers of the parties, or
- [] A hearing held on _____ (date), notice of which was served on all parties and at which the court considered the pleadings and evidence presented by the parties.

Having considered the documents filed with the court, the evidence, and the arguments, and now being fully informed,

The Court Finds by Clear and Convincing Evidence:

- (1) The petition and certificate of eligibility are sufficient.
- (2) The statutory requirements have been met.

(3) [] The expungement petition is for a case that was dismissed without prejudice or without condition; the prosecutor has consented to expungement; and the prosecutor has indicated that they have not filed and do not intend to file related charges.

(4) Expunging the petitioner's records is not contrary to the interests of the public.

The Court Concludes:

(5) The records of petitioner's arrest, investigation, detention and conviction relating to court case number _____ should be expunged.

The Court Orders:

(6) The records of petitioner's arrest, investigation, detention and conviction relating to court case number _____ shall be expunged.

- Petitioner shall deliver a copy of this order to any government agency or official that may have such records.
- The Bureau of Criminal Identification shall provide to the petitioner written directions on expungement, along with a list of agencies known to be affected by this order.
- The clerk of the court shall expunge all related court records as provided by Rule 4-205.
- Any other government agency or official receiving this order shall expunge related records as provided by § 77-40-102 and § 77-40-108.
- Any government agency or official receiving this order shall not divulge information identifying the petitioner.
- Any government agency or official receiving this order shall respond to any inquiry as though the arrest or conviction did not occur.

Judge's signature may instead appear at the top of the first page of this document.

Date

Signature ► _____
Judge _____

Certificate of Service

I certify that I served a copy of this Order on Petition to Expunge Records on the prosecutor.

| Person's Name | Method of Service | Served at this Address | Served on this Date |
|------------------------|--|------------------------|---------------------|
| (Prosecuting Attorney) | <input type="checkbox"/> Mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> E-filed <input type="checkbox"/> Email (Person agreed to service by email.) <input type="checkbox"/> Left at business (With person in charge or in receptacle for deliveries.) | | |

Date

Signature ► _____

Printed Name _____