

JUVENILE JUSTICE MODIFICATIONS

2023 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Cheryl K. Acton

Senate Sponsor: Luz Escamilla

Cosponsors: Karen M. Peterson
Dan N. Johnson Ryan D. Wilcox
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LONG TITLE

General Description:

This bill amends provisions related to juvenile justice.

Highlighted Provisions:

This bill:

- addresses the use of juvenile delinquency records by public and private employers;
- requires the State Board of Education to include information about dangerous weapons in an annual report on school discipline and law enforcement action;
- modifies a reporting requirement regarding a minor found with a dangerous weapon on school grounds;
- modifies the jurisdiction of the juvenile court;
- amends provisions related to the inspection of juvenile records when a minor who is 14 years old or older is charged with a felony offense;
- defines terms related to juvenile records;
- amends and clarifies provisions regarding the vacatur of an adjudication in the juvenile court;
- clarifies the release of certain juvenile records;
- amends provisions regarding a petition for expungement of a juvenile court record

with an adjudication, including the notice and hearing requirements for the petition;

- ▶ allows for a petition for expungement of a juvenile court record consisting of nonjudicial adjustments;
- ▶ allows for a petition for expungement of a juvenile court record consisting of records of arrest, investigation, detention, and delinquency petitions;
- ▶ allows for a petition for expungement of records regarding a petition where the allegations of delinquency were found to be not true;
- ▶ allows for the automatic expungement of a successful nonjudicial adjustment completed on or after October 1, 2023;
- ▶ provides the requirements for expunging juvenile records;
- ▶ addresses the distribution of an expungement order;
- ▶ addresses agency duties regarding expungement orders;
- ▶ addresses records in the custody of the Board of Pardons and Parole, the Department of Corrections, or the Division of Child and Family Services;
- ▶ addresses the effect of an expungement order;
- ▶ provides that certain individuals may view or inspect expunged juvenile records;
- ▶ repeals statutes related to the expungement of juvenile records; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

34-52-201, as last amended by Laws of Utah 2022, Chapter 447

34-52-301, as enacted by Laws of Utah 2019, Chapter 371

53E-3-516, as last amended by Laws of Utah 2022, Chapter 399

53G-8-510, as renumbered and amended by Laws of Utah 2018, Chapter 3

55 **62A-5-308**, as last amended by Laws of Utah 2021, Chapter 261
56 **77-38-14**, as last amended by Laws of Utah 2021, Chapter 262
57 **78A-6-103**, as last amended by Laws of Utah 2022, Chapters 155, 335
58 **78A-6-209**, as last amended by Laws of Utah 2022, Chapters 335, 430
59 **78A-6-358**, as renumbered and amended by Laws of Utah 2021, Chapter 261
60 **78B-6-105**, as last amended by Laws of Utah 2021, Chapter 261
61 **80-6-1001**, as renumbered and amended by Laws of Utah 2021, Chapter 261
62 **80-6-1002**, as last amended by Laws of Utah 2022, Chapter 334

63 ENACTS:

64 **80-6-1004.1**, Utah Code Annotated 1953
65 **80-6-1004.2**, Utah Code Annotated 1953
66 **80-6-1004.3**, Utah Code Annotated 1953
67 **80-6-1004.4**, Utah Code Annotated 1953
68 **80-6-1004.5**, Utah Code Annotated 1953
69 **80-6-1006.1**, Utah Code Annotated 1953

70 RENUMBERS AND AMENDS:

71 **80-6-1001.1**, (Renumbered from 80-6-1003, as enacted by Laws of Utah 2021, Chapter
72 261)

73 REPEALS:

74 **80-6-1004**, as last amended by Laws of Utah 2022, Chapter 334
75 **80-6-1005**, as renumbered and amended by Laws of Utah 2021, Chapter 261
76 **80-6-1006**, as renumbered and amended by Laws of Utah 2021, Chapter 261

77

78 *Be it enacted by the Legislature of the state of Utah:*

79 Section 1. Section **34-52-201** is amended to read:

80 **34-52-201. Public employer requirements.**

81 (1) A public employer may not exclude an applicant from an initial interview because

of a past criminal conviction or juvenile delinquency adjudication.

(2) A public employer excludes an applicant from an initial interview if the public employer:

(a) requires an applicant to disclose, on an employment application, a criminal conviction or juvenile delinquency adjudication;

(b) requires an applicant to disclose, before an initial interview, a criminal conviction or juvenile delinquency adjudication; or

(c) if no interview is conducted, requires an applicant to disclose, before making a conditional offer of employment, a criminal conviction or juvenile delinquency adjudication.

(3) (a) A public employer may not make any inquiry related to an applicant's expunged criminal or juvenile delinquency history.

(b) An applicant seeking employment from a public employer may answer a question related to an expunged criminal or juvenile delinquency record as though the action underlying the expunged criminal or juvenile delinquency record never occurred.

(4) Subject to Subsections (1) through (3), nothing in this section prevents a public employer from:

(a) asking an applicant for information about an applicant's criminal conviction or juvenile delinquency history during an initial interview or after an initial interview; or

(b) considering an applicant's conviction or juvenile delinquency history when making a hiring decision.

(5) Subsections (1) through (3) do not apply:

(a) to an applicant with a criminal conviction if federal, state, or local law, including corresponding administrative rules, requires the consideration of ~~an~~ the applicant's criminal conviction history;

(b) to a public employer that is a law enforcement agency;

(c) to a public employer that is part of the criminal or juvenile justice system;

(d) to a public employer seeking a nonemployee volunteer;

(e) to a public employer that works with children or vulnerable adults;

- 110 (f) to the Department of Alcoholic Beverage Services created in Section [32B-2-203](#);
111 (g) to the State Tax Commission;
112 (h) to a public employer whose primary purpose is performing financial or fiduciary
113 functions; and
114 (i) to a public transit district hiring or promoting an individual for a safety sensitive
115 position described in Section [17B-2a-825](#).

116 Section 2. Section **34-52-301** is amended to read:

117 **34-52-301. Permitted applicant response regarding expunged criminal or juvenile**
118 **delinquency history.**

119 An applicant seeking employment from a private employer may answer a question
120 related to an expunged criminal or juvenile delinquency record as though the action underlying
121 the expunged criminal or juvenile delinquency record never occurred.

122 Section 3. Section **53E-3-516** is amended to read:

123 **53E-3-516. School disciplinary and law enforcement action report -- Rulemaking**
124 **authority.**

125 (1) As used in this section:

126 (a) "Dangerous weapon" means the same as that term is defined in Section [53G-8-510](#).

127 ~~[(a)]~~ (b) "Disciplinary action" means an action by a public school meant to formally
128 discipline a student of that public school that includes a suspension or expulsion.

129 ~~[(b)]~~ (c) "Law enforcement agency" means the same as that term is defined in Section
130 [77-7a-103](#).

131 ~~[(c)]~~ (d) "Minor" means the same as that term is defined in Section ~~[[53G-6-201](#)]~~
132 [80-1-102](#).

133 ~~[(d)]~~ (e) "Other law enforcement activity" means a significant law enforcement
134 interaction with a minor that does not result in an arrest, including:

- 135 (i) a search and seizure by an SRO;
136 (ii) issuance of a criminal citation;
137 (iii) issuance of a ticket or summons;

(iv) filing a delinquency petition; or

(v) referral to a probation officer.

~~[(e)]~~ (f) "School is in session" means the hours of a day during which a public school conducts instruction for which student attendance is counted toward calculating average daily membership.

~~[(f)]~~ (g) (i) "School-sponsored activity" means an activity, fundraising event, club, camp, clinic, or other event or activity that is authorized by a specific public school, according to LEA governing board policy, and satisfies at least one of the following conditions:

(A) the activity is managed or supervised by a school district, public school, or public school employee;

(B) the activity uses the school district or public school facilities, equipment, or other school resources; or

(C) the activity is supported or subsidized, more than inconsequential, by public funds, including the public school's activity funds or Minimum School Program dollars.

(ii) "School-sponsored activity" includes preparation for and involvement in a public performance, contest, athletic competition, demonstration, display, or club activity.

~~[(g)]~~ (h) "[~~Student~~] School resource officer" or "SRO" means the same as that term is defined in Section [53G-8-701](#).

(2) Beginning on July 1, 2023, the state board shall develop an annual report regarding the following incidents that occur on school grounds while school is in session or during a school-sponsored activity:

(a) arrests of a minor;

(b) other law enforcement activities; ~~[and]~~

(c) disciplinary actions~~[-];~~ and

(d) minors found in possession of a dangerous weapon.

(3) Pursuant to state and federal law, law enforcement agencies shall collaborate with the state board and LEAs to provide and validate data and information necessary to complete the report described in Subsection (2), as requested by an LEA or the state board.

(4) The report described in Subsection (2) shall include the following information listed separately for each LEA:

- (a) the number of arrests of a minor, including the reason why the minor was arrested;
- (b) the number of other law enforcement activities, including the following information for each incident:
 - (i) the reason for the other law enforcement activity; and
 - (ii) the type of other law enforcement activity used;
- (c) the number of disciplinary actions imposed, including:
 - (i) the reason for the disciplinary action; and
 - (ii) the type of disciplinary action;
- (d) the number of SROs employed; ~~and~~
- (e) if applicable, the demographics of an individual who is subject to, as the following are defined in Section [53G-9-601](#), bullying, hazing, cyber-bullying, or retaliation[-]; and
- (f) the number of minors found in possession of a dangerous weapon on school grounds while school is in session or during a school-sponsored activity.

(5) The report described in Subsection (2) shall include the following information, in aggregate, for each element described in Subsections (4)(a) through (c):

- (a) age;
 - (b) grade level;
 - (c) race;
 - (d) sex; and
 - (e) disability status.
- (6) Information included in the annual report described in Subsection (2) shall comply with:
- (a) Chapter 9, Part 3, Student Data Protection;
 - (b) Chapter 9, Part 2, Student Privacy; and
 - (c) the Family Education Rights and Privacy Act, 20 U.S.C. Secs. 1232g and 1232h.
- (7) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

state board shall make rules to compile the report described in Subsection (2).

(8) The state board shall provide the report described in Subsection (2) in accordance with Section [53E-1-203](#) for incidents that occurred during the previous school year.

Section 4. Section **53G-8-510** is amended to read:

53G-8-510. Notification of dangerous weapons on school grounds -- Immunity from civil and criminal liability.

(1) As used in this section:

(a) "Dangerous weapon" means a firearm or an object that in the manner of the object's use or intended use is capable of causing death or serious bodily injury to an individual.

(b) "Minor" means the same as that term is defined in Section [80-1-102](#).

(c) "School employee" means an individual working in the individual's capacity as:

(i) a school teacher;

(ii) a school staff member;

(iii) a school administrator; or

(iv) an individual:

(A) who is employed, directly or indirectly, by a school, an LEA governing board, or a school district; and

(B) who works on a school campus.

(d) "School is in session" means the same as that term is defined in Section [53E-3-516](#).

(e) "School-sponsored activity" means the same as that term is defined in Section [53E-3-516](#).

(2) If a minor is found on school grounds when school is in session or at a school-sponsored activity in possession of a dangerous weapon and that information is reported to, or known by, a school employee, the school employee shall notify the principal.

(3) After receiving a notification under Subsection (2), the principal shall notify:

(a) a law enforcement officer or agency; and

(b) school or district personnel if the principal determines that school or district personnel should be informed.

~~[(1) Whenever a student is found on school property during school hours or at a school-sponsored activity in possession of a dangerous weapon and that information is reported to or known by the principal, the principal shall notify law enforcement personnel and school or district personnel who, in the opinion of the principal, should be informed.]~~

~~[(2)]~~ (4) A person who in good faith reports information under Subsection ~~[(1)]~~ (2) or (3) and any person who receives the information is immune from any liability, civil or criminal, that might otherwise result from the reporting or receipt of the information.

Section 5. Section **62A-5-308** is amended to read:

62A-5-308. Commitment -- Individual who is under 18 years old.

(1) The director of the division, or the director's designee, may commit an individual under 18 years old who has an intellectual disability or symptoms of an intellectual disability, to the division for observation, diagnosis, care, and treatment if that commitment is based on:

(a) an emergency commitment in accordance with Section [62A-5-311](#); or

(b) involuntary commitment in accordance with Section [62A-5-312](#).

(2) A proceeding for involuntary commitment under Subsection (1)(a) may be commenced by filing a written petition with the juvenile court under Section [62A-5-312](#).

(3) (a) A juvenile court has jurisdiction over the proceeding under Subsection (2) as described in Subsection ~~[[78A-6-103\(2\)\(f\)](#)]~~ [78A-6-103\(2\)\(a\)\(vi\)](#).

(b) A juvenile court shall proceed with the written petition in the same manner and with the same authority as the district court.

(4) If an individual who is under 18 years old is committed to the custody of the Utah State Developmental Center by the juvenile court, the director or the director's designee shall give the juvenile court written notice of the intention to release the individual not fewer than five days before the day on which the individual is released.

Section 6. Section **77-38-14** is amended to read:

77-38-14. Notice of expungement petition -- Victim's right to object.

(1) (a) The Department of Corrections or the Juvenile Probation Department shall prepare a document explaining the right of a victim or a victim's representative to object to a

petition for expungement under Section 77-40a-305 or ~~[80-6-1004]~~ 80-6-1004.1 and the procedures for obtaining notice of the petition.

(b) The department or division shall provide each trial court a copy of the document that has jurisdiction over delinquencies or criminal offenses subject to expungement.

(2) The prosecuting attorney in any case leading to a conviction, a charge dismissed in accordance with a plea in abeyance agreement, or an adjudication subject to expungement, shall provide a copy of the document to each person who would be entitled to notice of a petition for expungement under Sections 77-40a-305 and ~~[80-6-1004]~~ 80-6-1004.1.

Section 7. Section 78A-6-103 is amended to read:

78A-6-103. Original jurisdiction of the juvenile court -- Magistrate functions -- Findings -- Transfer of a case from another court.

(1) Except as otherwise provided by Sections 78A-5-102.5 and 78A-7-106, the juvenile court has original jurisdiction over:

(a) a felony, misdemeanor, infraction, or violation of an ordinance, under municipal, state, or federal law, that was committed by a child;

(b) a felony, misdemeanor, infraction, or violation of an ordinance, under municipal, state, or federal law, that was committed by an individual:

(i) who is under 21 years old at the time of all court proceedings; and

(ii) who was under 18 years old at the time the offense was committed; and

(c) a misdemeanor, infraction, or violation of an ordinance, under municipal or state law, that was committed:

(i) by an individual:

(A) who was 18 years old and enrolled in high school at the time of the offense; and

(B) who is under 21 years old at the time of all court proceedings; and

(ii) on school property where the individual was enrolled:

(A) when school was in session; or

(B) during a school-sponsored activity, as defined in Subsection 53G-8-211(1)(k).

(2) The juvenile court has original jurisdiction over:

278 (a) any proceeding concerning:

279 ~~[(a)]~~ (i) a child who is an abused child, neglected child, or dependent child;

280 ~~[(b)]~~ (ii) a protective order for a child in accordance with Title 78B, Chapter 7, Part 2,

281 Child Protective Orders;

282 ~~[(c)]~~ (iii) the appointment of a guardian of the individual or other guardian of a minor

283 who comes within the court's jurisdiction under other provisions of this section;

284 ~~[(d)]~~ (iv) the emancipation of a minor in accordance with Title 80, Chapter 7,

285 Emancipation;

286 ~~[(e)]~~ (v) the termination of parental rights in accordance with Title 80, Chapter 4,

287 Termination and Restoration of Parental Rights, including termination of residual parental

288 rights and duties;

289 ~~[(f)]~~ (vi) the treatment or commitment of a minor who has an intellectual disability;

290 ~~[(g)]~~ (vii) the judicial consent to the marriage of a minor who is 16 or 17 years old in

291 accordance with Section 30-1-9;

292 ~~[(h)]~~ (viii) an order for a parent or a guardian of a child under Subsection 80-6-705(3);

293 ~~[(i)]~~ (ix) a minor under Title 80, Chapter 6, Part 11, Interstate Compact for Juveniles;

294 ~~[(j)]~~ (x) the treatment or commitment of a child with a mental illness;

295 ~~[(k)]~~ (xi) the commitment of a child to a secure drug or alcohol facility in accordance

296 with Section 62A-15-301;

297 ~~[(l)]~~ (xii) a minor found not competent to proceed in accordance with Title 80, Chapter

298 6, Part 4, Competency;

299 ~~[(m)]~~ (xiii) de novo review of final agency actions resulting from an informal

300 adjudicative proceeding as provided in Section 63G-4-402;

301 ~~[(n)]~~ (xiv) adoptions conducted in accordance with the procedures described in Title

302 78B, Chapter 6, Part 1, Utah Adoption Act, if the juvenile court has previously entered an order

303 terminating the rights of a parent and finds that adoption is in the best interest of the child;

304 ~~[(o)]~~ (xv) an ungovernable or runaway child who is referred to the juvenile court by the

305 Division of Juvenile Justice Services if, despite earnest and persistent efforts by the Division of

Juvenile Justice Services, the child has demonstrated that the child:

~~[(t)]~~ (A) is beyond the control of the child's parent, guardian, or custodian to the extent that the child's behavior or condition endangers the child's own welfare or the welfare of others; or

~~[(t)]~~ (B) has run away from home; and

~~[(p)]~~ (xvi) a criminal information filed under Part 4a, Adult Criminal Proceedings, for an adult alleged to have committed an offense under Subsection 78A-6-352(4)(b) for failure to comply with a promise to appear and bring a child to the juvenile court[-];

(b) a petition for expungement under Title 80, Chapter 6, Part 10, Juvenile Records and Expungement; and

(c) the extension of a nonjudicial adjustment under Section 80-6-304.

(3) It is not necessary for a minor to be adjudicated for an offense or violation of the law under Section 80-6-701[-] for the juvenile court to exercise jurisdiction under Subsection ~~[(2)(p)]~~ (2)(a)(xvi), (b), or (c).

(4) This section does not restrict the right of access to the juvenile court by private agencies or other persons.

(5) The juvenile court has jurisdiction of all magistrate functions relative to cases arising under Title 80, Chapter 6, Part 5, Transfer to District Court.

(6) The juvenile court has jurisdiction to make a finding of substantiated, unsubstantiated, or without merit, in accordance with Section 80-3-404.

(7) The juvenile court has jurisdiction over matters transferred to the juvenile court by another trial court in accordance with Subsection 78A-7-106(4) and Section 80-6-303.

Section 8. Section 78A-6-209 is amended to read:

78A-6-209. Court records -- Inspection.

(1) The juvenile court and the juvenile court's probation department shall keep records as required by the board and the presiding judge.

(2) A court record shall be open to inspection by:

(a) the parents or guardian of a child, a minor who is at least 18 years old, other parties

in the case, the attorneys, and agencies to which custody of a minor has been transferred;

(b) for information relating to adult offenders alleged to have committed a sexual offense, a felony or class A misdemeanor drug offense, or an offense against the person under Title 76, Chapter 5, Offenses Against the Individual, the State Board of Education for the purpose of evaluating whether an individual should be permitted to obtain or retain a license as an educator or serve as an employee or volunteer in a school, with the understanding that the State Board of Education must provide the individual with an opportunity to respond to any information gathered from the State Board of Education's inspection of the records before the State Board of Education makes a decision concerning licensure or employment;

(c) the Criminal Investigations and Technical Services Division, established in Section 53-10-103, for the purpose of a criminal history background check for the purchase of a firearm and establishing good character for issuance of a concealed firearm permit as provided in Section 53-5-704;

(d) the Division of Child and Family Services for the purpose of Child Protective Services Investigations in accordance with Sections 80-2-602 and 80-2-701 and administrative hearings in accordance with Section 80-2-707;

(e) the Office of Licensing for the purpose of conducting a background check in accordance with Section 62A-2-120;

(f) for information related to a minor who has committed a sexual offense, a felony, or an offense that if committed by an adult would be a misdemeanor, the Department of Health for the purpose of evaluating under the provisions of Subsection 26-39-404(3) whether a licensee should be permitted to obtain or retain a license to provide child care, with the understanding that the department must provide the individual who committed the offense with an opportunity to respond to any information gathered from the Department of Health's inspection of records before the Department of Health makes a decision concerning licensure;

(g) for information related to a minor who has committed a sexual offense, a felony, or an offense that if committed by an adult would be a misdemeanor, the Department of Health to determine whether an individual meets the background screening requirements of Title 26,

Chapter 21, Part 2, Clearance for Direct Patient Access, with the understanding that the department must provide the individual who committed the offense an opportunity to respond to any information gathered from the Department of Health's inspection of records before the Department of Health makes a decision under that part; and

(h) for information related to a minor who has committed a sexual offense, a felony, or an offense that if committed by an adult would be a misdemeanor, the Department of Health to determine whether to grant, deny, or revoke background clearance under Section 26-8a-310 for an individual who is seeking or who has obtained an emergency medical service personnel license under Section 26-8a-302, with the understanding that the Department of Health must provide the individual who committed the offense an opportunity to respond to any information gathered from the Department of Health's inspection of records before the Department of Health makes a determination.

(3) With the consent of the juvenile court, a court record may be inspected by the child, by persons having a legitimate interest in the proceedings, and by persons conducting pertinent research studies.

(4) (a) Except as provided in Subsection (4)(b), if a petition is filed charging a minor who is 14 years old or older with an offense that would be a felony if committed by an adult, the juvenile court shall make available to any person upon request the petition, any adjudication or disposition orders, and the delinquency history summary for the minor.

(b) A juvenile court may close the records described in Subsection (4)(a) to the public if the juvenile court finds, on the record, that the records are closed for good cause.

~~[(4) If a petition is filed charging a minor who is 14 years old or older with an offense that would be a felony if committed by an adult, the juvenile court shall make available to any person upon request the petition, any adjudication or disposition orders, and the delinquency history summary of the minor charged unless the records are closed by the juvenile court upon findings on the record for good cause.]~~

(5) A juvenile probation officer's records and reports of social and clinical studies are not open to inspection, except by consent of the juvenile court, given under rules adopted by

the board.

(6) The juvenile court may charge a reasonable fee to cover the costs associated with retrieving a requested record that has been archived.

Section 9. Section **78A-6-358** is amended to read:

78A-6-358. Period of effect for a judgment, decree, or order by a juvenile court.

(1) A judgment, order, or decree of the juvenile court is no longer in effect after a minor is 21 years old, except:

(a) for an order of commitment to the Utah State Developmental Center or to the custody of the Division of Substance Abuse and Mental Health;

(b) for an adoption under Subsection [~~78A-6-103(2)(n)~~] 78A-6-103(2)(a)(xiv);

(c) for an order permanently terminating the rights of a parent, guardian, or custodian under Title 80, Chapter 4, Termination and Restoration of Parental Rights;

(d) for a permanent order of custody and guardianship under Subsection 80-3-405(2)(d);

(e) an order establishing paternity under Subsection 78A-6-104(1)(a)(i); and

(f) as provided in Subsection (2).

(2) If the juvenile court enters a judgment or order for a minor for whom the juvenile court has extended continuing jurisdiction over the minor's case until the minor is 25 years old under Section 80-6-605, the juvenile court's judgment or order is no longer in effect after the minor is 25 years old.

Section 10. Section **78B-6-105** is amended to read:

78B-6-105. District court venue -- Jurisdiction of juvenile court -- Jurisdiction over nonresidents -- Time for filing.

(1) An adoption proceeding shall be commenced by filing a petition in:

(a) the district court in the district where the prospective adoptive parent resides;

(b) if the prospective adoptive parent is not a resident of this state, the district court in the district where:

(i) the adoptee was born;

- 418 (ii) the adoptee resides on the day on which the petition is filed; or
419 (iii) a parent of the proposed adoptee resides on the day on which the petition is filed;
420 or
421 (c) the juvenile court as provided in Subsection [~~78A-6-103(2)(n)~~]
422 78A-6-103(2)(a)(xiv) and Section 78A-6-350.
- 423 (2) All orders, decrees, agreements, and notices in an adoption proceeding shall be
424 filed with the clerk of the court where the adoption proceeding is commenced under Subsection
425 (1).
- 426 (3) A petition for adoption:
427 (a) may be filed before the birth of a child;
428 (b) may be filed before or after the adoptee is placed in the home of the petitioner for
429 the purpose of adoption; and
430 (c) shall be filed no later than 30 days after the day on which the adoptee is placed in
431 the home of the petitioners for the purpose of adoption, unless:
432 (i) the time for filing has been extended by the court; or
433 (ii) the adoption is arranged by a child-placing agency in which case the agency may
434 extend the filing time.
- 435 (4) (a) If a person whose consent for the adoption is required under Section 78B-6-120
436 or 78B-6-121 cannot be found within the state, the fact of the minor's presence within the state
437 shall confer jurisdiction on the court in proceedings under this chapter as to such absent person,
438 provided that due notice has been given in accordance with the Utah Rules of Civil Procedure.
- 439 (b) The notice may not include the name of:
440 (i) a prospective adoptive parent; or
441 (ii) an unmarried mother without her consent.
- 442 (5) Service of notice described in Subsection (6) shall vest the court with jurisdiction
443 over the person served in the same manner and to the same extent as if the person served was
444 served personally within the state.
- 445 (6) In the case of service outside the state, service completed not less than five days

before the time set in the notice for appearance of the person served is sufficient to confer jurisdiction.

(7) Computation of periods of time not otherwise set forth in this section shall be made in accordance with the Utah Rules of Civil Procedure.

Section 11. Section **80-6-1001** is amended to read:

80-6-1001. Definitions.

As used in this part:

(1) "Abstract" means a copy or summary of a court's disposition.

(2) (a) "Agency" means a state, county, or local government entity that generates or maintains records ~~[relating to a nonjudicial adjustment or an adjudication]~~ for which expungement may be ordered under this part.

(b) "Agency" includes a local education agency, as defined in Section [53E-1-102](#), for purposes of this part.

(3) "Expunge" means to seal or otherwise restrict access to a record that is part of an individual's juvenile record and in the custody of the juvenile court or an agency.

(4) (a) "Juvenile record" means all records for all incidents of delinquency involving an individual that are in the custody of the juvenile court or an agency.

(b) "Juvenile record" does not include a record of an adjudication under Chapter 3, Abuse, Neglect, or Dependency Proceedings, or Chapter 4, Termination and Restoration of Parental Rights.

(5) "Petitioner" means an individual requesting an expungement or vacatur under this part.

~~[(3) "Expunge" means to seal or otherwise restrict access to an individual's record held by a court or an agency when the record relates to a nonjudicial adjustment or an adjudication of an offense in the juvenile court.]~~

Section 12. Section **80-6-1001.1**, which is renumbered from Section 80-6-1003 is renumbered and amended to read:

~~[80-6-1003].~~ **80-6-1001.1. Court records -- Abstracts.**

474 ~~[(1) (a) Except as otherwise provided in this part, if a minor's juvenile record is~~
475 ~~expunged, and upon a court order, all photographs or records under Section 80-6-608 shall be~~
476 ~~destroyed by an agency.]~~

477 ~~[(b) A record of a minor's fingerprints may not be destroyed by an agency.]~~

478 ~~[(2)]~~ (1) A court or agency with custody of an individual's record related to an offense
479 that the individual is alleged to have committed, or an offense that the individual committed,
480 before the individual was 18 years old may not disclose the record to a federal agency that is
481 responsible for criminal justice research or proceedings unless the court or the agency is
482 required to share the record under state or federal law.

483 ~~[(3)]~~ (2) An abstract of a ~~[juvenile court]~~ record for ~~[an]~~ a minor's adjudication of a
484 traffic offense shall be submitted to the Department of Public Safety as provided in Section
485 53-3-218.

486 Section 13. Section **80-6-1002** is amended to read:

487 **80-6-1002. Vacatur of an adjudication.**

488 (1) ~~[(a) An individual who has been adjudicated under this chapter may petition the~~
489 ~~juvenile court for vacatur of the individual's juvenile court records and any related records in~~
490 ~~the custody of an agency if the record relates to:]~~

491 ~~[(i) an adjudication under Section 76-10-1302, 76-10-1304, or 76-10-1313; or]~~

492 ~~[(ii) an adjudication that was based on an offense that the petitioner engaged in while~~
493 ~~subject to force, fraud, or coercion, as defined in Section 76-5-308:]~~

494 (a) An individual who has been adjudicated for an offense by the juvenile court may
495 petition the juvenile court for vacatur of the adjudication if the adjudication was for a violation
496 of:

497 (i) Section 76-5-308, human trafficking for labor if the petitioner engaged in the human
498 trafficking for labor while subject to force, fraud, or coercion;

499 (ii) Section 76-10-1302, prostitution;

500 (iii) Section 76-10-1304, aiding prostitution; or

501 (iv) Section 76-10-1313, sexual solicitation.

(b) The petitioner shall include in the petition the relevant juvenile court incident number and any agencies known or alleged to have any ~~[documents]~~ records related to the offense for which vacatur is being sought.

(c) The petitioner shall include with the petition the original criminal history report obtained from the Bureau of Criminal Identification in accordance with the provisions of Section 53-10-108.

(d) The petitioner shall send a copy of the petition to the ~~[county attorney or, if within a prosecution district, the district attorney]~~ prosecuting attorney.

(2) (a) Upon the filing of a petition, the juvenile court shall:

(i) set a date for a hearing; and

(ii) at least 30 days before the day on which the hearing on the petition is scheduled, notify the prosecuting attorney and any affected agency identified in the juvenile record:

(A) that a petition has been filed; and

(B) of the date of the hearing.

~~[(ii) notify the county attorney or district attorney and the agency with custody of the records at least 30 days prior to the hearing of the pendency of the petition; and]~~

~~[(iii) notify the county attorney or district attorney and the agency with records the petitioner is asking the juvenile court to vacate of the date of the hearing.]~~

(b) (i) The juvenile court shall provide a victim with the opportunity to request notice of a petition for vacatur.

~~[(ii) A victim shall receive notice of a petition for vacatur at least 30 days before the hearing if, before the entry of vacatur, the victim or, in the case of a child or an individual who is incapacitated or deceased, the victim's next of kin or authorized representative,]~~

(ii) At least 30 days before the day on which the hearing is scheduled, a victim shall receive notice of a petition for vacatur if, before the entry of vacatur, the victim, or the victim's next of kin or authorized representative if the victim is a child or an individual who is incapacitated or deceased, submits a written and signed request for notice to the court in the judicial district in which the crime occurred or judgment was entered.

(iii) The notice shall include a copy of the petition and statutes and rules applicable to the petition.

(c) At the hearing, the petitioner, the prosecuting attorney, a victim, and any other person who may have relevant information about the petitioner may testify.

~~[(3) (a) At the hearing the petitioner, the county attorney or district attorney, a victim, and any other person who may have relevant information about the petitioner may testify.]~~

~~[(b) (i)]~~ (3) (a) In deciding whether to grant a petition for vacatur of an adjudication of an offense for human trafficking of labor described in Subsection (1)(a)(i), the juvenile court shall consider whether the petitioner acted subject to force, fraud, or coercion~~[as defined in Section 76-5-308]~~ at the time of the conduct giving rise to the adjudication.

~~[(ii) (A)]~~ (b) If the juvenile court finds by a preponderance of the evidence that the petitioner was subject to force, fraud, or coercion~~[as defined in Section 76-5-308]~~ at the time of the conduct giving rise to the adjudication, the juvenile court shall grant vacatur of the adjudication.

~~[(B)]~~ (c) If the juvenile court does not find sufficient evidence, the juvenile court shall deny vacatur of the adjudication.

~~[(iii)]~~ (4) If the petition ~~[is for vacatur of any adjudication under Section 76-10-1302; 76-10-1304, or 76-10-1313]~~ seeks to vacate an adjudication of an offense described in Subsection (1)(a)(ii) through (iv), the juvenile court shall presumptively grant vacatur of the adjudication unless the petitioner acted as a purchaser of any sexual activity.

~~[(c) If vacatur is granted, the juvenile court shall order sealed all of the petitioner's records under the control of the juvenile court and any of the petitioner's records under the control of any other agency or official]~~

(5) (a) Except as provided in Subsection (5)(b), if the juvenile court grants a vacatur of an adjudication for an offense described in Subsection (1)(a), the juvenile court shall order expungement of all records in the petitioner's juvenile record pertaining to the incident identified in the petition, including relevant related records contained in the Management Information System and the Licensing Information System.

(b) The juvenile court may not order expungement of any record in the petitioner's juvenile record that contains an adjudication for a violation of:

(i) Section 76-5-202, aggravated murder; or

(ii) Section 76-5-203, murder.

~~[(4)]~~ (6) (a) The petitioner shall be responsible for service of the vacatur and expungement order ~~[of vacatur]~~ to all affected state, county, and local entities, agencies, and officials.

(b) To avoid destruction or ~~[sealing]~~ expungement of the records in whole or in part, the agency or entity receiving the vacatur and expungement order shall only ~~[vacate]~~ expunge all references to the petitioner's name in the records pertaining to the relevant adjudicated juvenile court incident.

(7) (a) Upon entry of a vacatur and expungement order under this section:

(i) the proceedings in the incident identified in the petition are considered never to have occurred; and

(ii) the petitioner may reply to an inquiry on the matter as though the proceedings never occurred.

(b) Upon petition, any record expunged under this section may only be released to or viewed by:

(i) the individual who is the subject of the record; or

(ii) a person named in the petition of vacatur.

~~[(5) (a) Upon the entry of vacatur, the proceedings in the incident identified in the petition shall be considered never to have occurred and the petitioner may properly reply accordingly upon any inquiry in the matter.]~~

~~[(b) Inspection of the records may thereafter only be permitted by the juvenile court upon petition by the individual who is the subject of the records, and only to persons named in the petition.]~~

~~[(6) The juvenile court may not vacate a juvenile court record if the record contains an adjudication of:]~~

[~~(a) Section 76-5-202, aggravated murder; or~~]

[~~(b) Section 76-5-203, murder.~~]

Section 14. Section **80-6-1004.1** is enacted to read:

80-6-1004.1. Petition to expunge adjudication -- Hearing and notice -- Waiver --

Order.

(1) An individual may petition the juvenile court for an order to expunge the individual's juvenile record if:

(a) the individual was adjudicated for an offense in the juvenile court;

(b) the individual has reached 18 years old; and

(c) at least one year has passed from the day on which:

(i) the juvenile court's continuing jurisdiction was terminated; or

(ii) if the individual was committed to secure care, the individual was unconditionally released from the custody of the division.

(2) If a petitioner is 18 years old or older and seeks an expungement under Subsection (1), the petition shall include a criminal history report obtained from the Bureau of Criminal Identification in accordance with Section 53-10-108.

(3) If the juvenile court finds and states on the record the reason why the waiver is appropriate, the juvenile court may waive:

(a) the age requirement under Subsection (1)(b) for a petition; or

(b) the one-year requirement under Subsection (1)(c) for a petition.

(4) (a) Upon the filing of a petition described in Subsection (1)(a), the juvenile court shall:

(i) set a date for a hearing; and

(ii) at least 30 days before the day on which the hearing on the petition is scheduled, notify the prosecuting attorney and any affected agency identified in the petitioner's juvenile record:

(A) that the petition has been filed; and

(B) of the date of the hearing.

614 (b) (i) The juvenile court shall provide a victim with the opportunity to request notice
615 of a petition described in Subsection (1).

616 (ii) Upon the victim's request under Subsection (4)(b)(i), the victim shall receive notice
617 of the petition at least 30 days before the day on which the hearing is scheduled if, before the
618 day on which an expungement order is made, the victim, or the victim's next of kin or
619 authorized representative if the victim is a child or an individual who is incapacitated or
620 deceased, submits a written and signed request for notice to the juvenile court in the judicial
621 district in which the offense occurred or judgment is entered.

622 (iii) The notice described in Subsection (4)(b)(ii) shall include a copy of the petition
623 and any statutes and rules applicable to the petition.

624 (c) At the hearing, the prosecuting attorney, a victim, and any other individual who
625 may have relevant information about the petitioner may testify.

626 (d) The juvenile court may waive the hearing for the petition if:

627 (i) (A) there is no victim; or

628 (B) if there is a victim, the victim agrees to the waiver; and

629 (ii) the prosecuting attorney agrees to the waiver.

630 (5) (a) Except as provided in Subsection (6), the juvenile court may grant a petition
631 described in Subsection (1) and order expungement of the petitioner's juvenile record if the
632 juvenile court finds that the petitioner is rehabilitated to the satisfaction of the court in
633 accordance with Subsection (5)(b).

634 (b) In deciding whether to grant a petition described in Subsection (1), the juvenile
635 court shall consider:

636 (i) whether expungement of the petitioner's juvenile record is in the best interest of the
637 petitioner;

638 (ii) the petitioner's response to programs and treatment;

639 (iii) the nature and seriousness of the conduct for which the petitioner was adjudicated;

640 (iv) the petitioner's behavior subsequent to adjudication;

641 (v) the petitioner's reason for seeking expungement of the petitioner's juvenile record;

and

(vi) if the petitioner is a restricted person under Subsection [76-10-503\(1\)\(a\)\(iv\)](#) or

(b)(ii):

(A) whether the offense for which the petitioner is a restricted person was committed with a weapon;

(B) whether expungement of the petitioner's juvenile record poses an unreasonable risk to public safety; and

(C) the amount of time that has passed since the adjudication of the offense for which the petitioner is a restricted person.

(6) The juvenile court may not grant a petition described in Subsection (1) and order expungement of the petitioner's juvenile record if:

(a) the petitioner has been convicted of a violent felony within five years before the day on which the petition for expungement is filed;

(b) there are delinquency or criminal proceedings pending against the petitioner;

(c) the petitioner has not satisfied a judgment of restitution entered by the juvenile court for an adjudication in the petitioner's juvenile record;

(d) the petitioner has not satisfied restitution that was a condition of a nonjudicial adjustment in the petitioner's juvenile record; or

(e) the petitioner's juvenile record contains an adjudication for a violation of:

(i) Section [76-5-202](#), aggravated murder; or

(ii) Section [76-5-203](#), murder.

Section 15. Section **80-6-1004.2** is enacted to read:

80-6-1004.2. Petition to expunge nonjudicial adjustment -- Order.

(1) An individual may petition the juvenile court for an order to expunge the individual's juvenile record if:

(a) the individual's juvenile record consists solely of nonjudicial adjustments;

(b) the individual's juvenile record is not eligible for automatic expungement under Section [80-6-1004.5](#); and

670 (c) the individual has reached 18 years old.

671 (2) If the juvenile court finds and states on the record the reason why the waiver is
672 appropriate, the juvenile court may waive the age requirement under Subsection (1)(c) for a
673 petition.

674 (3) Except as provided in Subsection (4), the juvenile court shall grant a petition
675 described in Subsection (1) and order expungement of the petitioner's juvenile record.

676 (4) The juvenile court may not grant a petition described in Subsection (1) and order
677 expungement of the petitioner's juvenile record if:

678 (a) there are delinquency or criminal proceedings pending against the petitioner; or

679 (b) the petitioner has not satisfied restitution that was a condition of a nonjudicial
680 adjustment in the petitioner's juvenile record.

681 Section 16. Section **80-6-1004.3** is enacted to read:

682 **80-6-1004.3. Petition to expunge arrest, investigation, detention, or delinquency**
683 **petition -- Screening -- Order.**

684 (1) An individual may petition the juvenile court for an order to expunge the
685 individual's juvenile record if:

686 (a) the individual's juvenile record consists solely of records of arrest, investigation,
687 detention, or petitions that did not result in adjudication;

688 (b) the individual was not adjudicated for an offense in the juvenile court; and

689 (c) the individual has reached 18 years old.

690 (2) If a petitioner is 18 years old or older and seeks an expungement under Subsection
691 (1), the petition shall include a criminal history report obtained from the Bureau of Criminal
692 Identification in accordance with Section [53-10-108](#).

693 (3) If the juvenile court finds and states on the record the reason why the waiver is
694 appropriate, the juvenile court may waive the age requirement under Subsection (1)(c) for a
695 petition.

696 (4) (a) Upon the filing of a petition described in Subsection (1), the juvenile court shall
697 notify the prosecuting attorney that the petition has been filed.

(b) Within 30 days after the day on which the notification is sent under Subsection (4)(a), the prosecuting attorney shall respond to the petition stating whether the petitioner meets the requirements for expungement under this section.

(5) Except as provided in Subsection (6), the juvenile court shall grant a petition described in Subsection (1) and order expungement of the petitioner's juvenile record if each case identified in the petition:

(a) has been screened by the investigating law enforcement agency and the prosecuting attorney has determined that no charges will be filed against the individual;

(b) resulted in all charges in the case being dismissed with prejudice;

(c) resulted in all charges in the case being dismissed without prejudice or without condition and the prosecuting attorney consents to the expungement; or

(d) is barred from prosecution by the statute of limitations.

(6) The juvenile court may not grant a petition described in Subsection (1) and order expungement of the petitioner's juvenile record if there are delinquency or criminal proceedings pending against the petitioner.

Section 17. Section **80-6-1004.4** is enacted to read:

80-6-1004.4. Petition to expunge petition not found to be true -- Order.

(1) An individual may petition the juvenile court, at any time, for an order to expunge all records in the individual's juvenile record pertaining to an incident where a petition was filed if:

(a) the incident was presented to the juvenile court for adjudication based upon an admission, plea, or trial;

(b) the juvenile court did not find by beyond a reasonable doubt the allegations in the petition to be true;

(c) at least 30 days have passed since the day on which the juvenile court did not find the allegations in the petition to be true; and

(d) an appeal has not been filed for the petition within the 30-day period described in Subsection (1)(c).

(2) If a petitioner is 18 years old or older and seeks an expungement under Subsection (1), the petition shall include a criminal history report obtained from the Bureau of Criminal Identification in accordance with Section 53-10-108.

(3) The juvenile court shall grant a petition described in Subsection (1), without a hearing, and order expungement of any record in the petitioner's juvenile record pertaining to the incident.

Section 18. Section **80-6-1004.5** is enacted to read:

80-6-1004.5. Automatic expungement of successful nonjudicial adjustment -- Effect of successful nonjudicial adjustment.

(1) Except as provided in Subsection (2), the juvenile court shall issue, without a petition, an order to expunge an individual's juvenile record if:

(a) the individual has reached 18 years old;

(b) the individual's juvenile record consists solely of nonjudicial adjustments;

(c) the individual has successfully completed each nonjudicial adjustment; and

(d) all nonjudicial adjustments were completed on or after October 1, 2023.

(2) An individual's juvenile record is not eligible for expungement under Subsection (1) if the individual's juvenile record contains a nonjudicial adjustment for a violation of:

(a) Section 41-6a-502, driving under the influence;

(b) Section 76-5-112, reckless endangerment creating a substantial risk of death or serious bodily injury;

(c) Section 76-5-206, negligent homicide;

(d) Section 76-9-702.1, sexual battery;

(e) Section 76-10-505.5, possession of a dangerous weapon, firearm, or short barreled shotgun on or about school premises; or

(f) Section 76-10-509, possession of a dangerous weapon by a minor.

(3) If an individual's juvenile record consists solely of nonjudicial adjustments that were completed before October 1, 2023:

(a) any nonjudicial adjustment in the individual's juvenile record is considered to never

754 have occurred if:

755 (i) the individual has reached 18 years old;

756 (ii) the individual has satisfied restitution that was a condition of any nonjudicial
757 adjustment in the individual's juvenile record; and

758 (iii) the nonjudicial adjustment was for an offense that is not an offense described in
759 Subsection (2); and

760 (b) the individual may reply to any inquiry about the nonjudicial adjustment as though
761 there never was a nonjudicial adjustment.

762 Section 19. Section **80-6-1006.1** is enacted to read:

763 **80-6-1006.1. Exceptions to expungement order -- Distribution of expungement**
764 **order -- Agency duties -- Effect of expungement -- Access to expunged record.**

765 (1) This section applies to an expungement order under Section [80-6-1004.1](#),
766 [80-6-1004.2](#), [80-6-1004.3](#), [80-6-1004.4](#), or [80-6-1004.5](#).

767 (2) The juvenile court may not order:

768 (a) the Board of Pardons and Parole and the Department of Corrections to seal a record
769 in the possession of the Board of Pardons and Parole or the Department of Corrections, except
770 that the juvenile court may order the Board of Pardons and Parole and the Department of
771 Corrections to restrict access to a record if the record is specifically identified in the
772 expungement order as a record in the possession of the Board of Pardons and Parole or the
773 Department of Corrections; or

774 (b) the Division of Child and Family Services to expunge a record in an individual's
775 juvenile record that is contained in the Management Information System or the Licensing
776 Information System unless:

777 (i) the record is unsupported; or

778 (ii) after notice and an opportunity to be heard, the Division of Child and Family
779 Services stipulates in writing to expunging the record.

780 (3) (a) If the juvenile court issues an expungement order, the juvenile court shall send a
781 copy of the expungement order to any affected agency or official identified in the juvenile

782 record.

783 (b) An individual who is the subject of an expungement order may deliver copies of the
784 expungement order to all agencies and officials affected by the expungement order.

785 (4) (a) Upon receipt of an expungement order, an agency shall:

786 (i) to avoid destruction or expungement of records in whole or in part, expunge only
787 the references to the individual's name in the records relating to the individual's adjudication,
788 nonjudicial adjustment, petition, arrest, investigation, or detention for which expungement is
789 ordered; and

790 (ii) destroy all photographs and records created under Section 80-6-608, except that a
791 record of a minor's fingerprints may not be destroyed by an agency.

792 (b) An agency that receives a copy of an expungement order shall mail an affidavit to
793 the individual who is the subject of the expungement order, or the individual's attorney, that the
794 agency has complied with the expungement order.

795 (5) Notwithstanding Subsection (4), the Board of Pardons and Parole and the
796 Department of Corrections:

797 (a) may not disclose records expunged in an expungement order unless required by
798 law;

799 (b) are not required to destroy any photograph or record created under Section
800 80-6-608;

801 (c) may use an expunged record for purposes related to incarceration and supervision
802 of an individual under the jurisdiction of the Board of Pardons and Parole, including for the
803 purpose of making decisions about:

804 (i) the treatment and programming of the individual;

805 (ii) housing of the individual;

806 (iii) applicable guidelines regarding the individual; or

807 (iv) supervision conditions for the individual;

808 (d) are not prohibited from disclosing or sharing any information in an expunged
809 record with another agency that uses the same record management system as the Board of

Pardons and Parole or the Department of Corrections; and

(e) are not required to mail an affidavit under Subsection (4)(b).

(6) Upon entry of an expungement order:

(a) an adjudication, a nonjudicial adjustment, a petition, an arrest, an investigation, or a detention for which the record is expunged is considered to have never occurred; and

(b) the individual, who is the subject of the expungement order, may reply to an inquiry on the matter as though there never was an adjudication, a nonjudicial adjustment, a petition, an arrest, an investigation, or a detention.

(7) A record expunged under Section [80-6-1004.1](#), [80-6-1004.2](#), [80-6-1004.3](#), [80-6-1004.4](#), or [80-6-1004.5](#) may be released to, or viewed by, the individual who is the subject of the record.

Section 20. **Repealer.**

This bill repeals:

Section [80-6-1004](#), **Requirements to apply to expunge an adjudication.**

Section [80-6-1005](#), **Nonjudicial adjustment expungement.**

Section [80-6-1006](#), **Effect of an expunged record -- Agency duties.**

Section 21. **Effective date.**

This bill takes effect on October 1, 2023.