

JUVENILE JUSTICE MODIFICATIONS

2023 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Cheryl K. Acton

Senate Sponsor: Luz Escamilla

LONG TITLE

Committee Note:

The Judiciary Interim Committee recommended this bill.

Legislative Vote: 8 voting for 7 voting against 2 absent

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;
- ▶ amends provisions regarding the inspection of juvenile court records;
- ▶ requires the State Board of Education to include information about dangerous weapons in an annual report on school discipline and law enforcement action;
- ▶ requires the State Board of Education to provide a report on school discipline and law enforcement action to the State Commission on Criminal and Juvenile Justice;
- ▶ modifies a reporting requirement regarding a dangerous weapon on school grounds;
- ▶ requires the State Commission on Criminal and Juvenile Justice to provide a report to the Judiciary Interim Committee regarding minors in possession of dangerous weapons on school grounds;
- ▶ defines terms related to juvenile records;
- ▶ amends and clarifies provisions regarding the vacatur of an adjudication in the juvenile court;



- 28 ▶ clarifies the release of certain juvenile records;
- 29 ▶ amends provisions regarding a petition for expungement of a juvenile court record
- 30 with an adjudication, including the notice and hearing requirements for the petition;
- 31 ▶ allows for a petition for expungement of a juvenile court record consisting of
- 32 nonjudicial adjustments;
- 33 ▶ allows for a petition for expungement of a juvenile court record consisting of
- 34 records of arrest, investigation, detention, and delinquency petitions;
- 35 ▶ allows for a petition for expungement of records regarding a petition where the
- 36 allegations of delinquency were found to be not true;
- 37 ▶ allows for the automatic expungement of a successful nonjudicial adjustment
- 38 completed on or after October 1, 2023;
- 39 ▶ provides the requirements for expunging juvenile records;
- 40 ▶ addresses the distribution of an expungement order;
- 41 ▶ addresses agency duties regarding expungement orders;
- 42 ▶ addresses records in the custody of the Board of Pardons and Parole, the
- 43 Department of Corrections, or the Division of Child and Family Services;
- 44 ▶ addresses the effect of an expungement order;
- 45 ▶ provides that certain individuals may view or inspect expunged juvenile records;
- 46 ▶ repeals statutes related to the expungement of juvenile records; and
- 47 ▶ makes technical and conforming changes.

48 **Money Appropriated in this Bill:**

49 None

50 **Other Special Clauses:**

51 None

52 **Utah Code Sections Affected:**

53 AMENDS:

54 **34-52-201**, as last amended by Laws of Utah 2022, Chapter 447

55 **34-52-301**, as enacted by Laws of Utah 2019, Chapter 371

56 **53E-3-516**, as last amended by Laws of Utah 2022, Chapter 399

57 **53G-8-510**, as renumbered and amended by Laws of Utah 2018, Chapter 3

58 **63M-7-208**, as last amended by Laws of Utah 2021, Chapter 262

- 59 [77-38-14](#), as last amended by Laws of Utah 2021, Chapter 262
- 60 [78A-6-209](#), as last amended by Laws of Utah 2022, Chapters 335, 430
- 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



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
82 of a past criminal conviction or juvenile delinquency adjudication.

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

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

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

89 (c) if no interview is conducted, requires an applicant to disclose, before making a

90 conditional offer of employment, a criminal conviction or juvenile delinquency adjudication.

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

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

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

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

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

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

103 (a) if federal, state, or local law, including corresponding administrative rules, requires
104 the consideration of an applicant's criminal conviction or juvenile delinquency history;

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

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

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

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

109 (f) to the Department of Alcoholic Beverage Services created in Section [32B-2-203](#);

110 (g) to the State Tax Commission;

111 (h) to a public employer whose primary purpose is performing financial or fiduciary
112 functions; and

113 (i) to a public transit district hiring or promoting an individual for a safety sensitive
114 position described in Section [17B-2a-825](#).

115 Section 2. Section [34-52-301](#) is amended to read:

116 **34-52-301. Permitted applicant response regarding expunged criminal or juvenile**
117 **delinquency history.**

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

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

122 **53E-3-516. School disciplinary and law enforcement action report -- Rulemaking**
123 **authority.**

124 (1) As used in this section:

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

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

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

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

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

- 134 (i) a search and seizure by an SRO;
135 (ii) issuance of a criminal citation;
136 (iii) issuance of a ticket or summons;
137 (iv) filing a delinquency petition; or
138 (v) referral to a probation officer.

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

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

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

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

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

151 (ii) "School-sponsored activity" includes preparation for and involvement in a public

152 performance, contest, athletic competition, demonstration, display, or club activity.

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

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

158 (a) arrests of a minor;

159 (b) other law enforcement activities; ~~and~~

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

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

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

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

167 (a) the number of arrests of a minor, including the reason why the minor was arrested;

168 (b) the number of other law enforcement activities, including the following information
169 for each incident:

170 (i) the reason for the other law enforcement activity; and

171 (ii) the type of other law enforcement activity used;

172 (c) the number of disciplinary actions imposed, including:

173 (i) the reason for the disciplinary action; and

174 (ii) the type of disciplinary action;

175 (d) the number of SROs employed; ~~and~~

176 (e) if applicable, the demographics of an individual who is subject to, as the following
177 are defined in Section [53G-9-601](#), bullying, hazing, cyber-bullying, or retaliation~~[-]; and~~

178 (f) the number of minors found in possession of a dangerous weapon on school
179 grounds while school is in session or during a school-sponsored activity.

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

182 (a) age;

183 (b) grade level;
 184 (c) race;
 185 (d) sex; and
 186 (e) disability status.
 187 (6) Information included in the annual report described in Subsection (2) shall comply
 188 with:

189 (a) Chapter 9, Part 3, Student Data Protection;
 190 (b) Chapter 9, Part 2, Student Privacy; and
 191 (c) the Family Education Rights and Privacy Act, 20 U.S.C. Secs. 1232g and 1232h.
 192 (7) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

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

194 (8) The state board shall provide the report described in Subsection (2):

195 (a) in accordance with Section 53E-1-203 for incidents that occurred during the
 196 previous school year[-]; and

197 (b) to the State Commission on Criminal and Juvenile Justice by January 15 of each
 198 year for incidents that occurred during the previous school year.

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

200 **53G-8-510. Notification of dangerous weapons on school grounds -- Immunity**
 201 **from civil and criminal liability.**

202 (1) As used in this section:

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

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

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

207 (i) a school teacher;

208 (ii) a school staff member;

209 (iii) a school administrator; or

210 (iv) an individual:

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

213 (B) who works on a school campus.

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

215 (e) "School-sponsored activity" means the same as that term is defined in Section

216 [53E-3-516](#).

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

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

221 (a) a law enforcement officer or agency; and

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

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

228 [~~(2)~~] (4) A person who in good faith reports information under Subsection [(+)] (2) or
229 (3) and any person who receives the information is immune from any liability, civil or criminal,
230 that might otherwise result from the reporting or receipt of the information.

231 Section 5. Section **63M-7-208** is amended to read:

232 **63M-7-208. Juvenile justice oversight -- Delegation -- Effective dates.**

233 (1) The State Commission on Criminal and Juvenile Justice shall:

234 (a) support implementation and expansion of evidence-based juvenile justice programs
235 and practices, including assistance regarding implementation fidelity, quality assurance, and
236 ongoing evaluation;

237 (b) examine and make recommendations on the use of third-party entities or an
238 intermediary organization to assist with implementation and to support the performance-based
239 contracting system authorized in Subsection (1)(m);

240 (c) oversee the development of performance measures to track juvenile justice reforms,
241 and ensure early and ongoing stakeholder engagement in identifying the relevant performance
242 measures;

243 (d) evaluate currently collected data elements throughout the juvenile justice system
244 and contract reporting requirements to streamline reporting, reduce redundancies, eliminate

245 inefficiencies, and ensure a focus on recidivism reduction;

246 (e) review averted costs from reductions in out-of-home placements for juvenile justice
247 youth placed with the Division of Juvenile Justice Services and the Division of Child and
248 Family Services, and make recommendations to prioritize the reinvestment and realignment of
249 resources into community-based programs for youth living at home, including the following:

250 (i) statewide expansion of:

251 (A) juvenile receiving centers, as defined in Section [80-1-102](#);

252 (B) mobile crisis outreach teams, as defined in Section [62A-15-102](#);

253 (C) youth courts; and

254 (D) victim-offender mediation;

255 (ii) statewide implementation of nonresidential diagnostic assessment;

256 (iii) statewide availability of evidence-based programs and practices including
257 cognitive behavioral and family therapy programs for minors assessed by a validated risk and
258 needs assessment as moderate or high risk;

259 (iv) implementation and infrastructure to support the sustainability and fidelity of
260 evidence-based juvenile justice programs, including resources for staffing, transportation, and
261 flexible funds; and

262 (v) early intervention programs such as family strengthening programs, family
263 wraparound services, and proven truancy interventions;

264 (f) assist the Administrative Office of the Courts in the development of a statewide
265 sliding scale for the assessment of fines, fees, and restitution, based on the ability of the minor's
266 family to pay;

267 (g) analyze the alignment of resources and the roles and responsibilities of agencies,
268 such as the operation of early intervention services, receiving centers, and diversion, and make
269 recommendations to reallocate functions as appropriate, in accordance with Section [80-5-401](#);

270 (h) ensure that data reporting is expanded and routinely review data in additional areas,
271 including:

272 (i) referral and disposition data by judicial district;

273 (ii) data on the length of time minors spend in the juvenile justice system, including the
274 total time spent under court jurisdiction, on community supervision, and in each out-of-home
275 placement;

276 (iii) recidivism data for minors who are diverted to a nonjudicial adjustment under
277 Section 80-6-304 and minors for whom dispositions are ordered under Section 80-6-701,
278 including tracking minors into the adult corrections system;

279 (iv) change in aggregate risk levels from the time minors receive services, are under
280 supervision, and are in out-of-home placement; and

281 (v) dosage of programming;

282 (i) develop a reasonable timeline within which all programming delivered to minors in
283 the juvenile justice system must be evidence-based or consist of practices that are rated as
284 effective for reducing recidivism by a standardized program evaluation tool;

285 (j) provide guidelines to be considered by the Administrative Office of the Courts and
286 the Division of Juvenile Justice Services in developing tools considered by the Administrative
287 Office of the Courts and the Division of Juvenile Justice Services in developing or selecting
288 tools to be used for the evaluation of juvenile justice programs;

289 (k) develop a timeline to support improvements to juvenile justice programs to achieve
290 reductions in recidivism and review reports from relevant state agencies on progress toward
291 reaching that timeline;

292 (l) subject to Subsection (2), assist in the development of training for juvenile justice
293 stakeholders, including educators, law enforcement officers, probation staff, judges, Division
294 of Juvenile Justice Services staff, Division of Child and Family Services staff, and program
295 providers;

296 (m) subject to Subsection (3), assist in the development of a performance-based
297 contracting system, which shall be developed by the Administrative Office of the Courts and
298 the Division of Juvenile Justice Services for contracted services in the community and
299 contracted out-of-home placement providers;

300 (n) assist in the development of a validated detention risk assessment tool that [~~shall~~
301 ~~be~~] is developed or adopted and validated by the Administrative Office of the Courts and the
302 Division of Juvenile Justice Services as provided in Section 80-5-203 [~~on and after July 1,~~
303 ~~2018; and~~];

304 (o) annually issue and make public a report to the governor, president of the Senate,
305 speaker of the House of Representatives, and chief justice of the Utah Supreme Court on the
306 progress of the reforms and any additional areas in need of review[-:]; and

307 (p) prepare and submit a written report to the Judiciary Interim Committee on or before
308 October 1 of each year in accordance with Subsection (4).

309 (2) Training described in Subsection (1)(l) should include instruction on
310 evidence-based programs and principles of juvenile justice, such as risk, needs, responsivity,
311 and fidelity, and shall be supplemented by the following topics:

- 312 (a) adolescent development;
- 313 (b) identifying and using local behavioral health resources;
- 314 (c) implicit bias;
- 315 (d) cultural competency;
- 316 (e) graduated responses;
- 317 (f) Utah juvenile justice system data and outcomes; and
- 318 (g) gangs.

319 (3) The system described in Subsection (1)(m) shall provide incentives for:

- 320 (a) the use of evidence-based juvenile justice programs and practices rated as effective
321 by the tools selected in accordance with Subsection (1)(j);
- 322 (b) the use of three-month timelines for program completion; and
- 323 (c) evidence-based programs and practices for minors living at home in rural areas.

324 (4) (a) As used in this Subsection (4):

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

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

327 (iii) "School is in session" means the same as that term is defined in Section
328 [53E-3-516](#).

329 (iv) "School-sponsored activity" means the same as that term is defined in Section
330 [53E-3-516](#).

331 (b) A written report described in Subsection (1)(p) shall include:

332 (i) data for the preceding school year on:

333 (A) the number of minors found in possession of dangerous weapons on school
334 grounds while school is in session or during a school-sponsored activity; and

335 (B) the consequences for minors found in possession of dangerous weapons on school
336 grounds while school is in session or during a school-sponsored activity, including the number
337 of arrests, referrals to the juvenile court, nonjudicial adjustments, delinquency petitions, and

338 adjudications; and

339 (ii) recommendations for legislative action with respect to the data described in

340 Subsection (4)(b)(i).

341 [~~(4)~~] (5) The State Commission on Criminal and Juvenile Justice may delegate the
342 duties imposed under this section to a subcommittee or board established by the State
343 Commission on Criminal and Juvenile Justice in accordance with Subsection 63M-7-204(2).

344 [~~(5) Subsections (1)(a) through (c) take effect August 1, 2017. The remainder of this~~
345 ~~section takes effect July 1, 2018.~~]

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

347 **77-38-14. Notice of expungement petition -- Victim's right to object.**

348 (1) (a) The Department of Corrections or the Juvenile Probation Department shall
349 prepare a document explaining the right of a victim or a victim's representative to object to a
350 petition for expungement under Section 77-40a-305 or 80-6-1004 and the procedures for
351 obtaining notice of the petition.

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

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

358 Section 7. Section ~~78A-6-209~~ is amended to read:

359 **78A-6-209. Court records -- Inspection.**

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

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

363 (a) the parents or guardian of a child, a minor who is at least 18 years old, other parties
364 in the case, the attorneys, and agencies to which custody of a minor has been transferred;

365 (b) for information relating to adult offenders alleged to have committed a sexual
366 offense, a felony or class A misdemeanor drug offense, or an offense against the person under
367 Title 76, Chapter 5, Offenses Against the Individual, the State Board of Education for the
368 purpose of evaluating whether an individual should be permitted to obtain or retain a license as

369 an educator or serve as an employee or volunteer in a school, with the understanding that the
370 State Board of Education must provide the individual with an opportunity to respond to any
371 information gathered from the State Board of Education's inspection of the records before the
372 State Board of Education makes a decision concerning licensure or employment;

373 (c) the Criminal Investigations and Technical Services Division, established in Section
374 53-10-103, for the purpose of a criminal history background check for the purchase of a firearm
375 and establishing good character for issuance of a concealed firearm permit as provided in
376 Section 53-5-704;

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

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

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

389 (g) for information related to a minor who has committed a sexual offense, a felony, or
390 an offense that if committed by an adult would be a misdemeanor, the Department of Health to
391 determine whether an individual meets the background screening requirements of Title 26,
392 Chapter 21, Part 2, Clearance for Direct Patient Access, with the understanding that the
393 department must provide the individual who committed the offense an opportunity to respond
394 to any information gathered from the Department of Health's inspection of records before the
395 Department of Health makes a decision under that part; and

396 (h) for information related to a minor who has committed a sexual offense, a felony, or
397 an offense that if committed by an adult would be a misdemeanor, the Department of Health to
398 determine whether to grant, deny, or revoke background clearance under Section 26-8a-310 for
399 an individual who is seeking or who has obtained an emergency medical service personnel

400 license under Section [26-8a-302](#), with the understanding that the Department of Health must
401 provide the individual who committed the offense an opportunity to respond to any information
402 gathered from the Department of Health's inspection of records before the Department of
403 Health makes a determination.

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

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

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

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

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

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

423 Section 8. Section **80-6-1001** is amended to read:

424 **80-6-1001. Definitions.**

425 As used in this part:

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

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

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

431 purposes of this part.

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

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

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

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

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

444 Section 9. Section **80-6-1001.1**, which is renumbered from Section 80-6-1003 is
 445 renumbered and amended to read:

446 ~~[80-6-1003].~~ **80-6-1001.1. Court records -- Abstracts.**

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

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

451 ~~[(2)]~~ (1) A court or agency with custody of an individual's record related to an offense
 452 that the individual is alleged to have committed, or an offense that the individual committed,
 453 before the individual was 18 years old may not disclose the record to a federal agency that is
 454 responsible for criminal justice research or proceedings unless the court or the agency is
 455 required to share the record under state or federal law.

456 ~~[(3)]~~ (2) An abstract of a ~~[juvenile court]~~ record for ~~[an]~~ a minor's adjudication of a
 457 traffic offense shall be submitted to the Department of Public Safety as provided in Section
 458 53-3-218.

459 Section 10. Section **80-6-1002** is amended to read:

460 **80-6-1002. Vacatur of an adjudication.**

461 ~~[(1) (a) An individual who has been adjudicated under this chapter may petition the~~

462 juvenile court for vacatur of the individual's juvenile court records and any related records in
463 the custody of an agency if the record relates to:]

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

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

467 (1) (a) An individual who has been adjudicated for an offense by the juvenile court
468 may petition the juvenile court for vacatur of the adjudication if the adjudication was for a
469 violation of:

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

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

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

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

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

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

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

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

484 (i) set a date for a hearing; and

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

487 (A) that a petition has been filed; and

488 (B) of the date of the hearing.

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

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

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

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

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

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

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

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

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

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

518 ~~[(iii)] (4)~~ If the petition ~~[is for vacatur of any adjudication under Section 76-10-1302;~~
519 ~~76-10-1304, or 76-10-1313]~~ seeks to vacate an adjudication of an offense described in
520 Subsection (1)(a)(ii) through (iv), the juvenile court shall presumptively grant vacatur of the
521 adjudication unless the petitioner acted as a purchaser of any sexual activity.

522 ~~[(c) If vacatur is granted, the juvenile court shall order sealed all of the petitioner's~~
523 ~~records under the control of the juvenile court and any of the petitioner's records under the~~

524 control of any other agency or official]

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

530 ~~[(6)]~~ (b) The juvenile court may not [vacate a juvenile court record if the record
531 contains an adjudication of] order expungement of any record in the petitioner's juvenile record
532 that contains an adjudication for a violation of:

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

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

535 ~~[(4)]~~ (6) (a) The petitioner shall be responsible for service of the vacatur and
536 expungement order [of vacatur] to all affected state, county, and local entities, agencies, and
537 officials.

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

542 ~~[(5) (a) Upon the entry of vacatur,]~~

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

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

547 (i) the proceedings in the incident identified in the petition [shall be] are considered
548 never to have occurred; and

549 (ii) the petitioner may [properly reply accordingly upon any inquiry in the matter] reply
550 to an inquiry on the matter as though the proceedings never occurred.

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

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

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

555 Section 11. Section **80-6-1004.1** is enacted to read:

556 **80-6-1004.1. Petition to expunge adjudication -- Hearing and notice -- Waiver --**

557 **Order.**

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

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

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

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

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

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

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

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

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

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

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

575 (i) set a date for a hearing; and

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

579 (A) that the petition has been filed; and

580 (B) of the date of the hearing.

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

583 (ii) Upon the victim's request under Subsection (4)(b)(i), the victim shall receive notice
584 of the petition at least 30 days before the day on which the hearing is scheduled if, before the
585 day on which an expungement order is made, the victim, or the victim's next of kin or

586 authorized representative if the victim is a child or an individual who is incapacitated or
587 deceased, submits a written and signed request for notice to the juvenile court in the judicial
588 district in which the offense occurred or judgment is entered.

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

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

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

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

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

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

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

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

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

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

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

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

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

609 and

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

611 (b)(ii):

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

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

616 (C) the amount of time that has passed since the adjudication of the offense for which

617 the petitioner is a restricted person.

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

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

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

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

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

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

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

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

630 Section 12. Section **80-6-1004.2** is enacted to read:

631 **80-6-1004.2. Petition to expunge nonjudicial adjustment -- Order.**

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

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

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

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

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

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

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

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

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

648 Section 13. Section **80-6-1004.3** is enacted to read:

649 **80-6-1004.3. Petition to expunge arrest, investigation, detention, or delinquency**
650 **petition -- Screening -- Order.**

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

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

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

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

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

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

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

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

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

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

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

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

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

677 Section 14. Section **80-6-1004.4** is enacted to read:

678 **80-6-1004.4. Petition to expunge petition not found to be true -- Order.**

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

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

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

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

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

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

693 Section 15. Section **80-6-1004.5** is enacted to read:

694 **80-6-1004.5. Automatic expungement of successful nonjudicial adjustment --**
695 **Effect of successful nonjudicial adjustment.**

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

698 (a) the individual has reached 18 years old;

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

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

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

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

704 (a) Section [41-6a-502](#), driving under the influence;

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

707 (c) Section [76-5-206](#), negligent homicide;

708 (d) Section [76-9-702.1](#), sexual battery;

709 (e) Section [76-10-505.5](#), possession of a dangerous weapon, firearm, or short barreled

710 shotgun on or about school premises; or

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

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

714 (a) any nonjudicial adjustment in the individual's juvenile record is considered to never
715 have occurred if:

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

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

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

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

723 Section 16. Section **80-6-1006.1** is enacted to read:

724 **80-6-1006.1. Exceptions to expungement order -- Distribution of expungement**
725 **order -- Agency duties -- Effect of expungement -- Access to expunged record.**

726 (1) This section applies to an expungement order under Section 80-6-1004.1,
727 80-6-1004.2, 80-6-1004.3, 80-6-1004.4, or 80-6-1004.5.

728 (2) The juvenile court may not order:

729 (a) the Board of Pardons and Parole and the Department of Corrections to seal a record
730 in the possession of the Board of Pardons and Parole or the Department of Corrections, except
731 that the juvenile court may order the Board of Pardons and Parole and the Department of
732 Corrections to restrict access to a record if the record is specifically identified in the
733 expungement order as a record in the possession of the Board of Pardons and Parole or the
734 Department of Corrections; or

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

738 (i) the record is unsupported; or

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

741 (3) (a) If the juvenile court issues an expungement order, the juvenile court shall send a
742 copy of the expungement order to any affected agency or official identified in the juvenile
743 record.

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

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

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

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

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

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

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

760 (b) are not required to destroy any photograph or record created under Section
761 [80-6-608](#);

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

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

766 (ii) housing of the individual;

767 (iii) applicable guidelines regarding the individual; or

768 (iv) supervision conditions for the individual;

769 (d) are not prohibited from disclosing or sharing any information in an expunged
770 record with another agency that uses the same record management system as the Board of
771 Pardons and Parole or the Department of Corrections; and

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

773 (6) Upon entry of an expungement order:

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

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

779 (7) A record expunged under Section [80-6-1004.1](#), [80-6-1004.2](#), [80-6-1004.3](#),
780 [80-6-1004.4](#), or [80-6-1004.5](#) may be released to, or viewed by, the individual who is the subject
781 of the record.

782 Section 17. **Repealer.**

783 This bill repeals:

784 Section **80-6-1004, Requirements to apply to expunge an adjudication.**

785 Section **80-6-1005, Nonjudicial adjustment expungement.**

786 Section **80-6-1006, Effect of an expunged record -- Agency duties.**