1 **Rule 4-208. Automatic expungement of cases.**

2 **Intent:**

3 The intent of this rule is to govern the process for automatic expungement of records for clean

4 slate eligible cases.

5 **Applicability:**

6 This rule applies to automatic expungement of clean slate eligible cases in the district and

7 justice courts.

8 **Statement of the Rule:**

9 **(1)** **Definitions**

10 (1)(A) "Clean slate eligible case" means the same as defined in Utah Code §77-40-102.

11 (1)(B) "Bureau" means the Bureau of Criminal Identification of the Department of Public

12 Safety.

13 (1)(C) "Conviction" means a judgment by a criminal court on a verdict or finding of guilty

14 after trial, a plea of guilty, or a plea of nolo contendere.

15 (1)(D) "Expunge" means to seal or otherwise restrict access to the individual's record

16 when the record includes a criminal investigation, detention, arrest, or conviction.

17 **(2)** **Clean slate eligible convictions**

18 (2)(A) Records in the following cases may be expunged automatically:

19 (2)(A)(i) a case that resulted in an acquittal on all charges; or

20 ~~(2)(A)(ii)~~ except as provided in subsection (2)(B), a case that is dismissed with

21 prejudice; ~~or~~

22 ~~(2)(A)(iii)~~(2)(A)(ii) ~~a clean slate eligible case.~~

23 (2)(B) A case that is dismissed with prejudice does not include a case that is dismissed

24 with prejudice as a result of successful completion of a plea in abeyance

25 agreement governed by Utah Code §77-2a-3(2)(b).

26 **(3)** **Automated expungement process**

27 (3)(A) The Administrative Office of the Courts shall develop automated processes for

28 the expungement of records outlined in subsection (2)(A).

29 (3)(B) Automated processes must comply with the requirements outlined in the Utah

30 Expungement Act and this rule.

31	(3)(C)	All automated expungement processes developed by the Administrative Office of
32		the Courts shall be approved by the Utah Judicial Council.
33	(3)(D)	The form and content of the order of expungement must be approved by the
34		Utah Judicial Council.
35	**(4)**	**Standing orders and orders of expungement**
36	(4)(A)	The presiding officer of the Judicial Council may authorize ~~the~~ presiding judge<u>s</u> of
37		the district court to serve as a justice court judge for the limited purpose of
38		signing automatic expungement orders for the justice courts within that district.
39	(4)(B)	If the presiding officer of the Council authorizes them to do so under (4)(A)<u>)</u>~~(,~~
40		standing orders shall be issued by district court presiding judges for the entire
41		judicial district, including courts of record and not of record. Justice court judges
42		may not issue standing orders under this rule.
43	(4)(C)	If the presiding judge determines that the requirements under subsection (3)
44		have been met, the presiding judge shall issue a standing order authorizing the
45		Administrative Office of the Courts to determine whether the criteria have been
46		met, and if so, to prepare and automatically affix the presiding judge's judicial
47		signature to orders of expungements issued in relation to cases from that judicial
48		district.
49	(4)(D)	Automated orders of expungement must be approved by the Utah Judicial
50		Council.
51	**(5)**	**Notice to prosecuting agencies**
52	(5)(A)	The Administrative Office of the Courts shall send notice to each prosecuting
53		agency on a monthly basis, listing all cases prosecuted by that agency that
54		appear to be clean slate eligible.
55	(5)(B)	The list of potentially eligible cases shall include, at a minimum, the individual's
56		first name, last name, date of birth, and case number.
57	(5)(C)	Notice to prosecuting agencies under this rule shall be sent by email.
58	(5)(D)	Each prosecuting agency shall:
59	(5)(D)(i)	Provide to the Administrative Office of the Courts a single email
60		address for that prosecuting agency;
61	(5)(D)(ii)	acknowledge that all notices under this rule will be sent to that single
62		email address;
63	(5)(D)(iii)	maintain that single email address without change unless strictly
64		necessary; and

65   (5)(D)(iv) update that email address within three business days of any change

66   by contacting the Administrative Office of the Courts.

67 **(6)   Objection by prosecuting agencies**

68   (6)(A) Within 35 days of the date on which notice under subsection (5)(A) is sent, the

69   prosecuting agency shall e-file any statutory objection.

70   (6)(B) When e-filing an objection, the prosecuting agency shall select the "objection –

71   automatic expungement" document type in the e-filing system. Failure to select

72   the appropriate document type will result in the objection being invalid.

73   (6)(C) If an objection has not been timely filed pursuant to subsection (6)(A), an order of

74   expungement for each clean slate eligible case shall automatically issue.

75 **(7)   Notice of action taken**

76   (7)(A) The Administrative Office the Courts shall notify the bureau and the prosecuting

77   agency identified in the case that an order of expungement has been issued.

78 *Effective May 1, 2020*