Rule 42. Automatic expungement

1   **(a)   Definitions**

2   (a)(1)   "AOC" means the Administrative Office of the Court.

3   (a)(2)   "Bureau" means the Bureau of Criminal Identification of the Department of Public
4   Safety.

5   (a)(3)   "Clean slate eligible case" means the same as defined in Utah Code §77-40-102.

6   (a)(4)   "Conviction" means a judgment by a criminal court on a verdict or finding of guilty after
7   trial, a plea of guilty, or a plea of nolo contendere.

8   (a)(5)   "Expunge" means to seal or otherwise restrict access to the individual's record when the
9   record includes a criminal investigation, detention, arrest, or conviction.

10   **(b)   Cases eligible for automatic expungement**

11   (b)(1)   Records in the following case types may be expunged automatically:

12   (b)(1)(A)   a case that resulted in an acquittal on all charges;

13   (b)(1)(B)   except as provided in paragraph (b)(2), a case that is dismissed with prejudice; and

14   (b)(1)(C)   a clean slate eligible case.

15   (b)(2)   A case that is dismissed after completion of a plea in abeyance agreement is not eligible
16   for automatic expungement.

17   (b)(3)   Once a month the AOC must identify for each court the cases that are eligible for
18   automatic expungement under (b)(1)(A) and (B). The AOC must separately identify the cases
19   that are clean slate eligible under (b)(1)(C).

20   **(c)   Notice to prosecuting entities**

21   (c)(1)   When a list of clean slate eligible cases is created, the AOC must email a list of eligible
22   cases to the entity that prosecuted the case. The information for each clean slate eligible case
23   must include, at a minimum, the individual's first name, last name, date of birth, and case
24   number.

25   (c)2)   Every prosecuting entity in the state must provide the AOC with the email address
26   where notices should be sent. The prosecuting entity must immediately notify the AOC if the
27   entity wants the notices sent to a different email address.

28   (c)(3)   The AOC is not required to send the prosecuting entity the lists of cases to be expunged
29   under paragraphs (b)(1)(A) and (b)(1)(B).

30   **(d)   Objection by prosecuting entities**

31   (d)(1)   If the prosecuting entity objects to the expungement of a clean slate eligible case, the
32   prosecuting agency must e-file an objection within 35 days of the date notice was sent under
33   paragraph (d)(1). If an objection is received, the AOC must remove the case from the list of
34   clean slate eligible cases.

35   (d)(2)   Failure to properly e-file an objection will result in the objection being rejected.

36   (d)(3)   After the period for objections has expired, the AOC will provide each court with a list of
37   the remaining clean slate eligible cases.

38   **(e)   Expungement orders**

39   (e)(1)   Upon receiving a list of cases eligible for automatic expungement, the court must issue
40   an expungement order for each eligible case.

41   (e)(2)   The AOC must provide copies of the expungement orders to the bureau and the
42   prosecuting entity.

43   *Effective _____*