

Effective 7/1/2015

26-8a-310 Background clearance for emergency medical service personnel.

- (1) The department shall determine whether to grant background clearance for an individual seeking certification under Section 26-8a-302 from whom it receives:
 - (a) the individual's Social Security number, fingerprints, and other personal identification information specified by the department under Subsection (4); and
 - (b) any fees established by the department under Subsection (10).
- (2) The department shall determine whether to deny or revoke background clearance for individuals for whom it has previously granted background clearance.
- (3) The department shall determine whether to grant, deny, or revoke background clearance for an individual based on an initial and ongoing evaluation of information the department obtains under Subsections (5) and (11), which, at a minimum, shall include an initial criminal background check of state, regional, and national databases using the individual's fingerprints.
- (4) The department shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that specify:
 - (a) the criteria the department will use under Subsection (3) to determine whether to grant, deny, or revoke background clearance; and
 - (b) the other personal identification information an individual seeking certification under Section 26-8a-302 must submit under Subsection (1).
- (5) To determine whether to grant, deny, or revoke background clearance, the department may access and evaluate any of the following:
 - (a) Department of Public Safety arrest, conviction, and disposition records described in Title 53, Chapter 10, Criminal Investigations and Technical Services Act, including information in state, regional, and national records files;
 - (b) adjudications by a juvenile court of committing an act that if committed by an adult would be a felony or misdemeanor, if:
 - (i) the applicant is under 28 years of age; or
 - (ii) the applicant:
 - (A) is over 28 years of age; and
 - (B) has been convicted of, has pleaded no contest to, or is currently subject to a plea in abeyance or diversion agreement for a felony or misdemeanor;
 - (c) juvenile court arrest, adjudication, and disposition records, other than those under Subsection (5)(b), as allowed under Section 78A-6-209;
 - (d) child abuse or neglect findings described in Section 78A-6-323;
 - (e) the Department of Human Services' Division of Child and Family Services Licensing Information System described in Section 62A-4a-1006;
 - (f) the Department of Human Services' Division of Aging and Adult Services database of reports of vulnerable adult abuse, neglect, or exploitation, described in Section 62A-3-311.1;
 - (g) Division of Occupational and Professional Licensing records of licensing and certification under Title 58, Occupations and Professions;
 - (h) records in other federal criminal background databases available to the state; and
 - (i) any other records of arrests, warrants for arrest, convictions, pleas in abeyance, pending diversion agreements, or dispositions.
- (6) Except for the Department of Public Safety, an agency may not charge the department for information accessed under Subsection (5).
- (7) When evaluating information under Subsection (3), the department shall classify a crime committed in another state according to the closest matching crime under Utah law, regardless of how the crime is classified in the state where the crime was committed.

- (8) The department shall adopt measures to protect the security of information it accesses under Subsection (5), which shall include limiting access by department employees to those responsible for acquiring, evaluating, or otherwise processing the information.
- (9) The department may disclose personal identification information it receives under Subsection (1) to the Department of Human Services to verify that the subject of the information is not identified as a perpetrator or offender in the information sources described in Subsections (5)(d) through (f).
- (10) The department may charge fees, in accordance with Section 63J-1-504, to pay for:
 - (a) the cost of obtaining, storing, and evaluating information needed under Subsection (3), both initially and on an ongoing basis, to determine whether to grant, deny, or revoke background clearance; and
 - (b) other department costs related to granting, denying, or revoking background clearance.
- (11) The Criminal Investigations and Technical Services Division within the Department of Public Safety shall:
 - (a) retain, separate from other division records, personal information under Subsection (1), including any fingerprints sent to it by the Department of Health; and
 - (b) notify the Department of Health upon receiving notice that an individual for whom personal information has been retained is the subject of:
 - (i) a warrant for arrest;
 - (ii) an arrest;
 - (iii) a conviction, including a plea in abeyance; or
 - (iv) a pending diversion agreement.
- (12) The department shall use the Direct Access Clearance System database created under Section 26-21-209 to manage information about the background clearance status of each individual for whom the department is required to make a determination under Subsection (1).

Repealed and Re-enacted by Chapter 307, 2015 General Session