

## Chapter 10 Criminal Investigations and Technical Services Act

### Part 1 General Provisions

#### **53-10-101 Short title.**

This chapter is known as the "Criminal Investigations and Technical Services Act."

Renumbered and Amended by Chapter 263, 1998 General Session

#### **53-10-102 Definitions.**

As used in this chapter:

- (1) "Administration of criminal justice" means performance of any of the following: detection, apprehension, detention, pretrial release, posttrial release, prosecution, adjudication, correctional supervision, or rehabilitation of accused persons or criminal offenders.
- (2) "Alcoholic beverage" is as defined in Section 32B-1-102.
- (3) "Alcoholic product" is as defined in Section 32B-1-102.
- (4) "Commission" means the Alcoholic Beverage Control Commission.
- (5) "Communications services" means the technology of reception, relay, and transmission of information required by public safety agencies in the performance of their duty.
- (6) "Conviction record" means criminal history information indicating a record of a criminal charge which has led to a declaration of guilt of an offense.
- (7) "Criminal history record information" means information on individuals consisting of identifiable descriptions and notations of:
  - (a) arrests, detentions, indictments, informations, or other formal criminal charges, and any disposition arising from any of them; and
  - (b) sentencing, correctional supervision, and release.
- (8) "Criminalist" means the scientific discipline directed to the recognition, identification, individualization, and evaluation of physical evidence by application of the natural sciences in law-science matters.
- (9) "Criminal justice agency" means courts or a government agency or subdivision of a government agency that administers criminal justice under a statute, executive order, or local ordinance and that allocates greater than 50% of its annual budget to the administration of criminal justice.
- (10) "Department" means the Department of Public Safety.
- (11) "Director" means the division director appointed under Section 53-10-103.
- (12) "Division" means the Criminal Investigations and Technical Services Division created in Section 53-10-103.
- (13) "Executive order" means an order of the president of the United States or the chief executive of a state that has the force of law and that is published in a manner permitting regular public access to it.
- (14) "Forensic" means dealing with the application of scientific knowledge relating to criminal evidence.
- (15) "Missing child" means any person under the age of 18 years who is missing from the person's home environment or a temporary placement facility for any reason and whose location cannot be determined by the person responsible for the child's care.
- (16) "Missing person" is as defined in Section 26-2-27.

- (17) "Pathogens" means disease-causing agents.
- (18) "Physical evidence" means something submitted to the bureau to determine the truth of a matter using scientific methods of analysis.
- (19) "Qualifying entity" means a business, organization, or a governmental entity that employs persons or utilizes volunteers who deal with:
  - (a) national security interests;
  - (b) care, custody, or control of children;
  - (c) fiduciary trust over money;
  - (d) health care to children or vulnerable adults; or
  - (e) the provision of any of the following to a vulnerable adult:
    - (i) care;
    - (ii) protection;
    - (iii) food, shelter, or clothing;
    - (iv) assistance with the activities of daily living; or
    - (v) assistance with financial resource management.

Amended by Chapter 276, 2010 General Session

**53-10-103 Division -- Creation -- Director appointment and qualifications.**

- (1) There is created within the department the Criminal Investigations and Technical Services Division.
- (2) The division shall be administered by a director appointed by the commissioner with the approval of the governor.
- (3) The director is the executive and administrative head of the division and shall be experienced in administration and possess additional qualifications as determined by the commissioner and as provided by law.
- (4) The director acts under the supervision and control of the commissioner and may be removed from his position at the will of the commissioner.
- (5) The director shall receive compensation as provided by Title 67, Chapter 19, Utah State Personnel Management Act.

Renumbered and Amended by Chapter 263, 1998 General Session

**53-10-104 Division duties.**

The division shall:

- (1) provide and coordinate the delivery of support services to law enforcement agencies;
- (2) maintain and provide access to criminal records for use by law enforcement agencies;
- (3) publish law enforcement and statistical data;
- (4) maintain dispatch and communications services for public safety communications centers and provide emergency medical, fire suppression, highway maintenance, public works, and law enforcement communications for municipal, county, state, and federal agencies;
- (5) analyze evidence from crime scenes and crime-related incidents for criminal prosecution;
- (6) provide criminalistic laboratory services to federal, state, and local law enforcement agencies, prosecuting attorneys' and agencies, and public defenders, with the exception of those services provided by the state medical examiner in accordance with Title 26, Chapter 4, Utah Medical Examiner Act;
- (7) establish satellite laboratories as necessary to provide criminalistic services;

- (8) safeguard the public through licensing and regulation of activities that impact public safety, including concealed weapons, emergency vehicles, and private investigators;
- (9) provide investigative assistance to law enforcement and other government agencies;
- (10) collect and provide intelligence information to criminal justice agencies;
- (11) investigate crimes that jeopardize the safety of the citizens, as well as the interests, of the state;
- (12) regulate and investigate laws pertaining to the sale and distribution of liquor;
- (13) make rules to implement this chapter;
- (14) perform the functions specified in this chapter;
- (15) comply with the requirements of Section 11-40-103; and
- (16) comply with the requirements of Sections 72-10-602 and 72-10-603.

Amended by Chapter 137, 2006 General Session

**53-10-104.5 Wireless service -- Call location in emergencies.**

- (1) As used in this section:
  - (a) "Call location information" means the best available location information, including information obtained by use of historical cellular site information or a mobile locator tool.
  - (b) "Law enforcement agency" or "agency" has the same definition as in Section 53-1-102.
  - (c) "Mobile telecommunications service" has the same definition as in Section 54-8b-2.
  - (d) "Telecommunication device" has the same definition as in Section 76-6-409.5.
- (2) A mobile telecommunications service shall provide call location information regarding a telecommunication device user whom a law enforcement agency has reason to believe is in need of services under Subsection (2)(a) or (b), upon the request of a law enforcement agency or a public safety communications center if the agency or center determines the location information is necessary in order to respond to:
  - (a) a call for emergency response services; or
  - (b) an emergency situation that involves the imminent risk of death or serious bodily injury as defined in Section 76-1-601.
- (3) The mobile telecommunications service may establish procedures for its voluntary response to a request for location under Subsection (2).
- (4) A mobile telecommunications service that, acting in good faith, provides information as requested under Subsection (2) may not be held civilly liable for providing the information.
- (5)
  - (a) The division shall obtain contact information from all mobile telecommunication service providers that provide services in this state to facilitate communicating location requests under Subsection (2).
  - (b) The division shall provide the contact information to all public safety communications centers in the state and shall provide updates to the contact information.

Enacted by Chapter 185, 2013 General Session

**53-10-105 Assistance to law enforcement agencies -- Investigation of crimes -- Laboratory facilities.**

- (1) The commissioner may assist any law enforcement agency in:
  - (a) establishing identification and investigation records systems;
  - (b) establishing uniform crime reporting systems;
  - (c) investigating any crime;

- (d) coordinating the exchange of criminal identification, intelligence, and investigation information among law enforcement agencies; and
  - (e) providing the agencies with equipment, technical assistance, and instruction.
- (2)
- (a) At the governor's direction, the commissioner shall assign division employees to investigate any crime within this state for the purpose of identifying, apprehending, and convicting the perpetrator or perpetrators of that crime even if the commissioner has not received a request from a law enforcement agency.
  - (b) The governor may establish a time period for the commissioner to pursue the investigation.
  - (c) To accomplish the purposes of this section, the commissioner may provide, through the division, crime detection laboratory facilities.

Renumbered and Amended by Chapter 263, 1998 General Session

**53-10-106 Cooperation with agencies of any state or nation.**

The division shall cooperate with appropriate agencies of any state or nation in developing uniform systems of criminal identification, crime reporting, and information exchange.

Renumbered and Amended by Chapter 263, 1998 General Session

**53-10-107 Admissibility in evidence of certified copies of division files.**

A copy of any fingerprint, record, document, or other evidence in the files of the division, certified by the commissioner to be a true copy of the original, is admissible in evidence in the same manner as the original.

Renumbered and Amended by Chapter 263, 1998 General Session

**53-10-108 Restrictions on access, use, and contents of division records -- Limited use of records for employment purposes -- Challenging accuracy of records -- Usage fees -- Missing children records -- Penalty for misuse of records.**

- (1) As used in this section:
- (a) "FBI Rap Back System" means the rap back system maintained by the Federal Bureau of Investigation.
  - (b) "Rap back system" means a system that enables authorized entities to receive ongoing status notifications of any criminal history reported on individuals whose fingerprints are registered in the system.
  - (c) "WIN Database" means the Western Identification Network Database that consists of eight western states sharing one electronic fingerprint database.
- (2) Dissemination of information from a criminal history record or warrant of arrest information from division files is limited to:
- (a) criminal justice agencies for purposes of administration of criminal justice and for employment screening by criminal justice agencies;
  - (b) noncriminal justice agencies or individuals for any purpose authorized by statute, executive order, court rule, court order, or local ordinance;
  - (c) agencies or individuals for the purpose of obtaining required clearances connected with foreign travel or obtaining citizenship;
  - (d)

- (i) agencies or individuals pursuant to a specific agreement with a criminal justice agency to provide services required for the administration of criminal justice; and
  - (ii) the agreement shall specifically authorize access to data, limit the use of the data to purposes for which given, and ensure the security and confidentiality of the data;
  - (e) agencies or individuals for the purpose of a preplacement adoptive study, in accordance with the requirements of Sections 78B-6-128 and 78B-6-130;
  - (f)
    - (i) agencies and individuals as the commissioner authorizes for the express purpose of research, evaluative, or statistical activities pursuant to an agreement with a criminal justice agency; and
    - (ii) private security agencies through guidelines established by the commissioner for employment background checks for their own employees and prospective employees;
  - (g) a qualifying entity for employment background checks for their own employees and persons who have applied for employment with the qualifying entity; and
  - (h) other agencies and individuals as the commissioner authorizes and finds necessary for protection of life and property and for offender identification, apprehension, and prosecution pursuant to an agreement.
- (3) An agreement under Subsection (2)(f) or (2)(h) shall specifically authorize access to data, limit the use of data to research, evaluative, or statistical purposes, preserve the anonymity of individuals to whom the information relates, and ensure the confidentiality and security of the data.
- (4)
  - (a) Before requesting information under Subsection (2)(g), a qualifying entity must obtain a signed waiver from the person whose information is requested.
  - (b) The waiver must notify the signee:
    - (i) that a criminal history background check will be conducted;
    - (ii) who will see the information; and
    - (iii) how the information will be used.
  - (c) Information received by a qualifying entity under Subsection (2)(g) may only be:
    - (i) available to persons involved in the hiring or background investigation of the employee; and
    - (ii) used for the purpose of assisting in making an employment or promotion decision.
  - (d) A person who disseminates or uses information obtained from the division under Subsection (2)(g) for purposes other than those specified under Subsection (4)(c), in addition to any penalties provided under this section, is subject to civil liability.
  - (e) A qualifying entity that obtains information under Subsection (2)(g) shall provide the employee or employment applicant an opportunity to:
    - (i) review the information received as provided under Subsection (9); and
    - (ii) respond to any information received.
  - (f) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division may make rules to implement this Subsection (4).
  - (g) The division or its employees are not liable for defamation, invasion of privacy, negligence, or any other claim in connection with the contents of information disseminated under Subsection (2)(g).
- (5)
  - (a) Any criminal history record information obtained from division files may be used only for the purposes for which it was provided and may not be further disseminated, except under Subsection (5)(b), (c), or (d).

- (b) A criminal history provided to an agency pursuant to Subsection (2)(e) may be provided by the agency to the person who is the subject of the history, another licensed child-placing agency, or the attorney for the adoptive parents for the purpose of facilitating an adoption.
- (c) A criminal history of a defendant provided to a criminal justice agency under Subsection (2)(a) may also be provided by the prosecutor to a defendant's defense counsel, upon request during the discovery process, for the purpose of establishing a defense in a criminal case.
- (d) A public transit district, as described in Title 17B, Chapter 2a, Part 8, Public Transit District Act, that is under contract with a state agency to provide services may, for the purposes of complying with Subsection 62A-5-103.5(5), provide a criminal history record to the state agency or the agency's designee.
- (6) The division may not disseminate criminal history record information to qualifying entities under Subsection (2)(g) regarding employment background checks if the information is related to charges:
  - (a) that have been declined for prosecution;
  - (b) that have been dismissed; or
  - (c) regarding which a person has been acquitted.
- (7)
  - (a) This section does not preclude the use of the division's central computing facilities for the storage and retrieval of criminal history record information.
  - (b) This information shall be stored so it cannot be modified, destroyed, or accessed by unauthorized agencies or individuals.
- (8) Direct access through remote computer terminals to criminal history record information in the division's files is limited to those agencies authorized by the commissioner under procedures designed to prevent unauthorized access to this information.
- (9)
  - (a) The commissioner shall establish procedures to allow an individual right of access to review and receive a copy of the individual's criminal history report.
  - (b) A processing fee for the right of access service, including obtaining a copy of the individual's criminal history report under Subsection (9)(a) is \$15. This fee remains in effect until changed by the commissioner through the process under Section 63J-1-504.
  - (c)
    - (i) The commissioner shall establish procedures for an individual to challenge the completeness and accuracy of criminal history record information contained in the division's computerized criminal history files regarding that individual.
    - (ii) These procedures shall include provisions for amending any information found to be inaccurate or incomplete.
- (10) The private security agencies as provided in Subsection (2)(f)(ii):
  - (a) shall be charged for access; and
  - (b) shall be registered with the division according to rules made by the division under Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- (11) Before providing information requested under this section, the division shall give priority to criminal justice agencies needs.
- (12)
  - (a) It is a class B misdemeanor for a person to knowingly or intentionally access, use, disclose, or disseminate a record created, maintained, or to which access is granted by the division or any information contained in a record created, maintained, or to which access is granted by the division for a purpose prohibited or not permitted by statute, rule, regulation, or policy of a governmental entity.

- (b) A person who discovers or becomes aware of any unauthorized use of records created or maintained, or to which access is granted by the division shall inform the commissioner and the director of the Utah Bureau of Criminal Identification of the unauthorized use.
- (13)
- (a) Subject to Subsection (13)(b), a qualifying entity or an entity described in Subsection (2)(b) may request that the division register fingerprints taken for the purpose of conducting current and future criminal background checks under this section with:
    - (i) the WIN Database rap back system, or any successor system;
    - (ii) the FBI Rap Back System; or
    - (iii) a system maintained by the division.
  - (b) A qualifying entity or an entity described in Subsection (2)(b) may only make a request under Subsection (13)(a) if the entity:
    - (i) has the authority through state or federal statute or federal executive order;
    - (ii) obtains a signed waiver from the individual whose fingerprints are being registered; and
    - (iii) establishes a privacy risk mitigation strategy to ensure that the entity only receives notifications for individuals with whom the entity maintains an authorizing relationship.
- (14) The division is authorized to submit fingerprints to the FBI Rap Back System to be retained in the FBI Rap Back System for the purpose of being searched by future submissions to the FBI Rap Back System, including latent fingerprint searches.
- (15)
- (a)
    - (i) The applicant fingerprint card fee under Subsection (2) is \$20.
    - (ii) The name check fee under Subsection (2) is \$15.
    - (iii) The fee to register fingerprints under Subsection (13)(a)(i) is \$5.
    - (iv) The fees described in this Subsection (15)(a) remain in effect until changed by the division through the process under Section 63J-1-504.
  - (b) Funds generated under this Subsection (15) shall be deposited into the General Fund as a dedicated credit by the department to cover the costs incurred in providing the information.
  - (c) The division may collect fees charged by an outside agency for services required under this section.

Amended by Chapter 255, 2015 General Session  
Amended by Chapter 389, 2015 General Session

**53-10-109 Telecommunications systems.**

For the purpose of expediting local, state, national, and international efforts in the detection and apprehension of criminals, the division may operate and coordinate telecommunications systems as may be required in the conduct of its duties under this part.

Renumbered and Amended by Chapter 263, 1998 General Session

**53-10-110 Authority of officers and officials to take fingerprints, photographs, and other data.**

The officers and officials described in Sections 53-10-207 through 53-10-209 shall take, or cause to be taken, fingerprints, photographs, and other related data of persons under this part.

Renumbered and Amended by Chapter 263, 1998 General Session

**53-10-111 Refusal to provide information -- False information -- Misdemeanor.**

It is a class B misdemeanor for a person to:

- (1) neglect or refuse to provide, or willfully withhold any information under this part;
- (2) willfully provide false information;
- (3) willfully fail to do or perform any act required under this part;
- (4) hinder or prevent another from doing an act required under this part; or
- (5) willfully remove, destroy, alter, mutilate, or disclose the contents of any file or record created or maintained, or to which access is granted by the division unless authorized by and in compliance with procedures established by the division.

Amended by Chapter 243, 2011 General Session

**53-10-112 Director and officers to have peace officer powers.**

The director and enforcement officers:

- (1) are vested with the powers of peace officers throughout the several counties of the state, with the exception of the power to serve civil process;
- (2) have the powers and duties of inspectors under Title 32B, Alcoholic Beverage Control Act;
- (3) may serve criminal process and arrest and prosecute violators of any law of this state; and
- (4) have the same rights as other peace officers to require aid in executing their duties.

Amended by Chapter 276, 2010 General Session

**53-10-113 Other agencies to cooperate with division.**

- (1) All agencies of the state and local governments shall cooperate with the division in discharging its responsibilities under:
  - (a) this chapter;
  - (b) Title 32B, Alcoholic Beverage Control Act;
  - (c) Title 58, Chapter 37, Utah Controlled Substances Act;
  - (d) Title 58, Chapter 37a, Utah Drug Paraphernalia Act;
  - (e) Title 58, Chapter 37b, Imitation Controlled Substances Act; and
  - (f) Title 58, Chapter 37c, Utah Controlled Substance Precursor Act.
- (2) This part does not relieve local law enforcement agencies or officers of the responsibility of enforcing laws relating to alcoholic beverages and alcoholic products or any other laws.
- (3) The powers and duties conferred upon the director and the officers of the division are not a limitation upon the powers and duties of other peace officers in the state.

Amended by Chapter 276, 2010 General Session

**53-10-114 Authority regarding drug precursors.**

- (1) As used in this section, "acts" means:
  - (a) Title 58, Chapter 37c, Utah Controlled Substance Precursor Act; and
  - (b) Title 58, Chapter 37d, Clandestine Drug Lab Act.
- (2) The division has authority to enforce the drug lab and precursor acts. To carry out this purpose, the division may:
  - (a) inspect, copy, and audit any records, inventories of controlled substance precursors, and reports required under the acts and rules adopted under the acts;
  - (b) enter the premises of regulated distributors and regulated purchasers during normal business hours to conduct administrative inspections;

- (c) assist the law enforcement agencies of the state in enforcing the acts;
- (d) conduct investigations to enforce the acts;
- (e) present evidence obtained from investigations conducted in conjunction with appropriate county and district attorneys and the Office of the Attorney General for civil or criminal prosecution or for administrative action against a licensee; and
- (f) work in cooperation with the Division of Occupational and Professional Licensing, created under Section 58-1-103, to accomplish the purposes of this section.

Enacted by Chapter 101, 1998 General Session

## **Part 2**

### **Bureau of Criminal Identification**

#### **53-10-201 Bureau of Criminal Identification -- Creation -- Bureau Chief appointment, qualifications, and compensation.**

- (1) There is created within the division the Bureau of Criminal Identification.
- (2) The bureau shall be administered by a bureau chief appointed by the division director with the approval of the commissioner.
- (3) The bureau chief shall be experienced in administration and possess additional qualifications as determined by the commissioner or division director and as provided by law.
- (4) The bureau chief acts under the supervision and control of the division director and may be removed from his position at the will of the commissioner.
- (5) The bureau chief shall receive compensation as provided by Title 67, Chapter 19, Utah State Personnel Management Act.

Enacted by Chapter 263, 1998 General Session

#### **53-10-202 Criminal identification -- Duties of bureau.**

The bureau shall:

- (1) procure and file information relating to identification and activities of persons who:
  - (a) are fugitives from justice;
  - (b) are wanted or missing;
  - (c) have been arrested for or convicted of a crime under the laws of any state or nation; and
  - (d) are believed to be involved in racketeering, organized crime, or a dangerous offense;
- (2) establish a statewide uniform crime reporting system that shall include:
  - (a) statistics concerning general categories of criminal activities;
  - (b) statistics concerning crimes that exhibit evidence of prejudice based on race, religion, ancestry, national origin, ethnicity, or other categories that the division finds appropriate; and
  - (c) other statistics as required by the Federal Bureau of Investigation;
- (3) make a complete and systematic record and index of the information obtained under this part;
- (4) subject to the restrictions in this part, establish policy concerning the use and dissemination of data obtained under this part;
- (5) publish an annual report concerning the extent, fluctuation, distribution, and nature of crime in Utah;
- (6) establish a statewide central register for the identification and location of missing persons, which may include:

- (a) identifying data including fingerprints of each missing person;
  - (b) identifying data of any missing person who is reported as missing to a law enforcement agency having jurisdiction;
  - (c) dates and circumstances of any persons requesting or receiving information from the register; and
  - (d) any other information, including blood types and photographs found necessary in furthering the purposes of this part;
- (7) publish a quarterly directory of missing persons for distribution to persons or entities likely to be instrumental in the identification and location of missing persons;
  - (8) list the name of every missing person with the appropriate nationally maintained missing persons lists;
  - (9) establish and operate a 24-hour communication network for reports of missing persons and reports of sightings of missing persons;
  - (10) coordinate with the National Center for Missing and Exploited Children and other agencies to facilitate the identification and location of missing persons and the identification of unidentified persons and bodies;
  - (11) receive information regarding missing persons, as provided in Sections 26-2-27 and 53A-11-502, and stolen vehicles, vessels, and outboard motors, as provided in Section 41-1a-1401;
  - (12) adopt systems of identification, including the fingerprint system, to be used by the division to facilitate law enforcement;
  - (13) assign a distinguishing number or mark of identification to any pistol or revolver, as provided in Section 76-10-520;
  - (14) check certain criminal records databases for information regarding motor vehicle salesperson applicants, maintain a separate file of fingerprints for motor vehicle salespersons, and inform the Motor Vehicle Enforcement Division when new entries are made for certain criminal offenses for motor vehicle salespersons in accordance with the requirements of Section 41-3-205.5;
  - (15) check certain criminal records databases for information regarding driving privilege card applicants or cardholders and maintain a separate file of fingerprints for driving privilege applicants and cardholders and inform the federal Immigration and Customs Enforcement Agency of the United States Department of Homeland Security when new entries are made in accordance with the requirements of Section 53-3-205.5.
  - (16) review and approve or disapprove applications for license renewal that meet the requirements for renewal;
  - (17) forward to the board those applications for renewal under Subsection (16) that do not meet the requirements for renewal; and
  - (18) within funds appropriated by the Legislature for the purpose, implement and manage the operation of a firearm safety program, in conjunction with the state suicide prevention coordinator, as described in this section and Section 62A-15-1101, including:
    - (a) coordinating with the Department of Health, local mental health and substance abuse authorities, the public education suicide prevention coordinator, and a representative from a Utah-based nonprofit organization with expertise in the field of firearm use and safety that represents firearm owners, to:
      - (i) produce a firearm safety brochure with information about the safe handling and use of firearms that includes:
        - (A) rules for safe handling, storage, and use of firearms in a home environment;

- (B) information about at-risk individuals and individuals who are legally prohibited from possessing firearms;
- (C) information about suicide prevention and awareness; and
- (D) information about the availability of firearm safety packets;
- (ii) procure cable-style gun locks for distribution pursuant to this section; and
- (iii) produce a firearm safety packet that includes both the firearm safety brochure described in Subsection (18)(a)(i) and the cable-style gun lock described in Subsection (18)(a)(ii);
- (b) distributing, free of charge, the firearm safety packet to the following persons, who shall make the firearm safety packet available free of charge:
  - (i) health care providers, including emergency rooms;
  - (ii) mental health practitioners;
  - (iii) other public health suicide prevention organizations;
  - (iv) entities that teach firearm safety courses; and
  - (v) school districts for use in the seminar, described in Section 53A-15-1302, for parents of students in the school district;
- (c) creating and administering a redeemable coupon program described in this section and Section 76-10-526, that may include:
  - (i) producing a redeemable coupon that offers between \$10 and \$200 off the purchase of a gun safe from a participating federally licensed firearms dealer, as defined in Section 76-10-501, by a Utah resident who has filed an application for a concealed firearm permit;
  - (ii) advertising the redeemable coupon program to all federally licensed firearms dealers and maintaining a list of dealers who wish to participate in the program;
  - (iii) printing or writing the name of a Utah resident who has filed an application for a concealed firearm permit on the redeemable coupon;
  - (iv) mailing the redeemable coupon and the firearm safety brochure to Utah residents who have filed an application for a concealed firearm permit; and
  - (v) collecting from the participating dealers receipts described in Section 76-10-526 and reimbursing the dealers;
- (d) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, making rules that establish procedures for:
  - (i) producing and distributing the firearm safety brochures and packets;
  - (ii) procuring the cable-style gun locks for distribution; and
  - (iii) administering the redeemable coupon program; and
- (e) reporting to the Law Enforcement and Criminal Justice Interim Committee regarding implementation and success of the firearm safety program:
  - (i) during the 2016 interim, before November 1; and
  - (ii) during the 2018 interim, before June 1.

Amended by Chapter 144, 2016 General Session

**53-10-202.1 Firearm Safety Account.**

- (1) There is created a restricted account within the General Fund known as the "Firearm Safety Account."
- (2) The account shall be funded by appropriations from the Legislature.
- (3) Funds in the account may only be used for the Firearm Safety Program established in Subsection 53-10-202(18).

Enacted by Chapter 226, 2014 General Session

**53-10-202.5 Bureau services -- Fees.**

The bureau shall collect fees for the following services:

- (1) applicant fingerprint card as determined by Section 53-10-108;
- (2) bail enforcement licensing as determined by Section 53-11-115;
- (3) concealed firearm permit as determined by Section 53-5-707;
- (4) application for and issuance of a certificate of eligibility for expungement as determined by Section 77-40-106;
- (5) firearm purchase background check as determined by Section 76-10-526;
- (6) name check as determined by Section 53-10-108;
- (7) private investigator licensing as determined by Section 53-9-111; and
- (8) right of access as determined by Section 53-10-108.

Amended by Chapter 58, 2010 General Session, (Coordination Clause)

Amended by Chapter 58, 2010 General Session

Amended by Chapter 283, 2010 General Session

**53-10-203 Missing persons -- Reports -- Notification.**

- (1) Each law enforcement agency that is investigating the report of a missing person shall provide information regarding that report to the division. The report shall include descriptive information and the date and location of the last-known contact with the missing person.
- (2) The division shall notify the state registrar of Vital Statistics and the FBI National Crime Information Center of all missing persons reported in accordance with Subsection (1) and shall provide the state registrar with information concerning the identity of those missing persons.
- (3) If the division has reason to believe that a missing person reported in accordance with Subsection (1) has been enrolled in a specific school in this state, the division shall also notify the last-known school of that report.
- (4) Upon learning of the recovery of a missing person, the division shall notify the state registrar and any school that it has previously informed of the person's disappearance.
- (5) The division shall, by rule, determine the manner and form of reports, notices, and information required by this section.
- (6) Upon notification by the state registrar or school personnel that a request for a birth certificate, school record, or other information concerning a missing person has been made, or that an investigation is needed in accordance with Section 53A-11-503, the division shall immediately notify the local law enforcement authority.

Renumbered and Amended by Chapter 263, 1998 General Session

**53-10-204 Missing person records -- Confidentiality -- Availability.**

Inquiries made regarding missing persons are confidential and are available only to:

- (1) a law enforcement agency investigating a report of a missing person;
- (2) an agency having the responsibility or authority to care for, treat, or supervise a person who is the subject of a placement in temporary or substitute care or an adoption proceeding;
- (3) a court, upon a finding that access to the records may be necessary for the determination of an issue before it;
- (4) the office of the public prosecutor or its deputies;
- (5) any person engaged in bona fide research when approved by the director of the division, excluding names and addresses; and

(6) entities or persons authorized to receive the information in accordance with Section 53-10-203.

Renumbered and Amended by Chapter 263, 1998 General Session

**53-10-205 Uniform crime reporting system -- Use of data.**

The data acquired under the statewide uniform crime reporting system shall be used only for research or statistical purposes and may not contain any information that may reveal the identity of an individual victim of a crime.

Renumbered and Amended by Chapter 263, 1998 General Session

**53-10-206 Collection of information.**

The commissioner and persons designated by him may require all peace officers, the warden of the state prison, the keeper of any jail or correctional institution, or superintendent of the state hospital to obtain information that will aid in establishing the records required to be kept.

Renumbered and Amended by Chapter 263, 1998 General Session

Amended by Chapter 282, 1998 General Session

**53-10-207 Peace officers, prosecutors, and magistrates to supply information to state and F.B.I. -- Notification of arrest based on warrant.**

(1) Every peace officer shall:

- (a) cause fingerprints of persons he has arrested to be taken on forms provided by the division and the Federal Bureau of Investigation;
- (b) supply information requested on the forms; and
- (c) forward without delay both copies to the division, which shall forward the F.B.I. copy to the Identification Division of the Federal Bureau of Investigation.

(2) If, after fingerprints have been taken in accordance with Subsection (1), the prosecutor declines to prosecute, or investigative action as described in Section 77-2-3 is terminated, the prosecutor or law enforcement agency shall notify the division of this action within 14 working days.

(3) At the preliminary hearing or arraignment of a felony case, the prosecutor shall ensure that each felony defendant has been fingerprinted and an arrest and fingerprint form is transmitted to the division. In felony cases where fingerprints have not been taken, the judge shall order the chief law enforcement officer of the jurisdiction or the sheriff of the county to:

- (a) cause fingerprints of each felony defendant to be taken on forms provided by the division;
- (b) supply information requested on the forms; and
- (c) forward without delay both copies to the division.

(4) If an arrest is based upon information about the existence of a criminal warrant of arrest or commitment under Rule 6, Utah Rules of Criminal Procedure, every peace officer shall without delay notify the division of the service of each warrant of arrest or commitment, in a manner specified by the division.

Renumbered and Amended by Chapter 263, 1998 General Session

**53-10-208 Definition -- Offenses included on statewide warrant system -- Transportation fee to be included -- Statewide warrant system responsibility -- Quality control -- Training -- Technical support -- Transaction costs.**

- (1) "Statewide warrant system" means the portion of the state court computer system that is accessible by modem from the state mainframe computer and contains:
  - (a) records of criminal warrant information; and
  - (b) after notice and hearing, records of protective orders issued pursuant to:
    - (i) Title 77, Chapter 36, Cohabitant Abuse Procedures Act; or
    - (ii) Title 78B, Chapter 7, Part 1, Cohabitant Abuse Act.
- (2)
  - (a) The division shall include on the statewide warrant system all warrants issued for felony offenses and class A, B, and C misdemeanor offenses in the state.
  - (b) The division shall include on the statewide warrant system all warrants issued for failure to appear on a traffic citation as ordered by a magistrate under Subsection 77-7-19(3).
  - (c) For each warrant, the division shall indicate whether the magistrate ordered under Section 77-7-5 and Rule 6, Utah Rules of Criminal Procedure, that the accused appear in court.
- (3) The division is the agency responsible for the statewide warrant system and shall:
  - (a) ensure quality control of all warrants of arrest or commitment and protective orders contained in the statewide warrant system by conducting regular validation checks with every clerk of a court responsible for entering the information on the system;
  - (b) upon the expiration of the protective orders and in the manner prescribed by the division, purge information regarding protective orders described in Subsection 53-10-208.1(4) within 30 days of the time after expiration;
  - (c) establish system procedures and provide training to all criminal justice agencies having access to information contained on the state warrant system;
  - (d) provide technical support, program development, and systems maintenance for the operation of the system; and
  - (e) pay data processing and transaction costs for state, county, and city law enforcement agencies and criminal justice agencies having access to information contained on the state warrant system.
- (4)
  - (a) Any data processing or transaction costs not funded by legislative appropriation shall be paid on a pro rata basis by all agencies using the system during the fiscal year.
  - (b) This Subsection (4) supersedes any conflicting provision in Subsection (3)(e).

Amended by Chapter 292, 2009 General Session

Amended by Chapter 356, 2009 General Session

### **53-10-208.1 Magistrates and court clerks to supply information.**

Every magistrate or clerk of a court responsible for court records in this state shall, within 30 days of the disposition and on forms and in the manner provided by the division, furnish the division with information pertaining to:

- (1) all dispositions of criminal matters, including:
  - (a) guilty pleas;
  - (b) convictions;
  - (c) dismissals;
  - (d) acquittals;
  - (e) pleas held in abeyance;
  - (f) judgments of not guilty by reason of insanity for a violation of:
    - (i) a felony offense;
    - (ii) Title 76, Chapter 5, Offenses Against the Person; or

- (iii) Title 76, Chapter 10, Part 5, Weapons;
- (g) judgments of guilty with a mental illness;
- (h) finding of mental incompetence to stand trial for a violation of:
  - (i) a felony offense;
  - (ii) Title 76, Chapter 5, Offenses Against the Person; or
  - (iii) Title 76, Chapter 10, Part 5, Weapons; or
- (i) probations granted; and
- (2) orders of civil commitment under the terms of Section 62A-15-631;
- (3) the issuance, recall, cancellation, or modification of all warrants of arrest or commitment as described in Rule 6, Utah Rules of Criminal Procedure and Section 78B-6-303, within one day of the action and in a manner provided by the division; and
- (4) protective orders issued after notice and hearing, pursuant to:
  - (a) Title 77, Chapter 36, Cohabitant Abuse Procedures Act; or
  - (b) Title 78B, Chapter 7, Part 1, Cohabitant Abuse Act.

Amended by Chapter 366, 2011 General Session

**53-10-209 Penal institutions and state hospital to supply information.**

- (1) The warden of the state prison, keeper of any jail or correctional institution, and superintendent of the state hospital shall forward to the division:
  - (a) the fingerprints and recent photographs of all persons confined in each institution under criminal commitment;
  - (b) information relating to the parole, termination or expiration of sentence, or any other release of each person from confinement during the preceding month; and
  - (c) a photograph taken near the time of release.
- (2) The adult probation and parole section of the Department of Corrections shall furnish to the division:
  - (a) information relating to the revocation or termination of probation or parole; and
  - (b) upon request, the names, fingerprints, photographs, and other data.
- (3) The chair of the Board of Pardons and Parole shall provide to the division information regarding the issuance, recall, cancellation, or modification of any warrant issued by members of the Board of Pardons and Parole, under Section 77-27-11, within one day of issuance.
- (4) Information provided to the division under this section shall be on forms designated by the division.

Renumbered and Amended by Chapter 263, 1998 General Session

**53-10-210 Response for requests -- Fees.**

- (1) In responding to requests for criminal background checks, the division shall make an earnest effort to provide the requested information within three weeks of receipt of a request.
- (2) Fees and other payments received by the division in payment for criminal background check services shall be deposited in the General Fund and the Legislature shall make an annual appropriation for payment of personnel and other costs incurred in providing those services.

Renumbered and Amended by Chapter 263, 1998 General Session

**53-10-211 Notice required of arrest of school employee for controlled substance or sex offense.**

- (1) The chief administrative officer of the law enforcement agency making the arrest or receiving notice under Subsection (2) shall immediately notify:
  - (a) the State Board of Education; and
  - (b) the superintendent of schools of the employing public school district or, if the offender is an employee of a private school, the administrator of that school.
- (2) Subsection (1) applies upon:
  - (a) the arrest of any school employee for any offense:
    - (i) in Section 58-37-8;
    - (ii) in Title 76, Chapter 5, Part 4, Sexual Offenses; or
    - (iii) involving sexual conduct; or
  - (b) upon receiving notice from any other jurisdiction that a school employee has committed an act which would, if committed in Utah, be an offense under Subsection (2)(a).

Amended by Chapter 144, 2016 General Session

**53-10-212 Supplies and equipment for compliance by reporting agencies.**

All governing boards or commissions of each city, town, county, or correctional institution of the state shall furnish the appropriate officials with supplies and equipment necessary to perform the duties prescribed in this part.

Renumbered and Amended by Chapter 263, 1998 General Session

**Part 3**  
**State Bureau of Investigation**

**53-10-301 State Bureau of Investigation -- Creation -- Bureau chief appointment, qualifications, and compensation.**

- (1) There is created within the division the State Bureau of Investigation.
- (2) The bureau shall be administered by a bureau chief appointed by the division director with the approval of the commissioner.
- (3) The bureau chief shall be experienced in administration and possess additional qualifications as determined by the division director and as provided by law.
- (4) The bureau chief acts under the supervision and control of the division director and may be removed from his position at the will of the commissioner.
- (5) The bureau chief shall receive compensation as provided by Title 67, Chapter 19, Utah State Personnel Management Act.

Amended by Chapter 5, 2002 General Session

**53-10-302 Bureau duties.**

The bureau shall:

- (1) provide assistance and investigative resources to divisions within the Department of Public Safety;
- (2) upon request, provide assistance and specialized law enforcement services to local law enforcement agencies;

- (3) conduct financial investigations regarding suspicious cash transactions, fraud, and money laundering;
- (4) investigate criminal activity of organized crime networks, gangs, extremist groups, and others promoting violence;
- (5) investigate criminal activity of terrorist groups;
- (6) enforce the Utah Criminal Code;
- (7) cooperate and exchange information with other state agencies and with other law enforcement agencies of government, both within and outside of this state, through a statewide information and intelligence center to obtain information that may achieve more effective results in the prevention, detection, and control of crime and apprehension of criminals;
- (8) create and maintain a statewide criminal intelligence system;
- (9) provide specialized case support and investigate illegal drug production, cultivation, and sales;
- (10) investigate, follow-up, and assist in highway drug interdiction cases;
- (11) make rules to implement this chapter;
- (12) perform the functions specified in Part 2, Bureau of Criminal Identification;
- (13) provide a state cybercrime unit to investigate computer and network intrusion matters involving state-owned computer equipment and computer networks as reported under Section 76-6-705;
- (14) investigate violations of Section 76-6-703 and other computer related crimes including:
  - (a) computer network intrusions;
  - (b) denial of services attacks;
  - (c) computer related theft or fraud;
  - (d) intellectual property violations; and
  - (e) electronic threats; and
- (15) upon request, investigate the following offenses when alleged to have been committed by an individual who is currently or has been previously elected, appointed, or employed by a governmental entity:
  - (a) criminal offenses; and
  - (b) matters of public corruption.
- (16)
  - (a) The bureau is not prohibited from investigating crimes not specifically referred to in this section; and
  - (b) other agencies are not prohibited from investigating crimes referred to in this section.

Amended by Chapter 302, 2016 General Session

**53-10-304 Narcotics and alcoholic product enforcement -- Responsibility and jurisdiction.**

The bureau shall:

- (1) have specific responsibility for the enforcement of all laws of the state pertaining to alcoholic beverages and alcoholic products;
- (2) have general law enforcement jurisdiction throughout the state;
- (3) have concurrent law enforcement jurisdiction with all local law enforcement agencies and their officers;
- (4) cooperate and exchange information with any other state agency and with other law enforcement agencies of government, both within and outside this state, to obtain information that may achieve more effective results in the prevention, detection, and control of crime and apprehension of criminals;

- (5) sponsor or supervise programs or projects related to prevention, detection, and control of violations of:
  - (a) Title 32B, Alcoholic Beverage Control Act;
  - (b) Title 58, Chapter 37, Utah Controlled Substances Act;
  - (c) Title 58, Chapter 37a, Utah Drug Paraphernalia Act;
  - (d) Title 58, Chapter 37b, Imitation Controlled Substances Act;
  - (e) Title 58, Chapter 37c, Utah Controlled Substance Precursor Act; and
  - (f) Title 58, Chapter 37d, Clandestine Drug Lab Act; and
- (6) assist the governor in an emergency or as the governor may require.

Amended by Chapter 276, 2010 General Session

**53-10-305 Duties of bureau chief.**

The bureau chief, with the consent of the commissioner, shall do the following:

- (1) conduct in conjunction with the state boards of education and higher education in state schools, colleges, and universities, an educational program concerning alcoholic beverages and alcoholic products, and work in conjunction with civic organizations, churches, local units of government, and other organizations in the prevention of alcoholic beverage, alcoholic product, and drug violations;
- (2) coordinate law enforcement programs throughout the state and accumulate and disseminate information related to the prevention, detection, and control of violations of this chapter and Title 32B, Alcoholic Beverage Control Act, as it relates to storage or consumption of an alcoholic beverage or alcoholic product on premises maintained by a club licensee, or a person required to obtain a club license, as defined in Section 32B-1-102;
- (3) make inspections and investigations as required by the commission and the Department of Alcoholic Beverage Control;
- (4) perform other acts as may be necessary or appropriate concerning control of the use of an alcoholic beverage or alcoholic product and drugs; and
- (5) make reports and recommendations to the Legislature, the governor, the commissioner, the commission, and the Department of Alcoholic Beverage Control as may be required or requested.

Amended by Chapter 276, 2010 General Session

**Part 4**  
**Bureau of Forensic Services**

**53-10-401 Bureau of Forensic Services -- Creation -- Bureau Chief appointment, qualifications, and compensation.**

- (1) There is created within the division the Bureau of Forensic Services.
- (2) The bureau shall be administered by a bureau chief appointed by the division director with the approval of the commissioner.
- (3) The bureau chief shall be experienced in administration of criminal justice and possess additional qualifications as determined by the commissioner or division director and as provided by law.

- (4) The bureau chief acts under the supervision and control of the division director and may be removed from his position at the will of the commissioner.
- (5) The bureau chief shall receive compensation as provided by Title 67, Chapter 19, Utah State Personnel Management Act.

Enacted by Chapter 263, 1998 General Session

**53-10-402 Bureau duties.**

The bureau shall:

- (1) provide quality, timely, and comprehensive analysis of physical evidence from crime scenes and crime-related incidents submitted by federal, state, county, and municipal criminal justice agencies;
- (2) provide expert testimony in courts of law regarding the scientific analysis and conclusion of forensic evidence using the most current and advanced analytical techniques and technology;
- (3) ensure the safety of all laboratory employees against exposure to blood-borne pathogens, infectious materials, and any other biochemical or toxic hazard which may pose a threat to the safety and well-being of bureau employees;
- (4) protect the chain of incoming evidence by ensuring all items are properly packaged, sealed, marked, stored, and delivered back to the submitting agency using established legal guidelines;
- (5) adopt systems of identification, including blood and firearms analysis, to be used by the division to facilitate law enforcement;
- (6) participate in establishing satellite laboratories in designated locations throughout the state;
- (7) provide assistance to the medical community in establishing guidelines for the proper handling of individuals who are the victims of sexual assault; and
- (8) upon request, provide law enforcement agencies technical and analytical support in the processing of crime scenes.

Enacted by Chapter 263, 1998 General Session

**53-10-403 DNA specimen analysis -- Application to offenders, including minors.**

- (1) Sections 53-10-404, 53-10-404.5, 53-10-405, and 53-10-406 apply to any person who:
  - (a) has pled guilty to or has been convicted of any of the offenses under Subsection (2)(a) or (b) on or after July 1, 2002;
  - (b) has pled guilty to or has been convicted by any other state or by the United States government of an offense which if committed in this state would be punishable as one or more of the offenses listed in Subsection (2)(a) or (b) on or after July 1, 2003;
  - (c) has been booked on or after January 1, 2011, through December 31, 2014, for any offense under Subsection (2)(c);
  - (d) has been booked:
    - (i) by a law enforcement agency that is obtaining a DNA specimen on or after May 13, 2014, through December 31, 2014, under Subsection 53-10-404(4)(b) for any felony offense; or
    - (ii) on or after January 1, 2015, for any felony offense; or
  - (e) is a minor under Subsection (3).
- (2) Offenses referred to in Subsection (1) are:
  - (a) any felony or class A misdemeanor under the Utah Code;
  - (b) any offense under Subsection (2)(a):
    - (i) for which the court enters a judgment for conviction to a lower degree of offense under Section 76-3-402; or

- (ii) regarding which the court allows the defendant to enter a plea in abeyance as defined in Section 77-2a-1; or
- (c)
  - (i) any violent felony as defined in Section 53-10-403.5;
  - (ii) sale or use of body parts, Section 26-28-116;
  - (iii) failure to stop at an accident that resulted in death, Section 41-6a-401.5;
  - (iv) driving with any amount of a controlled substance in a person's body and causing serious bodily injury or death, Subsection 58-37-8(2)(g);
  - (v) a felony violation of enticing a minor over the Internet, Section 76-4-401;
  - (vi) a felony violation of propelling a substance or object at a correctional officer, a peace officer, or an employee or a volunteer, including health care providers, Section 76-5-102.6;
  - (vii) aggravated human trafficking and aggravated human smuggling, Section 76-5-310;
  - (viii) a felony violation of unlawful sexual activity with a minor, Section 76-5-401;
  - (ix) a felony violation of sexual abuse of a minor, Section 76-5-401.1;
  - (x) unlawful sexual contact with a 16 or 17-year old, Section 76-5-401.2;
  - (xi) sale of a child, Section 76-7-203;
  - (xii) aggravated escape, Subsection 76-8-309(2);
  - (xiii) a felony violation of assault on an elected official, Section 76-8-315;
  - (xiv) influencing, impeding, or retaliating against a judge or member of the Board of Pardons and Parole, Section 76-8-316;
  - (xv) advocating criminal syndicalism or sabotage, Section 76-8-902;
  - (xvi) assembly for advocating criminal syndicalism or sabotage, Section 76-8-903;
  - (xvii) a felony violation of sexual battery, Section 76-9-702.1;
  - (xviii) a felony violation of lewdness involving a child, Section 76-9-702.5;
  - (xix) a felony violation of abuse or desecration of a dead human body, Section 76-9-704;
  - (xx) manufacture, possession, sale, or use of a weapon of mass destruction, Section 76-10-402;
  - (xxi) manufacture, possession, sale, or use of a hoax weapon of mass destruction, Section 76-10-403;
  - (xxii) possession of a concealed firearm in the commission of a violent felony, Subsection 76-10-504(4);
  - (xxiii) assault with the intent to commit bus hijacking with a dangerous weapon, Subsection 76-10-1504(3);
  - (xxiv) commercial obstruction, Subsection 76-10-2402(2);
  - (xxv) a felony violation of failure to register as a sex or kidnap offender, Section 77-41-107;
  - (xxvi) repeat violation of a protective order, Subsection 77-36-1.1(2)(c); or
  - (xxvii) violation of condition for release after arrest for domestic violence, Section 77-36-2.5.
- (3) A minor under Subsection (1) is a minor 14 years of age or older whom a Utah court has adjudicated to be within the jurisdiction of the juvenile court due to the commission of any offense described in Subsection (2), and who is:
  - (a) within the jurisdiction of the juvenile court on or after July 1, 2002 for an offense under Subsection (2); or
  - (b) in the legal custody of the Division of Juvenile Justice Services on or after July 1, 2002 for an offense under Subsection (2).

Amended by Chapter 386, 2015 General Session

**53-10-403.5 Definitions.**

As used in Sections 53-10-403, 53-10-404, 53-10-404.5, 53-10-405, and 53-10-406:

- (1) "Bureau" means the Bureau of Forensic Services.
- (2) "Conviction" means:
  - (a) a verdict or conviction;
  - (b) a plea of guilty or guilty and mentally ill;
  - (c) a plea of no contest; or
  - (d) the acceptance by the court of a plea in abeyance.
- (3) "DNA" means deoxyribonucleic acid.
- (4) "DNA specimen" or "specimen" means a sample of a person's saliva or blood.
- (5) "Final judgment" means a judgment, including any supporting opinion, concerning which all appellate remedies have been exhausted or the time for appeal has expired.
- (6) "Violent felony" means any offense under Section 76-3-203.5.

Amended by Chapter 405, 2010 General Session

**53-10-404 DNA specimen analysis -- Requirement to obtain the specimen.**

- (1) As used in this section, "person" refers to any person as described under Section 53-10-403.
- (2)
  - (a) A person under Section 53-10-403 or any person added to the sex offender register as defined in Section 77-41-102 shall provide a DNA specimen and shall reimburse the agency responsible for obtaining the DNA specimen \$150 for the cost of obtaining the DNA specimen unless:
    - (i) the person was booked under Section 53-10-403 and is not required to reimburse the agency under Section 53-10-404.5; or
    - (ii) the agency determines the person lacks the ability to pay.
  - (b)
    - (i)
      - (A) The responsible agencies shall establish guidelines and procedures for determining if the person is able to pay the fee.
      - (B) An agency's implementation of Subsection (2)(b)(i) meets an agency's obligation to determine an inmate's ability to pay.
    - (ii) An agency's guidelines and procedures may provide for the assessment of \$150 on the inmate's county trust fund account and may allow a negative balance in the account until the \$150 is paid in full.
- (3)
  - (a)
    - (i) All fees collected under Subsection (2) shall be deposited in the DNA Specimen Restricted Account created in Section 53-10-407, except that the agency collecting the fee may retain not more than \$25 per individual specimen for the costs of obtaining the saliva DNA specimen.
    - (ii) The agency collecting the \$150 fee may not retain from each separate fee more than \$25, and no amount of the \$150 fee may be credited to any other fee or agency obligation.
  - (b) The responsible agency shall determine the method of collecting the DNA specimen. Unless the responsible agency determines there are substantial reasons for using a different method of collection or the person refuses to cooperate with the collection, the preferred method of collection shall be obtaining a saliva specimen.
  - (c) The responsible agency may use reasonable force, as established by its guidelines and procedures, to collect the DNA sample if the person refuses to cooperate with the collection.

- (d) If the judgment places the person on probation, the person shall submit to the obtaining of a DNA specimen as a condition of the probation.
  - (e)
    - (i) Under this section a person is required to provide one DNA specimen and pay the collection fee as required under this section.
    - (ii) The person shall provide an additional DNA specimen only if the DNA specimen previously provided is not adequate for analysis.
    - (iii) The collection fee is not imposed for a second or subsequent DNA specimen collected under this section.
  - (f) Any agency that is authorized to obtain a DNA specimen under this part may collect any outstanding amount of a fee due under this section from any person who owes any portion of the fee and deposit the amount in the DNA Specimen Restricted Account created in Section 53-10-407.
- (4)
- (a) The responsible agency shall cause a DNA specimen to be obtained as soon as possible and transferred to the Department of Public Safety:
    - (i) after a conviction or a finding of jurisdiction by the juvenile court;
    - (ii) on and after January 1, 2011, through December 31, 2014, after the booking of a person for any offense under Subsection 53-10-403(1)(c); and
    - (iii) on and after January 1, 2015, after the booking of a person for any felony offense, as provided under Subsection 53-10-403(1)(d)(ii).
  - (b) On and after May 13, 2014, through December 31, 2014, the responsible agency may cause a DNA specimen to be obtained and transferred to the Department of Public Safety after the booking of a person for any felony offense, as provided under Subsection 53-10-403(1)(d)(i).
  - (c) If notified by the Department of Public Safety that a DNA specimen is not adequate for analysis, the agency shall, as soon as possible:
    - (i) obtain and transmit an additional DNA specimen; or
    - (ii) request that another agency that has direct access to the person and that is authorized to collect DNA specimens under this section collect the necessary second DNA specimen and transmit it to the Department of Public Safety.
  - (d) Each agency that is responsible for collecting DNA specimens under this section shall establish:
    - (i) a tracking procedure to record the handling and transfer of each DNA specimen it obtains; and
    - (ii) a procedure to account for the management of all fees it collects under this section.
- (5)
- (a) The Department of Corrections is the responsible agency whenever the person is committed to the custody of or is under the supervision of the Department of Corrections.
  - (b) The juvenile court is the responsible agency regarding a minor under Subsection 53-10-403(3), but if the minor has been committed to the legal custody of the Division of Juvenile Justice Services, that division is the responsible agency if a DNA specimen of the minor has not previously been obtained by the juvenile court under Section 78A-6-117.
  - (c) The sheriff operating a county jail is the responsible agency regarding the collection of DNA specimens from persons who:
    - (i) have pled guilty to or have been convicted of an offense listed under Subsection 53-10-403(2) but who have not been committed to the custody of or are not under the supervision of the Department of Corrections;
    - (ii) are incarcerated in the county jail:

- (A) as a condition of probation for a felony offense; or
  - (B) for a misdemeanor offense for which collection of a DNA specimen is required;
  - (iii) on and after January 1, 2011, through May 12, 2014, are booked at the county jail for any offense under Subsection 53-10-403(1)(c).; and
  - (iv) are booked at the county jail:
    - (A) by a law enforcement agency that is obtaining a DNA specimen for any felony offense on or after May 13, 2014, through December 31, 2014, under Subsection 53-10-404(4)(b); or
    - (B) on or after January 1, 2015, for any felony offense.
  - (d) Each agency required to collect a DNA specimen under this section shall:
    - (i) designate employees to obtain the saliva DNA specimens required under this section; and
    - (ii) ensure that employees designated to collect the DNA specimens receive appropriate training and that the specimens are obtained in accordance with generally accepted protocol.
- (6)
- (a) As used in this Subsection (6), "department" means the Department of Corrections.
  - (b) Priority of obtaining DNA specimens by the department is:
    - (i) first, to obtain DNA specimens of persons who as of July 1, 2002, are in the custody of or under the supervision of the department before these persons are released from incarceration, parole, or probation, if their release date is prior to that of persons under Subsections (6)(b)(ii), but in no case later than July 1, 2004; and
    - (ii) second, the department shall obtain DNA specimens from persons who are committed to the custody of the department or who are placed under the supervision of the department after July 1, 2002, within 120 days after the commitment, if possible, but not later than prior to release from incarceration if the person is imprisoned, or prior to the termination of probation if the person is placed on probation.
  - (c) The priority for obtaining DNA specimens from persons under Subsection (6)(b)(ii) is:
    - (i) first, persons on probation;
    - (ii) second, persons on parole; and
    - (iii) third, incarcerated persons.
  - (d) Implementation of the schedule of priority under Subsection (6)(c) is subject to the priority of Subsection (6)(b)(i), to ensure that the Department of Corrections obtains DNA specimens from persons in the custody of or under the supervision of the Department of Corrections as of July 1, 2002, prior to their release.
- (7)
- (a) As used in this Subsection (7):
    - (i) "Court" means the juvenile court.
    - (ii) "Division" means the Division of Juvenile Justice Services.
  - (b) Priority of obtaining DNA specimens by the court from minors under Section 53-10-403 who are under the jurisdiction of the court but who are not in the legal custody of the division shall be:
    - (i) first, to obtain specimens from minors who as of July 1, 2002, are within the court's jurisdiction, prior to termination of the court's jurisdiction over these minors; and
    - (ii) second, to obtain specimens from minors who are found to be within the court's jurisdiction after July 1, 2002, within 120 days of the minor's being found to be within the court's jurisdiction, if possible, but not later than prior to termination of the court's jurisdiction over the minor.
  - (c) Priority of obtaining DNA specimens by the division from minors under Section 53-10-403 who are committed to the legal custody of the division shall be:

- (i) first, to obtain specimens from minors who as of July 1, 2002, are within the division's legal custody and who have not previously provided a DNA specimen under this section, prior to termination of the division's legal custody of these minors; and
  - (ii) second, to obtain specimens from minors who are placed in the legal custody of the division after July 1, 2002, within 120 days of the minor's being placed in the custody of the division, if possible, but not later than prior to termination of the court's jurisdiction over the minor.
- (8)
- (a) The Department of Corrections, the juvenile court, the Division of Juvenile Justice Services, and all law enforcement agencies in the state shall by policy establish procedures for obtaining saliva DNA specimens, and shall provide training for employees designated to collect saliva DNA specimens.
  - (b)
    - (i) The department may designate correctional officers, including those employed by the adult probation and parole section of the department, to obtain the saliva DNA specimens required under this section.
    - (ii) The department shall ensure that the designated employees receive appropriate training and that the specimens are obtained in accordance with accepted protocol.
  - (c) Blood DNA specimens shall be obtained in accordance with Section 53-10-405.

Amended by Chapter 331, 2014 General Session

**53-10-404.5 Obtaining DNA specimen at time of booking -- Payment of fee upon conviction.**

- (1)
- (a) When a sheriff books a person for any offense under Subsections 53-10-403(1)(c) and (d), the sheriff shall obtain a DNA specimen from the person upon booking of the person at the county jail, except under Subsection (1)(b).
  - (b) If at the time of booking the sheriff is able to obtain information from the bureau stating that the bureau has on file a DNA specimen for the person, the sheriff is not required to obtain an additional DNA specimen.
- (2) The person booked under Subsection (1) shall pay a fee of \$150 for the cost of obtaining the DNA specimen if:
- (a) the charge upon which the booking is based is resolved by a conviction or the person is convicted of any charge arising out of the same criminal episode regarding which the DNA specimen was obtained; and
  - (b) the person's DNA sample is not on file under Subsection (1)(b).
- (3)
- (a) All fees collected under Subsection (2) shall be deposited in the DNA Specimen Restricted Account created in Section 53-10-407, except that the agency collecting the fee may retain not more than \$25 per individual specimen for the costs of obtaining the DNA specimen.
  - (b) The agency collecting the \$150 fee may not retain from each separate fee more than \$25, and no amount of the \$150 fee may be credited to any other fee or agency obligation.
- (4) Any DNA specimen obtained under this section shall be held and may not be processed until:
- (a) the court has bound the person over for trial following a preliminary hearing for any charge arising out of the same criminal episode regarding which the person was booked;
  - (b) the person has waived the preliminary hearing for any charge arising out of the same criminal episode regarding which the person was booked; or
  - (c) a grand jury has returned an indictment for any charge arising out of the same criminal episode regarding which the person was booked.

Amended by Chapter 331, 2014 General Session

**53-10-405 DNA specimen analysis -- Saliva sample to be obtained by agency -- Blood sample to be drawn by professional.**

- (1)
  - (a) A saliva sample shall be obtained by the responsible agency under Subsection 53-10-404(5).
  - (b) The sample shall be obtained in a professionally acceptable manner, using appropriate procedures to ensure the sample is adequate for DNA analysis.
- (2)
  - (a) A blood sample shall be drawn in a medically acceptable manner by any of the following:
    - (i) a physician;
    - (ii) a registered nurse;
    - (iii) a licensed practical nurse;
    - (iv) a paramedic;
    - (v) as provided in Subsection (2)(b), emergency medical service personnel other than paramedics; or
    - (vi) a person with a valid permit issued by the Department of Health under Section 26-1-30.
  - (b) The Department of Health may designate by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, which emergency medical service personnel, as defined in Section 26-8a-102, are authorized to draw blood under Subsection (2)(a)(v), based on their type of certification under Section 26-8a-302.
  - (c) A person authorized by this section to draw a blood sample may not be held civilly liable for drawing a sample in a medically acceptable manner.
- (3) A test result or opinion based upon a test result regarding a DNA specimen may not be rendered inadmissible as evidence solely because of deviations from procedures adopted by the department that do not affect the reliability of the opinion or test result.
- (4) A DNA specimen is not required to be obtained if:
  - (a) the court or the responsible agency confirms with the department that the department has previously received an adequate DNA specimen obtained from the person in accordance with this section; or
  - (b) the court determines that obtaining a DNA specimen would create a substantial and unreasonable risk to the health of the person.

Amended by Chapter 267, 2012 General Session

**53-10-406 DNA specimen analysis -- Bureau responsibilities.**

- (1) The bureau shall:
  - (a) administer and oversee the DNA specimen collection process;
  - (b) store all DNA specimens received and other physical evidence obtained from analysis of those specimens;
  - (c) analyze the specimens to establish the genetic profile of the donor or to otherwise determine the identity of persons or contract with other qualified public or private laboratories to conduct the analysis;
  - (d) maintain a criminal identification data base containing information derived from DNA analysis;
  - (e) utilize the specimens to create statistical population frequency data bases, provided that genetic profiles or other information in a population frequency data base may not be identified with specific individuals;

- (f) ensure that the DNA identification system does not provide information allowing prediction of genetic disease or predisposition to illness;
  - (g) ensure that only DNA markers routinely used or accepted in the field of forensic science are used to establish the gender and unique individual identification of the donor;
  - (h) utilize only those DNA analysis procedures that are consistent with, and do not exceed, procedures established and used by the Federal Bureau of Investigation for the forensic analysis of DNA;
  - (i) destroy a DNA specimen obtained under this part if criminal charges have not been filed within 90 days after booking for an alleged offense under Subsection 53-10-403(2)(c); and
  - (j) make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establishing procedures for obtaining, transmitting, and analyzing DNA specimens and for storing and destroying DNA specimens and other physical evidence and criminal identification information obtained from the analysis.
- (2) Procedures for DNA analysis may include all techniques which the Department of Public Safety determines are accurate and reliable in establishing identity, including but not limited to, analysis of DNA, antigen antibodies, polymorphic enzymes, or polymorphic proteins.
- (3)
- (a) In accordance with Section 63G-2-305, all DNA specimens received shall be classified as protected.
  - (b) The Department of Public Safety may not transfer or disclose any DNA specimen, physical evidence, or criminal identification information obtained, stored, or maintained under this section, except under its provisions.
- (4) Notwithstanding Subsection 63G-2-202(1), the department may deny inspection if it determines that there is a reasonable likelihood that the inspection would prejudice a pending criminal investigation.
- (5) The department shall adopt procedures governing the inspection of records, DNA specimens, and challenges to the accuracy of records. The procedures shall accommodate the need to preserve the materials from contamination and destruction.
- (6) A person whose DNA specimen has been obtained under this part may, personally or through a legal representative, submit to the court a motion for a court order requiring the destruction of the person's DNA specimen and any criminal identification record created in connection with that specimen if:
- (a)
    - (i) a final judgment reverses the conviction, judgment, or order that created an obligation to provide a DNA specimen; or
    - (ii) all charges arising from the same criminal episode for which the DNA specimen was obtained under Subsection 53-10-404.5(1)(a) have been resolved by a final judgment of dismissal or acquittal; and
  - (b) the department determines that the person has not otherwise become obligated to submit a DNA specimen as a result of any separate conviction or juvenile adjudication for any offense listed in Subsection 53-10-403(2).
- (7) A court order issued under Subsection (6) may be accompanied by a written notice to the person advising that state law provides for expungement of criminal charges if the charge is resolved by a final judgment of dismissal or acquittal.
- (8) Upon receipt of a court order for destruction pursuant to Subsection (6) and receipt of a certified copy of the court order reversing the conviction, judgment, or order, a certified copy of a court order to set aside the conviction, or a certified copy of the dismissal or acquittal of the charge regarding which the person was arrested, the Department of Public Safety shall destroy any

- specimen received from the person, any physical evidence obtained from that specimen, and any criminal identification records pertaining to the person, unless prohibited under Subsection (6)(b).
- (9) The department is not required to destroy any item of physical evidence obtained from a DNA specimen if evidence relating to another person subject to the provisions of Sections 53-10-404 and 53-10-405 would as a result be destroyed.
- (10) A DNA specimen, physical evidence, or criminal identification record may not be affected by an order to set aside a conviction, except under the provisions of this section.
- (11) If funding is not available for analysis of any of the DNA specimens collected under this part, the bureau shall store the collected specimens until funding is made available for analysis through state or federal funds.
- (12)
- (a)
- (i) A person who, due to the person's employment or authority, has possession of or access to individually identifiable DNA information contained in the state criminal identification database or the state DNA specimen repository may not willfully disclose the information in any manner to any individual, agency, or entity that is not entitled under this part to receive the information.
- (ii) A person may not willfully obtain individually identifiable DNA information from the state criminal identification database or the state DNA repository other than as authorized by this part.
- (iii) A person may not willfully analyze a DNA specimen for any purpose, or to obtain any information other than as required under this part.
- (iv) A person may not willfully fail to destroy or fail to ensure the destruction of a DNA specimen when destruction is required by this part or by court order.
- (b)
- (i) A person who violates Subsection (12)(a)(i), (ii), or (iii) is guilty of a third degree felony.
- (ii) A person who violates Subsection (12)(a)(iv) is guilty of a class B misdemeanor.

Amended by Chapter 405, 2010 General Session

**53-10-407 DNA Specimen Restricted Account.**

- (1) There is created the DNA Specimen Restricted Account, which is referred to in this section as "the account."
- (2) The sources of money for the account are:
- (a) DNA collection fees paid under Section 53-10-404;
- (b) any appropriations made to the account by the Legislature; and
- (c) all federal money provided to the state for the purpose of funding the collection or analysis of DNA specimens collected under Section 53-10-403.
- (3) The account shall earn interest, and this interest shall be deposited in the account.
- (4) The Legislature may appropriate money from the account solely for the following purposes:
- (a) to the Department of Corrections for the costs of collecting DNA specimens as required under Section 53-10-403;
- (b) to the juvenile court for the costs of collecting DNA specimens as required under Sections 53-10-403 and 78A-6-117;
- (c) to the Division of Juvenile Justice Services for the costs of collecting DNA specimens as required under Sections 53-10-403 and 62A-7-104; and
- (d) to the Department of Public Safety for the costs of:

- (i) storing and analyzing DNA specimens in accordance with the requirements of this part;
  - (ii) DNA testing which cannot be performed by the Utah State Crime Lab, as provided in Subsection 78B-9-301(8); and
  - (iii) reimbursing sheriffs for collecting the DNA specimens as provided under Sections 53-10-404 and 53-10-404.5.
- (5) Appropriations from the account to the Department of Corrections, the juvenile court, the Division of Juvenile Justice Services, and to the Department of Public Safety are nonlapsing.

Amended by Chapter 81, 2011 General Session

## **Part 5**

### **Bureau of Communications**

#### **53-10-501 Bureau of Communications -- Creation -- Bureau Chief appointment, qualifications, and compensation.**

- (1) There is created within the division the Bureau of Communications.
- (2) The bureau shall be managed by a bureau chief selected by the division director, with the approval of the commissioner.
- (3) The bureau chief should be experienced in communications and administration, and possess additional qualifications as determined by the commissioner or division director and as provided by law.
- (4) The bureau chief acts under the supervision and control of the division director.

Enacted by Chapter 263, 1998 General Session

#### **53-10-502 Bureau duties.**

The bureau:

- (1) maintains dispatch and communications services for regional public safety consolidated communications centers;
- (2) provides facilities and acts as a public safety answering point to answer and respond to 911 calls from a region;
- (3) provides professional emergency dispatch and communications support for law enforcement, emergency medical, fire suppression, highway maintenance, public works, and public safety agencies representing municipal, county, state, and federal governments; and
- (4) coordinates incident response.

Amended by Chapter 21, 1999 General Session