

Senator R. Mont Evans proposes to substitute the following bill:

PUBLIC SAFETY AMENDMENTS

2000 GENERAL SESSION

STATE OF UTAH

Sponsor: Terry R. Spencer

AN ACT RELATING TO THE CRIMINAL CODE; CHANGING THE NAME OF THE BUREAU OF CRIMINAL IDENTIFICATION TO THE BUREAU OF IDENTIFICATION; REVISING CATEGORIES OF RESTRICTED PERSONS; ALLOWING THE BUREAU OF CRIMINAL IDENTIFICATION TO ACCESS JUVENILE COURT RECORDS FOR THE PURPOSE OF BACKGROUND CHECKS FOR FIREARM PURCHASES; PROVIDING FOR CONFIDENTIALITY OF INFORMATION; MAKING CONFORMING AMENDMENTS; AND MAKING TECHNICAL CHANGES.

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

26-8a-310, as enacted by Chapter 141, Laws of Utah 1999

31A-16-103, as last amended by Chapter 131, Laws of Utah 1999

31A-23-203, as last amended by Chapter 131, Laws of Utah 1999

53-1-104, as last amended by Chapters 263 and 343, Laws of Utah 1998

53-10-201, as enacted by Chapter 263, Laws of Utah 1998

53-10-208, as last amended by Chapter 187 and renumbered and amended by Chapter 263, Laws of Utah 1998

61-2-9, as last amended by Chapter 351, Laws of Utah 1997

62A-4a-202.4, as last amended by Chapter 263, Laws of Utah 1998

62A-12-247, as last amended by Chapter 161, Laws of Utah 1989

76-10-501, as last amended by Chapters 5, 97 and 366, Laws of Utah 1999

76-10-504, as last amended by Chapter 289, Laws of Utah 1997

26 **76-10-509.6**, as enacted by Chapter 10, Laws of Utah 1993, Second Special Session
27 **76-10-512**, as last amended by Chapter 12, Laws of Utah 1994
28 **76-10-526**, as last amended by Chapter 227, Laws of Utah 1999
29 **78-3a-206**, as last amended by Chapter 377, Laws of Utah 1999
30 **78-3a-307.1**, as last amended by Chapter 329, Laws of Utah 1997
31 **78-3a-904**, as last amended by Chapter 108, Laws of Utah 1998

32 ENACTS:

33 **53-10-208.1**, Utah Code Annotated 1953

34 REPEALS AND REENACTS:

35 **76-10-503**, as last amended by Chapter 97, Laws of Utah 1999

36 *Be it enacted by the Legislature of the state of Utah:*

37 Section 1. Section **26-8a-310** is amended to read:

38 **26-8a-310. Criminal background check.**

39 (1) At the time of application for, or renewal of, a certificate, the department shall obtain,
40 at the applicant's expense, information from a criminal history record or warrant of arrest
41 information maintained by the Department of Public Safety pursuant to Title 53, Chapter 10, Part
42 2, Bureau of [~~Criminal~~] Identification, to determine whether the individual has been convicted of
43 a crime that bears upon his fitness to be certified or to have responsibility for the safety and
44 well-being of children, the elderly, or persons with disabilities.

45 (2) (a) An applicant who has not had residency in the state for the last five years shall
46 submit fingerprints and other identifying information.

47 (b) The department shall submit fingerprints obtained under Subsection (2)(a) to the
48 Department of Public Safety to be forwarded to the Federal Bureau of Investigation for a
49 nationwide criminal history record check to determine whether the individual has been convicted
50 of a crime that bears upon his fitness to be certified or to have responsibility for the safety and
51 well-being of children, the elderly, or persons with disabilities.

52 (3) Information obtained pursuant to Subsections (1) and (2) may be used to:

53 (a) withhold certification or renewal;

54 (b) commence or substantiate disciplinary action under Section 26-8a-503;

55 (c) enforce the provisions of this chapter; and

56 (d) notify the individual's employer as necessary to protect the public.

57 Section 2. Section **31A-16-103** is amended to read:

58 **31A-16-103. Acquisition of control of or merger with domestic insurer -- Required**
59 **filings -- Content of statement -- Alternative filing materials -- Criminal background**
60 **information -- Approval by commissioner -- Dissenting shareholders -- Violations --**
61 **Jurisdiction, consent to service of process.**

62 (1) (a) A person may not take the actions described in Subsections (1)(b) or (c) unless, at
63 the time any offer, request, or invitation is made or any such agreement is entered into, or prior to
64 the acquisition of securities if no offer or agreement is involved:

65 (i) the person files with the commissioner a statement containing the information required
66 by this section;

67 (ii) the person provides a copy of the statement described in Subsection (1)(a)(i) to the
68 insurer; and

69 (iii) the commissioner approves the offer, request, invitation, agreement or acquisition.

70 (b) Unless the person complies with Subsection (1)(a), a person other than the issuer may
71 not make a tender offer for, a request or invitation for tenders of, or enter into any agreement to
72 exchange securities, or seek to acquire or acquire in the open market or otherwise, any voting
73 security of a domestic insurer if after the acquisition, the person would directly, indirectly, by
74 conversion, or by exercise of any right to acquire be in control of the insurer.

75 (c) Unless the person complies with Subsection (1)(a), a person may not enter into an
76 agreement to merge with or otherwise to acquire control of a domestic insurer or any person
77 controlling a domestic insurer.

78 (d) (i) For purposes of this section a domestic insurer includes any person controlling a
79 domestic insurer unless the person as determined by the commissioner is either directly or through
80 its affiliates primarily engaged in business other than the business of insurance.

81 (ii) The controlling person described in Subsection (1)(d)(i) shall file with the
82 commissioner a preacquisition notification containing the information required in Subsection (2)
83 30 calendar days before the proposed effective date of the acquisition.

84 (iii) For the purposes of this section, "person" does not include any securities broker
85 holding less than 20% of the voting securities of an insurance company or of any person that
86 controls an insurance company in the usual and customary brokers function.

87 (iv) This section applies to all domestic insurers and other entities licensed under Chapters

88 5, 7, 8, 9, and 11.

89 (e) (i) An agreement for acquisition of control or merger as contemplated by this

90 Subsection (1) is not valid or enforceable unless the agreement:

91 (A) is in writing; and

92 (B) includes a provision that the agreement is subject to the approval of the commissioner
93 upon the filing of any applicable statement required under this chapter.

94 (ii) A written agreement for acquisition or control that includes the provision described
95 in Subsection (1)(e)(i) satisfies the requirements of this Subsection (1).

96 (2) The statement to be filed with the commissioner under Subsection (1) shall be made
97 under oath or affirmation and shall contain the following information:

98 (a) the name and address of the "acquiring party," which means each person by whom or
99 on whose behalf the merger or other acquisition of control referred to in Subsection (1) is to be
100 effected; and

101 (i) if the person is an individual:

102 (A) the person's principal occupation;

103 (B) a listing of all offices and positions held by the person during the past five years; and

104 (C) any conviction of crimes other than minor traffic violations during the past ten years;

105 and

106 (ii) if the person is not an individual:

107 (A) a report of the nature of its business operations during the past five years or for any
108 lesser period as the person and any of its predecessors has been in existence;

109 (B) an informative description of the business intended to be done by the person and the
110 person's subsidiaries;

111 (C) a list of all individuals who are or who have been selected to become directors or
112 executive officers of the person, or individuals who perform, or who will perform functions
113 appropriate to such positions; and

114 (D) for each individual described in Subsection (2)(a)(ii)(C), the information required by
115 Subsection (2)(a)(i)(A) for each individual;

116 (b) (i) the source, nature, and amount of the consideration used or to be used in effecting
117 the merger or acquisition of control;

118 (ii) a description of any transaction in which funds were or are to be obtained for that

119 purpose of effecting the merger or acquisition of control, including any pledge of the insurer's
120 stock or the stock of any of its subsidiaries or controlling affiliates; and

121 (iii) the identity of persons furnishing the consideration;

122 (c) fully audited financial information, or other financial information considered
123 acceptable by the commissioner, of the earnings and financial condition of each acquiring party
124 for the preceding five fiscal years of each acquiring party, or for any lesser period the acquiring
125 party and any of its predecessors shall have been in existence, and similar unaudited information
126 prepared within the 90 days prior to the filing of the statement;

127 (d) any plans or proposals which each acquiring party may have to:

128 (i) liquidate the insurer;

129 (ii) sell its assets;

130 (iii) merge or consolidate the insurer with any person; or

131 (iv) make any other material change in the insurer's business, corporate structure, or
132 management;

133 (e) (i) the number of shares of any security referred to in Subsection (1) that each acquiring
134 party proposes to acquire;

135 (ii) the terms of the offer, request, invitation, agreement, or acquisition referred to in
136 Subsection (1); and

137 (iii) a statement as to the method by which the fairness of the proposal was arrived at;

138 (f) the amount of each class of any security referred to in Subsection (1) that:

139 (i) is beneficially owned; or

140 (ii) concerning which there is a right to acquire beneficial ownership by each acquiring
141 party;

142 (g) a full description of any contract, arrangement, or understanding with respect to any
143 security referred to in Subsection (1) in which any acquiring party is involved, including:

144 (i) the transfer of any of the securities;

145 (ii) joint ventures;

146 (iii) loan or option arrangements;

147 (iv) puts or calls;

148 (v) guarantees of loans;

149 (vi) guarantees against loss or guarantees of profits;

- 150 (vii) division of losses or profits; or
- 151 (viii) the giving or withholding of proxies;
- 152 (h) a description of the purchase by any acquiring party of any security referred to in
- 153 Subsection (1) during the 12 calendar months preceding the filing of the statement including:
- 154 (i) the dates of purchase;
- 155 (ii) the names of the purchasers; and
- 156 (iii) the consideration paid or agreed to be paid for the purchase;
- 157 (i) a description of any recommendations to purchase by any acquiring party any security
- 158 referred to in Subsection (1) made during the 12 calendar months preceding the filing of the
- 159 statement or any recommendations made by anyone based upon interviews or at the suggestion of
- 160 the acquiring party;
- 161 (j) (i) copies of all tender offers for, requests for, or invitations for tenders of, exchange
- 162 offers for, and agreements to acquire or exchange any securities referred to in Subsection (1); and
- 163 (ii) if distributed, copies of additional soliciting material relating to the transactions
- 164 described in Subsection (2)(j)(i);
- 165 (k) (i) the term of any agreement, contract, or understanding made with, or proposed to be
- 166 made with, any broker-dealer as to solicitation of securities referred to in Subsection (1) for tender;
- 167 and
- 168 (ii) the amount of any fees, commissions, or other compensation to be paid to
- 169 broker-dealers with regard to any agreement, contract, or understanding described in Subsection
- 170 (2)(k)(i); and
- 171 (l) any additional information the commissioner requires by rule, which the commissioner
- 172 determines to be:
- 173 (i) necessary or appropriate for the protection of policyholders of the insurer; or
- 174 (ii) in the public interest.
- 175 (3) The department may request:
- 176 (a) (i) criminal background information maintained pursuant to Title 53, Chapter 10, Part
- 177 2, from the Bureau of [Criminal] Identification; and
- 178 (ii) complete Federal Bureau of Investigation criminal background checks through the
- 179 national criminal history system.
- 180 (b) Information obtained by the department from the review of criminal history records

181 received under Subsection (3)(a) shall be used by the department for the purpose of:

- 182 (i) verifying the information in Subsection (2)(a)(i);
- 183 (ii) determining the integrity of persons who would control the operation of an insurer; and
- 184 (iii) preventing persons who violate 18 U.S.C. Sections 1033 and 1034 from engaging in
- 185 the business of insurance in the state.

186 (c) If the department requests the criminal background information, the department shall:

- 187 (i) pay to the Department of Public Safety the costs incurred by the Department of Public
- 188 Safety in providing the department criminal background information under Subsection (3)(a)(i);
- 189 (ii) pay to the Federal Bureau of Investigation the costs incurred by the Federal Bureau of
- 190 Investigation in providing the department criminal background information under Subsection
- 191 (3)(a)(ii); and

192 (iii) charge the person required to file the statement referred to in Subsection (1) a fee

193 equal to the aggregate of Subsections (3)(c)(i) and (ii).

194 (4) (a) If the source of the consideration under Subsection (2)(b)(i) is a loan made in the

195 lender's ordinary course of business, the identity of the lender shall remain confidential, if the

196 person filing the statement so requests.

197 (b) Under Subsection (2)(e), the commissioner may require a statement of the adjusted

198 book value assigned by the acquiring party to each security in arriving at the terms of the offer,

199 with "adjusted book value" meaning each security's proportional interest in the capital and surplus

200 of the insurer with adjustments that:

- 201 (i) reflect market conditions;
- 202 (ii) business in force; and
- 203 (iii) other intangible assets or liabilities of the insurer.

204 (c) The description required by Subsection (2)(g) shall identify the persons with whom the

205 contracts, arrangements, or understandings have been entered into.

206 (5) (a) If the person required to file the statement referred to in Subsection (1) is a

207 partnership, limited partnership, syndicate, or other group, the commissioner may require that all

208 the information called for by Subsections (2), (3), or (4) shall be given with respect to each:

- 209 (i) partner of the partnership or limited partnership;
- 210 (ii) member of the syndicate or group; and
- 211 (iii) person who controls the partner or member.

212 (b) If any partner, member, or person referred to in Subsection (5)(a) is a corporation, or
213 if the person required to file the statement referred to in Subsection (1) is a corporation, the
214 commissioner may require that the information called for by Subsection (2) shall be given with
215 respect to:

- 216 (i) the corporation;
- 217 (ii) each officer and director of the corporation; and
- 218 (iii) each person who is directly or indirectly the beneficial owner of more than 10% of the
219 outstanding voting securities of the corporation.

220 (6) If any material change occurs in the facts set forth in the statement filed with the
221 commissioner and sent to the insurer pursuant to Subsection (2), an amendment setting forth the
222 change, together with copies of all documents and other material relevant to the change, shall be
223 filed with the commissioner and sent to the insurer within two business days after the filing person
224 learns of such change.

225 (7) If any offer, request, invitation, agreement, or acquisition referred to in Subsection (1)
226 is proposed to be made by means of a registration statement under the Securities Act of 1933, or
227 under circumstances requiring the disclosure of similar information under the Securities Exchange
228 Act of 1934, or under a state law requiring similar registration or disclosure, a person required to
229 file the statement referred to in Subsection (1) may use copies of any registration or disclosure
230 documents in furnishing the information called for by the statement.

231 (8) (a) The commissioner shall approve any merger or other acquisition of control referred
232 to in Subsection (1) unless, after a public hearing on the merger or acquisition, the commissioner
233 finds that:

234 (i) after the change of control, the domestic insurer referred to in Subsection (1) would not
235 be able to satisfy the requirements for the issuance of a license to write the line or lines of
236 insurance for which it is presently licensed;

237 (ii) the effect of the merger or other acquisition of control would substantially lessen
238 competition in insurance in this state or tend to create a monopoly in insurance;

239 (iii) the financial condition of any acquiring party might:

240 (A) jeopardize the financial stability of the insurer; or

241 (B) prejudice the interest of:

242 (I) its policyholders; or

243 (II) any remaining securityholders who are unaffiliated with the acquiring party;
244 (iv) the terms of the offer, request, invitation, agreement, or acquisition referred to in
245 Subsection (1) are unfair and unreasonable to the securityholders of the insurer;
246 (v) the plans or proposals which the acquiring party has to liquidate the insurer, sell its
247 assets, or consolidate or merge it with any person, or to make any other material change in its
248 business or corporate structure or management, are:
249 (A) unfair and unreasonable to policyholders of the insurer; and
250 (B) not in the public interest; or
251 (vi) the competence, experience, and integrity of those persons who would control the
252 operation of the insurer are such that it would not be in the interest of the policyholders of the
253 insurer and the public to permit the merger or other acquisition of control.
254 (b) For purposes of Subsection (8)(a)(iv), the offering price for each security may not be
255 considered unfair if the adjusted book values under Subsection (2)(e):
256 (i) are disclosed to the securityholders; and
257 (ii) determined by the commissioner to be reasonable.
258 (9) (a) The public hearing referred to in Subsection (8) shall be held within 30 days after
259 the statement required by Subsection (1) is filed.
260 (b) (i) At least 20 days notice of the hearing shall be given by the commissioner to the
261 person filing the statement.
262 (ii) Affected parties may waive the notice required by this Subsection (9)(b).
263 (iii) Not less than seven days notice of the public hearing shall be given by the person
264 filing the statement to:
265 (A) the insurer; and
266 (B) any person designated by the commissioner.
267 (c) The commissioner shall make a determination within 30 days after the conclusion of
268 the hearing.
269 (d) At the hearing, the person filing the statement, the insurer, any person to whom notice
270 of hearing was sent, and any other person whose interest may be affected by the hearing may:
271 (i) present evidence;
272 (ii) examine and cross-examine witnesses; and
273 (iii) offer oral and written arguments.

274 (e) (i) A person or insurer described in Subsection (9)(d) may conduct discovery
275 proceedings in the same manner as is presently allowed in the district courts of this state.

276 (ii) All discovery proceedings shall be concluded not later than three days before the
277 commencement of the public hearing.

278 (10) At the acquiring person's expense and consent, the commissioner may retain any
279 attorneys, actuaries, accountants, and other experts not otherwise a part of the commissioner's staff,
280 which are reasonably necessary to assist the commissioner in reviewing the proposed acquisition
281 of control.

282 (11) (a) (i) If a domestic insurer proposes to merge into another insurer, any securityholder
283 electing to exercise a right of dissent may file with the insurer a written request for payment of the
284 adjusted book value given in the statement required by Subsection (1) and approved under
285 Subsection (8), in return for the surrender of the security holder's securities.

286 (ii) The request described in Subsection (11)(a)(i) shall be filed not later than ten days after
287 the day of the securityholders' meeting where the corporate action is approved.

288 (b) The dissenting securityholder is entitled to and the insurer is required to pay to the
289 dissenting securityholder the specified value within 60 days of receipt of the dissenting security
290 holder's security.

291 (c) Persons electing under this Subsection (11) to receive cash for their securities waive
292 the dissenting shareholder and appraisal rights otherwise applicable under Title 16, Chapter 10a,
293 Part 13, Dissenters' Rights.

294 (d) (i) This Subsection(11) provides an elective procedure for dissenting securityholders
295 to resolve their objections to the plan of merger.

296 (ii) This section does not restrict the rights of dissenting securityholders under Title 16,
297 Chapter 10a, Utah Revised Business Corporation Act, unless this election is made under this
298 Subsection (11).

299 (12) (a) All statements, amendments, or other material filed under Subsection (1), and all
300 notices of public hearings held under Subsection (8), shall be mailed by the insurer to its
301 securityholders within five business days after the insurer has received the statements,
302 amendments, other material, or notices.

303 (b) Mailing expenses shall be paid by the person making the filing. As security for the
304 payment of these expenses, that person shall file with the commissioner an acceptable bond or

305 other deposit in an amount determined by the commissioner.

306 (13) This section does not apply to any offer, request, invitation, agreement, or acquisition
307 that the commissioner by order exempts from the requirements of this section as:

308 (a) not having been made or entered into for the purpose of, and not having the effect of,
309 changing or influencing the control of a domestic insurer; or

310 (b) as otherwise not comprehended within the purposes of this section.

311 (14) The following are violations of this section:

312 (a) the failure to file any statement, amendment, or other material required to be filed
313 pursuant to Subsections (1), (2), and (5); or

314 (b) the effectuation, or any attempt to effectuate, an acquisition of control of or merger
315 with a domestic insurer unless the commissioner has given the commissioner's approval to the
316 acquisition or merger.

317 (15) (a) The courts of this state are vested with jurisdiction over:

318 (i) a person who:

319 (A) files a statement with the commissioner under this section; and

320 (B) is not resident, domiciled, or authorized to do business in this state; and

321 (ii) overall actions involving persons described in Subsection (15)(a)(i) arising out of a
322 violation of this section.

323 (b) A person described in Subsection (15)(a) is considered to have performed acts
324 equivalent to and constituting an appointment of the commissioner by that person, to be that
325 person's lawful attorney upon whom may be served all lawful process in any action, suit, or
326 proceeding arising out of a violation of this section.

327 (c) A copy of a lawful process described in Subsection (15)(b) shall be:

328 (i) served on the commissioner; and

329 (ii) transmitted by registered or certified mail by the commissioner to the person at that
330 person's last-known address.

331 Section 3. Section **31A-23-203** is amended to read:

332 **31A-23-203. General requirements for license issuance and renewal.**

333 (1) The commissioner shall issue or renew a license to act as an agent, broker, or
334 consultant to any person who, as to the license classification applied for under Section
335 31A-23-204:

- 336 (a) has satisfied the character requirements under Section 31A-23-205;
- 337 (b) has satisfied any applicable continuing education requirements under Section
- 338 31A-23-206;
- 339 (c) has satisfied any applicable examination requirements under Section 31A-23-207;
- 340 (d) has satisfied any applicable training period requirements under Section 31A-23-208;
- 341 (e) if a nonresident:
- 342 (i) has complied with Section 31A-23-209; and
- 343 (ii) holds an active similar license in that person's state of residence;
- 344 (f) as to applicants for licenses to act as title insurance agents, has satisfied the
- 345 requirements of Section 31A-23-211; and
- 346 (g) has paid the applicable fees under Section 31A-3-103.
- 347 (2) (a) The department may request:
- 348 (i) criminal background information maintained pursuant to Title 53, Chapter 10, Part 2,
- 349 from the Bureau of [~~Criminal~~] Identification; and
- 350 (ii) complete Federal Bureau of Investigation criminal background checks through the
- 351 national criminal history system.
- 352 (b) Information obtained by the department from the review of criminal history records
- 353 received under Subsection (2)(a) shall be used by the department for the purposes of:
- 354 (i) determining if a person satisfies the character requirements under Section 31A-23-205
- 355 for issuance or renewal of a license;
- 356 (ii) determining if a person has failed to maintain the character requirements under Section
- 357 31A-23-205; and
- 358 (iii) preventing persons who violate the federal Violent Crime Control and Law
- 359 Enforcement Act of 1994, 18 U.S.C. Secs. 1033 and 1034, from engaging in the business of
- 360 insurance in the state.
- 361 (c) If the department requests the criminal background information, the department shall:
- 362 (i) pay to the Department of Public Safety the costs incurred by the Department of Public
- 363 Safety in providing the department criminal background information under Subsection (2)(a)(i);
- 364 (ii) pay to the Federal Bureau of Investigation the costs incurred by the Federal Bureau of
- 365 Investigation in providing the department criminal background information under
- 366 Subsection(2)(a)(ii); and

367 (iii) charge the person applying for a license or for renewal of a license a fee equal to the
368 aggregate of Subsections (2)(c)(i) and (ii).

369 Section 4. Section **53-1-104** is amended to read:

370 **53-1-104. Boards, bureaus, councils, divisions, and offices.**

371 (1) The following are the policymaking boards within the department:

372 (a) the Driver License Medical Advisory Board, created in Section 53-3-303;

373 (b) the Concealed Weapon Review Board, created in Section 53-5-703;

374 (c) the Utah Fire Prevention Board, created in Section 53-7-203;

375 (d) the Liquified Petroleum Gas Board, created in Section 53-7-304; and

376 (e) the Private Investigator Hearing and Licensure Board, created in Section 53-9-104.

377 (2) The following are the councils within the department:

378 (a) the Peace Officer Standards and Training Council, created in Section 53-6-106; and

379 (b) the Motor Vehicle Safety Inspection Advisory Council, created in Section 53-8-203.

380 (3) The following are the divisions within the department:

381 (a) the Administrative Services Division, created in Section 53-1-203;

382 (b) the Management Information Services Division, created in Section 53-1-303;

383 (c) the Comprehensive Emergency Management Division, created in Section 53-2-103;

384 (d) the Driver License Division, created in Section 53-3-103;

385 (e) the Criminal Investigations and Technical Services Division, created in Section

386 53-10-103;

387 (f) the Peace Officers Standards and Training Division, created in Section 53-6-103;

388 (g) the State Fire Marshal Division, created in Section 53-7-103; and

389 (h) the Utah Highway Patrol Division, created in Section 53-8-103.

390 (4) The Office of Executive Protection is created in Section 53-1-112.

391 (5) The following are bureaus within the department:

392 (a) Bureau of [Criminal] Identification, created in Section 53-10-201;

393 (b) Criminal Investigations Bureau, created in Section 53-10-301;

394 (c) Bureau of Forensic Services, created in Section 53-10-401; and

395 (d) Bureau of Communications, created in Section 53-10-501.

396 (6) The State Olympic Public Safety Command is created within the department by Section

397 53-12-201.

398 Section 5. Section **53-10-201** is amended to read:

399 **53-10-201. Bureau of Identification -- Creation -- Bureau Chief appointment,**
400 **qualifications, and compensation.**

401 (1) There is created within the division the Bureau of [Criminal] Identification.

402 (2) The bureau shall be administered by a bureau chief appointed by the division director
403 with the approval of the commissioner.

404 (3) The bureau chief shall be experienced in administration and possess additional
405 qualifications as determined by the commissioner or division director and as provided by law.

406 (4) The bureau chief acts under the supervision and control of the division director and
407 may be removed from his position at the will of the commissioner.

408 (5) The bureau chief shall receive compensation as provided by Title 67, Chapter 19, Utah
409 State Personnel Management Act.

410 Section 6. Section **53-10-208** is amended to read:

411 **53-10-208. Definition -- Offenses included on statewide warrant system --**
412 **Transportation fee to be included -- Statewide warrant system responsibility -- Quality**
413 **control -- Training -- Technical support -- Transaction costs.**

414 (1) "Statewide warrant system" means the portion of the state court computer system that
415 is accessible by modem from the state mainframe computer and contains:

416 (a) records of criminal warrant information; and

417 (b) after notice and hearing, records of protective orders issued pursuant to:

418 (i) Title 30, Chapter 6, Cohabitant Abuse Act; or

419 (ii) Title 77, Chapter 36, Cohabitant Abuse Procedures Act.

420 [~~(2) Every magistrate or clerk of a court responsible for court records in this state shall~~
421 ~~furnish the division with information pertaining to:]~~

422 [~~(a) all dispositions of criminal matters, including guilty pleas, convictions, dismissals,~~
423 ~~acquittals, pleas held in abeyance, or probations granted, within 30 days of the disposition and on~~
424 ~~forms and in the manner provided by the division;]~~

425 [~~(b) the issuance, recall, cancellation, or modification of all warrants of arrest or~~
426 ~~commitment as described in Rule 6, Utah Rules of Criminal Procedure and Section 78-32-4, within~~
427 ~~one day of the action and in a manner provided by the division; and]~~

428 [~~(c) protective orders issued after notice and hearing, pursuant to:]~~

429 [~~(i)~~ Title 30, Chapter 6, Cohabitant Abuse Act; or]

430 [~~(ii)~~ Title 77, Chapter 36, Cohabitant Abuse Procedures Act.]

431 [~~(3)~~] (2) (a) (i) The division shall include on the statewide warrant system all warrants
432 issued for felony offenses and class A, B, and C misdemeanor offenses in the state.

433 (ii) For each offense the division shall indicate whether the magistrate ordered under
434 Section 77-7-5 and Rule 6, Utah Rules of Criminal Procedure, that the accused appear in court.

435 (b) Infractions shall not be included on the statewide warrant system, including any
436 subsequent failure to appear warrants issued on an infraction.

437 [~~(4)~~] (3) The division is the agency responsible for the statewide warrant system and shall:

438 (a) ensure quality control of all warrants of arrest or commitment and protective orders
439 contained in the statewide warrant system by conducting regular validation checks with every clerk
440 of a court responsible for entering the information on the system;

441 (b) upon the expiration of the protective orders and in the manner prescribed by the
442 division, purge information regarding protective orders described in Subsection [~~(2)~~]~~(c)~~
443 53-10-208.1(4) within 30 days of the time after expiration;

444 (c) establish system procedures and provide training to all criminal justice agencies having
445 access to information contained on the state warrant system;

446 (d) provide technical support, program development, and systems maintenance for the
447 operation of the system; and

448 (e) pay data processing and transaction costs for state, county, and city law enforcement
449 agencies and criminal justice agencies having access to information contained on the state warrant
450 system.

451 [~~(5)~~] (4) (a) Any data processing or transaction costs not funded by legislative
452 appropriation shall be paid on a pro rata basis by all agencies using the system during the fiscal
453 year.

454 (b) This Subsection (4) supersedes any conflicting provision in Subsection [~~(4)~~](3)(e).

455 Section 7. Section **53-10-208.1** is enacted to read:

456 **53-10-208.1. Magistrates and court clerks to supply information.**

457 Every magistrate or clerk of a court responsible for court records in this state shall, within
458 30 days of the disposition and on forms and in the manner provided by the division, furnish the
459 division with information pertaining to:

- 460 (1) all dispositions of criminal matters, including:
 461 (a) guilty pleas;
 462 (b) convictions;
 463 (c) dismissals;
 464 (d) acquittals;
 465 (e) pleas held in abeyance;
 466 (f) judgments of not guilty by reason of insanity;
 467 (g) judgments of guilty and mentally ill;
 468 (h) findings of mental incompetence to stand trial; or
 469 (i) probations granted;
 470 (2) orders of civil commitment under the terms of Section 62A-12-234;
 471 (3) the issuance, recall, cancellation, or modification of all warrants of arrest or
 472 commitment as described in Rule 6, Utah Rules of Criminal Procedure and Section 78-32-4, within
 473 one day of the action and in a manner provided by the division; and
 474 (4) protective orders issued after notice and hearing, pursuant to:
 475 (a) Title 30, Chapter 6, Cohabitant Abuse Act; or
 476 (b) Title 77, Chapter 36, Cohabitant Abuse Procedures Act.
 477 Section 8. Section **61-2-9** is amended to read:
 478 **61-2-9. Examination and license fees -- Renewal of licenses -- Education**
 479 **requirements -- Activation of inactive licenses -- Recertification -- Licenses of firm,**
 480 **partnership, or association -- Miscellaneous fees.**
 481 (1) (a) Upon filing an application for a principal broker, associate broker, or sales agent
 482 license examination, the applicant shall pay a nonrefundable fee as determined by the commission
 483 with the concurrence of the division under Section 63-38-3.2 for admission to the examination.
 484 (b) A principal broker, associate broker, or sales agent applicant shall pay a nonrefundable
 485 fee as determined by the commission with the concurrence of the division under Section 63-38-3.2
 486 for issuance of an initial license or license renewal.
 487 (c) Each license issued under this subsection shall be issued for a period of not less than
 488 two years as determined by the division with the concurrence of the commission.
 489 (d) (i) Any new sales agent applicant shall submit fingerprint cards in a form acceptable
 490 to the division at the time the license application is filed and shall consent to a fingerprint

491 background check by the Utah Bureau of [Criminal] Identification and the Federal Bureau of
492 Investigation regarding the application.

493 (ii) The division shall request the Department of Public Safety to complete a Federal
494 Bureau of Investigation criminal background check for each new sales agent applicant through the
495 national criminal history system (NCIC) or any successor system.

496 (iii) The cost of the background check and the fingerprinting shall be borne by the
497 applicant.

498 (e) (i) Any new sales agent license issued under this section shall be conditional, pending
499 completion of the criminal background check. If the criminal background check discloses the
500 applicant has failed to accurately disclose a criminal history, the license shall be immediately and
501 automatically revoked.

502 (ii) Any person whose conditional license has been revoked under Subsection (e)(i) shall
503 be entitled to a post-revocation hearing to challenge the revocation. The hearing shall be
504 conducted in accordance with Title 63, Chapter 46b, Administrative Procedures Act.

505 (2) (a) A license expires if it is not renewed on or before its expiration date. Effective
506 January 1, 1992, as a condition of renewal, each active licensee shall demonstrate competence by
507 viewing an approved real estate education video program and completing a supplementary
508 workbook, or complete 12 hours of professional education approved by the division and
509 commission within each two-year renewal period. The division with the concurrence of the
510 commission shall certify education which may include, but shall not be limited to, state
511 conventions, home study courses, video courses, and closed circuit television courses. The
512 commission with concurrence of the division may exempt a licensee from this education
513 requirement for a period not to exceed four years upon a finding of reasonable cause and under
514 conditions established by rule.

515 (b) For a period of 30 days after the expiration date, a license may be reinstated upon
516 payment of a renewal fee and a late fee determined by the commission with the concurrence of the
517 division under Section 63-38-3.2 and upon providing proof acceptable to the division and the
518 commission of the licensee having completed the hours of education or demonstrated competence
519 as required under Subsection (2)(a).

520 (c) After this 30-day period, and until six months after the expiration date, the license may
521 be reinstated by:

522 (i) paying a renewal fee and a late fee determined by the commission with the concurrence
523 of the division under Section 63-38-3.2;

524 (ii) providing to the division proof of satisfactory completion of the applicable hours of
525 prelicensing education required under Section 61-2-6, which must be completed within six months
526 prior to reinstatement, or providing to the division evidence of successful completion of the
527 respective sales agent or broker licensing examination within six months prior to reinstatement;
528 and

529 (iii) providing proof acceptable to the division and the commission of the licensee having
530 completed the hours of education or demonstrated competence as required under Subsection (2)(a).

531 (d) A person who does not renew his license within six months after the expiration date
532 shall be relicensed as prescribed for an original application.

533 (3) As a condition for the activation of an inactive license, a licensee shall supply the
534 division with proof of:

535 (a) successful completion of the respective sales agent or broker licensing examination
536 within six months prior to activation; or

537 (b) the successful completion of the number of hours of continuing education that the
538 licensee would have been required to complete under Subsection (2)(a) if the licensee's license had
539 been on active status, up to the number of hours required for original licensure. Credit shall be
540 given only for education that has been taken within the five years preceding activation, except that
541 at least 12 hours of the education must have been taken within 12 months preceding activation.

542 (4) A principal broker license may be granted to a corporation, partnership, or association
543 if the corporation, partnership, or association has affiliated with it an individual who has qualified
544 as a principal broker under the terms of this chapter, and who serves in the capacity of a principal
545 broker. Application for the license shall be made in accordance with the rules adopted by the
546 division with the concurrence of the commission.

547 (5) The division may charge and collect reasonable fees determined by the commission
548 with the concurrence of the division under Section 63-38-3.2 to cover the costs for:

549 (a) issuance of a new or duplicate license;

550 (b) license histories or certifications;

551 (c) certified copies of official documents, orders, and other papers and transcripts;

552 (d) certifying real estate schools, courses, and instructors, the fees for which shall,

553 notwithstanding Section 13-1-2, be deposited in the Real Estate Education, Research, and
554 Recovery Fund; and

555 (e) other duties required by this chapter.

556 (6) If a licensee submits or causes to be submitted a check, draft, or other negotiable
557 instrument to the division for payment of fees, and the check, draft, or other negotiable instrument
558 is dishonored, the transaction for which the payment was submitted is void and will be reversed
559 by the division if payment of the applicable fee is not received in full.

560 (7) The fees under this chapter and the additional license fee for the Real Estate Education,
561 Research, and Recovery Fund under Section 61-2a-4 are in lieu of all other license fees or
562 assessments that might otherwise be imposed or charged by the state or any of its political
563 subdivisions, upon, or as a condition of, the privilege of conducting the business regulated by this
564 chapter, except that a political subdivision within the state may charge a business license fee if the
565 licensee maintains a place of business within the jurisdiction of the political subdivision. Unless
566 otherwise exempt, each licensee under this chapter is subject to all taxes imposed under Title 59,
567 Revenue and Taxation.

568 Section 9. Section **62A-4a-202.4** is amended to read:

569 **62A-4a-202.4. Access to criminal background information.**

570 (1) For purposes of background screening and investigation of child abuse under this
571 chapter and Title 78, Chapter 3a, Part 3, Abuse, Neglect, and Dependency Proceedings, the
572 division shall have direct access to criminal background information maintained pursuant to Title
573 53, Chapter 10, Part 2, Bureau of [Criminal] Identification.

574 (2) The division and the Office of the Guardian Ad Litem Director are also authorized to
575 request the Department of Public Safety to conduct a complete Federal Bureau of Investigation
576 criminal background check through the national criminal history system (NCIC).

577 Section 10. Section **62A-12-247** is amended to read:

578 **62A-12-247. Confidentiality of information and records -- Exceptions -- Penalty.**

579 (1) All certificates, applications, records, and reports made for the purpose of this part,
580 including those made on judicial proceedings for involuntary commitment, that directly or
581 indirectly identify a patient or former patient or an individual whose commitment has been sought
582 under this part, shall be kept confidential and may not be disclosed by any person except insofar
583 as:

584 (a) the individual identified or his legal guardian, if any, or, if a minor, his parent or legal
585 guardian shall consent;

586 (b) disclosure may be necessary to carry out ~~[any of]~~ the provisions of:

587 (i) this part; or

588 (ii) Section 53-10-208.1; or

589 (c) a court may direct, upon its determination that disclosure is necessary for the conduct
590 of proceedings before it, and that failure to make the disclosure would be contrary to the public
591 interest.

592 (2) A person who ~~[violates any provision of]~~ knowingly or intentionally discloses any
593 information not authorized by this section is guilty of a class B misdemeanor.

594 Section 11. Section **76-10-501** is amended to read:

595 **76-10-501. Definitions.**

596 As used in this part:

597 (1) (a) "Concealed dangerous weapon" means a dangerous weapon that is covered, hidden,
598 or secreted in a manner that the public would not be aware of its presence and is readily accessible
599 for immediate use.

600 (b) A dangerous weapon shall not be considered a concealed dangerous weapon if it is a
601 firearm which is unloaded and is securely encased.

602 ~~[(2) "Crime of violence" means aggravated murder, murder, manslaughter, rape, mayhem,~~
603 ~~kidnapping, robbery, burglary, housebreaking, extortion, or blackmail accompanied by threats of~~
604 ~~violence, assault with a dangerous weapon, assault with intent to commit any offense punishable~~
605 ~~by imprisonment for more than one year, arson punishable by imprisonment for more than one~~
606 ~~year, or an attempt to commit any of these offenses.]~~

607 ~~[(3)]~~ (2) "Criminal history background check" means a criminal background check
608 conducted by a licensed firearms dealer on every purchaser of a handgun through the division or
609 the local law enforcement agency where the firearms dealer conducts business.

610 ~~[(4)]~~ (3) (a) "Dangerous weapon" means any item that in the manner of its use or intended
611 use is capable of causing death or serious bodily injury. The following factors shall be used in
612 determining whether a knife, or any other item, object, or thing not commonly known as a
613 dangerous weapon is a dangerous weapon:

614 (i) the character of the instrument, object, or thing;

- 615 (ii) the character of the wound produced, if any;
616 (iii) the manner in which the instrument, object, or thing was used; and
617 (iv) the other lawful purposes for which the instrument, object, or thing may be used.

618 (b) "Dangerous weapon" does not include any explosive, chemical, or incendiary device
619 as defined by Section 76-10-306.

620 [~~(5)~~] (4) "Dealer" means every person who is licensed under crimes and criminal
621 procedure, 18 U.S.C. 923 and engaged in the business of selling, leasing, or otherwise transferring
622 a handgun, whether the person is a retail or wholesale dealer, pawnbroker, or otherwise.

623 [~~(6)~~] (5) "Division" means the Criminal Investigations and Technical Services Division
624 of the Department of Public Safety, created in Section 53-10-103.

625 [~~(7)~~] (6) "Enter" means intrusion of the entire body.

626 [~~(8)~~] (7) "Firearm" means a pistol, revolver, shotgun, sawed-off shotgun, rifle or
627 sawed-off rifle, or any device that could be used as a dangerous weapon from which is expelled
628 a projectile by action of an explosive.

629 [~~(9)~~] (8) "Firearms transaction record form" means a form created by the division to be
630 completed by a person purchasing, selling, or transferring a handgun from a dealer in the state.

631 [~~(10)~~] (9) "Fully automatic weapon" means any firearm which fires, is designed to fire, or
632 can be readily restored to fire, automatically more than one shot without manual reloading by a
633 single function of the trigger.

634 [~~(11)~~] (10) "Handgun" means a pistol, revolver, or other firearm of any description, loaded
635 or unloaded, from which any shot, bullet, or other missile can be discharged, the length of which,
636 not including any revolving, detachable, or magazine breech, does not exceed 12 inches.

637 [~~(12)~~] (11) "House of worship" means a church, temple, synagogue, mosque, or other
638 building set apart primarily for the purpose of worship in which religious services are held and the
639 main body of which is kept for that use and not put to any other use inconsistent with its primary
640 purpose.

641 [~~(13)~~] (12) "Prohibited area" means any place where it is unlawful to discharge a firearm.

642 [~~(14)~~] (13) "Readily accessible for immediate use" means that a firearm or other dangerous
643 weapon is carried on the person or within such close proximity and in such a manner that it can
644 be retrieved and used as readily as if carried on the person.

645 [~~(15)~~] (14) "Residence" means an improvement to real property used or occupied as a

646 primary or secondary residence.

647 ~~[(16)]~~ (15) "Sawed-off shotgun" or "sawed-off rifle" means a shotgun having a barrel or
648 barrels of fewer than 18 inches in length, or in the case of a rifle, having a barrel or barrels of fewer
649 than 16 inches in length, or any dangerous weapon made from a rifle or shotgun by alteration,
650 modification, or otherwise, if the weapon as modified has an overall length of fewer than 26
651 inches.

652 ~~[(17)]~~ (16) "Securely encased" means not readily accessible for immediate use, such as
653 held in a gun rack, or in a closed case or container, whether or not locked, or in a trunk or other
654 storage area of a motor vehicle, not including a glove box or console box.

655 ~~[(18)]~~ (17) "State entity" means each department, commission, board, council, agency,
656 institution, officer, corporation, fund, division, office, committee, authority, laboratory, library,
657 unit, bureau, panel, or other administrative unit of the state.

658 (18) "Violent felony" means the same as defined in Section 76-3-203.5.

659 Section 12. Section **76-10-503** is repealed and reenacted to read:

660 **76-10-503. Restrictions on possession, purchase, transfer, and ownership of**
661 **dangerous weapons by certain persons.**

662 (1) For purposes of this section:

663 (a) A Category I restricted person is a person who:

664 (i) has been convicted of any violent felony as defined in Section 76-3-203.5;

665 (ii) is on probation or parole for any felony;

666 (iii) is on parole from a secure facility as defined in Section 62A-7-101; or

667 (iv) within the last ten years has been adjudicated delinquent for an offense which if
668 committed by an adult would have been a violent felony as defined in Section 76-3-203.5.

669 (b) A Category II restricted person is a person who:

670 (i) has been convicted of any felony;

671 (ii) within the last seven years has been adjudicated delinquent for an offense which if
672 committed by an adult would have been a felony;

673 (iii) is an unlawful user of a controlled substance or, at the time of possession of a
674 dangerous weapon, unlawfully:

675 (A) is in possession of a controlled substance; or

676 (B) has in his body any measurable amount of a controlled substance or a metabolite of

677 a controlled substance:

678 (iv) has been found not guilty by reason of insanity;

679 (v) has been found guilty and mentally ill;

680 (vi) has been found mentally incompetent to stand trial;

681 (vii) has been civilly committed under the terms of Section 62A-12-234;

682 (viii) is an alien who is illegally or unlawfully in the United States;

683 (ix) has been dishonorably discharged from the armed forces; or

684 (x) has renounced his citizenship after having been a citizen of the United States.

685 (2) A Category I restricted person who purchases, transfers, possesses, uses, or has under
686 his custody or control:

687 (a) any firearm is guilty of a second degree felony; or

688 (b) any dangerous weapon other than a firearm is guilty of a third degree felony.

689 (3) A Category II restricted person who purchases, transfers, possesses, uses, or has under
690 his custody or control:

691 (a) any firearm is guilty of a third degree felony; or

692 (b) any dangerous weapon other than a firearm is guilty of a class A misdemeanor.

693 (4) A person may be subject to the restrictions of both categories at the same time.

694 (5) If a higher penalty than is prescribed in this section is provided in another section for
695 one who purchases, transfers, possesses, uses, or has under this custody or control any dangerous
696 weapon, the penalties of that section control.

697 Section 13. Section **76-10-504** is amended to read:

698 **76-10-504. Carrying concealed dangerous weapon -- Penalties.**

699 (1) Except as provided in Section 76-10-503 and in Subsections (2) and (3):

700 (a) a person who carries a concealed dangerous weapon, as defined in Section 76-10-501,
701 which is not a firearm on his person or one that is readily accessible for immediate use which is
702 not securely encased, as defined in this part, in a place other than his residence, property, or
703 business under his control is guilty of a class B misdemeanor; and

704 (b) a person without a valid concealed firearm permit who carries a concealed dangerous
705 weapon which is a firearm and that contains no ammunition is guilty of a class B misdemeanor,
706 but if the firearm contains ammunition the person is guilty of a class A misdemeanor.

707 (2) A person who carries concealed a sawed-off shotgun or a sawed-off rifle is guilty of

708 a second degree felony.

709 (3) If the concealed firearm is used in the commission of a [~~crime of violence~~] violent
710 felony as defined in Section [~~76-10-501~~] 76-3-203.5, and the person is a party to the offense, the
711 person is guilty of a second degree felony.

712 (4) Nothing in Subsection (1) shall prohibit a person engaged in the lawful taking of
713 protected or unprotected wildlife as defined in Title 23, [~~Fish and Game~~] Wildlife Resources Code,
714 from carrying a concealed weapon or a concealed firearm with a barrel length of four inches or
715 greater as long as the taking of wildlife does not occur:

- 716 (a) within the limits of a municipality in violation of that municipality's ordinances; or
- 717 (b) upon the highways of the state as defined in Section 41-6-1.

718 Section 14. Section **76-10-509.6** is amended to read:

719 **76-10-509.6. Parent or guardian providing firearm to violent minor.**

720 (1) A parent or guardian may not intentionally or knowingly provide a firearm to, or permit
721 the possession of a firearm by, any minor who has been convicted of a [~~crime of violence~~] violent
722 felony as defined in Section 76-3-203.5 or any minor who has been adjudicated in juvenile court
723 for an offense which would constitute a [~~crime of violence~~] violent felony if the minor were an
724 adult.

725 (2) Any person who violates this section is guilty of:

- 726 (a) a class A misdemeanor upon the first offense; and
- 727 (b) a third degree felony for each subsequent offense.

728 Section 15. Section **76-10-512** is amended to read:

729 **76-10-512. Target concessions, shooting ranges, competitions, and hunting excepted**
730 **from prohibitions.**

731 The provisions of [~~Sections 76-10-503;~~] Section 76-10-509[,] and Subsection
732 76-10-509.4(1) regarding possession of handguns by minors shall not apply to any of the
733 following:

734 (1) Patrons firing at lawfully operated target concessions at amusement parks, piers, and
735 similar locations provided that the firearms to be used are firmly chained or affixed to the counters.

736 (2) Any person in attendance at a hunter's safety course or a firearms safety course.

737 (3) Any person engaging in practice or any other lawful use of a firearm at an established
738 range or any other area where the discharge of a firearm is not prohibited by state or local law.

739 (4) Any person engaging in an organized competition involving the use of a firearm, or
740 participating in or practicing for such competition.

741 (5) Any minor under 18 years of age who is on real property with the permission of the
742 owner, licensee, or lessee of the property and who has the permission of a parent or legal guardian
743 or the owner, licensee, or lessee to possess a firearm not otherwise in violation of law.

744 (6) Any resident or nonresident hunters with a valid hunting license or other persons who
745 are lawfully engaged in hunting.

746 (7) Any person traveling to or from any activity described in Subsection (2), (3), (4), (5),
747 or (6) with an unloaded firearm in his possession.

748 Section 16. Section **76-10-526** is amended to read:

749 **76-10-526. Criminal background check prior to purchase of a firearm -- Fee --**
750 **Exemption for concealed firearm permit holders.**

751 (1) A criminal background check required by this section shall only apply to the purchase
752 of a handgun until federal law requires the background check to extend to other firearms.

753 (2) At the time that federal law extends the criminal background check requirement to
754 other firearms, the division shall make rules to extend the background checks required under this
755 section to the other firearms.

756 (3) For purposes of this section, "valid permit to carry a concealed firearm" does not
757 include a temporary permit issued pursuant to Section 53-5-705.

758 (4) To establish personal identification and residence in this state for purposes of this part,
759 a dealer shall require any person receiving a firearm to present:

760 (a) one photo identification on a form issued by a governmental agency of the state; and

761 (b) one other documentation of residence which must show an address identical to that
762 shown on the photo identification form.

763 (5) A criminal history background check is required for the sale of a firearm by a licensed
764 firearm dealer in the state.

765 (6) Any person, except a dealer, purchasing a firearm from a dealer shall consent in writing
766 to a criminal background check, on a form provided by the division. The form shall also contain
767 the following information:

768 (a) the dealer identification number;

769 (b) the name and address of the person receiving the firearm;

770 (c) the date of birth, height, weight, eye color, and hair color of the person receiving the
771 firearm; and

772 (d) the Social Security number or any other identification number of the person receiving
773 the firearm.

774 (7) (a) The dealer shall send the form required by Subsection (6) to the division
775 immediately upon its completion.

776 (b) No dealer shall sell or transfer any firearm to any person until the dealer has provided
777 the division with the information in Subsection (6) and has received approval from the division
778 under Subsection [~~(8)~~] (9).

779 (8) The dealer shall make a request for criminal history background information by
780 telephone or other electronic means to the division and shall receive approval or denial of the
781 inquiry by telephone or other electronic means.

782 (9) When the dealer calls for or requests a criminal history background check, the division
783 shall:

784 (a) review the criminal history files, including juvenile court records, to determine if the
785 person is prohibited from purchasing, possessing, or transferring a firearm by state or federal law;

786 (b) inform the dealer that:

787 (i) the [~~criminal record indicates~~] records indicate the person is so prohibited; or

788 (ii) the person is approved for purchasing, possessing, or transferring a firearm;

789 (c) provide the dealer with a unique transaction number for that inquiry; and

790 (d) provide a response to the requesting dealer during the call for a criminal background,
791 or by return call, or other electronic means, without delay, except in case of electronic failure or
792 other circumstances beyond the control of the division, the division shall advise the dealer of the
793 reason for [~~such~~] the delay and give the dealer an estimate of the length of [~~such~~] the delay.

794 (10) The division shall not maintain any records of the criminal history background check
795 longer than 20 days from the date of the dealer's request if the division determines that the person
796 receiving the gun is not prohibited from purchasing, possessing, or transferring the firearm under
797 state or federal law. However, the division shall maintain a log of requests containing the dealer's
798 federal firearms number, the transaction number, and the transaction date for a period of 12
799 months.

800 (11) If the criminal history background check discloses information indicating that the

801 person attempting to purchase the firearm is prohibited from purchasing, possessing, or
802 transferring a firearm, the division shall inform the law enforcement agency in the jurisdiction
803 where the person resides.

804 (12) If a person is denied the right to purchase a firearm under this section, the person may
805 review his criminal history information and may challenge or amend the information as provided
806 in Section 53-10-108.

807 (13) The division shall make rules as provided in Title 63, Chapter 46a, Utah
808 Administrative Rulemaking Act, to ensure the identity, confidentiality, and security of all records
809 provided by the division pursuant to this part are in conformance with the requirements of the
810 Brady Handgun Violence Prevention Act, Pub. L. No. 103-159, 107 Stat. 1536 (1993).

811 (14) (a) All dealers shall collect a criminal history background check fee which is \$7.50.
812 This fee remains in effect until changed by the division through the process under Section
813 63-38-3.2.

814 (b) The dealer shall forward at one time all fees collected for criminal history background
815 checks performed during the month to the division by the last day of the month following the sale
816 of a firearm. The division shall deposit the fees in the General Fund as dedicated credits to cover
817 the cost of administering and conducting the criminal history background check program.

818 (15) A person with a concealed firearm permit issued pursuant to Title 53, Chapter 5, Part
819 7, Concealed Weapon Act, shall be exempt from the background check and corresponding fee
820 required in this section for the purchase of a firearm if:

821 (a) the person presents his concealed firearm permit to the dealer prior to purchase of the
822 firearm; and

823 (b) the dealer verifies with the division that the person's concealed firearm permit is valid.

824 Section 17. Section **78-3a-206** is amended to read:

825 **78-3a-206. Court records -- Inspection.**

826 (1) The court and the probation department shall keep records as required by the board and
827 the presiding judge.

828 (2) Court records shall be open to inspection by:

829 (a) the parents or guardian, other parties in the case, the attorneys, and agencies to which
830 custody of a minor has been transferred;

831 (b) for information relating to adult offenders alleged to have committed a sexual offense,

832 a felony or class A misdemeanor drug offense, or an offense against the person under Title 76,
833 Chapter 5, Offenses Against the Person, the State Office of Education for the purpose of evaluating
834 whether an individual should be permitted to obtain or retain a license as an educator or serve as
835 an employee or volunteer in a school, with the understanding that the office must provide the
836 individual with an opportunity to respond to any information gathered from its inspection of the
837 records before it makes a decision concerning licensure or employment; and

838 (c) the Division of Criminal Investigations and Technical Services, established in Section
839 53-10-103, for the purpose of a criminal history background check for the purchase of a firearm
840 and establishing good character for issuance of a concealed firearm permit as provided in Section
841 53-5-704.

842 (3) With the consent of the judge, court records may be inspected by the minor, by persons
843 having a legitimate interest in the proceedings, and by persons conducting pertinent research
844 studies.

845 (4) If a petition is filed charging a minor 14 years of age or older with an offense that
846 would be a felony if committed by an adult, the court shall make available to any person upon
847 request the petition, any adjudication or disposition orders, and the delinquency history summary
848 of the minor charged unless the records are closed by the court upon findings on the record for
849 good cause.

850 (5) Probation officers' records and reports of social and clinical studies are not open to
851 inspection, except by consent of the court, given under rules adopted by the board.

852 (6) (a) Any juvenile delinquency adjudication or disposition orders and the delinquency
853 history summary of any person charged as an adult with a felony offense shall be made available
854 to any person upon request.

855 (b) This provision does not apply to records that have been destroyed or expunged in
856 accordance with court rules.

857 (c) The court may charge a reasonable fee to cover the costs associated with retrieving a
858 requested record that has been archived.

859 Section 18. Section **78-3a-307.1** is amended to read:

860 **78-3a-307.1. Criminal background checks necessary prior to out-of-home placement.**

861 (1) Upon ordering removal of a child from the custody of his parent and placing that child
862 in the custody of the Division of Child and Family Services, and prior to the division's placement

863 of that child in out-of-home care, the court shall require the completion of a background check by
864 the Utah Bureau of [Criminal] Identification regarding the proposed placement.

865 (2) (a) The Division of Child and Family Services and the Office of the Guardian ad Litem
866 Director may request, or the court upon its own motion may order, the Department of Public Safety
867 to conduct a complete Federal Bureau of Investigation criminal background check through the
868 national criminal history system (NCIC).

869 (b) Upon request by the Division of Child and Family Services or the Office of the
870 Guardian ad Litem Director, or upon the court's order, persons subject to the requirements of
871 Subsection (1) shall submit fingerprints and shall be subject to an FBI fingerprint background
872 check. The child may be temporarily placed, pending the outcome of that background check.

873 (c) The cost of those investigations shall be borne by whoever is to receive placement of
874 the child, except that the Division of Child and Family Services may pay all or part of the cost of
875 those investigations if the person with whom the child is to be placed is unable to pay.

876 Section 19. Section **78-3a-904** is amended to read:

877 **78-3a-904. When photographs, fingerprints, or HIV infection tests may be taken --**
878 **Distribution -- Expungement.**

879 (1) Photographs may be taken of a minor 14 years of age or older who:

880 (a) is taken into custody for the alleged commission of an offense under Sections
881 78-3a-104, 78-3a-601, and 78-3a-602 that would also be an offense if the minor were 18 years of
882 age or older; or

883 (b) has been determined to be a serious habitual offender for tracking under Section
884 63-92-2 and is under the continuing jurisdiction of the Juvenile Court or the Division of Youth
885 Corrections.

886 (2) (a) Fingerprints may be taken of a minor 14 years of age or older who:

887 (i) is taken into custody for the alleged commission of an offense that would be a felony
888 if the minor were 18 years of age or older; or

889 (ii) has been determined to be a serious habitual offender for tracking under Section
890 63-92-2 and is under the continuing jurisdiction of the Juvenile Court or the Division of Youth
891 Corrections.

892 (b) Fingerprints shall be forwarded to the Bureau of [Criminal] Identification and may be
893 stored by electronic medium.

894 (3) HIV testing may be conducted on a minor who is taken into custody after having been
895 adjudicated to have violated state law prohibiting a sexual offense under Title 76, Chapter 5, Part
896 4, Sexual Offenses, upon the request of the victim or the parent or guardian of a minor victim.

897 (4) HIV tests, photographs, and fingerprints may not be taken of a minor younger than 14
898 years of age without the consent of the court.

899 (5) (a) Photographs may be distributed or disbursed to individuals or agencies other than
900 state or local law enforcement agencies only when a minor 14 years of age or older is charged with
901 an offense which would be a felony if committed by an adult.

902 (b) Fingerprints may be distributed or disbursed to individuals or agencies other than state
903 or local law enforcement agencies.

904 (6) When a minor's juvenile record is expunged, all photographs and other records as
905 ordered shall upon court order be destroyed by the law enforcement agency. Fingerprint records
906 may not be destroyed.