

**CRIMINAL HISTORY BACKGROUND
INFORMATION**

2002 GENERAL SESSION
STATE OF UTAH

Sponsor: Duane E. Bourdeaux

This act modifies the Public Safety Code in both the Bail Bond Recovery chapter and the Private Investigator Regulation Act to require that license applicants under these chapters submit two sets of fingerprints as part of the application process and that the department records and FBI records be searched for criminal history information on the applicant.

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

AMENDS:

53-9-107, as last amended by Chapter 212, Laws of Utah 1998

53-9-108, as last amended by Chapter 212, Laws of Utah 1998

53-11-108, as last amended by Chapter 21, Laws of Utah 1999

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

Section 1. Section **53-9-107** is amended to read:

53-9-107. Classification of licenses -- License required to act.

(1) Every person applying for a license under this chapter shall indicate on the application which of the following licenses the applicant is applying for:

(a) an agency license shall be issued to an applicant who meets the requirements of ~~[Subsection]~~ Subsections 53-9-108(1) and (2) and Section 53-9-109;

(b) a registrant license shall be issued to an applicant who meets the requirements of ~~[Subsection]~~ Subsections 53-9-108(2) and (4) and Section 53-9-110; or

(c) an apprentice license shall be issued to an applicant who meets the requirements of Subsection 53-9-108(~~3~~)(5) and Section 53-9-110.

(2) Unless licensed under this chapter, a person may not:

(a) act or assume to act as, or represent himself to be:



28 (i) a licensee; or
29 (ii) a private investigator or private detective as defined in Subsection 53-9-102(16) or
30 conduct any investigation as provided in Subsection 53-9-102(16); or

31 (b) falsely represent to be employed by or for an independent contractor for an agency.

32 Section 2. Section **53-9-108** is amended to read:

33 **53-9-108. Qualifications for licensure.**

34 (1) (a) An applicant for an agency license under this chapter shall be at least 21 years of
35 age, a citizen or legal resident of the United States, and of good moral character.

36 (b) An applicant may not have been:

37 (i) convicted of a felony;

38 (ii) convicted of any act involving illegally using, carrying, or possessing a dangerous
39 weapon;

40 (iii) convicted of any act of personal violence or force on any person or convicted of
41 threatening to commit any act of personal violence or force against another person;

42 (iv) convicted of any act constituting dishonesty or fraud;

43 (v) convicted of any act involving moral turpitude;

44 (vi) placed on probation or parole;

45 (vii) named in an outstanding arrest warrant; or

46 (viii) convicted of illegally obtaining or disclosing private, controlled, or protected records
47 as provided in Section 63-2-801.

48 (c) If previously or currently licensed in another state or jurisdiction, the applicant shall
49 be in good standing within that state or jurisdiction.

50 (d) An applicant shall have completed a minimum of two years, or 2,000 hours, of
51 investigative experience that consists of actual work performed as a private investigator for a
52 private agency, the federal government, or a state, county, or municipal government.

53 (e) (i) An applicant for an agency license shall substantiate investigative work experience
54 claimed as years of qualifying experience and provide the exact details as to the character and
55 nature of the experience on a form prescribed by the department and certified by the applicant's
56 employers.

57 (ii) If the applicant is unable to supply written certification from an employer in whole or
58 in part, the applicant may offer written certification from persons other than an employer covering

59 the same subject matter for consideration by the board.

60 (iii) The applicant shall prove completion of the required experience to the satisfaction of
61 the board and the board may independently verify any certification offered on behalf of the
62 applicant.

63 (2) (a) The applicant shall provide fingerprints on two copies of a form provided by the
64 department.

65 (b) (i) The applicant may provide the fingerprints at the department. The department may
66 impose a fee established under Section 63-38-3.2 for this service.

67 (ii) The applicant may instead provide the fingerprints at the offices of a local law
68 enforcement agency and forward the prints to the department. The local law enforcement agency
69 may impose a fee to cover the costs of the fingerprinting service.

70 (iii) In all cases, the prints provided under this Subsection (2) shall be of a quality
71 acceptable to the Federal Bureau of Investigation (FBI), and shall be on forms as required by the
72 FBI.

73 (3) In order to determine qualifications under Subsection (1)(b) the department shall, after
74 receipt of the fingerprints required under Subsection (2) and the application fee required under
75 Section 53-9-111, search its criminal history database for criminal history information regarding
76 the applicant and shall request a similar criminal history information search by the FBI.

77 ~~[(2)]~~ (4) (a) An applicant for a registrant license shall meet all qualification standards of
78 this section, except Subsection (1)(d). An applicant shall provide fingerprints under Subsection
79 (2). An applicant shall have a minimum of one year, or 1,000 hours, of investigative experience
80 that consists of actual work performed as a private investigator for a private agency, the federal
81 government, a state, county, or municipal government.

82 (b) A licensed registrant shall only work as an employee of, or an independent contractor
83 with, licensed agencies as provided in Subsection 53-9-102(18), and may not:

84 (i) advertise his services or conduct investigations for the general public; or

85 (ii) employ other private investigators or hire them as independent contractors.

86 ~~[(3)]~~ (5) (a) An applicant for an apprentice license, lacking the experience required for a
87 registrant license, shall meet all of the qualification standards in Subsection (1), except Subsection
88 (1)(d), and complete an apprentice application. An applicant shall provide fingerprints under
89 Subsection (2).

90 (b) An apprentice shall work under the direct supervision and guidance of a licensed
91 agency, full-time for one year, or 1,000 hours, prior to eligibility for a registrant license. A licensed
92 apprentice shall only work under the direction of a licensed agency as provided in Subsection
93 53-9-102(5), and may not:

- 94 (i) advertise his services or conduct investigations for the general public; or
- 95 (ii) employ other private investigators.

96 [~~4~~] (6) (a) An applicant for an agency, registrant, or apprentice license may be eligible
97 for a license without meeting all or part of the investigative work experience required by this
98 section if the applicant:

- 99 (i) has a criminal justice degree from an accredited college or university;
- 100 (ii) is certified by Peace Officer Standards and Training; or
- 101 (iii) can substantiate other similar law enforcement or investigative training in the areas
102 set forth in Subsection 53-9-102(16).

103 (b) The board shall determine whether or not training may replace the work experience
104 requirement and to what extent.

105 Section 3. Section **53-11-108** is amended to read:

106 **53-11-108. Licensure -- Basic qualifications.**

107 An applicant for licensure under this chapter shall meet the following qualifications:

108 (1) An applicant shall be:

- 109 (a) at least 21 years of age;
- 110 (b) a citizen or legal resident of the United States; and
- 111 (c) of good moral character.

112 (2) An applicant may not:

- 113 (a) have been convicted of:
 - 114 (i) a felony;
 - 115 (ii) any act involving illegally using, carrying, or possessing a dangerous weapon;
 - 116 (iii) any act of personal violence or force on any person or convicted of threatening to
117 commit any act of personal violence or force against another person;
 - 118 (iv) any act constituting dishonesty or fraud;
 - 119 (v) impersonating a peace officer; or
 - 120 (vi) any act involving moral turpitude;

121 (b) be on probation, parole, community supervision, or named in an outstanding arrest
122 warrant; or

123 (c) be employed as a peace officer.

124 (3) (a) The applicant shall provide fingerprints on two copies of a form provided by the
125 department.

126 (b) (i) The applicant may provide the fingerprints at the department. The department may
127 impose a fee established under Section 63-38-3.2 for this service.

128 (ii) The applicant may instead provide the fingerprints at the offices of a local law
129 enforcement agency and forward the prints to the department. The local law enforcement agency
130 may impose a fee to cover the costs of the fingerprinting service.

131 (iii) In all cases, the prints provided under this Subsection (3) shall be of a quality
132 acceptable to the Federal Bureau of Investigation (FBI), and shall be on forms as required by the
133 FBI.

134 (4) In order to determine qualifications under Subsections (2)(a) and (b) the department
135 shall, after receipt of the fingerprints required under Subsection (3) and the application fee required
136 under Section 53-11-115, search its criminal history database for criminal history information
137 regarding the applicant and shall request a similar criminal history information search by the FBI.

138 [~~3~~] (5) If previously or currently licensed in another state or jurisdiction, the applicant
139 shall be in good standing within that state or jurisdiction.

140 [~~4~~] (6) (a) The applicant shall also have completed a training program of not less than
141 16 hours that is approved by the board and includes:

142 (i) instruction on the duties and responsibilities of a licensee under this chapter, including:

143 (A) search, seizure, and arrest procedure;

144 (B) pursuit, arrest, detainment, and transportation of a bail bond suspect; and

145 (C) specific duties and responsibilities regarding entering an occupied structure to carry
146 out functions under this chapter;

147 (ii) the laws and rules relating to the bail bond business;

148 (iii) the rights of the accused; and

149 (iv) ethics.

150 (b) The program may be completed after the licensure application is submitted, but shall
151 be completed before a license may be issued under this chapter.

152 [~~5~~] (7) If the applicant desires to carry a firearm as a licensee, the applicant shall:
153 (a) successfully complete a course regarding the specified types of weapons he plans to
154 carry. The course shall:
155 (i) be not less than 16 hours;
156 (ii) be conducted by any national, state, or local firearms training organization approved
157 by the Criminal Investigations and Technical Services Division created in Section 53-10-103; and
158 (iii) provide training regarding general familiarity with the types of firearms to be carried,
159 including:
160 (A) the safe loading, unloading, storage, and carrying of the types of firearms to be
161 concealed; and
162 (B) current laws defining lawful use of a firearm by a private citizen, including lawful
163 self-defense, use of deadly force, transportation, and concealment; and
164 (b) shall hold a valid license to carry a concealed weapon, issued under Section 53-5-704.

Legislative Review Note
as of 11-27-01 10:36 AM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel