

Senator Don L. Ipson proposes the following substitute bill:

FORENSIC AMENDMENTS

2024 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Douglas R. Welton

Senate Sponsor: Don L. Ipson

LONG TITLE

General Description:

This bill addresses forensic equipment and Bureau of Forensic Services rulemaking.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ requires the Department of Public Safety (department) to administer the Forensic Equipment Grant Program (program) to provide funding appropriated by the Legislature for certain cities or counties to purchase forensic equipment;
- ▶ provides the department with rulemaking authority to implement the program;
- ▶ requires the Bureau of Forensic Services to create rules concerning best practices for a law enforcement agency's utilization of a genetic genealogy database in an investigation; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:



26 AMENDS:

27 **53-10-406**, as last amended by Laws of Utah 2022, Chapter 113

28 ENACTS:

29 **53-1-122**, Utah Code Annotated 1953

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

32 Section 1. Section **53-1-122** is enacted to read:

33 **53-1-122. Forensic Equipment Grant Program -- Rulemaking.**

34 (1) As used in this section:

35 (a) "Forensic equipment" includes software that allows for the analysis of evidence
36 relating to a crime.

37 (b) "Grant" means a grant awarded under this section.

38 (c) "Program" means the Forensic Equipment Grant Program created in this section.

39 (2) (a) There is created within the department the Forensic Equipment Grant Program.

40 (b) The purpose of the program is to provide grant funding for:

41 (i) a city with a forensic unit that services multiple jurisdictions to purchase forensic
42 equipment that allows for the analysis of evidence relating to a crime and provide related
43 training for employees; or

44 (ii) a county with a forensic unit that services multiple jurisdictions to purchase
45 forensic equipment that allows for the analysis of evidence relating to a crime and provide
46 related training for employees.

47 (3) (a) A city or a county that submits a proposal for a grant to the department shall
48 include in the proposal:

49 (i) a statement describing the forensic equipment the city or county is seeking to
50 purchase and the reasons why the city or county wishes to purchase the equipment;

51 (ii) a plan for utilizing the forensic equipment, including related training;

52 (iii) any funding sources in addition to the grant for the forensic equipment and related
53 training;

54 (iv) any existing or planned partnerships for the use of the forensic equipment with
55 another entity; and

56 (v) other information the department determines is necessary to evaluate the proposal.

- 57 (b) When evaluating a proposal for a grant, the department shall consider:
- 58 (i) whether funds have been appropriated by the Legislature for the program;
- 59 (ii) the cost of the proposal;
- 60 (iii) the extent to which additional funding sources or existing or planned partnerships
- 61 may benefit the proposal; and
- 62 (iv) the viability and sustainability of the proposal.

63 (4) Subject to Subsection (3), the department may, in accordance with Title 63G,
64 Chapter 3, Utah Administrative Rulemaking Act, make rules to establish:

- 65 (a) eligibility criteria for a grant, including the types of forensic equipment that is
- 66 eligible for a grant;
- 67 (b) the form and process for submitting a proposal for a grant to the department;
- 68 (c) the method and formula for determining a grant amount; and
- 69 (d) reporting requirements for a grant recipient.

70 Section 2. Section **53-10-406** is amended to read:

71 **53-10-406. DNA specimen analysis -- Bureau responsibilities.**

- 72 (1) The bureau shall:
- 73 (a) administer and oversee the DNA specimen collection process;
- 74 (b) store each DNA specimen and associated records received;
- 75 (c) analyze each specimen, or contract with a qualified public or private laboratory to
- 76 analyze the specimen, to establish the genetic profile of the donor or to otherwise determine the
- 77 identity of the person;
- 78 (d) maintain a criminal identification database containing information derived from
- 79 DNA analysis;
- 80 (e) ensure that the DNA identification system does not provide information allowing
- 81 prediction of genetic disease or predisposition to illness;
- 82 (f) ensure that only DNA markers routinely used or accepted in the field of forensic
- 83 science are used to establish the gender and unique individual identification of the donor;
- 84 (g) utilize only those DNA analysis procedures that are consistent with, and do not
- 85 exceed, procedures established and used by the Federal Bureau of Investigation for the forensic
- 86 analysis of DNA;
- 87 (h) destroy a DNA specimen obtained under this part if criminal charges have not been

88 filed within 90 days after booking for an alleged offense under Subsection [53-10-403\(2\)\(c\)](#);
89 and

90 (i) make rules in accordance with Title 63G, Chapter 3, Utah Administrative
91 Rulemaking Act, establishing:

92 (i) procedures for obtaining, transmitting, and analyzing DNA specimens and for
93 storing and destroying DNA specimens and associated records, and criminal identification
94 information obtained from the analysis[?]; and

95 (ii) procedures that are consistent with best practices for a law enforcement agency's
96 utilization of a genetic genealogy database under Subsection [53-10-403.7\(2\)](#).

97 (2) Procedures for DNA analysis may include all techniques which the department
98 determines are accurate and reliable in establishing identity.

99 (3) (a) In accordance with Section [63G-2-305](#), each DNA specimen and associated
100 record is classified as protected.

101 (b) The department may not transfer or disclose any DNA specimen, associated record,
102 or criminal identification information obtained, stored, or maintained under this section, except
103 under the provisions of this section.

104 (4) Notwithstanding Subsection [63G-2-202\(1\)](#), the department may deny inspection if
105 the department determines that there is a reasonable likelihood that the inspection would
106 prejudice a pending criminal investigation.

107 (5) The department shall adopt procedures governing the inspection of records, DNA
108 specimens, and challenges to the accuracy of records. The procedures shall accommodate the
109 need to preserve the materials from contamination and destruction.

110 (6) A person whose DNA specimen is obtained under this part may, personally or
111 through a legal representative, submit:

112 (a) to the court a motion for a court order requiring the destruction of the person's DNA
113 specimen, associated record, and any criminal identification record created in connection with
114 that specimen, and removal of the person's DNA record from the database described in
115 Subsection (1)(d) if:

116 (i) a final judgment reverses the conviction, judgment, or order that created an
117 obligation to provide a DNA specimen; or

118 (ii) all charges arising from the same criminal episode for which the DNA specimen

119 was obtained under Subsection 53-10-404.5(1)(a) have been resolved by a final judgment of
120 dismissal with prejudice or acquittal; or

121 (b) to the department a request for the destruction of the person's DNA specimen, and
122 associated record, and removal of the person's DNA record from the database described in
123 Subsection (1)(d) if:

124 (i) no charge arising from the same criminal episode for which the DNA specimen was
125 obtained under Subsection 53-10-404.5(1)(a) is filed against the person within one year after
126 the day on which the person is booked; or

127 (ii) all charges arising from the same criminal episode for which the DNA specimen
128 was obtained under Subsection 53-10-404.5(1)(a) have been resolved by a final judgment of
129 dismissal with prejudice or acquittal.

130 (7) A court order issued under Subsection (6)(a) may be accompanied by a written
131 notice to the person advising that state law provides for expungement of criminal charges if the
132 charge is resolved by a final judgment of dismissal or acquittal.

133 (8) The department shall destroy the person's DNA specimen, and associated record,
134 and remove the person's DNA record from the database described in Subsection (1)(d), if:

135 (a) the person provides the department with:

136 (i) a court order for destruction described in Subsection (6)(a), and a certified copy of:

137 (A) the court order reversing the conviction, judgment, or order;

138 (B) a court order to set aside the conviction; or

139 (C) the dismissal or acquittal of the charge regarding which the person was arrested; or

140 (ii) a written request for destruction of the DNA specimen, and associated record, and
141 removal of the DNA record from the database described in Subsection (6)(b), and a certified
142 copy of:

143 (A) a declination to prosecute from the prosecutor; or

144 (B) a court document that indicates all charges have been resolved by a final judgment
145 of dismissal with prejudice or acquittal; and

146 (b) the department determines that the person is not obligated to submit a DNA
147 specimen as a result of a separate conviction or juvenile adjudication for an offense listed in
148 Subsection 53-10-403(2).

149 (9) The department may not destroy a person's DNA specimen or remove a person's

150 DNA record from the database described in Subsection (1)(d) if the person has a prior
151 conviction or a pending charge for which collection of a sample is authorized in accordance
152 with Section 53-10-404.

153 (10) A DNA specimen, associated record, or criminal identification record created in
154 connection with that specimen may not be affected by an order to set aside a conviction, except
155 under the provisions of this section.

156 (11) If funding is not available for analysis of any of the DNA specimens collected
157 under this part, the bureau shall store the collected specimens until funding is made available
158 for analysis through state or federal funds.

159 (12) (a) (i) A person who, due to the person's employment or authority, has possession
160 of or access to individually identifiable DNA information contained in the state criminal
161 identification database or the state DNA specimen repository may not willfully disclose the
162 information in any manner to any individual, agency, or entity that is not entitled under this
163 part to receive the information.

164 (ii) A person may not willfully obtain individually identifiable DNA information from
165 the state criminal identification database or the state DNA repository other than as authorized
166 by this part.

167 (iii) A person may not willfully analyze a DNA specimen for any purpose, or to obtain
168 any information other than as required under this part.

169 (iv) A person may not willfully fail to destroy or fail to ensure the destruction of a
170 DNA specimen when destruction is required by this part or by court order.

171 (b) (i) A person who violates Subsection (12)(a)(i), (ii), or (iii) is guilty of a third
172 degree felony.

173 (ii) A person who violates Subsection (12)(a)(iv) is guilty of a class B misdemeanor.

174 **Section 3. Effective date.**

175 This bill takes effect on May 1, 2024.