

HB0190S02 compared with HB0190S01

~~{deleted text}~~ shows text that was in HB0190S01 but was deleted in HB0190S02.

inserted text shows text that was not in HB0190S01 but was inserted into HB0190S02.

DISCLAIMER: This document is provided to assist you in your comparison of the two bills. Sometimes this automated comparison will NOT be completely accurate. Therefore, you need to read the actual bills. This automatically generated document could contain inaccuracies caused by: limitations of the compare program; bad input data; or other causes.

~~{Representative Douglas R. Welton}~~ Senator Don L. Ipson proposes the following substitute bill:

FORENSIC ~~{FUNDING}~~ AMENDMENTS

2024 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Douglas R. Welton

Senate Sponsor: ~~{ }~~ Don L. Ipson

8

LONG TITLE

General Description:

This bill addresses ~~{grant funding for}~~ 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; ~~{and}~~
- ▶ provides the department with rulemaking authority to implement the program;
- ▶ requires the Bureau of Forensic Services to create rules concerning best practices

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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:

~~{This bill appropriates in fiscal year 2025:~~

~~→ to Department of Public Safety - Programs & Operations - Department Commissioner's Office as a one-time appropriation:~~

~~• from the General Fund, One-time, \$2,000,000; None~~

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

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

ENACTS:

53-1-122, Utah Code Annotated 1953

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

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

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

(1) As used in this section:

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

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

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

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

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

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

(ii) a county with a forensic unit that services multiple jurisdictions to purchase forensic equipment that allows for the analysis of evidence relating to a crime and provide

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related training for employees.

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

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

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

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

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

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

(b) When evaluating a proposal for a grant, the department shall consider:

(i) whether funds have been appropriated by the Legislature for the program;

(ii) the cost of the proposal;

(iii) the extent to which additional funding sources or existing or planned partnerships may benefit the proposal; and

(iv) the viability and sustainability of the proposal.

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

(a) eligibility criteria for a grant, including the types of forensic equipment that is eligible for a grant;

(b) the form and process for submitting a proposal for a grant to the department;

(c) the method and formula for determining a grant amount; and

(d) reporting requirements for a grant recipient.

Section 2. ~~FY 2025 Appropriation.~~

~~The following sums of money are appropriated for the fiscal year beginning July 1, 2024, and ending June 30, 2025. These are additions to amounts previously appropriated for fiscal year 2025.~~

~~Subsection 2(a). **Operating and Capital Budgets.**~~

~~Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for~~

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~~the use and support of the government of the state of Utah:~~

~~ITEM 1 — To Department of Public Safety - Programs & Operations~~

~~From General Fund, One-time \$2,000,000 Schedule of Programs: Department Commissioner's Office \$2,000,000 The Legislature intends that:~~

~~— (1) the appropriation under this item be used for the grant program described in Section 53-1-122 of this bill; and~~

~~— (2) under Section 63J-1-603, the one-time appropriation provided under this item not lapse at the close of fiscal year 2025 and the use of any nonlapsing funds is limited to the~~

~~purpose} Section 53-10-406 is amended to read:~~

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

(1) The bureau shall:

(a) administer and oversee the DNA specimen collection process;

(b) store each DNA specimen and associated records received;

(c) analyze each specimen, or contract with a qualified public or private laboratory to analyze the specimen, to establish the genetic profile of the donor or to otherwise determine the identity of the person;

(d) maintain a criminal identification database containing information derived from DNA analysis;

(e) ensure that the DNA identification system does not provide information allowing prediction of genetic disease or predisposition to illness;

(f) 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;

(g) 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;

(h) 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

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

(i) procedures for obtaining, transmitting, and analyzing DNA specimens and for

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storing and destroying DNA specimens and associated records, and criminal identification information obtained from the analysis[-]; and

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

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

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

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

(4) Notwithstanding Subsection 63G-2-202(1), the department may deny inspection if the department 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 is obtained under this part may, personally or through a legal representative, submit:

(a) to the court a motion for a court order requiring the destruction of the person's DNA specimen, associated record, and any criminal identification record created in connection with that specimen, and removal of the person's DNA record from the database described in Subsection (1) ~~of this item.~~

†(d) if:

(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 with prejudice or acquittal; or

(b) to the department a request for the destruction of the person's DNA specimen, and associated record, and removal of the person's DNA record from the database described in

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Subsection (1)(d) if:

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

(7) A court order issued under Subsection (6)(a) 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) The department shall destroy the person's DNA specimen, and associated record, and remove the person's DNA record from the database described in Subsection (1)(d), if:

(a) the person provides the department with:

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

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

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

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

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

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

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

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

(9) The department may not destroy a person's DNA specimen or remove a person's DNA record from the database described in Subsection (1)(d) if the person has a prior conviction or a pending charge for which collection of a sample is authorized in accordance with Section 53-10-404.

(10) A DNA specimen, associated record, or criminal identification record created in

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connection with that specimen 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.

Section 3. Effective date.

This bill takes effect on May 1, 2024.