

**Statutes and Rules Related to Concealed Firearm Permit Fees**

**(OLRGC - - August 24, 2017)**

**53-5-706.** Permit -- Fingerprints transmitted to bureau -- Report from bureau.

Effective 5/9/2017

(1) (a) Except as provided in Subsection (2), the fingerprints of each applicant shall be taken on a form prescribed by the bureau.

**(b) Upon receipt of the fingerprints and the fee prescribed in Section 53-5-707 or 53-5-707.5, the bureau shall conduct a search of its files for criminal history information pertaining to the applicant, and shall request the Federal Bureau of Investigation to conduct a similar search through its files.**

(c) If the fingerprints are insufficient for the Federal Bureau of Investigation to conduct a search of its files for criminal history information, the application or concealed firearm permit may be denied, suspended, or revoked until sufficient fingerprints are submitted by the applicant.

(2)(a) If the permit applicant has previously applied to the bureau for a permit to carry concealed firearms, the bureau shall note the previous identification numbers and other data which would provide positive identification in the files of the bureau on the copy of any subsequent permit submitted to the bureau in accordance with this section.

(b) No additional application form, fingerprints, or fee are required under this Subsection (2).

Amended by Chapter 286, 2017 General Session

**53-5-707.** Concealed firearm permit -- Fees -- Concealed Weapons Account.

Effective 5/9/2017

(1)(a) An applicant for a concealed firearm permit shall pay a fee of \$24.75 at the time of filing an application.

(b) A nonresident applicant shall pay an additional \$10 for the additional cost of processing a nonresident application.

(c) The bureau shall waive the initial fee for an applicant who is a law enforcement officer under Section 53-13-103.

(d) Concealed firearm permit renewal fees for active duty service members and the spouse of an active duty service member shall be waived.

(2) The renewal fee for the permit is \$15.

(3) The replacement fee for the permit is \$10.

(4)(a) The late fee for the renewal permit is \$7.50.

(b) As used in this section, "late fee" means the fee charged by the bureau for a renewal submitted on a permit that has been expired for more than 30 days but less than one year.

(5)(a) There is created a restricted account within the General Fund known as the "Concealed Weapons Account."

(b) The account shall be funded from fees collected under this section and Section 53-5-707.5.

(c) Funds in the account shall be used to cover costs relating to the issuance of concealed firearm permits under this part and may not be used for any other purpose.

**(6)(a) The bureau may collect any fees charged by an outside agency for additional services required by statute as a prerequisite for issuance of a permit.**

(b) The bureau may modify the fee under Subsection (1)(a) by adjusting that fee so that the total of the fee under Subsection (1)(a) and the fee under Subsection (6)(a) is the nearest even dollar amount to that total.

(c) The bureau shall promptly forward any fees collected under Subsection (6)(a) to the appropriate agency.

(7) The bureau shall make an annual report in writing to the Legislature's Law Enforcement and Criminal Justice Interim Committee on the amount and use of the fees collected under this section and Section 53-5-707.5.

Amended by Chapter 286, 2017 General Session

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

Effective 7/1/2015

(1) As used in this section:

(a) "FBI Rap Back System" means the rap back system maintained by the Federal Bureau of Investigation.

(b) "Rap back system" means a system that enables authorized entities to receive ongoing status notifications of any criminal history reported on individuals whose fingerprints are registered in the system.

(c) "WIN Database" means the Western Identification Network Database that consists of eight western states sharing one electronic fingerprint database.

**(2) Dissemination of information from a criminal history record or warrant of arrest information from division files is limited to:**

**(a) criminal justice agencies for purposes of administration of criminal justice and for employment screening by criminal justice agencies;**

**(b) noncriminal justice agencies or individuals for any purpose authorized by statute, executive order, court rule, court order, or local ordinance;**

**(c) agencies or individuals for the purpose of obtaining required clearances connected with foreign travel or obtaining citizenship;**

**(d)(i) agencies or individuals pursuant to a specific agreement with a criminal justice agency to provide services required for the administration of criminal justice; and**

**(ii) the agreement shall specifically authorize access to data, limit the use of the data to purposes for which given, and ensure the security and confidentiality of the data;**

**(e) agencies or individuals for the purpose of a preplacement adoptive study, in accordance with the requirements of Sections 78B-6-128 and 78B-6-130;**

**(f)(i) agencies and individuals as the commissioner authorizes for the express purpose of research, evaluative, or statistical activities pursuant to an agreement with a criminal justice agency; and**

**(ii) private security agencies through guidelines established by the commissioner for employment background checks for their own employees and prospective employees;**

**(g) a qualifying entity for employment background checks for their own employees and persons who have applied for employment with the qualifying entity; and**

**(h) other agencies and individuals as the commissioner authorizes and finds necessary for protection of life and property and for offender identification, apprehension, and prosecution pursuant to an agreement.**

(3) An agreement under Subsection (2)(f) or (2)(h) shall specifically authorize access to data, limit the use of data to research, evaluative, or statistical purposes, preserve the anonymity of individuals to whom the information relates, and ensure the confidentiality and security of the data.

(4)(a) Before requesting information under Subsection (2)(g), a qualifying entity must obtain a signed waiver from the person whose information is requested.

(b) The waiver must notify the signee:

(i) that a criminal history background check will be conducted;

(ii) who will see the information; and

(iii) how the information will be used.

(c) Information received by a qualifying entity under Subsection (2)(g) may only be:

(i) available to persons involved in the hiring or background investigation of the employee; and

(ii) used for the purpose of assisting in making an employment or promotion decision.

(d) A person who disseminates or uses information obtained from the division under Subsection (2)(g) for purposes other than those specified under Subsection (4)(c), in addition to any penalties provided under this section, is subject to civil liability.

(e) A qualifying entity that obtains information under Subsection (2)(g) shall provide the employee or employment applicant an opportunity to:

(i) review the information received as provided under Subsection (9); and

(ii) respond to any information received.

(f) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division may make rules to implement this Subsection (4).

(g) The division or its employees are not liable for defamation, invasion of privacy, negligence, or any other claim in connection with the contents of information disseminated under Subsection (2)(g).

(5)(a) Any criminal history record information obtained from division files may be used only for the purposes for which it was provided and may not be further disseminated, except under Subsection (5)(b), (c), or (d).

(b) A criminal history provided to an agency pursuant to Subsection (2)(e) may be provided by the agency to the person who is the subject of the history, another licensed child-placing agency, or the attorney for the adoptive parents for the purpose of facilitating an adoption.

(c) A criminal history of a defendant provided to a criminal justice agency under Subsection (2)(a) may also be provided by the prosecutor to a defendant's defense counsel, upon request during the discovery process, for the purpose of establishing a defense in a criminal case.

(d) A public transit district, as described in Title 17B, Chapter 2a, Part 8, Public Transit District Act, that is under contract with a state agency to provide services may, for the purposes of complying with Subsection 62A-5-103.5(5), provide a criminal history record to the state agency or the agency's designee.

(6) The division may not disseminate criminal history record information to qualifying entities under Subsection (2)(g) regarding employment background checks if the information is related to charges:

(a) that have been declined for prosecution;

(b) that have been dismissed; or

(c) regarding which a person has been acquitted.

(7)(a) This section does not preclude the use of the division's central computing facilities for the storage and retrieval of criminal history record information.

(b) This information shall be stored so it cannot be modified, destroyed, or accessed by unauthorized agencies or individuals.

(8) Direct access through remote computer terminals to criminal history record information in the division's files is limited to those agencies authorized by the commissioner under procedures designed to prevent unauthorized access to this information.

(9)(a) The commissioner shall establish procedures to allow an individual right of access to review and receive a copy of the individual's criminal history report.

(b) A processing fee for the right of access service, including obtaining a copy of the individual's criminal history report under Subsection (9)(a) is \$15. This fee remains in effect until changed by the commissioner through the process under Section 63J-1-504.

(c)(i) The commissioner shall establish procedures for an individual to challenge the completeness and accuracy of criminal history record information contained in the division's computerized criminal history files regarding that individual.

(ii) These procedures shall include provisions for amending any information found to be inaccurate or incomplete.

(10) The private security agencies as provided in Subsection (2)(f)(ii):

(a) shall be charged for access; and

(b) shall be registered with the division according to rules made by the division under Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(11) Before providing information requested under this section, the division shall give priority to criminal justice agencies needs.

(12)(a) It is a class B misdemeanor for a person to knowingly or intentionally access, use, disclose, or disseminate a record created, maintained, or to which access is granted by the division or any information contained in a record created, maintained, or to which access is granted by the division for a purpose prohibited or not permitted by statute, rule, regulation, or policy of a governmental entity.

(b) A person who discovers or becomes aware of any unauthorized use of records created or maintained, or to which access is granted by the division shall inform the commissioner and the director of the Utah Bureau of Criminal Identification of the unauthorized use.

(13)(a) Subject to Subsection (13)(b), a qualifying entity or an entity described in Subsection (2)(b) may request that the division register fingerprints taken for the purpose of conducting current and future criminal background checks under this section with:

(i) the WIN Database rap back system, or any successor system;

(ii) the FBI Rap Back System; or

(iii) a system maintained by the division.

(b) A qualifying entity or an entity described in Subsection (2)(b) may only make a request under Subsection (13)(a) if the entity:

(i) has the authority through state or federal statute or federal executive order;

(ii) obtains a signed waiver from the individual whose fingerprints are being registered; and

(iii) establishes a privacy risk mitigation strategy to ensure that the entity only receives notifications for individuals with whom the entity maintains an authorizing relationship.

(14) The division is authorized to submit fingerprints to the FBI Rap Back System to be retained in the FBI Rap Back System for the purpose of being searched by future submissions to the FBI Rap Back System, including latent fingerprint searches.

**(15)(a)(i) The applicant fingerprint card fee under Subsection (2) is \$20.**

**(ii) The name check fee under Subsection (2) is \$15.**

**(iii) The fee to register fingerprints under Subsection (13)(a)(i) is \$5.**

**(iv) The fees described in this Subsection (15)(a) remain in effect until changed by the division through the process under Section 63J-1-504.**

**(b) Funds generated under this Subsection (15) shall be deposited into the General Fund as a dedicated credit by the department to cover the costs incurred in providing the information.**

**(c) The division may collect fees charged by an outside agency for services required under this section.**

Amended by Chapter 255, 2015 General Session

Amended by Chapter 389, 2015 General Session

## **R722-300-4. Application for a Permit to Carry a Concealed Firearm.**

(1)(a) An applicant seeking to obtain a permit shall submit a completed permit application packet to the bureau.

(b) The permit application packet shall include:

(i) a written application form provided by the bureau with the address of the applicant's permanent residence;

(ii) a photocopy of a state-issued driver license or identification card;

(iii) one recent color photograph of passport quality which contains the applicant's name written on the back of the photograph, unless the applicant submitted a photo which meets these requirements to the bureau within the previous three years;

(iv) one completed FBI applicant fingerprint card (Form FD-258) with the applicant's legible fingerprints;

(v) a non-refundable processing fee in the form of cash, check, money order, or credit card, which consists of the fee established by Sections 53-5-704 and 53-5-707, along with the FBI fingerprint processing fee;

(vi) evidence indicating that the applicant has general familiarity with the types of firearms to be concealed as required by Subsection 53-5-704(6)(d);

(vii) any mitigating information that the applicant wishes the bureau to consider when determining whether the applicant meets the qualifications set forth in Subsection 53-5-704(2)(a); and

(viii) a copy of the applicant's current concealed firearm permit or concealed weapon permit issued by the applicant's state of residency if the applicant is a nonresident who resides in a state that recognizes the validity of the Utah permit or has reciprocity with Utah's concealed firearm permit law, unless the applicant is an active duty service member who presents orders requiring the active duty service member to report for duty in Utah or an active duty service member spouse who presents the active duty service member's orders requiring the service member to report for duty in Utah.

(2) An applicant may establish evidence of general familiarity with the types of firearms to be concealed as required in Subsection 53-5-704(6)(d) by submitting a signed certificate, issued within one year of the date of the application, bearing a certified firearms instructor's official



seal, certifying that the applicant has completed the required firearms course of instruction established by the bureau.

(3) If the applicant is employed as a law enforcement officer, the applicant:

(a) may not be required to pay the application fee; and

(b) may establish evidence of general familiarity with the types of firearms to be concealed as required in Subsection 53-5-704(6)(d) by submitting documentation from a law enforcement agency located within the state of Utah indicating that the applicant has successfully completed the firearm qualification requirements of that agency within the last five years.

(4)(a) Upon receipt of a complete permit application packet, the bureau shall conduct a thorough background investigation to determine if the applicant meets the requirements found in Subsections 53-5-704(2) and (3).

(b) The background investigation shall consist of the following:

(i) sending the fingerprint card to the FBI for a review of the applicant's criminal history record pursuant to Section 53-5-706; and

(ii) verifying the accuracy of the information provided in the application packet through a search of local, state and national records which may include, but is not limited to, the following:

(A) the Utah Computerized Criminal History database;

(B) the National Crime Information Center database;

(C) the Utah Law Enforcement Information Network;

(D) state driver license records;

(E) the Utah Statewide Warrants System;

(F) juvenile court criminal history files;

(G) expungement records maintained by the bureau;

(H) the National Instant Background Check System;

(I) the Utah Gun Check Inquiry Database;

(J) Immigration and Customs Enforcement records; and

(K) Utah Department of Corrections Offender Tracking System; and

(L) the Mental Gun Restrict Database.

(5)(a) If the background check indicates that an applicant does not meet the qualifications set forth in Subsection 53-5-704(2)(a), the bureau shall consider any mitigating circumstances submitted by the applicant.

(b) If the applicant does not meet the qualifications set forth in Subsection 53-5-704(2)(a) because the applicant has been convicted of a crime, the bureau may find that mitigating circumstances exist if the applicant was not convicted of a registerable sex offense, as defined in Subsection 77-27-21.5(1)(n), and the following time periods have elapsed from the date the applicant was convicted or released from incarceration, parole, or probation, whichever occurred last:

(i) five years in the case of a class A misdemeanor;

(ii) four years in the case of a class B misdemeanor; or

(iii) three years in the case of any other misdemeanor or infraction.

(c) Notwithstanding any other provision, the bureau may not grant a permit if the applicant does not meet the qualifications in Subsection 53-5-704(2)(a)(viii).

(6)(a) If the bureau determines that the applicant meets the requirements found in Subsections 53-5-704(2) and 53-5-704(3), the bureau shall issue a permit to the applicant within 60 days.

(b) The permit shall be mailed to the applicant at the address listed on the application.

(7)(a) If the bureau determines that the applicant does not meet the requirements found in Subsections 53-5-704(2) and 53-5-704(3), the bureau shall mail a letter of denial to the applicant, return receipt requested.

(b) The denial letter shall state the reasons for denial and indicate that the applicant has a right to request a review hearing before the board by filing a petition for review within 60 days as provided in Subsection 53-5-704(16).