

Chapter 40

Criminal Background Checks by Political Subdivisions Operating Water Systems

11-40-101 Definitions.

As used in this chapter:

- (1) "Applicant" means a person who seeks employment with a public water utility, either as an employee or as an independent contractor, and who, after employment, would, in the judgment of the public water utility, be in a position to affect the safety or security of the publicly owned treatment works or public water system or to affect the safety or well-being of patrons of the public water utility.
- (2) "Division" means the Criminal Investigation and Technical Services Division of the Department of Public Safety, established in Section 53-10-103.
- (3) "Independent contractor":
 - (a) means an engineer, contractor, consultant, or supplier who designs, constructs, operates, maintains, repairs, replaces, or provides water treatment or conveyance facilities or equipment, or related control or security facilities or equipment, to the public water utility; and
 - (b) includes the employees and agents of the engineer, contractor, consultant, or supplier.
- (4) "Person seeking access" means a person who seeks access to a public water utility's public water system or publicly owned treatment works and who, after obtaining access, would, in the judgment of the public water utility, be in a position to affect the safety or security of the publicly owned treatment works or public water system or to affect the safety or well-being of patrons of the public water utility.
- (5) "Publicly owned treatment works" has the same meaning as defined in Section 19-5-102.
- (6) "Public water system" has the same meaning as defined in Section 19-4-102.
- (7) "Public water utility" means a county, city, town, special district under Title 17B, Chapter 1, Provisions Applicable to All Special Districts, special service district under Title 17D, Chapter 1, Special Service District Act, or other political subdivision of the state that operates publicly owned treatment works or a public water system.

Amended by Chapter 16, 2023 General Session

11-40-102 Criminal background check authorized -- Written notice required.

- (1) A public water utility may:
 - (a) require an applicant to submit to a criminal background check as a condition of employment;
 - (b) periodically require existing employees of the public water utility to submit to a criminal background check if, in the judgment of the public water utility, the employee is in a position to affect the safety or security of the publicly owned treatment works or public water system or to affect the safety or well-being of patrons of the public water utility; and
 - (c) require a person seeking access to submit to a criminal background check as a condition of acquiring access.
- (2)
 - (a) Each applicant, person seeking access, and existing employee described in Subsection (1)(b) shall, if required by the public water utility:
 - (i) submit a fingerprint card in a form acceptable to the division; and
 - (ii) consent to a fingerprint background check by:
 - (A) the Utah Bureau of Criminal Identification; and
 - (B) the Federal Bureau of Investigation.

- (b) If requested by a public water utility, the division shall request the Department of Public Safety to complete a Federal Bureau of Investigation criminal background check for each applicant, person seeking access, or existing employee through a national criminal history system.
- (c)
 - (i) A public water utility may make an applicant's employment with the public water utility or the access of a person seeking access conditional pending completion of a criminal background check under this section.
 - (ii) If a criminal background check discloses that an applicant or a person seeking access failed to disclose accurately a criminal history, the public water utility may deny or, if conditionally given, immediately terminate the applicant's employment or the person's access.
 - (iii) If an applicant or person seeking access accurately disclosed the relevant criminal history and the criminal background check discloses that the applicant or person seeking access has been convicted of a crime that indicates a potential risk for the safety of the public water utility's public water system or publicly owned treatment works or for the safety or well-being of patrons of the public water utility, the public water utility may deny or, if conditionally given, immediately terminate the applicant's employment or the person's access.
- (3) Each public water utility that requests a criminal background check under Subsection (1) shall prepare criteria for which criminal activity will preclude employment and shall provide written notice to the person who is the subject of the criminal background check that the background check has been requested.

Amended by Chapter 90, 2004 General Session

11-40-103 Duties of the Criminal Investigation and Technical Services Division -- Costs of separate file and background check.

- (1) If a public water utility requests the division to conduct a criminal background check, the division shall:
 - (a) release to the public water utility the full record of criminal convictions for the person who is the subject of the background check;
 - (b) if requested by the public water utility, seek additional information from regional or national criminal data files in conducting the criminal background check;
 - (c) maintain a separate file of fingerprints submitted under Section 11-40-102; and
 - (d) notify the requesting public water utility when a new entry is made against a person whose fingerprints are held in the file.
- (2)
 - (a) Each public water utility requesting a criminal background check shall pay the cost of maintaining the separate file under Subsection (1) from fees charged to those whose fingerprints are submitted to the division.
 - (b) Each public water utility requesting the division to conduct a criminal background check shall pay the cost of the background check, and the money collected shall be credited to the division to offset its expenses.

Enacted by Chapter 39, 2003 General Session

11-40-104 Written notice to person whose employment is denied or terminated -- Right to respond and seek review.

If a public water utility denies or terminates the employment of a person because of information obtained through a criminal background check under this chapter, the public water utility shall:

- (1) notify the person in writing of the reasons for the denial or termination; and
- (2) give the person an opportunity to respond to the reasons and to seek review of the denial or termination through administrative procedures established by the public water utility.

Enacted by Chapter 39, 2003 General Session