

## **Part 4**

### **Bureau of Forensic Services**

#### **53-10-401 Bureau of Forensic Services -- Creation -- Bureau Chief appointment, qualifications, and compensation.**

- (1) There is created within the division the Bureau of Forensic Services.
- (2) The bureau shall be administered by a bureau chief appointed by the division director with the approval of the commissioner.
- (3) The bureau chief shall be experienced in administration of criminal justice and possess additional qualifications as determined by the commissioner or division director and as provided by law.
- (4) The bureau chief acts under the supervision and control of the division director and may be removed from his position at the will of the commissioner.
- (5) The bureau chief shall receive compensation as provided by Title 63A, Chapter 17, Utah State Personnel Management Act.

Amended by Chapter 345, 2021 General Session

#### **53-10-402 Bureau duties.**

The bureau shall:

- (1) provide quality, timely, and comprehensive analysis of physical evidence from crime scenes and crime-related incidents submitted by federal, state, county, and municipal criminal justice agencies;
- (2) provide expert testimony in courts of law regarding the scientific analysis and conclusion of forensic evidence using the most current and advanced analytical techniques and technology;
- (3) ensure the safety of all laboratory employees against exposure to blood-borne pathogens, infectious materials, and any other biochemical or toxic hazard which may pose a threat to the safety and well-being of bureau employees;
- (4) protect the chain of incoming evidence by ensuring all items are properly packaged, sealed, marked, stored, and delivered back to the submitting agency using established legal guidelines;
- (5) adopt systems of identification, including blood and firearms analysis, to be used by the division to facilitate law enforcement;
- (6) participate in establishing satellite laboratories in designated locations throughout the state;
- (7) provide assistance to the medical community in establishing guidelines for the proper handling of individuals who are the victims of sexual assault; and
- (8) upon request, provide law enforcement agencies technical and analytical support in the processing of crime scenes.

Enacted by Chapter 263, 1998 General Session

#### **53-10-403 DNA specimen analysis -- Application to offenders, including minors.**

- (1) Sections 53-10-403.6, 53-10-404, 53-10-404.5, 53-10-405, and 53-10-406 apply to:
  - (a) a person who has pled guilty to or has been convicted of any of the offenses under Subsection (2)(a) or (b) on or after July 1, 2002;
  - (b) a person who has pled guilty to or has been convicted by any other state or by the United States government of an offense which if committed in this state would be punishable as one or more of the offenses listed in Subsection (2)(a) or (b) on or after July 1, 2003;

- (c) a person who has been booked on or after January 1, 2011, through December 31, 2014, for any offense under Subsection (2)(c);
- (d) a person who has been booked:
  - (i) by a law enforcement agency that is obtaining a DNA specimen on or after May 13, 2014, through December 31, 2014, under Subsection 53-10-404(4)(b) for any felony offense; or
  - (ii) on or after January 1, 2015, for any felony offense; or
- (e) a minor:
  - (i)
    - (A) who is adjudicated by the juvenile court for an offense described in Subsection (2) that is within the jurisdiction of the juvenile court on or after July 1, 2002; or
    - (B) who is adjudicated by the juvenile court for an offense described in Subsection (2) and is in the legal custody of the Division of Juvenile Justice and Youth Services for the offense on or after July 1, 2002; and
  - (ii) who is 14 years old or older at the time of the commission of the offense described in Subsection (2).
- (2) Offenses referred to in Subsection (1) are:
  - (a) any felony or class A misdemeanor under the Utah Code;
  - (b) any offense under Subsection (2)(a):
    - (i) for which the court enters a judgment for conviction to a lower degree of offense under Section 76-3-402; or
    - (ii) regarding which the court allows the defendant to enter a plea in abeyance as defined in Section 77-2a-1; or
  - (c)
    - (i) any violent felony as defined in Section 53-10-403.5;
    - (ii) sale or use of body parts, Section 26B-8-315;
    - (iii) failure to stop at an accident that resulted in death, Section 41-6a-401.5;
    - (iv) operating a motor vehicle with any amount of a controlled substance in an individual's body and causing serious bodily injury or death, as codified before May 4, 2022, Laws of Utah 2021, Chapter 236, Section 1, Subsection 58-37-8(2)(g);
    - (v) a felony violation of enticing a minor, Section 76-5-417;
    - (vi) negligently operating a vehicle resulting in injury, Subsection 76-5-102.1(2)(b);
    - (vii) a felony violation of propelling a substance or object at a correctional officer, a peace officer, or an employee or a volunteer, including health care providers, Section 76-5-102.6;
    - (viii) automobile homicide, Subsection 76-5-207(2)(b);
    - (ix) aggravated human trafficking, Section 76-5-310, and aggravated human smuggling, Section 76-5-310.1;
    - (x) a felony violation of unlawful sexual activity with a minor, Section 76-5-401;
    - (xi) a felony violation of sexual abuse of a minor, Section 76-5-401.1;
    - (xii) unlawful sexual contact with a 16 or 17-year old, Section 76-5-401.2;
    - (xiii) sale of a child, Section 76-7-203;
    - (xiv) aggravated escape, Section 76-8-309.3;
    - (xv) a felony violation of threatened or attempted assault on an elected official, Section 76-8-313;
    - (xvi) threat with intent to impede, intimidate, interfere, or retaliate against a judge or a member of the Board of Pardons and Parole or acting against a family member of a judge or a member of the Board of Pardons and Parole, Section 76-8-316;

- (xvii) assault with intent to impede, intimidate, interfere, or retaliate against a judge or a member of the Board of Pardons and Parole or acting against a family member of a judge or a member of the Board of Pardons and Parole, Section 76-8-316.2;
- (xviii) aggravated assault with intent to impede, intimidate, interfere, or retaliate against a judge or a member of the Board of Pardons and Parole or acting against a family member of a judge or a member of the Board of Pardons and Parole, Section 76-8-316.4;
- (xix) attempted murder with intent to impede, intimidate, interfere, or retaliate against a judge or a member of the Board of Pardons and Parole or acting against a family member of a judge or a member of the Board of Pardons and Parole, Section 76-8-316.6;
- (xx) advocating criminal syndicalism or sabotage, Section 76-8-902;
- (xxi) assembling for advocating criminal syndicalism or sabotage, Section 76-8-903;
- (xxii) a felony violation of sexual battery, Section 76-5-418;
- (xxiii) a felony violation of lewdness involving a child, Section 76-5-420;
- (xxiv) a felony violation of abuse or desecration of a dead human body, Section 76-5-802;
- (xxv) manufacture, possession, sale, or use of a weapon of mass destruction, Section 76-15-302;
- (xxvi) manufacture, possession, sale, or use of a hoax weapon of mass destruction, Section 76-15-303;
- (xxvii) possession of a concealed firearm in the commission of a violent felony, Subsection 76-11-202(3)(c);
- (xxviii) assault with the intent to commit bus hijacking with a dangerous weapon as described in Subsection 76-9-1503(3)(b);
- (xxix) aggravated commercial obstruction, Section 76-9-114;
- (xxx) a felony violation of failure to register as a sex or kidnap offender, Section 53-29-305;
- (xxxi) repeat violation of a protective order, Subsection 77-36-1.1(4); or
- (xxxii) violation of condition for release after arrest under Section 78B-7-802.

Amended by Chapter 173, 2025 General Session

Amended by Chapter 208, 2025 General Session

Amended by Chapter 291, 2025 General Session

### **53-10-403.5 Definitions.**

As used in this section and Sections 53-10-403, 53-10-403.7, 53-10-404, 53-10-404.5, 53-10-405, and 53-10-406:

- (1) "Adjudication" means the same as that term is defined in Section 80-1-102.
- (2) "Bureau" means the Bureau of Forensic Services.
- (3) "Combined DNA Index System" or "CODIS" means the program operated by the Federal Bureau of Investigation to support criminal justice DNA databases and the software used to run the databases.
- (4) "Conviction" means:
  - (a) a verdict or conviction;
  - (b) a plea of guilty or guilty with a mental condition;
  - (c) a plea of no contest; or
  - (d) the acceptance by the court of a plea in abeyance.
- (5) "DNA" means deoxyribonucleic acid.
- (6) "DNA profile" means the patterns of fragments of DNA used to identify an individual.
- (7) "DNA specimen" or "specimen" means a biological sample collected from an individual or a crime scene, or that is collected as part of an investigation.

- (8) "Final judgment" means a judgment, including any supporting opinion, concerning which all appellate remedies have been exhausted or the time for appeal has expired.
- (9) "Minor" means the same as that term is defined in Section 80-1-102.
- (10) "Rapid DNA" means the fully automated process of developing a DNA profile.
- (11) "Violent felony" means any offense under Section 76-3-203.5.

Amended by Chapter 256, 2024 General Session

#### **53-10-403.6 Use of Rapid DNA.**

- (1) Rapid DNA technology may be used for the purposes of conducting testing of a DNA specimen obtained:
  - (a) at the time of booking in accordance with Section 53-10-405; or
  - (b) for non-CODIS comparison during an investigation, if a second specimen is also obtained and is submitted to the bureau or another laboratory that is a National DNA Index System participating laboratory for testing.
- (2) Notwithstanding Subsection (1)(b) a second sample is not required if the sample collected was a touch DNA sample and no other specimen or sample is available.
- (3) Rapid DNA technology may be used for other purposes only when conducted by the bureau in its capacity as the state's National DNA Index System participating laboratory that follows the Federal Bureau of Investigation Quality Assurance Standards for Forensic DNA Testing Laboratories.
- (4) If the investigating agency submits a DNA specimen to the bureau in accordance with the provisions of this section, the bureau shall provide the results of the test directly to the local law enforcement agency that submitted the DNA specimen.

Enacted by Chapter 415, 2020 General Session

#### **53-10-403.7 Investigative genetic genealogy service -- Genetic genealogy database utilization -- Third-party specimens -- Requirements.**

- (1) As used in this section:
  - (a) "Genetic genealogy company" means a company that provides a genetic genealogy database utilization or an investigative genetic genealogy service.
  - (b) "Genetic genealogy database utilization" means a utilization of a genetic genealogical database for the purpose of identifying potential biological relatives to a DNA profile.
  - (c) "Genetic information" means data acquired from an analysis of a DNA specimen.
  - (d) "Investigative genetic genealogy service" means the processing of an individual's DNA specimen or genetic data file to be used for a genetic genealogy database utilization.
  - (e) "Prosecuting agency" means the Office of the Attorney General or the office of a county attorney or district attorney, including an attorney on the staff, whether acting in a civil or criminal capacity.
  - (f) "Qualifying case" means an investigation of:
    - (i) a violent felony; or
    - (ii) the identity of a missing or unknown individual.
  - (g) "Third-party DNA specimen" means a DNA specimen obtained from an individual who is not a likely suspect in an investigation.
- (2) A law enforcement agency may request an investigative genetic genealogy service or a genetic genealogy database utilization from the bureau or a genetic genealogy company if:
  - (a)

- (i) the law enforcement agency, through the law enforcement agency's investigation, has a DNA profile from forensic evidence that the law enforcement agency reasonably believes is attributable to:
      - (A) the perpetrator of a crime;
      - (B) the remains of an unidentified individual; or
      - (C) a missing or unknown individual;
    - (ii) the case for which the law enforcement agency requires the information is a qualifying case;
    - (iii) a routine search of CODIS-eligible profiles, if any, developed in the case revealed no DNA matches to the DNA profile;
    - (iv) the law enforcement agency, the bureau, and the prosecuting agency consult regarding whether an investigative genetic genealogy service or genetic genealogy database utilization is an appropriate and necessary step in the development of information that may contribute to solving the case; and
    - (v) the law enforcement agency and prosecuting agency commit to further investigation of the case if the investigative genetic genealogy service or genetic genealogy database utilization produces information that may contribute to solving the case; or
  - (b) ordered by a court in accordance with a postconviction relief proceeding under Section 78B-9-301.
- (3)
- (a) Before a law enforcement agency may collect a third-party DNA specimen for the purpose of obtaining an investigative genetic genealogy service or a genetic genealogy database utilization, the law enforcement agency shall:
    - (i) consult with the prosecuting agency; and
    - (ii)
      - (A) obtain informed, voluntary consent from the individual providing the third-party DNA specimen; or
      - (B) if the law enforcement agency concludes that the case-specific circumstances provide reasonable grounds to believe that a request for informed, voluntary consent would compromise the integrity of the investigation, obtain from the prosecuting agency authorization for a covert collection of the third-party DNA specimen.
  - (b) Before obtaining a third-party DNA specimen in accordance with Subsection (3)(a)(ii)(B), a law enforcement agency shall, if applicable, request the prosecuting agency to notify and consult with the prosecuting agency in the jurisdiction in which the sample will be covertly collected to ensure that all applicable laws and procedures are followed.
  - (c) A law enforcement agency that obtains a DNA specimen in accordance with Subsection (3)(a)(ii)(B) shall obtain and process the DNA specimen in a lawful manner including, if necessary, obtaining a search warrant.
- (4) A law enforcement agency or a prosecuting agency may only use a third-party DNA specimen obtained under Subsection (3) to:
- (a) identify a possible suspect;
  - (b) exonerate a possible suspect; or
  - (c) identify a missing or unknown individual.
- (5) When requesting an investigative genetic genealogy service or genetic genealogy database utilization from a genetic genealogy company under Subsection (2), a law enforcement agency shall:
- (a) disclose to the genetic genealogy company that the request is from a law enforcement agency;
  - (b) only make a request to a genetic genealogy company that:

- (i) provides notice to the genetic genealogy company's service users and the public that law enforcement may use the genetic genealogy company's services to investigate crimes or to identify unidentified human remains;
    - (ii) allows a user to:
      - (A) opt in or out of having the user's data be accessible in an investigation requested by law enforcement; and
      - (B) access the genetic genealogy company's services even if the user opts out of having the user's data be accessible in an investigation requested by law enforcement; and
    - (iii) has a policy that prevents the genetic genealogy company from compiling, selling, licensing, or transferring to a third party any data generated by the genetic genealogy company concerning a victim, crime scene, or suspect;
  - (c) confirm that the request is permitted under the terms of service for the genetic genealogy company; and
  - (d) if possible, configure or request the genetic genealogy company to configure service site user settings that control access to the DNA submitted by the law enforcement agency and associated account information in a manner that will prevent the information from being viewed by other service users.
- (6)
- (a) Before an individual may be arrested as a suspect in a crime for which an investigative genetic genealogy service or genetic genealogy database utilization has been conducted under Subsection (2)(a) and the investigative genetic genealogy service or genetic genealogy database utilization has aided in the identification of the individual as a suspect, the law enforcement agency and the bureau shall verify with confirmatory genetic testing that the DNA obtained from the crime scene could have originated from the individual unless the law enforcement agency or the prosecuting agency has sufficient evidence outside of the investigative genetic genealogy service or genetic genealogy database utilization to independently support the individual's arrest.
  - (b) After an individual has been charged with an offense after an investigative genetic genealogy service or a genetic genealogy database utilization has been conducted for that offense, the law enforcement agency shall:
    - (i) if applicable, verify with confirmatory genetic testing that the DNA obtained from the crime scene could have originated from the individual;
    - (ii) if applicable, make a prompt, formal request to the genetic genealogy company to:
      - (A) provide the DNA information and any associated account information related to the charged crime directly to the law enforcement agency; and
      - (B) remove the DNA information and any associated account information held by the genetic genealogy company;
    - (iii) if applicable, document the request described in Subsection (6)(b)(ii); and
    - (iv) retain the information received from the genetic genealogy company or the bureau for use during prosecution and subsequent judicial proceedings.
- (7) A law enforcement agency or a prosecuting agency:
- (a) may not request an investigative genetic genealogy service or a genetic genealogy database utilization except as provided in this section;
  - (b) shall ensure that genetic information obtained under this section is used only for law enforcement purposes or postconviction relief purposes under Section 78B-9-301; and
  - (c) shall ensure that a DNA specimen and associated genetic information is:
    - (i) retained in conformance with applicable laws; and
    - (ii) destroyed once permitted under applicable laws.

- (8)
  - (a) A violation of this section does not confer standing to a criminal defendant to request the suppression of evidence unless a court determines that the violation led to a deprivation of the defendant's constitutional rights.
  - (b)
    - (i) If a court in a civil suit finds that an employee or agent of a law enforcement agency knowingly has violated a provision of this section, the court shall order that the employee or agent may not participate in another investigative genetic genealogy service or genetic genealogy database utilization under this section for one year.
    - (ii) A finding or order under Subsection (8)(b)(i) may not constitute cause for a judgment for monetary damages or attorney fees against the state or a governmental entity or an individual employed by the state or a governmental entity.

Enacted by Chapter 500, 2023 General Session

**53-10-404 DNA specimen analysis -- Requirement to obtain the specimen.**

- (1) As used in this section, "person" means a person or minor described in Section 53-10-403.
- (2)
  - (a) A person under Section 53-10-403 or any person required to register as a sex offender, kidnap offender, or child abuse offender under Title 53, Chapter 29, Sex, Kidnap, and Child Abuse Offender Registry, shall provide a DNA specimen and shall reimburse the agency responsible for obtaining the DNA specimen \$150 for the cost of obtaining the DNA specimen unless:
    - (i) the person was booked under Section 53-10-403 and is not required to reimburse the agency under Section 53-10-404.5; or
    - (ii) the agency determines the person lacks the ability to pay.
  - (b)
    - (i)
      - (A) The responsible agencies shall establish guidelines and procedures for determining if the person is able to pay the fee.
      - (B) An agency's implementation of Subsection (2)(b)(i) meets an agency's obligation to determine an inmate's ability to pay.
    - (ii) An agency's guidelines and procedures may provide for the assessment of \$150 on the inmate's county trust fund account and may allow a negative balance in the account until the \$150 is paid in full.
- (3)
  - (a)
    - (i) All fees collected under Subsection (2) shall be deposited into the DNA Specimen Restricted Account created in Section 53-10-407, except that the agency collecting the fee may retain not more than \$25 per individual specimen for the costs of obtaining the saliva DNA specimen.
    - (ii) The agency collecting the \$150 fee may not retain from each separate fee more than \$25, and no amount of the \$150 fee may be credited to any other fee or agency obligation.
  - (b) The responsible agency shall determine the method of collecting the DNA specimen. Unless the responsible agency determines there are substantial reasons for using a different method of collection or the person refuses to cooperate with the collection, the preferred method of collection shall be obtaining a saliva specimen.

- (c) The responsible agency may use reasonable force, as established by its guidelines and procedures, to collect the DNA sample if the person refuses to cooperate with the collection.
  - (d) If the judgment places the person on probation, the person shall submit to the obtaining of a DNA specimen as a condition of the probation.
  - (e)
    - (i) Under this section a person is required to provide one DNA specimen and pay the collection fee as required under this section.
    - (ii) The person shall provide an additional DNA specimen only if the DNA specimen previously provided is not adequate for analysis.
    - (iii) The collection fee is not imposed for a second or subsequent DNA specimen collected under this section.
  - (f) Any agency that is authorized to obtain a DNA specimen under this part may collect any outstanding amount of a fee due under this section from any person who owes any portion of the fee and deposit the amount in the DNA Specimen Restricted Account created in Section 53-10-407.
- (4)
- (a) The responsible agency shall cause a DNA specimen to be obtained as soon as possible and transferred to the Department of Public Safety:
    - (i) after a conviction or an adjudication by the juvenile court;
    - (ii) on and after January 1, 2011, through December 31, 2014, after the booking of a person for any offense under Subsection 53-10-403(1)(c); and
    - (iii) on and after January 1, 2015, after the booking of a person for any felony offense, as provided under Subsection 53-10-403(1)(d)(ii).
  - (b) On and after May 13, 2014, through December 31, 2014, the responsible agency may cause a DNA specimen to be obtained and transferred to the Department of Public Safety after the booking of a person for any felony offense, as provided under Subsection 53-10-403(1)(d)(i).
  - (c) If notified by the Department of Public Safety that a DNA specimen is not adequate for analysis, the agency shall, as soon as possible:
    - (i) obtain and transmit an additional DNA specimen; or
    - (ii) request that another agency that has direct access to the person and that is authorized to collect DNA specimens under this section collect the necessary second DNA specimen and transmit it to the Department of Public Safety.
  - (d) Each agency that is responsible for collecting DNA specimens under this section shall establish:
    - (i) a tracking procedure to record the handling and transfer of each DNA specimen it obtains; and
    - (ii) a procedure to account for the management of all fees it collects under this section.
- (5)
- (a) The Department of Corrections is the responsible agency whenever the person is committed to the custody of or is under the supervision of the Division of Adult Probation and Parole created in Section 64-14-202.
  - (b) If a minor described in Subsection 53-10-403(3) is not committed to the legal custody of the Division of Juvenile Justice and Youth Services upon an adjudication, the juvenile court is the responsible agency regarding the collection of a DNA specimen from the minor.
  - (c) If a minor described in Subsection 53-10-403(3) is committed to the legal custody of the Division of Juvenile Justice and Youth Services upon an adjudication, the Division of Juvenile Justice and Youth Services is the responsible agency regarding the collection of a DNA specimen from the minor.



- (d) The sheriff operating a county jail is the responsible agency regarding the collection of DNA specimens from persons who:
  - (i) have pled guilty to or have been convicted of an offense listed under Subsection 53-10-403(2) but who have not been committed to the custody of the Department of Corrections or are not under the supervision of the Division of Adult Probation and Parole created in Section 64-14-202;
  - (ii) are incarcerated in the county jail:
    - (A) as a condition of probation for a felony offense; or
    - (B) for a misdemeanor offense for which collection of a DNA specimen is required;
  - (iii) on and after January 1, 2011, through May 12, 2014, are booked at the county jail for any offense under Subsection 53-10-403(1)(c); and
  - (iv) are booked at the county jail:
    - (A) by a law enforcement agency that is obtaining a DNA specimen for any felony offense on or after May 13, 2014, through December 31, 2014, under Subsection 53-10-404(4)(b); or
    - (B) on or after January 1, 2015, for any felony offense.
- (e) Each agency required to collect a DNA specimen under this section shall:
  - (i) designate employees to obtain the saliva DNA specimens required under this section; and
  - (ii) ensure that employees designated to collect the DNA specimens receive appropriate training and that the specimens are obtained in accordance with generally accepted protocol.
- (6)
  - (a) As used in this Subsection (6), "department" means the Department of Corrections.
  - (b) Priority of obtaining DNA specimens by the department is:
    - (i) first, to obtain DNA specimens of persons who as of July 1, 2002, are in the custody of or under the supervision of the department before these persons are released from incarceration, parole, or probation, if their release date is prior to that of persons under Subsection (6)(b)(ii), but in no case later than July 1, 2004; and
    - (ii) second, the department shall obtain DNA specimens from persons who are committed to the custody of the department or who are placed under the supervision of the department after July 1, 2002, within 120 days after the commitment, if possible, but not later than prior to release from incarceration if the person is imprisoned, or prior to the termination of probation if the person is placed on probation.
  - (c) The priority for obtaining DNA specimens from persons under Subsection (6)(b)(ii) is:
    - (i) first, persons on probation;
    - (ii) second, persons on parole; and
    - (iii) third, incarcerated persons.
  - (d) Implementation of the schedule of priority under Subsection (6)(c) is subject to the priority of Subsection (6)(b)(i), to ensure that the Department of Corrections obtains DNA specimens from persons in the custody of or under the supervision of the Department of Corrections as of July 1, 2002, prior to their release.
- (7)
  - (a) As used in this Subsection (7):
    - (i) "Court" means the juvenile court.
    - (ii) "Division" means the Division of Juvenile Justice and Youth Services.
  - (b) Priority of obtaining DNA specimens by the court from minors under Section 53-10-403 whose cases are under the jurisdiction of the court but who are not in the legal custody of the division shall be:

- (i) first, to obtain specimens from minors whose cases, as of July 1, 2002, are under the court's jurisdiction, before the court's jurisdiction over the minors' cases terminates; and
    - (ii) second, to obtain specimens from minors whose cases are under the jurisdiction of the court after July 1, 2002, within 120 days of the minor's case being found to be within the court's jurisdiction, if possible, but no later than before the court's jurisdiction over the minor's case terminates.
  - (c) Priority of obtaining DNA specimens by the division from minors under Section 53-10-403 who are committed to the legal custody of the division shall be:
    - (i) first, to obtain specimens from minors who as of July 1, 2002, are within the division's legal custody and who have not previously provided a DNA specimen under this section, before termination of the division's legal custody of these minors; and
    - (ii) second, to obtain specimens from minors who are placed in the legal custody of the division after July 1, 2002, within 120 days of the minor's being placed in the custody of the division, if possible, but no later than before the termination of the court's jurisdiction over the minor's case.
- (8)
- (a) The Department of Corrections, the juvenile court, the Division of Juvenile Justice and Youth Services, and all law enforcement agencies in the state shall by policy establish procedures for obtaining saliva DNA specimens, and shall provide training for employees designated to collect saliva DNA specimens.
  - (b)
    - (i) The department may designate correctional officers, including those employed by the Division of Adult Probation and Parole created in Section 64-14-202, to obtain the saliva DNA specimens required under this section.
    - (ii) The department shall ensure that the designated employees receive appropriate training and that the specimens are obtained in accordance with accepted protocol.
  - (c) Blood DNA specimens shall be obtained in accordance with Section 53-10-405.

Amended by Chapter 214, 2025 General Session

Amended by Chapter 291, 2025 General Session

**53-10-404.5 Obtaining DNA specimen at time of booking -- Payment of fee upon conviction.**

- (1)
- (a) When a sheriff books a person for any offense under Subsections 53-10-403(1)(c) and (d), the sheriff shall:
    - (i) except as provided in Subsection (1)(b), obtain a DNA specimen from the person upon booking of the person at the county jail; and
    - (ii) provide the person, in a manner the bureau specifies, notice of the process described in Subsection 53-10-406(6)(b) to request destruction of the DNA specimen and removal of the person's DNA record from the database described in Subsection 53-10-406(1)(d).
  - (b) If at the time of booking the sheriff is able to obtain information from the bureau stating that the bureau has received a DNA specimen for the person and the sample analysis is either in process or complete, the sheriff is not required to obtain an additional DNA specimen.
  - (c) If at the time of booking the sheriff is able to obtain information from the bureau stating that the bureau has received a DNA specimen for the person and the sample analysis is pending, the sheriff may obtain an additional DNA specimen.
- (2) The person booked under Subsection (1) shall pay a fee of \$150 for the cost of obtaining the DNA specimen if:

- (a)
    - (i) the charge upon which the booking is based is resolved by a conviction of a class A misdemeanor or felony level offense; or
    - (ii) the person is convicted of any class A misdemeanor or felony level offense arising out of the same criminal episode regarding which the DNA specimen was obtained; and
  - (b) the person's DNA sample is not on file under Subsection (1)(b).
- (3)
- (a) All fees collected under Subsection (2) shall be deposited into the DNA Specimen Restricted Account created in Section 53-10-407, except that the agency collecting the fee may retain not more than \$25 per individual specimen for the costs of obtaining the DNA specimen.
  - (b) The agency collecting the \$150 fee may not retain from each separate fee more than \$25, and no amount of the \$150 fee may be credited to any other fee or agency obligation.
- (4) Any DNA specimen obtained under this section shall be held and may not be processed until:
- (a) the court has bound the person over for trial for a felony level offense following a preliminary hearing for any charge arising out of the same criminal episode regarding which the person was booked;
  - (b) the person has waived the preliminary hearing for any charge for a felony level offense arising out of the same criminal episode regarding which the person was booked;
  - (c) a grand jury has returned an indictment for any charge for a felony level offense arising out of the same criminal episode regarding which the person was booked; or
  - (d) for a DNA specimen obtained before, on, or after May 7, 2025, sixty days has passed after the day on which any warrant of arrest has been issued for the person if the warrant of arrest is still outstanding.

Amended by Chapter 319, 2025 General Session

**53-10-405 DNA specimen analysis -- Saliva sample to be obtained by agency -- Blood sample to be drawn by professional.**

- (1)
- (a) A saliva sample shall be obtained by the responsible agency under Subsection 53-10-404(5).
  - (b) The sample shall be obtained in a professionally acceptable manner, using appropriate procedures to ensure the sample is adequate for DNA analysis.
- (2)
- (a) A blood sample shall be drawn in a medically acceptable manner by any of the following:
    - (i) a physician;
    - (ii) a physician assistant;
    - (iii) a registered nurse;
    - (iv) a licensed practical nurse;
    - (v) a paramedic;
    - (vi) as provided in Subsection (2)(b), emergency medical service personnel other than paramedics; or
    - (vii) a person with a valid permit issued by the Department of Public Safety under Section 53-2d-103.
  - (b) The Department of Public Safety may designate by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, which emergency medical service personnel, as defined in Section 53-2d-101, are authorized to draw blood under Subsection (2)(a)(vi), based on the type of license under Section 53-2d-402.

- (c) A person authorized by this section to draw a blood sample may not be held civilly liable for drawing a sample in a medically acceptable manner.
- (3) A test result or opinion based upon a test result regarding a DNA specimen may not be rendered inadmissible as evidence solely because of deviations from procedures adopted by the department that do not affect the reliability of the opinion or test result.
- (4) A DNA specimen is not required to be obtained if:
  - (a) the court or the responsible agency confirms with the department that the department has previously received an adequate DNA specimen obtained from the person in accordance with this section; or
  - (b) the court determines that obtaining a DNA specimen would create a substantial and unreasonable risk to the health of the person.

Amended by Chapter 340, 2025 General Session

**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 procedures for obtaining, transmitting, and analyzing DNA specimens and for storing and destroying DNA specimens and associated records, and criminal identification information obtained from the analysis.
- (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)(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 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) If charges have been filed against a person whose DNA specimen is obtained under this part and the charges have later been resolved by a final judgment of dismissal with prejudice or acquittal, or a final judgment is issued reversing a conviction, judgment, or other order arising from the charges that created an obligation to provide a DNA specimen, the prosecutor who filed the charges against the person shall notify the person of the process described in Subsection (6) to request destruction of the DNA specimen and removal of the person's DNA record from the database described in Subsection (1)(d).
- (8) 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.
- (9) 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 adjudication for an offense listed in Subsection 53-10-403(2).

- (10) 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.
- (11) A DNA specimen, associated record, or criminal identification record created in connection with that specimen may not be affected by an order to set aside a conviction, except under the provisions of this section.
- (12) 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.
- (13)
  - (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 (13)(a)(i), (ii), or (iii) is guilty of a third degree felony.
    - (ii) A person who violates Subsection (13)(a)(iv) is guilty of a class B misdemeanor.

Amended by Chapter 319, 2025 General Session

**53-10-407 DNA Specimen Restricted Account.**

- (1) There is created the DNA Specimen Restricted Account, which is referred to in this section as "the account."
- (2) The sources of money for the account are:
  - (a) DNA collection fees paid under Section 53-10-404;
  - (b) any appropriations made to the account by the Legislature; and
  - (c) all federal money provided to the state for the purpose of funding the collection or analysis of DNA specimens collected under Section 53-10-403.
- (3) The account shall earn interest, and this interest shall be deposited in the account.
- (4) The Legislature may appropriate money from the account solely for the following purposes:
  - (a) to the Department of Corrections for the costs of collecting DNA specimens as required under Section 53-10-403;
  - (b) to the juvenile court for the costs of collecting DNA specimens as required under Sections 53-10-403 and 80-6-608;
  - (c) to the Division of Juvenile Justice and Youth Services for the costs of collecting DNA specimens as required under Sections 53-10-403 and 80-5-201; and
  - (d) to the Department of Public Safety for the costs of:
    - (i) storing and analyzing DNA specimens in accordance with the requirements of this part;

- (ii) DNA testing which cannot be performed by the Utah State Crime Lab, as provided in Subsection 78B-9-301(7); and
  - (iii) reimbursing sheriffs for collecting the DNA specimens as provided under Sections 53-10-404 and 53-10-404.5.
- (5) Appropriations from the account to the Department of Corrections, the juvenile court, the Division of Juvenile Justice and Youth Services, and to the Department of Public Safety are nonlapsing.

Amended by Chapter 240, 2024 General Session