

Chapter 10 Criminal Investigations and Technical Services Act

Part 1 General Provisions

53-10-101 Short title.

This chapter is known as the "Criminal Investigations and Technical Services Act."

Renumbered and Amended by Chapter 263, 1998 General Session

53-10-102 Definitions.

As used in this chapter:

- (1) "Administration of criminal justice" means performance of any of the following: detection, apprehension, detention, pretrial release, posttrial release, prosecution, adjudication, correctional supervision, or rehabilitation of accused persons or criminal offenders.
- (2) "Alcoholic beverage" means the same as that term is defined in Section 32B-1-102.
- (3) "Alcoholic product" means the same as that term is defined in Section 32B-1-102.
- (4) "Bureau" means the Bureau of Criminal Identification within the department, created in Section 53-10-201.
- (5) "Commission" means the Alcoholic Beverage Services Commission.
- (6) "Communications services" means the technology of reception, relay, and transmission of information required by a public safety agency in the performance of the public safety agency's duty.
- (7) "Conviction record" means criminal history information indicating a record of a criminal charge that has led to a declaration of guilt of an offense.
- (8) "Criminal history record information" means information on an individual consisting of identifiable descriptions and notations of:
 - (a) arrests, detentions, indictments, informations, or other formal criminal charges, and any disposition arising from any of them; and
 - (b) sentencing, correctional supervision, and release.
- (9) "Criminal justice agency" means a court or a government agency or subdivision of a government agency that administers criminal justice under a statute, executive order, or local ordinance and that allocates greater than 50% of its annual budget to the administration of criminal justice.
- (10) "Criminalist" means the scientific discipline directed to the recognition, identification, individualization, and evaluation of physical evidence by application of the natural sciences in law-science matters.
- (11) "Department" means the Department of Public Safety.
- (12) "Director" means the division director appointed under Section 53-10-103.
- (13) "Division" means the Criminal Investigations and Technical Services Division created in Section 53-10-103.
- (14) "Executive order" means an order of the president of the United States or the chief executive of a state that has the force of law and that is published in a manner permitting regular public access to the order.
- (15) "Forensic" means dealing with the application of scientific knowledge relating to criminal evidence.

- (16) "Mental defective" means an individual who, by a district court, as a result of marked subnormal intelligence, or mental illness, incompetency, condition, or disease, is found:
 - (a) to be a danger to himself or herself or others;
 - (b) to lack the mental capacity to contract or manage the individual's own affairs;
 - (c) to be incompetent by a court in a criminal case; or
 - (d) to be incompetent to stand trial or found not guilty by reason or lack of mental responsibility.
- (17) "Missing child" means an individual under 18 years old who is missing from the individual's home environment or a temporary placement facility for any reason and whose location cannot be determined by the person responsible for the individual's care.
- (18) "Missing person" means the same as that term is defined in Section 26B-8-130.
- (19) "Pathogens" means disease-causing agents.
- (20) "Physical evidence" means something submitted to the bureau to determine the truth of a matter using scientific methods of analysis.
- (21) "Qualifying entity" means a business, organization, or a governmental entity that employs persons or utilizes volunteers who deal with:
 - (a) national security interests;
 - (b) fiduciary trust over money; or
 - (c) the provision of care, treatment, education, training, instruction, supervision, or recreation to children, the elderly, or individuals with disabilities.

Amended by Chapter 328, 2023 General Session

53-10-103 Division -- Creation -- Director appointment and qualifications.

- (1) There is created within the department the Criminal Investigations and Technical Services Division.
- (2) The division shall be administered by a director appointed by the commissioner with the approval of the governor.
- (3) The director is the executive and administrative head of the division and shall be experienced in administration and possess additional qualifications as determined by the commissioner and as provided by law.
- (4) The director acts under the supervision and control of the commissioner and may be removed from his position at the will of the commissioner.
- (5) The director shall receive compensation as provided by Title 63A, Chapter 17, Utah State Personnel Management Act.

Amended by Chapter 345, 2021 General Session

53-10-104 Division duties.

The division shall:

- (1) provide and coordinate the delivery of support services to law enforcement agencies;
- (2) maintain and provide access to criminal records for use by law enforcement agencies;
- (3) publish law enforcement and statistical data;
- (4) maintain dispatch and communications services for public safety communications centers and provide emergency medical, fire suppression, highway maintenance, public works, and law enforcement communications for municipal, county, state, and federal agencies;
- (5) analyze evidence from crime scenes and crime-related incidents for criminal prosecution;
- (6) provide criminalistic laboratory services to federal, state, and local law enforcement agencies, prosecuting attorneys and agencies, and public defenders, with the exception of those services

- provided by the state medical examiner in accordance with Title 26B, Chapter 8, Part 2, Utah Medical Examiner;
- (7) establish satellite laboratories as necessary to provide criminalistic services;
 - (8) safeguard the public through licensing and regulation of activities that impact public safety, including concealed weapons, emergency vehicles, and private investigators;
 - (9) provide investigative assistance to law enforcement and other government agencies;
 - (10) collect and provide intelligence information to criminal justice agencies;
 - (11) investigate crimes that jeopardize the safety of the citizens, as well as the interests, of the state;
 - (12) regulate and investigate laws pertaining to the sale and distribution of liquor;
 - (13) make rules to implement this chapter;
 - (14) perform the functions specified in this chapter;
 - (15) comply with the requirements of Section 11-40-103;
 - (16) comply with the requirements of Sections 72-10-602 and 72-10-603; and
 - (17) develop and maintain a secure database of cold cases within the Utah Criminal Justice Information System pursuant to Section 53-10-115.

Amended by Chapter 328, 2023 General Session

53-10-104.5 Wireless service -- Call location in emergencies.

- (1) As used in this section:
 - (a) "Call location information" means the best available location information, including information obtained by use of historical cellular site information or a mobile locator tool.
 - (b) "Law enforcement agency" or "agency" has the same definition as in Section 53-1-102.
 - (c) "Mobile telecommunications service" has the same definition as in Section 54-8b-2.
 - (d) "Telecommunication device" has the same definition as in Section 76-6-409.5.
- (2) A mobile telecommunications service shall provide call location information regarding a telecommunication device user whom a law enforcement agency has reason to believe is in need of services under Subsection (2)(a) or (b), upon the request of a law enforcement agency or a public safety communications center if the agency or center determines the location information is necessary in order to respond to:
 - (a) a call for emergency response services; or
 - (b) an emergency situation that involves the imminent risk of death or serious bodily injury as defined in Section 76-1-101.5.
- (3) The mobile telecommunications service may establish procedures for its voluntary response to a request for location under Subsection (2).
- (4) A mobile telecommunications service that, acting in good faith, provides information as requested under Subsection (2) may not be held civilly liable for providing the information.
- (5)
 - (a) The division shall obtain contact information from all mobile telecommunication service providers that provide services in this state to facilitate communicating location requests under Subsection (2).
 - (b) The division shall provide the contact information to all public safety communications centers in the state and shall provide updates to the contact information.

Amended by Chapter 430, 2022 General Session

53-10-105 Assistance to law enforcement agencies -- Investigation of crimes -- Laboratory facilities.

- (1) The commissioner may assist any law enforcement agency in:
 - (a) establishing identification and investigation records systems;
 - (b) establishing uniform crime reporting systems;
 - (c) investigating any crime;
 - (d) coordinating the exchange of criminal identification, intelligence, and investigation information among law enforcement agencies; and
 - (e) providing the agencies with equipment, technical assistance, and instruction.
- (2)
 - (a) At the governor's direction, the commissioner shall assign division employees to investigate any crime within this state for the purpose of identifying, apprehending, and convicting the perpetrator or perpetrators of that crime even if the commissioner has not received a request from a law enforcement agency.
 - (b) The governor may establish a time period for the commissioner to pursue the investigation.
 - (c) To accomplish the purposes of this section, the commissioner may provide, through the division, crime detection laboratory facilities.

Renumbered and Amended by Chapter 263, 1998 General Session

53-10-106 Cooperation with agencies of any state or nation.

The division shall cooperate with appropriate agencies of any state or nation in developing uniform systems of criminal identification, crime reporting, and information exchange.

Renumbered and Amended by Chapter 263, 1998 General Session

53-10-107 Admissibility in evidence of certified copies of division files.

A copy of any fingerprint, record, document, or other evidence in the files of the division, certified by the commissioner to be a true copy of the original, is admissible in evidence in the same manner as the original.

Renumbered and Amended by Chapter 263, 1998 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.

- (1) As used in this section:
 - (a) "Clone" means to copy a subscription or subscription data from a rap back system, including associated criminal history record information, from a qualified entity to another qualified entity.
 - (b) "FBI Rap Back System" means the rap back system maintained by the Federal Bureau of Investigation.
 - (c) "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.
 - (d) "Volunteer Employee Criminal History System" or "VECHS" means a system that allows the bureau and the Federal Bureau of Investigation to provide criminal history record information to a qualifying entity, including a non-governmental qualifying entity.

- (e) "WIN Database" means the Western Identification Network Database that consists of eight western states sharing one electronic fingerprint database.
- (2) Except as provided in Subsection (17), dissemination of information from a criminal history record, including information obtained from a fingerprint background check, name check, warrant of arrest information, or 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)
 - (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;
 - (c) a qualifying entity for employment background checks for the qualifying entity's own employees or volunteers and individuals who have applied for employment with or to serve as a volunteer for the qualifying entity;
 - (d) noncriminal justice agencies or individuals for any purpose authorized by statute, executive order, court rule, court order, or local ordinance;
 - (e) agencies or individuals for the purpose of obtaining required clearances connected with foreign travel or obtaining citizenship;
 - (f) 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;
 - (g) private security agencies through guidelines established by the commissioner for employment background checks for their own employees and prospective employees;
 - (h) state agencies for the purpose of conducting a background check for the following individuals:
 - (i) employees;
 - (ii) applicants for employment;
 - (iii) volunteers; and
 - (iv) contract employees;
 - (i) governor's office for the purpose of conducting a background check on the following individuals:
 - (i) cabinet members;
 - (ii) judicial applicants; and
 - (iii) members of boards, committees, and commissions appointed by the governor;
 - (j) the office of the lieutenant governor for the purpose of conducting a background check on an individual applying to be a notary public under Section 46-1-3;
 - (k) 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
 - (l) 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)(k) 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, a qualifying entity under Subsection (2)(c), state agency, or other agency or individual described in Subsections (2)(d) through (j) shall obtain a signed waiver from the person whose information is requested.

- (b) The waiver shall 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) A qualifying entity under Subsection (2)(c), state agency, or other agency or individual described in Subsections (2)(d) through (g) that submits a request for a noncriminal justice name based background check of local databases to the bureau shall provide to the bureau:
 - (i) personal identifying information for the subject of the background check; and
 - (ii) the fee required by Subsection (15).
 - (d) A qualifying entity under Subsection (2)(c), state agency, or other agency or individual described in Subsections (2)(d) through (g) that submits a request for a WIN database check and a nationwide background check shall provide to the bureau:
 - (i) personal identifying information for the subject of the background check;
 - (ii) a fingerprint card for the subject of the background check; and
 - (iii) the fee required by Subsection (15).
 - (e) Information received by a qualifying entity under Subsection (2)(c), state agency, or other agency or individual described in Subsections (2)(d) through (j) may only be:
 - (i) available to individuals involved in the hiring or background investigation of the job applicant, employee, notary applicant, or as authorized under federal or state law;
 - (ii) used for the purpose of assisting in making an employment appointment, selection, or promotion decision or for considering a notary applicant under Section 46-1-3; and
 - (iii) used for the purposes disclosed in the waiver signed in accordance with Subsection (4)(b).
 - (f) An individual who disseminates or uses information obtained from the division under Subsections (2)(c) through (j) for purposes other than those specified under Subsection (4)(e), in addition to any penalties provided under this section, is subject to civil liability.
 - (g)
 - (i) A qualifying entity under Subsection (2)(c), state agency, or other agency or individual described in Subsections (2)(d) through (j) that obtains background check information shall provide the subject of the background check an opportunity to:
 - (A) request a copy of the information received; and
 - (B) respond to and challenge the accuracy of any information received.
 - (ii) An individual who is the subject of a background check and who receives a copy of the information described in Subsection (4)(g)(i) may use the information only for the purpose of reviewing, responding to, or challenging the accuracy of the information.
 - (h) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division may make rules to implement this Subsection (4).
 - (i) The division or the division's employees are not liable for defamation, invasion of privacy, negligence, or any other claim in connection with the contents of information disseminated under Subsections (2)(c) through (j).
- (5)
- (a) Except as provided in Subsection (5)(b), (c), (d), or (e), or as otherwise authorized under state law, criminal history record information obtained from division files may be used only for the purposes for which the information was provided.
 - (b) A criminal history provided to an agency under Subsection (2)(f) may be provided by the agency to the individual 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 26B-6-410(5), provide a criminal history record to the state agency or the agency's designee.
 - (e) Criminal history record information obtained from a national source may be disseminated if the dissemination is authorized by a policy issued by the Criminal Justice Information Services Division or other federal law.
- (6)
- (a) A qualifying entity under Subsection (2)(c) may submit fingerprints to the bureau and the Federal Bureau of Investigation for a local and national background check under the provisions of the National Child Protection Act of 1993, 42 U.S.C. Sec. 5119 et seq.
 - (b) A qualifying entity under Subsection (2)(c) that submits fingerprints under Subsection (6)(a):
 - (i) shall meet all VECHS requirements for using VECHS; and
 - (ii) may only submit fingerprints for an employee, volunteer, or applicant who has resided in Utah for the seven years before the day on which the qualifying entity submits the employee's, volunteer's, or applicant's fingerprints.
- (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 the information 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) shall be set in accordance with 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)(g):
- (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 a criminal justice agency's 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 bureau of the unauthorized use.

(13)

- (a) Subject to Subsection (13)(b), a qualifying entity or an entity described in Subsection (2) 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) 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) The division shall impose fees set in accordance with Section 63J-1-504 for the applicant fingerprint card, name check, and to register fingerprints under Subsection (13)(a).
- (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.

- (16) For the purposes of conducting a criminal background check authorized under Subsection (2)(h), (i), or (j), the Division of Human Resource Management, in accordance with Title 63A, Chapter 17, Utah State Personnel Management Act, and the governor's office shall have direct access to criminal background information maintained under Chapter 10, Part 2, Bureau of Criminal Identification.

(17)

- (a) Except as provided in Subsection (18), if an individual has an active FBI Rap Back System subscription with a qualifying entity, the division may, upon request from another qualifying entity, clone the subscription to the requesting qualifying entity if:
 - (i) the requesting qualifying entity requests the clone:
 - (A) for the purpose of evaluating whether the individual should be permitted to obtain or retain a license for, or serve as an employee or volunteer in a position in which the individual is responsible for, the care, treatment, training, instruction, supervision, or recreation of children, the elderly, or individuals with disabilities; or
 - (B) for the same purpose as the purpose for which the original qualifying entity requested the criminal history record information;
 - (ii) the requesting qualifying entity is expressly authorized by statute to obtain criminal history record information for the individual who is the subject of the request;

- (iii) before requesting the clone, the requesting qualifying entity obtains a signed waiver, containing the information described in Subsection (4)(b), from the individual who is the subject of the request;
 - (iv) the requesting qualifying entity or the individual pays any applicable fees set by the division in accordance with Section 63J-1-504; and
 - (v) the requesting qualifying entity complies with the requirements described in Subsection (4)(g).
- (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division may make rules regulating the process described in this Subsection (17).
- (18)
- (a) Subsection (17) does not apply unless the Federal Bureau of Investigation approves the use of the FBI Rap Back System for the purpose described in Subsection (17)(a)(i) under the conditions described in Subsection (17).
 - (b) Subsection (17) does not apply to the extent that implementation of the provisions of Subsection (17) are contrary to the requirements of the Child Care and Development Block Grant, 42 U.S.C. Secs. 9857-9858r or any other federal grant.
- (19)
- (a) Information received by a qualifying entity under Subsection (17) may only be disclosed and used as described in Subsection (4)(e).
 - (b) A person who disseminates or uses information received under Subsection (17) for a purpose other than those described in Subsection (4)(e) is subject to the penalties described in this section and is also subject to civil liability.
 - (c) A qualifying entity is not liable for defamation, invasion of privacy, negligence, or any other claim in connection with the contents of information disseminated under Subsection (17).

Amended by Chapter 328, 2023 General Session

53-10-109 Telecommunications systems.

For the purpose of expediting local, state, national, and international efforts in the detection and apprehension of criminals, the division may operate and coordinate telecommunications systems as may be required in the conduct of its duties under this part.

Renumbered and Amended by Chapter 263, 1998 General Session

53-10-110 Authority of officers and officials to take fingerprints, photographs, and other data.

The officers and officials described in Sections 53-10-207 through 53-10-209 shall take, or cause to be taken, fingerprints, photographs, and other related data of persons under this part.

Renumbered and Amended by Chapter 263, 1998 General Session

53-10-111 Refusal to provide information -- False information -- Misdemeanor.

It is a class B misdemeanor for a person to:

- (1) neglect or refuse to provide, or willfully withhold any information under this part;
- (2) willfully provide false information;
- (3) willfully fail to do or perform any act required under this part;
- (4) hinder or prevent another from doing an act required under this part; or

- (5) willfully remove, destroy, alter, mutilate, or disclose the contents of any file or record created or maintained, or to which access is granted by the division unless authorized by and in compliance with procedures established by the division.

Amended by Chapter 243, 2011 General Session

53-10-112 Director and officers to have peace officer powers.

The director and enforcement officers:

- (1) are vested with the powers of peace officers throughout the several counties of the state, with the exception of the power to serve civil process;
- (2) have the powers and duties of inspectors under Title 32B, Alcoholic Beverage Control Act;
- (3) may serve criminal process and arrest and prosecute violators of any law of this state; and
- (4) have the same rights as other peace officers to require aid in executing their duties.

Amended by Chapter 276, 2010 General Session

53-10-113 Other agencies to cooperate with division.

- (1) All agencies of the state and local governments shall cooperate with the division in discharging its responsibilities under:
 - (a) this chapter;
 - (b) Title 32B, Alcoholic Beverage Control Act;
 - (c) Title 58, Chapter 37, Utah Controlled Substances Act;
 - (d) Title 58, Chapter 37a, Utah Drug Paraphernalia Act;
 - (e) Title 58, Chapter 37b, Imitation Controlled Substances Act; and
 - (f) Title 58, Chapter 37c, Utah Controlled Substance Precursor Act.
- (2) This part does not relieve local law enforcement agencies or officers of the responsibility of enforcing laws relating to alcoholic beverages and alcoholic products or any other laws.
- (3) The powers and duties conferred upon the director and the officers of the division are not a limitation upon the powers and duties of other peace officers in the state.

Amended by Chapter 276, 2010 General Session

53-10-114 Authority regarding drug precursors.

- (1) As used in this section, "acts" means:
 - (a) Title 58, Chapter 37c, Utah Controlled Substance Precursor Act; and
 - (b) Title 58, Chapter 37d, Clandestine Drug Lab Act.
- (2) The division has authority to enforce the drug lab and precursor acts. To carry out this purpose, the division may:
 - (a) inspect, copy, and audit any records, inventories of controlled substance precursors, and reports required under the acts and rules adopted under the acts;
 - (b) enter the premises of regulated distributors and regulated purchasers during normal business hours to conduct administrative inspections;
 - (c) assist the law enforcement agencies of the state in enforcing the acts;
 - (d) conduct investigations to enforce the acts;
 - (e) present evidence obtained from investigations conducted in conjunction with appropriate county and district attorneys and the Office of the Attorney General for civil or criminal prosecution or for administrative action against a licensee; and

- (f) work in cooperation with the Division of Professional Licensing, created under Section 58-1-103, to accomplish the purposes of this section.

Amended by Chapter 415, 2022 General Session

53-10-115 Cold case database.

- (1) As used in this section, "cold case" means an investigation into any crime listed in Subsections 76-1-301(2)(a) through (g), or regarding a missing person, that remains unsolved at least three years after the crime occurred or the individual went missing.
- (2) The division shall develop a secure database within the Utah Criminal Justice Information System that contains information related to each cold case that is open in any jurisdiction in the state.
- (3) The division shall adopt rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to specify:
 - (a) the information to be collected and maintained in the database; and
 - (b) what information may be accessed by the public.
- (4) Each law enforcement agency in the state shall provide the information required by the division for inclusion in the database for each open investigation. The law enforcement agency shall maintain the physical evidence and investigation file for each case unless otherwise agreed to by the law enforcement agency and the division.
- (5) The division shall maintain the information on a cold case indefinitely.

Enacted by Chapter 169, 2018 General Session

53-10-116 National Crime Prevention and Privacy Compact ratification and implementation.

- (1) To facilitate the interstate exchange of criminal history information for noncriminal justice purposes, including background checks for licensing and screening of employees and volunteers, the National Crime Prevention and Privacy Compact, 42 U.S.C. 14616, is ratified and incorporated by reference as law in this state.
- (2) The division is the central repository of criminal history records for purposes of the compact and shall do all things necessary or incidental to carrying out the compact.
- (3) The director, or director's designee, is the state's compact officer and shall administer the compact within the state.
- (4) The division may adopt rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and establish procedures for the cooperative exchange of criminal history records between the state, other state governments, and with the federal government for use in noncriminal justice background checks.
- (5) The compact and this section do not affect the duties and responsibilities of the division under other provisions of this chapter regarding the dissemination of criminal history records within the state.

Enacted by Chapter 42, 2018 General Session

Part 2
Bureau of Criminal Identification

53-10-201 Bureau of Criminal Identification -- Creation -- Bureau Chief appointment, qualifications, and compensation.

- (1) There is created within the division the Bureau of Criminal Identification.
- (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 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

53-10-202 Criminal identification -- Duties of bureau.

The bureau shall:

- (1) procure and file information relating to identification and activities of persons who:
 - (a) are fugitives from justice;
 - (b) are wanted or missing;
 - (c) have been arrested for or convicted of a crime under the laws of any state or nation; and
 - (d) are believed to be involved in racketeering, organized crime, or a dangerous offense;
- (2) establish a statewide uniform crime reporting system that shall include:
 - (a) statistics concerning general categories of criminal activities;
 - (b) statistics concerning crimes that exhibit evidence of prejudice based on race, religion, ancestry, national origin, ethnicity, or other categories that the division finds appropriate;
 - (c) statistics concerning the use of force by law enforcement officers in accordance with the Federal Bureau of Investigation's standards; and
 - (d) other statistics required by the Federal Bureau of Investigation;
- (3) make a complete and systematic record and index of the information obtained under this part;
- (4) subject to the restrictions in this part, establish policy concerning the use and dissemination of data obtained under this part;
- (5) publish an annual report concerning the extent, fluctuation, distribution, and nature of crime in Utah;
- (6) establish a statewide central register for the identification and location of missing persons, which may include:
 - (a) identifying data including fingerprints of each missing person;
 - (b) identifying data of any missing person who is reported as missing to a law enforcement agency having jurisdiction;
 - (c) dates and circumstances of any persons requesting or receiving information from the register; and
 - (d) any other information, including blood types and photographs found necessary in furthering the purposes of this part;
- (7) publish a quarterly directory of missing persons for distribution to persons or entities likely to be instrumental in the identification and location of missing persons;
- (8) list the name of every missing person with the appropriate nationally maintained missing persons lists;
- (9) establish and operate a 24-hour communication network for reports of missing persons and reports of sightings of missing persons;

- (10) coordinate with the National Center for Missing and Exploited Children and other agencies to facilitate the identification and location of missing persons and the identification of unidentified persons and bodies;
- (11) receive information regarding missing persons as provided in Sections 26B-8-130 and 53G-6-602, and stolen vehicles, vessels, and outboard motors, as provided in Section 41-1a-1401;
- (12) adopt systems of identification, including the fingerprint system, to be used by the division to facilitate law enforcement;
- (13) assign a distinguishing number or mark of identification to any pistol or revolver, as provided in Section 76-10-520;
- (14) check certain criminal records databases for information regarding motor vehicle salesperson applicants, maintain a separate file of fingerprints for motor vehicle salespersons, and inform the Motor Vehicle Enforcement Division when new entries are made for certain criminal offenses for motor vehicle salespersons in accordance with the requirements of Section 41-3-205.5;
- (15) check certain criminal records databases for information regarding driving privilege card applicants or cardholders and maintain a separate file of fingerprints for driving privilege applicants and cardholders and inform the federal Immigration and Customs Enforcement Agency of the United States Department of Homeland Security when new entries are made in accordance with the requirements of Section 53-3-205.5;
- (16) review and approve or disapprove applications for license renewal that meet the requirements for renewal; and
- (17) forward to the board those applications for renewal under Subsection (16) that do not meet the requirements for renewal.

Amended by Chapter 328, 2023 General Session

53-10-202.5 Bureau services -- Fees.

The bureau shall collect fees for the following services:

- (1) applicant fingerprint card as determined by Section 53-10-108;
- (2) bail enforcement licensing as determined by Section 53-11-115;
- (3) concealed firearm permit as determined by Section 53-5-707;
- (4) provisional concealed firearm permit as determined by Section 53-5-707.5;
- (5) a certificate of eligibility for expungement as described in Section 77-40a-304;
- (6) firearm purchase background check as determined by Section 76-10-526;
- (7) name check as determined by Section 53-10-108;
- (8) private investigator licensing as determined by Section 53-9-111; and
- (9) right of access as determined by Section 53-10-108.

Amended by Chapter 250, 2022 General Session

Amended by Chapter 384, 2022 General Session

53-10-203 Missing persons -- Reports -- Notification.

- (1) Each law enforcement agency that is investigating the report of a missing person shall provide information regarding that report to the division. The report shall include descriptive information and the date and location of the last-known contact with the missing person.

- (2) The division shall notify the state registrar of Vital Statistics and the FBI National Crime Information Center of all missing persons reported in accordance with Subsection (1) and shall provide the state registrar with information concerning the identity of those missing persons.
- (3) If the division has reason to believe that a missing person reported in accordance with Subsection (1) has been enrolled in a specific school in this state, the division shall also notify the last-known school of that report.
- (4) Upon learning of the recovery of a missing person, the division shall notify the state registrar and any school that it has previously informed of the person's disappearance.
- (5) The division shall, by rule, determine the manner and form of reports, notices, and information required by this section.
- (6) Upon notification by the state registrar or school personnel that a request for a birth certificate, school record, or other information concerning a missing person has been made, or that an investigation is needed in accordance with Section 53G-6-603, the division shall immediately notify the local law enforcement authority.

Amended by Chapter 415, 2018 General Session

53-10-204 Missing person records -- Confidentiality -- Availability.

Inquiries made regarding missing persons are confidential and are available only to:

- (1) a law enforcement agency investigating a report of a missing person;
- (2) an agency having the responsibility or authority to care for, treat, or supervise a person who is the subject of a placement in temporary or substitute care or an adoption proceeding;
- (3) a court, upon a finding that access to the records may be necessary for the determination of an issue before it;
- (4) the office of the public prosecutor or its deputies;
- (5) any person engaged in bona fide research when approved by the director of the division, excluding names and addresses; and
- (6) entities or persons authorized to receive the information in accordance with Section 53-10-203.

Renumbered and Amended by Chapter 263, 1998 General Session

53-10-205 Uniform crime reporting system -- Reporting timelines and use of data.

- (1) The data acquired under the statewide uniform crime reporting system shall be used only for research or statistical purposes and may not contain any information that may reveal the identity of an individual victim of a crime or law enforcement officer.
- (2) A law enforcement agency shall, for the jurisdiction of the law enforcement agency, submit crime reporting and use of force data requested or required by the statewide uniform crime reporting system described in Section 53-10-202:
 - (a) to the bureau before the 16th day of the month after the month in which a reported crime occurs; and
 - (b) in a manner prescribed by the bureau and in compliance with the requirements of the Federal Bureau of Investigation's uniform crime reporting standards.
- (3) Upon request of the bureau, a law enforcement agency shall review and verify crime reporting data within 10 business days after the day on which the law enforcement agency receives the request.

Amended by Chapter 103, 2021 General Session

53-10-206 Collection of information.

The commissioner and persons designated by him may require all peace officers, the warden of the state prison, the keeper of any jail or correctional institution, or superintendent of the state hospital to obtain information that will aid in establishing the records required to be kept.

Renumbered and Amended by Chapter 263, 1998 General Session
Amended by Chapter 282, 1998 General Session

53-10-207 Peace officers, prosecutors, and magistrates to supply information to state and F.B.I. -- Notification of arrest based on warrant.

- (1) Every peace officer shall:
 - (a) cause fingerprints of persons he has arrested to be taken on forms provided by the division and the Federal Bureau of Investigation;
 - (b) supply information requested on the forms; and
 - (c) forward without delay both copies to the division, which shall forward the F.B.I. copy to the Identification Division of the Federal Bureau of Investigation.
- (2) If, after fingerprints have been taken in accordance with Subsection (1), the prosecutor declines to prosecute, or investigative action as described in Section 77-2-3 is terminated, the prosecutor or law enforcement agency shall notify the division of this action within 14 working days.
- (3) At the preliminary hearing or arraignment of a felony case, the prosecutor shall ensure that each felony defendant has been fingerprinted and an arrest and fingerprint form is transmitted to the division. In felony cases where fingerprints have not been taken, the judge shall order the chief law enforcement officer of the jurisdiction or the sheriff of the county to:
 - (a) cause fingerprints of each felony defendant to be taken on forms provided by the division;
 - (b) supply information requested on the forms; and
 - (c) forward without delay both copies to the division.
- (4) If an arrest is based upon information about the existence of a criminal warrant of arrest or commitment under Rule 6, Utah Rules of Criminal Procedure, every peace officer shall without delay notify the division of the service of each warrant of arrest or commitment, in a manner specified by the division.

Renumbered and Amended by Chapter 263, 1998 General Session

53-10-208 Definition -- Offenses included on statewide warrant system -- Transportation fee to be included -- Statewide warrant system responsibility -- Quality control -- Training -- Technical support -- Transaction costs.

- (1) "Statewide warrant system" means the portion of the state court computer system that is accessible by modem from the state mainframe computer and contains:
 - (a) records of criminal warrant information; and
 - (b) after notice and hearing, records of protective orders issued pursuant to:
 - (i) Title 77, Chapter 36, Cohabitant Abuse Procedures Act;
 - (ii) Title 78B, Chapter 7, Part 4, Dating Violence Protective Orders;
 - (iii) Title 78B, Chapter 7, Part 5, Sexual Violence Protective Orders;
 - (iv) Title 78B, Chapter 7, Part 6, Cohabitant Abuse Protective Orders; or
 - (v) Title 78B, Chapter 7, Part 8, Criminal Protective Orders.
- (2)

- (a) The division shall include on the statewide warrant system all warrants issued for felony offenses and class A, B, and C misdemeanor offenses in the state.
 - (b) The division shall include on the statewide warrant system all warrants issued for failure to appear on a traffic citation as ordered by a magistrate under Subsection 77-7-19(3).
 - (c) For each warrant, the division shall indicate whether the magistrate ordered under Section 77-7-5 and Rule 6, Utah Rules of Criminal Procedure, that the accused appear in court.
- (3) The division is the agency responsible for the statewide warrant system and shall:
- (a) ensure quality control of all warrants of arrest or commitment and protective orders contained in the statewide warrant system by conducting regular validation checks with every clerk of a court responsible for entering the information on the system;
 - (b) upon the expiration of the protective orders and in the manner prescribed by the division, purge information regarding protective orders described in Subsection 53-10-208.1(1)(d) within 30 days of the time after expiration;
 - (c) establish system procedures and provide training to all criminal justice agencies having access to information contained on the state warrant system;
 - (d) provide technical support, program development, and systems maintenance for the operation of the system; and
 - (e) pay data processing and transaction costs for state, county, and city law enforcement agencies and criminal justice agencies having access to information contained on the state warrant system.
- (4)
- (a) Any data processing or transaction costs not funded by legislative appropriation shall be paid on a pro rata basis by all agencies using the system during the fiscal year.
 - (b) This Subsection (4) supersedes any conflicting provision in Subsection (3)(e).

Amended by Chapter 159, 2021 General Session

53-10-208.1 Magistrates and court clerks to supply information.

- (1) Every magistrate or clerk of a court responsible for court records in this state shall, within 30 days after the day of the disposition and on forms and in the manner provided by the division, furnish the division with information pertaining to:
- (a) all dispositions of criminal matters, including:
 - (i) guilty pleas;
 - (ii) convictions;
 - (iii) dismissals;
 - (iv) acquittals;
 - (v) pleas in abeyance;
 - (vi) judgments of not guilty by reason of insanity;
 - (vii) judgments of guilty with a mental condition;
 - (viii) finding of mental incompetence to stand trial; and
 - (ix) probations granted;
 - (b) orders of civil commitment under the terms of Section 26B-5-332;
 - (c) the issuance, recall, cancellation, or modification of all warrants of arrest or commitment as described in Rule 6, Utah Rules of Criminal Procedure and Section 78B-6-303, within one day of the action and in a manner provided by the division; and
 - (d) protective orders issued after notice and hearing, pursuant to:
 - (i) Title 77, Chapter 36, Cohabitant Abuse Procedures Act;
 - (ii) Title 78B, Chapter 7, Part 4, Dating Violence Protective Orders;

- (iii) Title 78B, Chapter 7, Part 5, Sexual Violence Protective Orders;
 - (iv) Title 78B, Chapter 7, Part 6, Cohabitant Abuse Protective Orders; or
 - (v) Title 78B, Chapter 7, Part 8, Criminal Protective Orders.
- (2) When transmitting information on a criminal matter under Subsection (1)(a)(i), (ii), (v), or (vii) for a conviction of misdemeanor assault under Section 76-5-102, the magistrate or clerk of a court shall include available information regarding whether the conviction for assault resulted from an assault against an individual:
- (a) who is included in at least one of the relationship categories described in Subsection 76-10-503(1)(b)(xi); or
 - (b) with whom none of the relationships described in Subsection 76-10-503(1)(b)(xi) apply.
- (3) The court in the county where a determination or finding was made shall transmit a record of the determination or finding to the bureau no later than 48 hours after the determination is made, excluding Saturdays, Sundays, and legal holidays, if an individual is:
- (a) adjudicated as a mental defective; or
 - (b) involuntarily committed to a mental institution in accordance with Subsection 26B-5-332(16).
- (4) The record described in Subsection (3) shall include:
- (a) an agency record identifier;
 - (b) the individual's name, sex, race, and date of birth; and
 - (c) the individual's social security number, government issued driver license or identification number, alien registration number, government passport number, state identification number, or FBI number.

Amended by Chapter 184, 2023 General Session

Amended by Chapter 328, 2023 General Session

Amended by Chapter 397, 2023 General Session

53-10-209 Penal institutions and state hospital to supply information.

- (1) The warden of the state prison, keeper of any jail or correctional institution, and superintendent of the state hospital shall forward to the division:
- (a) the fingerprints and recent photographs of all persons confined in each institution under criminal commitment;
 - (b) information relating to the parole, termination or expiration of sentence, or any other release of each person from confinement during the preceding month; and
 - (c) a photograph taken near the time of release.
- (2) The adult probation and parole section of the Department of Corrections shall furnish to the division:
- (a) information relating to the revocation or termination of probation or parole; and
 - (b) upon request, the names, fingerprints, photographs, and other data.
- (3) The chair of the Board of Pardons and Parole shall provide to the division information regarding the issuance, recall, cancellation, or modification of any warrant issued by members of the Board of Pardons and Parole, under Section 77-27-11, within one day of issuance.
- (4) Information provided to the division under this section shall be on forms designated by the division.

Renumbered and Amended by Chapter 263, 1998 General Session

53-10-210 Response for requests -- Fees.

- (1) In responding to requests for criminal background checks, the division shall make an earnest effort to provide the requested information within three weeks of receipt of a request.
- (2) Fees and other payments received by the division in payment for criminal background check services shall be deposited in the General Fund and the Legislature shall make an annual appropriation for payment of personnel and other costs incurred in providing those services.

Renumbered and Amended by Chapter 263, 1998 General Session

53-10-211 Notice required of arrest of school employee for controlled substance or sex offense.

- (1) The chief administrative officer of the law enforcement agency making the arrest or receiving notice under Subsection (2) shall immediately notify:
 - (a) the State Board of Education; and
 - (b) the superintendent of schools of the employing public school district or, if the offender is an employee of a private school, the administrator of that school.
- (2) Subsection (1) applies upon:
 - (a) the arrest of any school employee for any offense:
 - (i) in Section 58-37-8;
 - (ii) in Title 76, Chapter 5, Part 4, Sexual Offenses; or
 - (iii) involving sexual conduct; or
 - (b) upon receiving notice from any other jurisdiction that a school employee has committed an act which would, if committed in Utah, be an offense under Subsection (2)(a).

Amended by Chapter 144, 2016 General Session

53-10-212 Supplies and equipment for compliance by reporting agencies.

All governing boards or commissions of each city, town, county, or correctional institution of the state shall furnish the appropriate officials with supplies and equipment necessary to perform the duties prescribed in this part.

Renumbered and Amended by Chapter 263, 1998 General Session

53-10-213 Reporting requirements.

- (1) The bureau shall submit the record received from the court in accordance with Subsection 78B-7-603(5)(e) to the National Crime Information Center within 48 hours of receipt, excluding Saturdays, Sundays, and legal holidays.
- (2) The bureau shall submit the record received from the court in accordance with Subsection 53-10-208.1(3) to the National Instant Criminal Background Check System within 48 hours of receipt, excluding Saturdays, Sundays, and legal holidays.

Amended by Chapter 397, 2023 General Session

53-10-214 Reporting requirements.

The bureau shall submit a record received pursuant to Section 53-10-208.1 for all nonextraditable warrants issued for violent felonies as defined in Section 76-3-203.5 and all nonextraditable warrants issued for knowingly failing to register for a sexual offense pursuant to Section 77-41-107 to the National Crime Information Center within 48 hours of receipt, excluding Saturdays, Sundays, and legal holidays.

Enacted by Chapter 406, 2019 General Session

Part 3

State Bureau of Investigation

53-10-301 State Bureau of Investigation -- Creation -- Bureau chief appointment, qualifications, and compensation.

- (1) There is created within the division the State Bureau of Investigation.
- (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 and possess additional qualifications as determined by the 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

53-10-302 Bureau duties.

The bureau shall:

- (1) provide assistance and investigative resources to divisions within the Department of Public Safety;
- (2) upon request, provide assistance and specialized law enforcement services to local law enforcement agencies;
- (3) conduct financial investigations regarding suspicious cash transactions, fraud, and money laundering;
- (4) investigate criminal activity of organized crime networks, gangs, extremist groups, and others promoting violence;
- (5) investigate criminal activity of terrorist groups;
- (6) enforce the Utah Criminal Code;
- (7) cooperate and exchange information with other state agencies and with other law enforcement agencies of government, both within and outside of this state, through a statewide information and intelligence center to obtain information that may achieve more effective results in the prevention, detection, and control of crime and apprehension of criminals;
- (8) create and maintain a statewide criminal intelligence system;
- (9) provide specialized case support and investigate illegal drug production, cultivation, and sales;
- (10) investigate, follow-up, and assist in highway drug interdiction cases;
- (11) make rules to implement this chapter;
- (12) perform the functions specified in Part 2, Bureau of Criminal Identification;
- (13) provide a state cybercrime unit to investigate computer and network intrusion matters involving state-owned computer equipment and computer networks as reported under Section 76-6-705;
- (14) investigate violations of Section 76-6-703 and other computer related crimes including:
 - (a) computer network intrusions;

- (b) denial of services attacks;
 - (c) computer related theft or fraud;
 - (d) intellectual property violations; and
 - (e) electronic threats; and
- (15) upon request, investigate the following offenses when alleged to have been committed by an individual who is currently or has been previously elected, appointed, or employed by a governmental entity:
- (a) criminal offenses; and
 - (b) matters of public corruption.
- (16)
- (a) The bureau is not prohibited from investigating crimes not specifically referred to in this section; and
 - (b) other agencies are not prohibited from investigating crimes referred to in this section.

Amended by Chapter 302, 2016 General Session

53-10-304 Narcotics and alcoholic product enforcement -- Responsibility and jurisdiction.

The bureau shall:

- (1) have specific responsibility for the enforcement of all laws of the state pertaining to alcoholic beverages and alcoholic products;
- (2) have general law enforcement jurisdiction throughout the state;
- (3) have concurrent law enforcement jurisdiction with all local law enforcement agencies and their officers;
- (4) cooperate and exchange information with any other state agency and with other law enforcement agencies of government, both within and outside this state, to obtain information that may achieve more effective results in the prevention, detection, and control of crime and apprehension of criminals;
- (5) sponsor or supervise programs or projects related to prevention, detection, and control of violations of:
 - (a) Title 32B, Alcoholic Beverage Control Act;
 - (b) Title 58, Chapter 37, Utah Controlled Substances Act;
 - (c) Title 58, Chapter 37a, Utah Drug Paraphernalia Act;
 - (d) Title 58, Chapter 37b, Imitation Controlled Substances Act;
 - (e) Title 58, Chapter 37c, Utah Controlled Substance Precursor Act; and
 - (f) Title 58, Chapter 37d, Clandestine Drug Lab Act; and
- (6) assist the governor in an emergency or as the governor may require.

Amended by Chapter 276, 2010 General Session

53-10-305 Duties of bureau chief.

The bureau chief, with the consent of the commissioner, shall do the following:

- (1) conduct in conjunction with the state boards of education and higher education in state schools, colleges, and universities, an educational program concerning alcoholic beverages and alcoholic products, and work in conjunction with civic organizations, churches, local units of government, and other organizations in the prevention of alcoholic beverage, alcoholic product, and drug violations;
- (2) coordinate law enforcement programs throughout the state and accumulate and disseminate information related to the prevention, detection, and control of violations of this chapter

and Title 32B, Alcoholic Beverage Control Act, as it relates to storage or consumption of an alcoholic beverage or alcoholic product on premises maintained by a bar establishment licensee, or a person required to obtain a bar establishment license, as defined in Section 32B-1-102;

- (3) make inspections and investigations as required by the commission and the Department of Alcoholic Beverage Services;
- (4) perform other acts as may be necessary or appropriate concerning control of the use of an alcoholic beverage or alcoholic product and drugs; and
- (5) make reports and recommendations to the Legislature, the governor, the commissioner, the commission, and the Department of Alcoholic Beverage Services as may be required or requested.

Amended by Chapter 447, 2022 General Session

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 any person who:
 - (a) 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) 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) has been booked on or after January 1, 2011, through December 31, 2014, for any offense under Subsection (2)(c);
 - (d) 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) is a minor under Subsection (3).
- (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 76-4-401;
 - (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) negligently operating a vehicle resulting in death, 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, Subsection 76-8-309(2);
 - (xv) a felony violation of assault on an elected official, Section 76-8-315;
 - (xvi) influencing, impeding, or retaliating against a judge or member of the Board of Pardons and Parole, Section 76-8-316;
 - (xvii) advocating criminal syndicalism or sabotage, Section 76-8-902;
 - (xviii) assembly for advocating criminal syndicalism or sabotage, Section 76-8-903;
 - (xix) a felony violation of sexual battery, Section 76-9-702.1;
 - (xx) a felony violation of lewdness involving a child, Section 76-9-702.5;
 - (xxi) a felony violation of abuse or desecration of a dead human body, Section 76-9-704;
 - (xxii) manufacture, possession, sale, or use of a weapon of mass destruction, Section 76-10-402;
 - (xxiii) manufacture, possession, sale, or use of a hoax weapon of mass destruction, Section 76-10-403;
 - (xxiv) possession of a concealed firearm in the commission of a violent felony, Subsection 76-10-504(4);
 - (xxv) assault with the intent to commit bus hijacking with a dangerous weapon, Subsection 76-10-1504(3);
 - (xxvi) commercial obstruction, Subsection 76-10-2402(2);
 - (xxvii) a felony violation of failure to register as a sex or kidnap offender, Section 77-41-107;
 - (xxviii) repeat violation of a protective order, Subsection 77-36-1.1(4); or
 - (xxix) violation of condition for release after arrest under Section 78B-7-802.
- (3) A minor under Subsection (1) is a minor 14 years old or older who is adjudicated by the juvenile court due to the commission of any offense described in Subsection (2), and who:
- (a) committed an offense under Subsection (2) within the jurisdiction of the juvenile court on or after July 1, 2002; or
 - (b) is in the legal custody of the Division of Juvenile Justice and Youth Services on or after July 1, 2002, for an offense under Subsection (2).

Amended by Chapter 328, 2023 General Session

Amended by Chapter 457, 2023 General Session

53-10-403.5 Definitions.

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

- (1) "Bureau" means the Bureau of Forensic Services.
- (2) "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.
- (3) "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.
- (4) "DNA" means deoxyribonucleic acid.
- (5) "DNA profile" means the patterns of fragments of DNA used to identify an individual.
- (6) "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.

- (7) "Final judgment" means a judgment, including any supporting opinion, concerning which all appellate remedies have been exhausted or the time for appeal has expired.
- (8) "Rapid DNA" means the fully automated process of developing a DNA profile.
- (9) "Violent felony" means any offense under Section 76-3-203.5.

Amended by Chapter 184, 2023 General Session
Amended by Chapter 500, 2023 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" refers to any person as described under Section 53-10-403.

- (2)
 - (a) A person under Section 53-10-403 or any person required to register as a sex offender under Title 77, Chapter 41, Sex and Kidnap 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 in 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 a finding of jurisdiction 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 Department of Corrections.
 - (b) The juvenile court is the responsible agency regarding a minor under Subsection 53-10-403(3), but if the minor has been committed to the legal custody of the Division of Juvenile Justice Services, that division is the responsible agency if a DNA specimen of the minor has not previously been obtained by the juvenile court under Section 80-6-608.
 - (c) 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 or are not under the supervision of the Department of Corrections;
 - (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.
 - (d) 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 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 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 adult probation and parole section of the department, 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 262, 2021 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) the charge upon which the booking is based is resolved by a conviction or the person is convicted of any charge 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 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 arising out of the same criminal episode regarding which the person was booked;
 - (c) a grand jury has returned an indictment for any charge arising out of the same criminal episode regarding which the person was booked; or
 - (d) sixty days after the issuance of an arrest warrant for failure to appear, provided the warrant is still outstanding or has not been recalled.

Amended by Chapter 113, 2022 General Session

Superseded 7/1/2024

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 Health and Human Services under Section 26B-1-202.
 - (b) The Department of Health and Human Services may designate by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, which emergency medical service personnel, as defined in Section 26B-4-101, are authorized to draw blood under Subsection (2)(a)(vi), based on the type of license under Section 26B-4-116.
 - (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 328, 2023 General Session

Effective 7/1/2024

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 Health and Human Services under Section 26B-1-202.
 - (b) The Department of Health and Human Services 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 310, 2023 General Session

Amended by Chapter 328, 2023 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) 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 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.

Amended by Chapter 113, 2022 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 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 Services, and to the Department of Public Safety are nonlapsing.

Amended by Chapter 262, 2021 General Session

Part 5
Bureau of Communications

53-10-501 Bureau of Communications -- Creation -- Bureau Chief appointment, qualifications, and compensation.

- (1) There is created within the division the Bureau of Communications.
- (2) The bureau shall be managed by a bureau chief selected by the division director, with the approval of the commissioner.
- (3) The bureau chief should be experienced in communications and administration, 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.

Enacted by Chapter 263, 1998 General Session

53-10-502 Bureau duties.

The bureau:

- (1) maintains dispatch and communications services for regional public safety consolidated communications centers;

- (2) provides facilities and acts as a public safety answering point to answer and respond to 911 calls from a region;
- (3) provides professional emergency dispatch and communications support for law enforcement, emergency medical, fire suppression, highway maintenance, public works, and public safety agencies representing municipal, county, state, and federal governments; and
- (4) coordinates incident response.

Amended by Chapter 21, 1999 General Session

Part 7 Utah Silver Alert Act

53-10-701 Title -- Creation.

- (1) This part is known as the "Utah Silver Alert Act."
- (2) There is created the Utah Silver Alert Notification System (Silver Alert) for missing and endangered adults to be administered by the department.

Enacted by Chapter 54, 2019 General Session

53-10-702 Definitions.

As used in this part:

- (1) "Dementia" means a person has a form of cognitive decline that significantly affects the person's ability to make decisions and provide for health, safety, or self care. This term includes Alzheimer's disease and other forms of dementia marked by the continual loss of memory and awareness of surroundings.
- (2) "Endangered adult" means a person 60 years of age or older or a person under 60 years of age who has a form of dementia.

Enacted by Chapter 54, 2019 General Session

53-10-703 Silver Alert Notification System -- Law enforcement and department responsibilities.

- (1) The department shall develop a quick response system designed to issue and coordinate alerts following the report of a missing endangered adult. The system shall utilize the same coordination as the Amber Alert System with the following exceptions:
 - (a) the National Emergency Broadcast System may not be activated; and
 - (b) notification to the Department of Transportation for the activation of highway signage shall indicate the specific area in which the person was last seen so that signs only in that geographical area will be activated.
- (2) Upon receiving a report of a missing adult, the law enforcement officer shall determine whether the missing adult meets the criteria to be designated as an endangered adult.
- (3) If it is determined that the missing adult is an endangered adult, the officer investigating the person's disappearance shall request the department activate the Silver Alert Notification System.

Enacted by Chapter 54, 2019 General Session

53-10-704 Rulemaking authority.

The department shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establishing policies, procedures, and a timeline for the:

- (1) request for a Silver Alert by a law enforcement officer or agency;
- (2) activation of the Silver Alert Notification System;
- (3) duration of the Silver Alert; and
- (4) cancellation of a Silver Alert.

Enacted by Chapter 54, 2019 General Session

Part 8
HIV Testing - Sexual Offenders and Victims

53-10-801 Definitions.

For purposes of this part:

- (1) "Alleged sexual offender" means an individual or a minor regarding whom an indictment, petition, or an information has been filed or an arrest has been made alleging the commission of a sexual offense or an attempted sexual offense under Title 76, Chapter 5, Part 4, Sexual Offenses, and regarding which:
 - (a) a judge has signed an accompanying arrest warrant, pickup order, or any other order based upon probable cause regarding the alleged offense; and
 - (b) the judge has found probable cause to believe that the alleged victim has been exposed to conduct or activities that may result in an HIV infection as a result of the alleged offense.
- (2) "Department of Health and Human Services" means the Department of Health and Human Services created in Section 26B-1-201.
- (3) "HIV infection" means an indication of Human Immunodeficiency Virus (HIV) infection determined by current medical standards and detected by any of the following:
 - (a) presence of antibodies to HIV, verified by a positive "confirmatory" test, such as Western blot or other method approved by the Utah State Health Laboratory. Western blot interpretation will be based on criteria currently recommended by the Association of State and Territorial Public Health Laboratory Directors;
 - (b) presence of HIV antigen;
 - (c) isolation of HIV; or
 - (d) demonstration of HIV proviral DNA.
- (4) "HIV positive individual" means an individual who is HIV positive as determined by the State Health Laboratory.
- (5) "Local department of health" means a local health department as defined in Section 26A-1-102.
- (6) "Minor" means an individual younger than 18 years old.
- (7) "Positive" means an indication of the HIV infection as defined in Subsection (3).
- (8) "Sexual offense" means a violation of any offense under Title 76, Chapter 5, Part 4, Sexual Offenses.
- (9) "Test" or "testing" means a test or tests for HIV infection conducted by and in accordance with standards recommended by the Department of Health and Human Services.

Amended by Chapter 255, 2022 General Session

Renumbered and Amended by Chapter 430, 2022 General Session

53-10-802 Request for testing -- Mandatory testing -- Liability for costs.

- (1)
- (a) An alleged victim of a sexual offense, the parent or guardian of an alleged victim who is a minor, or the guardian of an alleged victim who is a vulnerable adult as defined in Section 26B-6-201 may request that the alleged sexual offender against whom the indictment, information, or petition is filed or regarding whom the arrest has been made be tested to determine whether the alleged offender is an HIV positive individual.
 - (b) If the alleged victim under Subsection (1)(a) has requested that the alleged offender be tested, the alleged offender shall submit to being tested not later than 48 hours after an information or indictment is filed or an order requiring a test is signed.
 - (c) If the alleged victim under Subsection (1)(a) requests that the alleged offender be tested more than 48 hours after an information or indictment is filed, the offender shall submit to being tested not later than 24 hours after the request is made.
 - (d) As soon as practicable, the results of the test conducted pursuant to this section shall be provided to:
 - (i) the alleged victim who requested the test;
 - (ii) the parent or guardian of the alleged victim, if the alleged victim is a minor;
 - (iii) the legal guardian of the alleged victim if the victim is a vulnerable adult as defined in Section 26B-6-201;
 - (iv) the alleged offender; and
 - (v) the parent or legal guardian of the alleged offender, if the offender is a minor.
 - (e) If follow-up testing is medically indicated, the results of follow-up testing of the alleged offender shall be sent as soon as practicable to:
 - (i) the alleged victim;
 - (ii) the parent or guardian of the alleged victim if the alleged victim is a minor;
 - (iii) the legal guardian of the alleged victim, if the victim is a vulnerable adult as defined in Section 26B-6-201;
 - (iv) the alleged offender; and
 - (v) the parent or legal guardian of the alleged offender, if the alleged offender is a minor.
- (2) If the mandatory test has not been conducted, and the alleged offender or alleged minor offender is already confined in a county jail, state prison, or a secure youth corrections facility, the alleged offender shall be tested while in confinement.
- (3)
- (a) The secure youth corrections facility or county jail shall cause the blood specimen of the alleged offender under Subsection (1) confined in that facility to be taken and shall forward the specimen to:
 - (i) the Department of Health and Human Services; or
 - (ii) an alternate testing facility, as determined by the secure youth corrections facility or county jail, if testing under Subsection (3)(a)(i) is unavailable.
 - (b) The entity that receives the specimen under Subsection (3)(a) shall provide the result to the prosecutor as soon as practicable for release to the parties as described in Subsection (1)(d) or (e).
- (4) The Department of Corrections shall cause the blood specimen of the alleged offender defined in Subsection (1) confined in any state prison to be taken and shall forward the specimen to the Department of Health and Human Services as provided in Section 64-13-36.

- (5) The alleged offender who is tested is responsible upon conviction for the costs of testing, unless the alleged offender is indigent. The costs will then be paid by the Department of Health and Human Services from the General Fund.

Amended by Chapter 328, 2023 General Session

53-10-803 Voluntary testing -- Victim to request -- Costs paid by Utah Office for Victims of Crime.

- (1) A victim or minor victim of a sexual offense as provided under Title 76, Chapter 5, Part 4, Sexual Offenses, may request a test for the HIV infection.
- (2)
 - (a) The local health department shall obtain the blood specimen from the victim and forward the specimen to the Department of Health.
 - (b) The Department of Health shall analyze the specimen of the victim.
- (3) The testing shall consist of a base-line test of the victim at the time immediately or as soon as possible after the alleged occurrence of the sexual offense. If the base-line test result is not positive, follow-up testing shall occur at three months and six months after the alleged occurrence of the sexual offense.
- (4) The Crime Victim Reparations Fund shall pay for the costs of the victim testing if the victim provides a substantiated claim of the sexual offense, does not test HIV positive at the base-line testing phase, and complies with eligibility criteria established by the Utah Office for Victims of Crime.

Renumbered and Amended by Chapter 430, 2022 General Session

53-10-804 Victim notification and counseling.

- (1)
 - (a) The Department of Health of Human Services shall provide the victim who requests testing of the alleged sexual offender's human immunodeficiency virus status counseling regarding HIV disease and referral for appropriate health care and support services.
 - (b) If the local health department in whose jurisdiction the victim resides and the Department of Health and Human Services agree, the Department of Health and Human Services shall forward a report of the alleged sexual offender's human immunodeficiency virus status to the local health department and the local health department shall provide the victim who requests the test with the test results, counseling regarding HIV disease, and referral for appropriate health care and support services.
- (2) Notwithstanding the provisions of Section 26B-7-217, the Department of Health and Human Services and a local health department acting pursuant to an agreement made under Subsection (1) may disclose to the victim the results of the alleged sexual offender's human immunodeficiency virus status as provided in this section.

Amended by Chapter 328, 2023 General Session

Part 9
Sexual Assault Kit Processing Act

53-10-901 Title.

This part is known as the "Sexual Assault Kit Processing Act."

Renumbered and Amended by Chapter 430, 2022 General Session

53-10-902 Definitions.

For purposes of this part:

- (1) "Collecting facility" means a hospital, health care facility, or other facility that performs sexual assault examinations.
- (2) "Department" means the Department of Public Safety.
- (3) "Restricted kit" means a sexual assault kit:
 - (a) that is collected by a collecting facility; and
 - (b) for which a victim who is 18 years old or older at the time of the sexual assault kit evidence collection declines:
 - (i) to have his or her sexual assault kit processed; and
 - (ii) to have the sexual assault examination form shared with any entity outside of the collection facility.
- (4) "Sexual assault kit" means a package of items that is used by medical personnel to gather and preserve biological and physical evidence following an allegation of sexual assault.
- (5) "Trauma-informed, victim-centered" means policies, procedures, programs, and practices that:
 - (a) have demonstrated an ability to minimize retraumatization associated with the criminal justice process by recognizing the presence of trauma symptoms and acknowledging the role that trauma has played in the life of a victim of sexual assault or sexual abuse; and
 - (b) encourage law enforcement officers to interact with victims of sexual assault or sexual abuse with compassion and sensitivity in a nonjudgmental manner.

Renumbered and Amended by Chapter 430, 2022 General Session

53-10-903 All sexual assault kits to be submitted.

- (1) Except as provided in Subsection 53-10-904(5), beginning July 1, 2018, all sexual assault kits received by law enforcement agencies shall be submitted to the Utah Bureau of Forensic Services in accordance with the provisions of this part.
- (2) The Utah Bureau of Forensic Services shall test all sexual assault kits that the bureau receives with the goal of developing autosomal DNA profiles that are eligible for entry into the Combined DNA Index System.
- (3)
 - (a) The testing of all sexual assault kits shall be completed within a specified amount of time, as determined by administrative rule consistent with the provisions of this part.
 - (b) The ability of the Utah Bureau of Forensic Services to meet the established time frames may be dependent upon the following factors:
 - (i) the number of sexual assault kits that the Utah Bureau of Forensic Services receives;
 - (ii) the technology available and improved testing methods;
 - (iii) fully trained and dedicated staff to meet the full workload needs of the Utah Bureau of Forensic Services; and
 - (iv) the number of lab requests received relating to other crime categories.

Renumbered and Amended by Chapter 430, 2022 General Session

53-10-904 Sexual assault kit processing -- Restricted kits.

- (1) Unless the health care provider designates a sexual assault kit as a restricted kit, the collecting facility shall enter the required victim information into the statewide sexual assault kit tracking system, defined in Section 53-10-907, within 24 hours of performing a sexual assault examination.
- (2) A restricted kit may only be designated as a restricted kit:
 - (a) by a health care provider; and
 - (b) at the time of collection.
- (3) Each sexual assault kit collected by medical personnel shall be taken into custody by a law enforcement agency as soon as possible and within one business day of notice from the collecting facility.
- (4) The law enforcement agency that receives a sexual assault kit shall enter the required information into the statewide sexual assault kit tracking system, provided in Section 53-10-907, within five business days of receiving a sexual assault kit from a collecting facility.
- (5) Each sexual assault kit received by a law enforcement agency from a collecting facility that relates to an incident that occurred outside of the jurisdiction of the law enforcement agency shall be transferred to the law enforcement agency with jurisdiction over the incident within 10 days of learning that another law enforcement agency has jurisdiction.
- (6)
 - (a) Except for restricted kits, each sexual assault kit shall be submitted to the Utah Bureau of Forensic Services as soon as possible, but no later than 30 days after receipt by a law enforcement agency.
 - (b) Restricted kits may not be submitted to the Utah Bureau of Forensic Services.
 - (c) Restricted kits shall be maintained by the law enforcement agency with jurisdiction, in accordance with the provisions of this part.
 - (d) A restricted kit may be changed to an unrestricted kit if the victim informs the designated law enforcement agency that he or she wants to have the sexual assault kit processed and agrees to release of the sexual assault examination form with the sexual assault kit. Once a victim indicates that he or she wants the sexual assault kit processed:
 - (i) the kit may no longer be classified as restricted; and
 - (ii) the kit shall be transmitted to the Utah Bureau of Forensic Services as soon as possible, but no later than 30 days after the victim chooses to unrestrict his or her kit with law enforcement.
- (7) If available, a suspect standard or a consensual partner elimination standard shall be submitted to the Utah Bureau of Forensic Services:
 - (a) with the sexual assault kit, if available, at the time the sexual assault kit is submitted; or
 - (b) as soon as possible, but no later than 30 days from the date the kit was obtained by the law enforcement agency, if not obtained until after the sexual assault kit is submitted.
- (8) Failure to meet a deadline established in this part or as part of any rules established by the department is not a basis for dismissal of a criminal action or a bar to the admissibility of the evidence in a criminal action.

Renumbered and Amended by Chapter 430, 2022 General Session

53-10-905 Sexual assault kit retention and disposal.

Any item of evidence gathered by collecting facility personnel, law enforcement, prosecutorial, or defense authorities that may be subject to deoxyribonucleic acid evidence testing and analysis

in order to confirm the guilt or innocence of a criminal defendant may not be disposed of before trial of a criminal defendant unless:

- (1) 50 years have passed from the date of evidence collection for sexual assault kits relating to an uncharged or unresolved crime; or
- (2) 20 years have passed from the date of evidence collection for restricted kits, and:
 - (a) the prosecution has determined that the defendant will not be tried for the criminal offense;
 - (b) the prosecution has filed a motion with the court to destroy the evidence; and
 - (c) an attempt has been made to notify the victim as required in Subsections 77-37-3(3)(b)(i) and (ii).

Renumbered and Amended by Chapter 430, 2022 General Session

53-10-906 Victim notification of rights -- Notification of law enforcement.

- (1) Collecting facility personnel who conduct sexual assault examinations shall inform each victim of a sexual assault of:
 - (a) available services for treatment of sexually transmitted infections, pregnancy, and other medical and psychiatric conditions;
 - (b) available crisis intervention or other mental health services provided;
 - (c) the option to receive prophylactic medication to prevent sexually transmitted infections and pregnancy;
 - (d) the right to determine:
 - (i) whether to provide a personal statement about the sexual assault to law enforcement; and
 - (ii) if law enforcement should have access to any paperwork from the forensic examination; and
 - (e) the victim's rights as provided in Section 77-37-3.
- (2) The collecting facility shall notify law enforcement as soon as practicable if the victim of a sexual assault decides to interview and discuss the assault with law enforcement.
- (3) If a victim of a sexual assault declines to provide a personal statement about the sexual assault to law enforcement, the collecting facility shall provide a written notice to the victim that contains the following information:
 - (a) where the sexual assault kit will be stored;
 - (b) notice that the victim may choose to contact law enforcement any time after declining to provide a personal statement;
 - (c) the name, phone number, and email address of the law enforcement agency having jurisdiction; and
 - (d) the name and phone number of a local rape crisis and services center.

Amended by Chapter 99, 2023 General Session

53-10-907 Statewide sexual assault kit tracking system.

- (1) The department shall develop and implement a statewide tracking system that contains the following information for all sexual assault kits collected by law enforcement:
 - (a) the submission status of sexual assault kits by law enforcement to the Utah Bureau of Forensic Services;
 - (b) notification by the Utah Bureau of Forensic Services to law enforcement of DNA analysis findings; and
 - (c) the storage location of sexual assault kits.
- (2) The tracking system shall include a secure electronic access that allows the submitting agency, collecting facility, department, and a victim, or his or her designee, to access or

receive information, provided that the disclosure does not impede or compromise an active investigation, about the:

- (a) lab submission status;
- (b) DNA analysis findings provided to law enforcement; and
- (c) storage location of a sexual assault kit that was gathered from that victim.

Renumbered and Amended by Chapter 430, 2022 General Session

53-10-908 Law enforcement -- Training -- Sexual assault, sexual abuse, and human trafficking.

- (1) The department and the Utah Prosecution Council shall develop training in trauma-informed responses and investigations of sexual assault and sexual abuse, which include, but are not limited to, the following:
 - (a) recognizing the symptoms of trauma;
 - (b) understanding the impact of trauma on a victim;
 - (c) responding to the needs and concerns of a victim of sexual assault or sexual abuse;
 - (d) delivering services to victims of sexual assault or sexual abuse in a compassionate, sensitive, and nonjudgmental manner;
 - (e) understanding cultural perceptions and common myths of sexual assault and sexual abuse; and
 - (f) techniques of writing reports in accordance with Subsection (5).
- (2)
 - (a) In accordance with Section 53-6-202, the department and the Utah Prosecution Council shall offer the training in Subsection (1) to all certified law enforcement officers in the state.
 - (b) The training for all law enforcement officers may be offered through an online course, developed by the department and the Utah Prosecution Council.
- (3) The training listed in Subsection (1) shall be offered by the Peace Officer Standards and Training division to all persons seeking certification as a peace officer.
- (4)
 - (a) The department and the Utah Prosecution Council shall develop and offer an advanced training course for officers who investigate cases of sexual assault or sexual abuse.
 - (b) The advanced training course shall include:
 - (i) all criteria listed in Subsection (1); and
 - (ii) interviewing techniques in accordance with the curriculum standards in Subsection (5).
- (5) The department shall consult with the Utah Prosecution Council to develop the specific training requirements of this section, including curriculum standards for report writing and response to sexual assault and sexual abuse, including trauma-informed and victim-centered interview techniques, which have been demonstrated to minimize retraumatizing victims.
- (6) The Office of the Attorney General shall develop and offer training for law enforcement officers in investigating human trafficking offenses.
- (7) The training described in Subsection (6) shall be offered to all law enforcement officers in the state by July 1, 2020.
- (8) The training described in Subsection (6) shall be offered by the Peace Officer Standards and Training division to all persons seeking certification as a peace officer, in conjunction with the training described in Subsection (1), beginning July 1, 2021.
- (9) The Office of the Attorney General, the department, and the Utah Prosecution Council shall consult with one another to provide the training described in Subsection (6) jointly with the training described in Subsection (1) as reasonably practicable.

Amended by Chapter 158, 2023 General Session

53-10-909 Rulemaking authority.

After consultation with the Utah Bureau of Forensic Services and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department shall make rules, consistent with this part, regarding:

- (1) the procedures for the submission and testing of all sexual assault kits collected by law enforcement and prosecutorial agencies in the state;
- (2) the information and evidence that is required to be submitted as part of each sexual assault kit submission; and
- (3) goals for the completion of analysis and classification of all sexual assault kit submissions.

Renumbered and Amended by Chapter 430, 2022 General Session

53-10-910 Reporting requirement.

The Department of Public Safety and the Utah Bureau of Forensic Services shall report by July 31 of each year to the Law Enforcement and Criminal Justice Interim Committee and the Executive Offices and Criminal Justice Appropriations Subcommittee regarding:

- (1) the timelines set for testing all sexual assault kits submitted to the Utah Bureau of Forensic Services as provided in Subsection 53-10-903(2);
- (2) the goals established in Section 53-10-909;
- (3) the status of meeting those goals;
- (4) the number of sexual assault kits that are sent to the Utah Bureau of Forensic Services for testing;
- (5) the number of restricted kits held by law enforcement;
- (6) the number of sexual assault kits that are not processed in accordance with the timelines established in this part; and
- (7) future appropriations requests that will ensure that all DNA cases can be processed according to the timelines established by this part.

Renumbered and Amended by Chapter 430, 2022 General Session

**Part 10
Amber Alert System**

53-10-1001 Definitions.

As used in this part:

- (1) "Abduction of a child" means the taking, concealing, or detaining of a child without permission from an individual entitled to custody of the child.
- (2) "Amber Alert" means an alert issued in accordance with America's Missing: Broadcast Emergency Response run by the bureau to assist a law enforcement agency in the recovery of an abducted child.
- (3) "Child" means an individual under 18 years old.
- (4) "Runaway" means the same as that term is defined in Section 80-1-102.

Enacted by Chapter 404, 2023 General Session

53-10-1002 Amber Alert criteria.

- (1) Except as provided in Subsection (2), if a law enforcement agency receives a report that an abduction of a child has occurred, including an abduction of a child by the child's parent or guardian, the investigating law enforcement agency may issue an Amber Alert if:
 - (a) the investigating law enforcement agency confirms that an abduction of the child has occurred;
 - (b) the investigating law enforcement agency believes there is a credible threat of imminent danger of serious bodily injury or death to the child; and
 - (c) there is sufficient descriptive information about the child, alleged abductor, or the circumstances surrounding the abduction to indicate that issuing an Amber Alert will assist in the safe recovery of the child or the apprehension of the abductor.
- (2) A law enforcement agency may not issue an Amber Alert:
 - (a) for a reported runaway; or
 - (b) for the taking, concealing, or detaining of a child by the child's parent during a child custody dispute regarding the child, unless there is a credible threat of imminent danger of serious bodily injury or death to the child.
- (3) The investigating law enforcement agency may use relevant law enforcement technology, including an automatic license plate reader system, to locate a vehicle that is being sought in connection with an issued Amber Alert.
- (4) The department and the Department of Transportation may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establishing policies and procedures for the operation and maintenance of the Amber Alert System other than mobile network operations.

Enacted by Chapter 404, 2023 General Session