

Effective 5/8/2018

59-1-206.1 Definitions -- Background checks for employees.

- (1) As used in this section:
 - (a) "Bureau" means the Bureau of Criminal Identification created in Section 53-10-201.
 - (b) "Return information" means the same as that term is defined in 26 U.S.C. Sec. 6103.
- (2) The commission shall:
 - (a) require the following individuals to submit to a nationwide criminal background check and ongoing monitoring of that nationwide criminal background check as a condition of employment:
 - (i) an employee or contractor of the commission that has access to return information in the custody of the commission, regardless of whether access by the employee or contractor is authorized; and
 - (ii) an employee or contractor of the commission that has access to information in the custody of the commission in the Utah Criminal Justice Information System, regardless of whether access by the employee or contractor is authorized; and
 - (b) require the following individuals to submit to a nationwide criminal background check and ongoing monitoring of the nationwide criminal background check:
 - (i) an employee or contractor of another state agency, or an employee of the office of the attorney general, that has access to return information in the custody of the commission, regardless of whether access by the employee or contractor is authorized; and
 - (ii) an employee or contractor of another state agency, or an employee of the office of the attorney general, that has access to information in the custody of the commission in the Utah Criminal Justice Information System, regardless of whether access by the employee or contractor is authorized.
- (3) The commission shall collect the following from an individual required to submit to a background check under Subsection (2):
 - (a) the personal identifying information required on the fingerprint card; and
 - (b) consent, on a form specified by the commission, for:
 - (i) an initial fingerprint-based state, regional, and national background check by the Federal Bureau of Investigation and the bureau upon submission of the application; and
 - (ii) retention of personal identifying information for ongoing monitoring through registration with the systems described in Subsection 53-10-108(13).
- (4) For an individual required to submit to a background check under Subsection (2), the commission shall submit the individual's personal identifying information to the bureau for:
 - (a) an initial fingerprint-based background check by the Federal Bureau of Investigation and the bureau; and
 - (b) ongoing monitoring through registration with the systems described in Subsection 53-10-108(13) if the results of the initial background check do not contain disqualifying criminal history information as determined by the commission.
- (5) The commission shall:
 - (a) submit any fees required under Subsection 53-10-108(15) to the bureau; and
 - (b) identify the appropriate privacy risk mitigation strategy that will be used to ensure that the commission only receives notifications for individuals described in Subsection (2).
- (6) The bureau shall provide all the results from the state, regional, and nationwide criminal history background checks and monitoring performed under Subsection (4) to the commission.
- (7) On or before May 1, 2019, the commission shall:
 - (a) collect the information and consent described in Subsection (3) from individuals described in Subsection (2)(a) who:

- (i) were employed by or under contract with the commission prior to May 8, 2018; and
 - (ii) are employed by or under contract with the commission; and
 - (b) submit the information and consent described in Subsection (3) to the bureau for ongoing monitoring through registration with the systems described in Subsection 53-10-108(13).
- (8) Upon receipt of criminal history information under Subsection 53-10-108(13) regarding an individual described in Subsection (2)(a), the commission shall assess the employment status of the employee or contractor.
- (9) Upon receipt of criminal history information under Subsection 53-10-108(13) regarding an individual described in Subsection (2)(b), the commission shall deny the employee or contractor access to:
- (a) return information in the custody of the commission; and
 - (b) information in the custody of the commission in the Utah Criminal Justice Information System.

Enacted by Chapter 427, 2018 General Session