

Chapter 23
Search and Administrative Warrants

Part 1
Administrative Traffic Checkpoint Act

77-23-101 Title of act.

Sections 77-23-101 through 77-23-105 may be cited as the "Administrative Traffic Checkpoint Act."

Enacted by Chapter 72, 1992 General Session

77-23-102 Definitions.

As used in this part:

- (1) "Administrative traffic checkpoint" means a roadblock procedure where enforcement officers stop all, or a designated sequence of, motor vehicles traveling on highways and roads and subject those vehicles to inspection or testing and the drivers or occupants to questioning or the production of documents.
- (2) "Command level officer" includes all sheriffs, heads of law enforcement agencies, and all supervisory enforcement officers of sergeant rank or higher.
- (3) "Emergency circumstances" means circumstances where enforcement officers reasonably believe road conditions, weather conditions, or persons present a significant hazard to persons or the property of other persons.
- (4) "Enforcement officer" includes:
 - (a) peace officers as defined in Title 53, Chapter 13, Peace Officer Classifications;
 - (b) correctional officers as defined in Title 53, Chapter 13, Peace Officer Classifications;
 - (c) special function officers as defined and under the restrictions of Title 53, Chapter 13, Peace Officer Classifications; and
 - (d) federal officers as defined in Title 53, Chapter 13, Peace Officer Classifications.
- (5) "Magistrate" includes all judicial officers enumerated in Subsection 77-1-3(4).
- (6) "Motor vehicle" includes all vehicles as defined in Title 41, Chapter 1a, Motor Vehicle Act.

Amended by Chapter 282, 1998 General Session

77-23-103 Circumstances permitting an administrative traffic checkpoint.

A motor vehicle may be stopped and the occupants detained by an enforcement officer when the enforcement officer:

- (1) is acting pursuant to a duly authorized search warrant or arrest warrant;
- (2) has probable cause to arrest or search;
- (3) has reasonable suspicion that criminal activity has occurred or is occurring;
- (4) is acting under emergency circumstances; or
- (5) is acting pursuant to duly authorized administrative traffic checkpoint authority granted by a magistrate in accordance with Section 77-23-104.

Enacted by Chapter 72, 1992 General Session

77-23-104 Written plan -- Approval of magistrate.

- (1) An administrative traffic checkpoint may be established and operated upon written authority of a magistrate.
- (2) A magistrate may issue written authority to establish and operate an administrative traffic checkpoint if:
 - (a) a command level officer submits to the magistrate a written plan signed by the command level officer describing:
 - (i) the location of the checkpoint including geographical and topographical information;
 - (ii) the date, time, and duration of the checkpoint;
 - (iii) the sequence of traffic to be stopped;
 - (iv) the purpose of the checkpoint, including the inspection or inquiry to be conducted;
 - (v) the minimum number of personnel to be employed in operating the checkpoint, including the rank of the officer or officers in charge at the scene;
 - (vi) the configuration and location of signs, barriers, and other means of informing approaching motorists that they must stop and directing them to the place to stop;
 - (vii) any advance notice to the public at large of the establishment of the checkpoint; and
 - (viii) the instructions to be given to the enforcement officers operating the checkpoint;
 - (b) the magistrate makes an independent judicial determination that the plan appropriately:
 - (i) minimizes the length of time the motorist will be delayed;
 - (ii) minimizes the intrusion of the inspection or inquiry;
 - (iii) minimizes the fear and anxiety the motorist will experience;
 - (iv) minimizes the degree of discretion to be exercised by the individual enforcement officers operating the checkpoint; and
 - (v) maximizes the safety of the motorist and the enforcement officers; and
 - (c) the administrative traffic checkpoint has the primary purpose of inspecting, verifying, or detecting:
 - (i) drivers that may be under the influence of alcohol or drugs;
 - (ii) license plates, registration certificates, insurance certificates, or driver licenses;
 - (iii) violations of Title 23A, Wildlife Resources Act; or
 - (iv) other circumstances that are specifically distinguishable by the magistrate from a general interest in crime control.
- (3) Upon determination by the magistrate that the plan meets the requirements of Subsection (2), the magistrate shall sign the authorization and issue it to the command level officer, retaining a copy for the court's file.
- (4) A copy of the plan and signed authorization shall be issued to the checkpoint command level officer participating in the operation of the checkpoint.
- (5) Any enforcement officer participating in the operation of the checkpoint shall conform the enforcement officer's activities as nearly as practicable to the procedures outlined in the plan.
- (6) The checkpoint command level officer shall be available to exhibit a copy of the plan and signed authorization to any motorist who has been stopped at the checkpoint upon request of the motorist.

Amended by Chapter 34, 2023 General Session

77-23-104.5 Signs -- Prohibitions.

An enforcement officer may not display a sign that notifies motorists of an administrative traffic checkpoint unless the checkpoint is being operated under the authority of a magistrate as provided in Section 77-23-104.

Enacted by Chapter 168, 2001 General Session

77-23-105 Failure to stop -- Criminal liability.

Any person who intentionally and knowingly passes, without stopping as required, any administrative traffic checkpoint operated under the authority of a magistrate as provided in Section 77-23-104 is guilty of a class B misdemeanor.

Enacted by Chapter 72, 1992 General Session

**Part 2
Search Warrants**

77-23-205 Officer may request assistance.

An officer who is serving a search warrant may request other persons to assist in conducting the search.

Amended by Chapter 153, 2007 General Session

77-23-210 Force used in executing a search warrant -- When notice of authority is required as a prerequisite.

- (1)
 - (a) No later than July 1, 2015, any law enforcement agency that seeks a warrant under this section shall comply with guidelines and procedures which are, at a minimum, in accordance with state law and model guidelines and procedures recommended by the Utah Peace Officer Standards and Training Council created in Section 53-6-106.
 - (b) Written policies adopted pursuant to this section shall be subject to public disclosure and inspection, in accordance with Title 63G, Chapter 2, Government Records Access and Management Act.
- (2) When a search warrant has been issued authorizing entry into any building, room, conveyance, compartment, or other enclosure, the officer executing the warrant may enter:
 - (a) if, after giving notice of the officer's authority and purpose, there is no response or the officer is not admitted with reasonable promptness; or
 - (b) without notice of the officer's authority and purpose as provided in Subsection (3).
- (3)
 - (a) The officer may enter without notice only if:
 - (i) there is reasonable suspicion to believe that the notice will endanger the life or safety of the officer or another person;
 - (ii) there is probable cause to believe that evidence may be easily or quickly destroyed; or
 - (iii) the magistrate, having found probable cause based upon proof provided under oath that the object of the search may be easily or quickly destroyed, or having found reason to believe that physical harm may result to any person if notice were given, has directed that the officer need not give notice of authority and purpose before entering the premises to be searched under the Rules of Criminal Procedure; or
 - (iv) the officer physically observes and documents a previously unknown event or circumstance at the time the warrant is being executed which creates probable cause to believe the object

of the search is being destroyed, or creates reasonable suspicion to believe that physical harm may result to any person if notice were given.

- (b) The officer shall identify himself or herself and state the purpose for entering the premises as soon as practicable after entering.
- (4) An officer executing a warrant under this section may use only that force which is reasonable and necessary to execute the warrant.
- (5) An officer executing a warrant under this section shall wear readily identifiable markings, including a badge and vest or clothing with a distinguishing label or other writing which indicates that he or she is a law enforcement officer.
- (6)
 - (a) An officer executing a warrant under this section shall comply with the officer's employing agency's body worn camera policy when the officer is equipped with a body-worn camera.
 - (b) The employing agency's policy regarding the use of body-worn cameras shall include a provision that an officer executing a warrant under this section shall wear a body-worn camera when a camera is available, except in exigent circumstances where it is not practicable to do so.
- (7)
 - (a) The officer shall take reasonable precautions in execution of any search warrant to minimize the risks of unnecessarily confrontational or invasive methods which may result in harm to any person.
 - (b) The officer shall minimize the risk of searching the wrong premises by verifying that the premises being searched is consistent with a particularized description in the search warrant, including such factors as the type of structure, the color, the address, and orientation of the target property in relation to nearby structures as is reasonably necessary.
- (8) Notwithstanding any provision in this chapter, a warrant authorizing forcible entry without prior announcement may not be issued under this section, solely for:
 - (a) the alleged possession or use of a controlled substance; or
 - (b) the alleged possession of drug paraphernalia as provided in Section 58-37a-3.

Amended by Chapter 281, 2018 General Session

Superseded 7/1/2024

77-23-213 Blood testing.

- (1) As used in this section:
 - (a) "Law enforcement purpose" means duties that consist primarily of the prevention and detection of crime and the enforcement of criminal statutes or ordinances of this state or any of this state's political subdivisions.
 - (b) "Peace officer" means those persons specified in Title 53, Chapter 13, Peace Officer Classifications.
- (2) A peace officer may require an individual to submit to a blood test for a law enforcement purpose only if:
 - (a) the individual or legal representative of the individual with authority to give consent gives oral or written consent to the blood test;
 - (b) the peace officer obtains a warrant to administer the blood test; or
 - (c) a judicially recognized exception to obtaining a warrant exists as established by the Utah Court of Appeals, Utah Supreme Court, Court of Appeals of the Tenth Circuit, or the Supreme Court of the United States.
- (3)

- (a) Only the following, acting at the request of a peace officer, may draw blood to determine the blood's alcohol or drug content:
 - (i) a physician;
 - (ii) a physician assistant;
 - (iii) a registered nurse;
 - (iv) a licensed practical nurse;
 - (v) a paramedic;
 - (vi) as provided in Subsection (3)(b), emergency medical service personnel other than a paramedic; 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 (3)(a)(vi), based on the type of license under Section 26B-4-116.
- (c) The following are immune from civil or criminal liability arising from drawing a blood sample from a person who a peace officer requests, for law enforcement purposes, if the sample is drawn in accordance with standard medical practice:
 - (i) a person authorized to draw blood under Subsection (3)(a); and
 - (ii) if the blood is drawn at a hospital or other medical facility, the medical facility.

Amended by Chapter 330, 2023 General Session

Effective 7/1/2024

77-23-213 Blood testing.

- (1) As used in this section:
 - (a) "Law enforcement purpose" means duties that consist primarily of the prevention and detection of crime and the enforcement of criminal statutes or ordinances of this state or any of this state's political subdivisions.
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 - (iii) a registered nurse;
 - (iv) a licensed practical nurse;
 - (v) a paramedic;

- (vi) as provided in Subsection (3)(b), emergency medical service personnel other than a paramedic; 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 (3)(a)(vi), based on the type of license under Section 53-2d-402.
- (c) The following are immune from civil or criminal liability arising from drawing a blood sample from a person who a peace officer requests, for law enforcement purposes, if the sample is drawn in accordance with standard medical practice:
 - (i) a person authorized to draw blood under Subsection (3)(a); and
 - (ii) if the blood is drawn at a hospital or other medical facility, the medical facility.

Amended by Chapter 310, 2023 General Session

Amended by Chapter 330, 2023 General Session

Part 3

Warrantless Searches

77-23-301 Warrantless searches regarding persons on parole.

- (1) An inmate who is eligible for release on parole shall, as a condition of parole, sign an agreement as described in Subsection (2) that the inmate, while on parole, is subject to search or seizure of the inmate's person, property, place of temporary or permanent residence, vehicle, or personal effects while on parole:
 - (a) by a parole officer at any time, with or without a search warrant, and with or without cause; and
 - (b) by a law enforcement officer at any time, with or without a search warrant, and with or without cause, but subject to Subsection (3).
- (2)
 - (a) The terms of the agreement under Subsection (1) shall be stated in clear and unambiguous language.
 - (b) The agreement shall be signed by the parolee, indicating the parolee's understanding of the terms of searches as allowed by Subsection (1).
- (3)
 - (a) In order for a law enforcement officer to conduct a search of a parolee's residence under Subsection (1) or a seizure pursuant to the search, the law enforcement officer shall have obtained prior approval from a parole officer or shall have a warrant for the search.
 - (b) If a law enforcement officer conducts a search of a parolee's person, personal effects, or vehicle pursuant to a stop, the law enforcement officer shall notify a parole officer as soon as reasonably possible after conducting the search.
- (4) A search conducted under this section may not be for the purpose of harassment.
- (5) Any inmate who does not agree in writing to be subject to search or seizure under Subsection (1) may not be paroled until the inmate enters into the agreement under Subsection (1).
- (6) This section applies only to an inmate who is eligible for release on parole on or after May 5, 2008.

Enacted by Chapter 357, 2008 General Session