

PUBLIC SAFETY AMENDMENTS

1998 GENERAL SESSION

STATE OF UTAH

Sponsor: Blake D. Chard

AN ACT RELATING TO PUBLIC SAFETY; REORGANIZING THE DIVISION OF
CRIMINAL INVESTIGATIONS AND TECHNICAL SERVICES; REORGANIZING AND
CREATING BUREAUS WITHIN THE DIVISION; ASSIGNING DUTIES AND
RESPONSIBILITIES; PROVIDING DEFINITIONS; AND MAKING TECHNICAL
CORRECTIONS.

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

26-2-27, as last amended by Chapter 190, Laws of Utah 1997

30-6-8, as last amended by Chapter 300, Laws of Utah 1995

32A-1-303, as last amended by Chapter 234, Laws of Utah 1993

41-1a-1401, as last amended by Chapter 234, Laws of Utah 1993

41-1a-1402, as last amended by Chapter 234, Laws of Utah 1993

53-1-104, as last amended by Chapters 215 and 314, Laws of Utah 1995

53A-2-202, as last amended by Chapter 282, Laws of Utah 1995

53A-3-410, as last amended by Chapter 34, Laws of Utah 1994

53A-6-103, as last amended by Chapter 234, Laws of Utah 1993

53A-6-107, as enacted by Chapter 57, Laws of Utah 1995

53A-11-501, as last amended by Chapter 190, Laws of Utah 1997

53A-11-502, as last amended by Chapter 234, Laws of Utah 1993

62A-4a-202.4, as last amended by Chapter 329, Laws of Utah 1997

62A-4a-413, as last amended by Chapters 196 and 329, Laws of Utah 1997

63-63a-9, as last amended by Chapters 156 and 234, Laws of Utah 1993

64-13-27, as last amended by Chapter 234, Laws of Utah 1993

- 1 **73-18-20.5**, as last amended by Chapter 234, Laws of Utah 1993
- 2 **76-6-607**, as last amended by Chapter 234, Laws of Utah 1993
- 3 **76-10-501**, as last amended by Chapters 80 and 285, Laws of Utah 1995
- 4 **76-10-526**, as last amended by Chapter 285, Laws of Utah 1997
- 5 **77-18-9**, as enacted by Chapter 143, Laws of Utah 1994
- 6 **78-3a-206**, as enacted by Chapter 1, Laws of Utah 1996
- 7 **78-30-3.5**, as last amended by Chapter 318, Laws of Utah 1996

8 ENACTS:

- 9 **53-10-201**, Utah Code Annotated 1953
- 10 **53-10-401**, Utah Code Annotated 1953
- 11 **53-10-402**, Utah Code Annotated 1953
- 12 **53-10-501**, Utah Code Annotated 1953
- 13 **53-10-502**, Utah Code Annotated 1953

14 RENUMBERS AND AMENDS:

- 15 **53-10-101**, (Renumbered from 53-5-101, as enacted by Chapter 234, Laws of Utah 1993)
- 16 **53-10-102**, (Renumbered from 53-5-102, as enacted by Chapter 234, Laws of Utah 1993)
- 17 **53-10-103**, (Renumbered from 53-5-103, as enacted by Chapter 234, Laws of Utah 1993)
- 18 **53-10-104**, (Renumbered from 53-5-104, as last amended by Chapter 57, Laws of Utah 1994)
- 19 **53-10-105**, (Renumbered from 53-5-211, as renumbered and amended by Chapter 234, Laws
- 20 of Utah 1993)
- 21 **53-10-106**, (Renumbered from 53-5-212, as renumbered and amended by Chapter 234, Laws
- 22 of Utah 1993)
- 23 **53-10-107**, (Renumbered from 53-5-213, as renumbered and amended by Chapter 234, Laws
- 24 of Utah 1993)
- 25 **53-10-108**, (Renumbered from 53-5-214, as last amended by Chapters 28 and 295, Laws of
- 26 Utah 1995)
- 27 **53-10-109**, (Renumbered from 53-5-215, as renumbered and amended by Chapter 234, Laws
- 28 of Utah 1993)
- 29 **53-10-110**, (Renumbered from 53-5-216, as renumbered and amended by Chapter 234, Laws
- 30 of Utah 1993)
- 31 **53-10-111**, (Renumbered from 53-5-217, as renumbered and amended by Chapter 234, Laws

- 1 of Utah 1993)
- 2 **53-10-112**, (Renumbered from 53-4-204, as renumbered and amended by Chapter 234, Laws
- 3 of Utah 1993)
- 4 **53-10-113**, (Renumbered from 53-4-205, as renumbered and amended by Chapter 234, Laws
- 5 of Utah 1993)
- 6 **53-10-202**, (Renumbered from 53-5-203, as last amended by Chapter 190, Laws of Utah 1997)
- 7 **53-10-203**, (Renumbered from 53-5-204, as last amended by Chapter 190, Laws of Utah 1997)
- 8 **53-10-204**, (Renumbered from 53-5-205, as last amended by Chapter 190, Laws of Utah 1997)
- 9 **53-10-205**, (Renumbered from 53-5-206, as renumbered and amended by Chapter 234, Laws
- 10 of Utah 1993)
- 11 **53-10-206**, (Renumbered from 53-5-207, as renumbered and amended by Chapter 234, Laws
- 12 of Utah 1993)
- 13 **53-10-207**, (Renumbered from 53-5-208, as renumbered and amended by Chapter 234, Laws
- 14 of Utah 1993)
- 15 **53-10-208**, (Renumbered from 53-5-209, as renumbered and amended by Chapters 17, 82 and
- 16 234, Laws of Utah 1993)
- 17 **53-10-209**, (Renumbered from 53-5-210, as last amended by Chapter 13, Laws of Utah 1994)
- 18 **53-10-210**, (Renumbered from 53-5-214.1, as enacted by Chapter 57, Laws of Utah 1995)
- 19 **53-10-211**, (Renumbered from 53-5-218, as renumbered and amended by Chapter 234, Laws
- 20 of Utah 1993)
- 21 **53-10-212**, (Renumbered from 53-5-219, as renumbered and amended by Chapter 234, Laws
- 22 of Utah 1993)
- 23 **53-10-301**, (Renumbered from 53-4-103, as enacted by Chapter 234, Laws of Utah 1993)
- 24 **53-10-302**, (Renumbered from 53-4-104, as enacted by Chapter 234, Laws of Utah 1993)
- 25 **53-10-303**, (Renumbered from 53-4-105, as last amended by Chapter 36, Laws of Utah 1996)
- 26 **53-10-304**, (Renumbered from 53-4-202, as renumbered and amended by Chapter 234, Laws
- 27 of Utah 1993)
- 28 **53-10-305**, (Renumbered from 53-4-203, as renumbered and amended by Chapter 234, Laws
- 29 of Utah 1993)
- 30 **53-10-403**, (Renumbered from 53-5-212.1, as enacted by Chapter 275, Laws of Utah 1994)
- 31 **53-10-404**, (Renumbered from 53-5-212.2, as enacted by Chapter 275, Laws of Utah 1994)

1 **53-10-405**, (Renumbered from 53-5-212.3, as enacted by Chapter 275, Laws of Utah 1994)

2 **53-10-406**, (Renumbered from 53-5-212.4, as enacted by Chapter 275, Laws of Utah 1994)

3 REPEALS:

4 **53-4-102**, as enacted by Chapter 234, Laws of Utah 1993

5 **53-4-201**, as enacted by Chapter 234, Laws of Utah 1993

6 **53-5-201**, as enacted by Chapter 234, Laws of Utah 1993

7 **53-5-202**, as last amended by Chapter 190, Laws of Utah 1997

8 *Be it enacted by the Legislature of the state of Utah:*

9 Section 1. Section **26-2-27** is amended to read:

10 **26-2-27. Identifying birth certificates of missing persons -- Procedures.**

11 (1) As used in this section:

12 (a) "Division" means the [~~Law Enforcement~~] Criminal Investigations and Technical
13 Services Division, Department of Public Safety, in Title 53, Chapter 10.

14 (b) "Missing child" means a person younger than 18 years of age who is missing from his
15 home environment or a temporary placement facility for any reason, and whose whereabouts
16 cannot be determined by the person responsible for the child's care.

17 (c) "Missing person" means a person who is missing from his home environment and is:

18 (i) physically or mentally disabled;

19 (ii) missing under circumstances that indicate that they are endangered, missing
20 involuntarily, or a victim of a catastrophe; or

21 (iii) a missing child.

22 (2) (a) In accordance with Section [~~53-5-204~~] 53-10-203, upon the state registrar's
23 notification by the division that a person who was born in this state is missing, the state and local
24 registrars shall flag the registered birth certificate of that person so that when a copy of the
25 registered birth certificate or information regarding the birth record is requested, the state and local
26 registrars are alerted to the fact the registered birth certificate is that of a missing person.

27 (b) Upon notification by the division the missing person has been recovered, the state and
28 local registrars shall remove the flag from that person's registered birth certificate.

29 (3) The state and local registrars may not provide a copy of a registered birth certificate
30 of any person whose record is flagged under Subsection (2), except as approved by the division.

31 (4) (a) When a copy of the registered birth certificate of a person whose record has been

1 flagged is requested in person, the state or local registrar shall require that person to complete a
2 form supplying his name, address, telephone number, and relationship to the missing person, and
3 the name and birth date of the missing person.

4 (b) The state or local registrar shall inform the requester that a copy of the registered birth
5 certificate will be mailed to him.

6 (c) The state or local registrar shall note the physical description of the person making the
7 request, and shall immediately notify the division of the request and the information obtained
8 pursuant to this subsection.

9 (5) When a copy of the registered birth certificate of a person whose record has been
10 flagged is requested in writing, the state or local registrar or his personnel shall immediately notify
11 the division, and provide it with a copy of the written request.

12 Section 2. Section **30-6-8** is amended to read:

13 **30-6-8. Statewide domestic violence network -- Peace officers' duties -- Prevention**
14 **of abuse in absence of order -- Limitation of liability.**

15 (1) (a) On or before January 1, 1996, law enforcement units, the Department of Public
16 Safety, and the Administrative Office of the Courts shall utilize statewide procedures to ensure that
17 peace officers at the scene of an alleged violation of a protective order have immediate access to
18 information necessary to verify the existence and terms of that order, and other orders of the court
19 required to be made available on the network by the provisions of this chapter or Title 77, Chapter
20 36, Cohabitant Abuse Procedures Act. Those officers shall use every reasonable means to enforce
21 the court's order, in accordance with the requirements and procedures of this chapter and Title 77,
22 Chapter 36.

23 (b) The Administrative Office of the Courts, in cooperation with the Department of Public
24 Safety and the [~~Law Enforcement~~] Criminal Investigations and Technical Services Division,
25 established in Section 53-10-103, shall provide for a single, statewide network containing:

26 (i) all orders for protection issued by a court of this state; and

27 (ii) all other court orders or reports of court action that are required to be available on the
28 network under this chapter and Title 77, Chapter 36.

29 (c) The entities described in Subsection (b) may utilize the same mechanism as the
30 statewide warrant system, described in Section [~~53-5-209~~] 53-10-208.

31 (d) All orders and reports required to be available on the network shall be available within

1 24 hours after court action. If the court that issued the order is not part of the state court computer
2 system, the orders and reports shall be available on the network within 72 hours.

3 (e) The information contained in the network shall be available to a court, law enforcement
4 officer, or agency upon request.

5 (2) When any peace officer has reason to believe a cohabitant or child of a cohabitant is
6 being abused, or that there is a substantial likelihood of immediate danger of abuse, although no
7 protective order has been issued, that officer shall use all reasonable means to prevent the abuse,
8 including:

9 (a) remaining on the scene as long as it reasonably appears there would otherwise be
10 danger of abuse;

11 (b) making arrangements for the victim to obtain emergency medical treatment;

12 (c) making arrangements for the victim to obtain emergency housing or shelter care;

13 (d) explaining to the victim his or her rights in these matters;

14 (e) asking the victim to sign a written statement describing the incident of abuse; or

15 (f) arresting and taking into physical custody the abuser in accordance with the provisions
16 of Title 77, Chapter 36.

17 (3) No person or institution may be held criminally or civilly liable for the performance
18 of, or failure to perform, any duty established by this chapter, so long as that person acted in good
19 faith and without malice.

20 Section 3. Section **32A-1-303** is amended to read:

21 **32A-1-303. Additional requirements when age is in question.**

22 (1) In addition to the presentation by the holder of an identification card under Section
23 32A-1-302, any person authorized to sell or otherwise handle alcoholic beverages or products shall
24 require any person whose age is in question to sign a statement that includes the date and number
25 of the person's identification card.

26 (2) If the person does not have an identification card, he shall sign an additional statement
27 containing additional information as the commissioner of public safety requires.

28 (3) The statement and identifying information shall be written on a form provided by the
29 commissioner of public safety and filed alphabetically by the person authorized to sell or otherwise
30 handle alcoholic beverages or products before the close of business on the day on which the
31 statement is executed.

1 (4) The form is subject to examination by any peace officer, representative of the Criminal
2 Investigations [~~Division~~] Bureau of the Department of Public Safety, established in Section
3 53-10-301, or authorized employee of the department.

4 Section 4. Section **41-1a-1401** is amended to read:

5 **41-1a-1401. Report of stolen and recovered vehicles, vessels, and outboard motors**
6 **by officials.**

7 (1) (a) A peace officer, upon receiving reliable information that a vehicle, vessel, or
8 outboard motor has been stolen, shall immediately report the theft to the [~~Law Enforcement~~]
9 Criminal Investigations and Technical Services Division of the Department of Public Safety,
10 established in Section 53-10-103.

11 (b) An officer, upon receiving information that a vehicle, vessel, or outboard motor, which
12 he has previously reported as stolen, has been recovered, shall immediately report the recovery to
13 the local law enforcement agency and to the [~~Law Enforcement~~] Criminal Investigations and
14 Technical Services Division.

15 (2) A report of a stolen vehicle, vessel, or outboard motor taken by a law enforcement
16 agency shall include a written advisement to the reporting party of the provisions of Section
17 76-8-506, and a statement affirming the theft of the vehicle, vessel, or outboard motor signed by
18 the person reporting the theft and witnessed by the person taking the report.

19 (3) The following information regarding the vehicle, vessel, or outboard motor shall be
20 included in the report and shall be sent to the [~~Law Enforcement~~] Criminal Investigations and
21 Technical Services Division:

22 (a) the registered owner;

23 (b) the person reporting the theft;

24 (c) the year, make, model, and color;

25 (d) the identification number;

26 (e) the estimated present value;

27 (f) the license number and state of registration;

28 (g) the date, time, and place of the theft; and

29 (h) the name, address, telephone number, policy number, and agent's name of the insurance
30 company insuring the vehicle, vessel, or outboard motor.

31 (4) If a member of any law enforcement agency confirms that a stolen vehicle, vessel, or

1 outboard motor has been recovered, he shall send the following information regarding the
2 recovered vehicle, vessel, or outboard motor to the [~~Law Enforcement~~] Criminal Investigations
3 and Technical Services Division:

- 4 (a) the date, time, and place of recovery;
- 5 (b) the condition of the vehicle, vessel, or outboard motor; and
- 6 (c) the names of peace officers and any other persons involved in the recovery.

7 (5) (a) Upon receipt of a report of a stolen vehicle, vessel, or outboard motor the [~~Law~~
8 Enforcement] Criminal Investigations and Technical Services Division shall place a notice of theft
9 in the master file computer.

10 (b) Upon receipt of a report that a stolen vehicle, vessel, or outboard motor has been
11 recovered, the [~~Law Enforcement~~] Criminal Investigations and Technical Services Division shall
12 remove the notice of theft of the vehicle, vessel, or outboard motor from the master file computer.

13 (6) (a) Except as provided in Section 41-1a-1005, the division shall refuse to register or
14 transfer title to a stolen vehicle until the vehicle is recovered.

15 (b) (i) If the recovered vehicle is a salvage vehicle as defined in Section 41-1a-1001, then
16 Title 41, Chapter 1a, Part 10, Salvage Vehicles - Junk and Dismantled Vehicles, applies.

17 (ii) The division may issue an unbranded certificate of title for a recovered vehicle if the
18 vehicle has not suffered major damage in more than one major component part.

19 Section 5. Section **41-1a-1402** is amended to read:

20 **41-1a-1402. Report by owners or lienholders of thefts and recoveries.**

21 (1) (a) The owner, or person having a lien or encumbrance upon a vehicle, vessel, or
22 outboard motor that has been stolen, may notify the law enforcement agency having jurisdiction
23 where the theft occurred.

24 (b) In the event of an embezzlement the owner or person may make a report only after
25 having procured the issuance of a warrant for the arrest of the person charged with embezzlement.

26 (2) (a) If a vehicle, vessel, or outboard motor is recovered, an owner or other person who
27 has given any notice under Subsection (1) shall notify the law enforcement agency where the theft
28 or embezzlement was reported.

29 (b) The law enforcement agency shall notify the [~~Law Enforcement~~] Criminal
30 Investigations and Technical Services Division, established in Section 53-10-103, of recovery.

31 Section 6. Section **53-1-104** is amended to read:

1 **53-1-104. Boards, bureaus, councils, divisions, and offices.**

2 (1) The following are the policymaking boards within the department:

3 (a) the Driver License Medical Advisory Board, created in Section 53-3-303;

4 (b) the Concealed Weapon Review Board, created in Section 53-5-703;

5 (c) the Utah Fire Prevention Board, created in Section 53-7-203;

6 (d) the Liquified Petroleum Gas Board, created in Section 53-7-304; and

7 (e) the Private Investigator Hearing and Licensure Board, created in Section 53-9-104.

8 (2) The following are the councils within the department:

9 (a) the Peace Officer Standards and Training Council, created in Section 53-6-106; and

10 (b) the Motor Vehicle Safety Inspection Advisory Council, created in Section 53-8-203.

11 (3) The following are the divisions within the department:

12 (a) the Administrative Services Division, created in Section 53-1-203;

13 (b) the Management Information Services Division, created in Section 53-1-303;

14 (c) the Comprehensive Emergency Management Division, created in Section 53-2-103;

15 (d) the Driver License Division, created in Section 53-3-103;

16 ~~[(e) the Investigations Division, created in Section 53-4-103;]~~

17 ~~[(f)]~~ (e) the ~~[Law Enforcement]~~ Criminal Investigations and Technical Services Division,
18 created in Section ~~[53-5-103]~~ 53-10-103;

19 ~~[(g)]~~ (f) the Peace Officers Standards and Training Division, created in Section 53-6-103;

20 ~~[(h)]~~ (g) the State Fire Marshal Division, created in Section 53-7-103; and

21 ~~[(i)]~~ (h) the Utah Highway Patrol Division, created in Section 53-8-103.

22 (4) The Office of Executive Protection is created in Section 53-1-112.

23 (5) The following are bureaus within the department:

24 (a) Bureau of Criminal Identification, created in Section 53-10-201;

25 (b) Bureau of Forensic Services, created in Section 53-10-401;

26 (c) Bureau of Communications, created in Section 53-10-501; and

27 (d) Criminal Investigations Bureau, created in Section 53-10-301.

28 Section 7. Section **53-10-101**, which is renumbered from Section 53-5-101 is renumbered
29 and amended to read:

30 **Part 1. Criminal Investigations and Technical Services Division**

31 ~~[53-5-101].~~ **53-10-101. Short title.**

1 This chapter is known as the "[~~Law Enforcement~~] Criminal Investigations and Technical
2 Services Act."

3 Section 8. Section **53-10-102**, which is renumbered from Section 53-5-102 is renumbered
4 and amended to read:

5 ~~[53-5-102].~~ **53-10-102. Definitions.**

6 As used in this chapter:

7 ~~[(1) "Criminalistics" means the scientific discipline directed to the recognition,
8 identification, individualization, and evaluation of physical evidence by application of the natural
9 sciences in law-science matters.]~~

10 (1) "Administration of criminal justice" means performance of any of the following:
11 detection, apprehension, detention, pretrial release, posttrial release, prosecution, adjudication,
12 correctional supervision, or rehabilitation of accused persons or criminal offenders.

13 (2) "Alcoholic beverages" has the same meaning as provided in Section 32A-1-105.

14 (3) "Alcoholic products" has the same meaning as provided in Section 32A-1-105.

15 (4) "Commission" means the Alcoholic Beverage Control Commission.

16 (5) "Communications services" means the technology of reception, relay, and transmission
17 of information required by public safety agencies in the performance of their duty.

18 (6) "Conviction record" means criminal history information indicating a record of a
19 criminal charge which has led to a declaration of guilt of an offense.

20 (7) "Council" means the Citizen's Council on Alcoholic Beverage Control.

21 (8) "Criminal history record information" means information on individuals consisting of
22 identifiable descriptions and notations of:

23 (a) arrests, detentions, indictments, informations, or other formal criminal charges, and any
24 disposition arising from any of them; and

25 (b) sentencing, correctional supervision, and release.

26 (9) "Criminalist" means the scientific discipline directed to the recognition, identification,
27 individualization, and evaluation of physical evidence by application of the natural sciences in law-
28 science matters.

29 (10) "Criminal justice agency" means courts or a government agency or subdivision of a
30 government agency that administers criminal justice under a statute, executive order, or local
31 ordinance and that allocates greater than 50% of its annual budget to the administration of criminal

1 justice.

2 (11) "Department" means the Department of Public Safety.

3 [(2)] (12) "Director" means the division director appointed under Section [53-5-103]
4 53-10-103.

5 [(3)] (13) "Division" means the [Law Enforcement] Criminal Investigations and Technical
6 Services Division created in Section [53-5-103] 53-10-103.

7 (14) "Executive order" means an order of the president of the United States or the chief
8 executive of a state that has the force of law and that is published in a manner permitting regular
9 public access to it.

10 (15) "Forensic" means dealing with the application of scientific knowledge relating to
11 criminal evidence.

12 (16) "Missing child" means any person under the age of 18 years who is missing from his
13 or her home environment or a temporary placement facility for any reason and whose location
14 cannot be determined by the person responsible for the child's care.

15 (17) "Missing person" has the same meaning as provided in Section 26-2-27.

16 (18) "Pathogens" means disease-causing agents.

17 (19) "Physical evidence" means something submitted to the bureau to determine the truth
18 of a matter using scientific methods of analysis.

19 (20) "Qualifying entity" means a business, organization, or a governmental entity which
20 employs persons who deal with:

21 (a) national security interests;

22 (b) care, custody, or control of children;

23 (c) fiduciary trust over money; or

24 (d) health care to children or vulnerable adults.

25 Section 9. Section **53-10-103**, which is renumbered from Section 53-5-103 is renumbered
26 and amended to read:

27 **[53-5-103]. 53-10-103. Division -- Creation -- Director -- Appointment --**

28 **Qualifications.**

29 (1) There is created within the department the [Law Enforcement] Criminal Investigations
30 and Technical Services Division.

31 (2) The division shall be administered by a director appointed by the commissioner with

1 the approval of the governor.

2 (3) The director is the executive and administrative head of the division and shall be
3 experienced in administration and possess additional qualifications as determined by the
4 commissioner and as provided by law.

5 (4) The director acts under the supervision and control of the commissioner and may be
6 removed from his position at the will of the commissioner.

7 (5) The director shall receive compensation as provided by Title 67, Chapter 19, Utah State
8 Personnel Management Act.

9 Section 10. Section **53-10-104**, which is renumbered from Section 53-5-104 is renumbered
10 and amended to read:

11 ~~[53-5-104].~~ **53-10-104. Division duties.**

12 The division shall:

13 (1) provide and coordinate the delivery of support services to law enforcement agencies;

14 (2) maintain and provide access to criminal records for use by law enforcement agencies;

15 (3) publish law enforcement and statistical data;

16 (4) maintain dispatch and communications services for public safety communications
17 centers and provide emergency medical, fire suppression, highway maintenance, public works, and
18 law enforcement communications for municipal, county, state, and federal agencies;

19 (5) analyze evidence from crime scenes and crime-related incidents for criminal
20 prosecution;

21 (6) provide criminalistic laboratory services to federal, state, and local law enforcement
22 agencies, prosecuting attorneys' and agencies, and public defenders, with the exception of those
23 services provided by the state medical examiner in accordance with Title 26, Chapter 4, Utah
24 Medical Examiner Act;

25 (7) establish satellite laboratories as necessary to provide criminalistic services;

26 (8) safeguard the public through licensing and regulation of activities that impact public
27 safety, including ~~h [polygraph examiners,] h~~ concealed weapons, emergency vehicles, ~~h [security~~
28 ~~companies,] h~~ [and] ~~h [burglar alarm companies,] h~~ and private investigators;

29 (9) provide investigative assistance to law enforcement and other government agencies;

30 (10) collect and provide intelligence information to criminal justice agencies;

31 (11) investigate crimes that jeopardize the safety of the citizens, as well as the interests,

1 of the state;

2 (12) investigate claims of fraud against Medicaid and other insurance carriers;

3 (13) regulate and investigate laws pertaining tot the sale and distribution of liquor;

4 ~~[(9)]~~ (14) make rules to implement this chapter; and

5 ~~[(10)]~~ (15) perform the functions specified in this chapter.

6 Section 11. Section **53-10-105**, which is renumbered from Section 53-5-211 is renumbered
7 and amended to read:

8 ~~[53-5-211].~~ **53-10-105. Assistance to law enforcement agencies -- Investigation of**
9 **crimes -- Laboratory facilities.**

10 (1) The commissioner may assist any law enforcement agency in:

11 (a) establishing identification and investigation records systems;

12 (b) establishing uniform crime reporting systems;

13 (c) investigating any crime;

14 (d) coordinating the exchange of criminal identification, intelligence, and investigation
15 information among law enforcement agencies; and

16 (e) providing the agencies with equipment, technical assistance, and instruction.

17 (2) (a) At the governor's direction, the commissioner shall assign division employees to
18 investigate any crime within this state for the purpose of identifying, apprehending, and convicting
19 the perpetrator or perpetrators of that crime even if the commissioner has not received a request
20 from a law enforcement agency.

21 (b) The governor may establish a time period for the commissioner to pursue the
22 investigation.

23 (c) To accomplish the purposes of this section, the commissioner may provide, through
24 the division, crime detection laboratory facilities.

25 Section 12. Section **53-10-106**, which is renumbered from Section 53-5-212 is renumbered
26 and amended to read:

27 ~~[53-5-212].~~ **53-10-106. Cooperation with agencies of any state or nation.**

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

30 Section 13. Section **53-10-107**, which is renumbered from Section 53-5-213 is renumbered
31 and amended to read:

1 **[53-5-213]. 53-10-107. Admissibility in evidence of certified copies of division files.**

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

5 Section 14. Section **53-10-108**, which is renumbered from Section 53-5-214 is renumbered
6 and amended to read:

7 **[53-5-214]. 53-10-108. Restrictions on access, use, and contents of division records**
8 **-- Limited use of records for employment purposes -- Challenging accuracy of records --**
9 **Usage fees -- Missing children records.**

10 (1) Dissemination of information from a criminal history record or warrant of arrest
11 information from division files is limited to:

12 (a) criminal justice agencies for purposes of administration of criminal justice and for
13 employment screening by criminal justice agencies;

14 (b) noncriminal justice agencies or individuals for any purpose authorized by statute,
15 executive order, court rule, court order, or local ordinance;

16 (c) agencies or individuals for the purpose of obtaining required clearances connected with
17 foreign travel or obtaining citizenship;

18 (d) (i) agencies or individuals pursuant to a specific agreement with a criminal justice
19 agency to provide services required for the administration of criminal justice;

20 (ii) the agreement shall specifically authorize access to data, limit the use of the data to
21 purposes for which given, and ensure the security and confidentiality of the data;

22 (e) agencies or individuals for the purpose of a preplacement adoptive study, in accordance
23 with the requirements of Section 78-30-3.5;

24 (f) (i) agencies and individuals as the commissioner authorizes for the express purpose of
25 research, evaluative, or statistical activities pursuant to an agreement with a criminal justice
26 agency; and

27 (ii) private security agencies through guidelines established by the commissioner for
28 employment background checks for their own employees and prospective employees;

29 (g) a qualifying entity for employment background checks for their own employees and
30 persons who have applied for employment with the qualifying entity; and

31 (h) other agencies and individuals as the commissioner authorizes and finds necessary for

1 protection of life and property and for offender identification, apprehension, and prosecution
2 pursuant to an agreement.

3 (2) An agreement under Subsection (1)(f) or (1)(h) shall specifically authorize access to
4 data, limit the use of data to research, evaluative, or statistical purposes, preserve the anonymity
5 of individuals to whom the information relates, and ensure the confidentiality and security of the
6 data.

7 (3) (a) Before requesting information under Subsection (1)(g), a qualifying entity must
8 obtain a signed waiver from the person whose information is requested.

9 (b) The waiver must notify the signee:

10 (i) that a criminal history background check will be conducted;

11 (ii) who will see the information; and

12 (iii) how the information will be used.

13 (c) Information received by a qualifying entity under Subsection (1)(g), may only be:

14 (i) available to persons involved in the hiring or background investigation of the employee;

15 and

16 (ii) used for the purpose of assisting in making an employment or promotion decision.

17 (d) A person who disseminates or uses information obtained from the division under
18 Subsection (1)(g) for purposes other than those specified under Subsection (3)(c), in addition to
19 any penalties provided under this section, is subject to civil liability.

20 (e) A qualifying entity that obtains information under Subsection (1)(g) shall provide the
21 employee or employment applicant an opportunity to:

22 (i) review the information received as provided under Subsection (8); and

23 (ii) respond to any information received.

24 (f) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
25 division may make rules to implement this subsection.

26 (g) (i) The division shall establish fees, as provided under Section 63-38-3.2, for providing
27 information to a qualifying entity under Subsection (1)(g).

28 (ii) Funds generated under Subsection (3)(g)(i) may be used by the department as a
29 dedicated credit to cover the costs incurred in providing the information.

30 (h) The division or its employees are not liable for defamation, invasion of privacy,
31 negligence, or any other claim in connection with the contents of information disseminated under

1 Subsection (1)(g).

2 (4) Any criminal history record information obtained from division files may be used only
3 for the purposes for which it was provided and may not be further disseminated.

4 (5) If an individual has no prior criminal convictions, criminal history record information
5 contained in the division's computerized criminal history files may not include arrest or disposition
6 data concerning an individual who has been acquitted, his charges dismissed, or when no
7 complaint against him has been filed.

8 (6) (a) This section does not preclude the use of the division's central computing facilities
9 for the storage and retrieval of criminal history record information.

10 (b) This information shall be stored so it cannot be modified, destroyed, or accessed by
11 unauthorized agencies or individuals.

12 (7) Direct access through remote computer terminals to criminal history record information
13 in the division's files is limited to those agencies authorized by the commissioner under
14 procedures designed to prevent unauthorized access to this information.

15 (8) (a) The commissioner shall establish:

16 (i) procedures to allow an individual to review his criminal history record information; and

17 (ii) a processing fee under Section 63-38-3.2 for the services.

18 (b) (i) The commissioner shall establish procedures for an individual to challenge the
19 completeness and accuracy of criminal history record information contained in the division's
20 computerized criminal history files regarding that individual.

21 (ii) These procedures shall include provisions for amending any information found to be
22 inaccurate or incomplete.

23 (9) The private security agencies as provided in Subsection (1)(f)(ii):

24 (a) shall be charged for access; and

25 (b) shall be registered with the division according to rules made by the division under Title
26 63, Chapter 46a, Utah Administrative Rulemaking Act.

27 (10) Before providing information requested under this section, the division shall give
28 priority to criminal justice agencies needs.

29 (11) (a) Misuse of access to criminal history record information is a class B misdemeanor.

30 (b) The commissioner shall be informed of the misuse.

31 Section 15. Section **53-10-109**, which is renumbered from Section 53-5-215 is renumbered

1 and amended to read:

2 ~~[53-5-215]~~. **53-10-109. Telecommunications systems.**

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

6 Section 16. Section **53-10-110**, which is renumbered from Section 53-5-216 is renumbered
7 and amended to read:

8 ~~[53-5-216]~~. **53-10-110. Authority of officers and officials to take fingerprints,
9 photographs, and other data.**

10 The officers and officials described in Sections ~~[53-5-208]~~ 53-10-207 through ~~[53-5-210]~~
11 53-10-209 shall take, or cause to be taken, fingerprints, photographs, and other related data of
12 persons under this part.

13 Section 17. Section **53-10-111**, which is renumbered from Section 53-5-217 is renumbered
14 and amended to read:

15 ~~[53-5-217]~~. **53-10-111. Refusal to provide information -- False information --
16 Misdemeanor.**

17 It is a class B misdemeanor for a person to:

18 (1) neglect or refuse to provide, or willfully withhold any information under this part;

19 (2) willfully provide false information;

20 (3) willfully fail to do or perform any act required under this part;

21 (4) hinder or prevent another from doing an act required under this part; or

22 (5) willfully remove, destroy, alter, mutilate, or disclose the contents of any file or record

23 of the division unless authorized by and in compliance with procedures established by the
24 commissioner.

25 Section 18. Section **53-10-112**, which is renumbered from Section 53-4-204 is renumbered
26 and amended to read:

27 ~~[53-4-204]~~. **53-10-112. Director and officers to have peace officer powers.**

28 The director and enforcement officers:

29 (1) are vested with the powers of peace officers throughout the several counties of the
30 state, with the exception of the power to serve civil process;

31 (2) have the powers and duties of inspectors under Title 32A, Alcoholic Beverage Control

1 Act;

2 (3) may serve criminal process and arrest and prosecute violators of any law of this state;

3 and

4 (4) have the same rights as other peace officers to require aid in executing their duties.

5 Section 19. Section **53-10-113**, which is renumbered from Section 53-4-205 is renumbered
6 and amended to read:

7 ~~[53-4-205]~~. **53-10-113. Other agencies to cooperate with division.**

8 (1) All agencies of the state and local governments shall cooperate with the division in
9 discharging its responsibilities under this chapter, Title 32A, Alcoholic Beverage Control Act,
10 Title 58, Chapter 37, Utah Controlled Substance Act, Title 58, Chapter 37a, Utah Drug
11 Paraphernalia Act, Title 58, Chapter 37b, Imitation Controlled Substances Act, and Title 58,
12 Chapter 37c, Utah Controlled Substance Precursor Act.

13 (2) This part does not relieve local law enforcement agencies or officers of the
14 responsibility of enforcing laws relating to alcoholic beverages and products or any other laws.

15 (3) The powers and duties conferred upon the director and the officers of the division are
16 not a limitation upon the powers and duties of other peace officers in the state.

17 Section 20. Section **53-10-201** is enacted to read:

18 **Part 2. Bureau of Criminal Identification**

19 **53-10-201. Bureau of Criminal Identification -- Created -- Bureau Chief --**

20 **Appointment -- Qualifications.**

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

22 (2) The bureau shall be administered by a bureau chief appointed by the division director
23 with the approval of the commissioner.

24 (3) The bureau chief shall be experienced in administration and possess additional
25 qualifications as determined by the commissioner or division director and as provided by law.

26 (4) The bureau chief acts under the supervision and control of the division director and
27 may be removed from his position at the will of the commissioner.

28 (5) The bureau chief shall receive compensation as provided by Title 67, Chapter 19, Utah
29 State Personnel Management Act.

30 Section 21. Section **53-10-202**, which is renumbered from Section 53-5-203 is renumbered
31 and amended to read:

1 **[53-5-203]. 53-10-202. Criminal identification -- Duties of bureau.**

2 The [division] bureau shall:

3 (1) procure and file information relating to identification and activities of persons who:

4 (a) are fugitives from justice;

5 (b) are wanted or missing;

6 (c) have been arrested for or convicted of a crime under the laws of any state or nation; and

7 (d) are believed to be involved in racketeering, organized crime, or a dangerous offense;

8 (2) establish a statewide uniform crime reporting system that shall include:

9 (a) statistics concerning general categories of criminal activities;

10 (b) statistics concerning crimes that exhibit evidence of prejudice based on race, religion,
11 ancestry, national origin, ethnicity, or other categories that the division finds appropriate; and

12 (c) other statistics as required by the Federal Bureau of Investigation;

13 (3) make a complete and systematic record and index of the information obtained under
14 this part;

15 (4) subject to the restrictions in this part, establish policy concerning the use and
16 dissemination of data obtained under this part;

17 (5) publish an annual report concerning the extent, fluctuation, distribution, and nature of
18 crime in Utah;

19 (6) establish a statewide central register for the identification and location of missing
20 persons, which may include:

21 (a) identifying data including fingerprints of each missing person;

22 (b) identifying data of any missing person who is reported as missing to a law enforcement
23 agency having jurisdiction;

24 (c) dates and circumstances of any persons requesting or receiving information from the
25 register; and

26 (d) any other information, including blood types and photographs found necessary in
27 furthering the purposes of this part;

28 (7) publish a quarterly directory of missing persons for distribution to persons or entities
29 likely to be instrumental in the identification and location of missing persons;

30 (8) list the name of every missing person with the appropriate nationally maintained
31 missing persons lists;

1 (9) establish and operate a 24-hour communication network for reports of missing persons
2 and reports of sightings of missing persons;

3 (10) coordinate with the National Center for Missing and Exploited Children and other
4 agencies to facilitate the identification and location of missing persons and the identification of
5 unidentified persons and bodies;

6 (11) receive information regarding missing persons, as provided in Sections 26-2-27 and
7 53A-11-502, and stolen vehicles, vessels, and outboard motors, as provided in Section 41-1a-1401;

8 (12) adopt systems of identification, including the fingerprint system, to be used by the
9 division to facilitate law enforcement; and

10 (13) assign a distinguishing number or mark of identification to any pistol or revolver, as
11 provided in Section 76-10-520.

12 Section 22. Section **53-10-203**, which is renumbered from Section 53-5-204 is renumbered
13 and amended to read:

14 **[53-5-204]. 53-10-203. Missing persons -- Reports -- Notification.**

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

18 (2) The division shall notify the state registrar of Vital Statistics and the FBI National
19 Crime Information Center of all missing persons reported in accordance with Subsection (1) and
20 shall provide the state registrar with information concerning the identity of those missing persons.

21 (3) If the division has reason to believe that a missing person reported in accordance with
22 Subsection (1) has been enrolled in a specific school in this state, the division shall also notify the
23 last-known school of that report.

24 (4) Upon learning of the recovery of a missing person, the division shall notify the state
25 registrar and any school that it has previously informed of the person's disappearance.

26 (5) The division shall, by rule, determine the manner and form of reports, notices, and
27 information required by this section.

28 (6) Upon notification by the state registrar or school personnel that a request for a birth
29 certificate, school record, or other information concerning a missing person has been made, or that
30 an investigation is needed in accordance with Section 53A-11-503, the division shall immediately
31 notify the local law enforcement authority.

1 Section 23. Section **53-10-204**, which is renumbered from Section 53-5-205 is renumbered
2 and amended to read:

3 **[53-5-205]. 53-10-204. Missing person records -- Confidentiality -- Availability.**

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

5 (1) a law enforcement agency investigating a report of a missing person;

6 (2) an agency having the responsibility or authority to care for, treat, or supervise a person
7 who is the subject of a placement in temporary or substitute care or an adoption proceeding;

8 (3) a court, upon a finding that access to the records may be necessary for the
9 determination of an issue before it;

10 (4) the office of the public prosecutor or its deputies;

11 (5) any person engaged in bona fide research when approved by the director of the
12 division, excluding names and addresses; and

13 (6) entities or persons authorized to receive the information in accordance with Section
14 ~~[53-5-204]~~ 53-10-203.

15 Section 24. Section **53-10-205**, which is renumbered from Section 53-5-206 is renumbered
16 and amended to read:

17 **[53-5-206]. 53-10-205. Uniform crime reporting system -- Use of data.**

18 The data acquired under the statewide uniform crime reporting system shall be used only
19 for research or statistical purposes and may not contain any information that may reveal the
20 identity of an individual victim of a crime.

21 Section 25. Section **53-10-206**, which is renumbered from Section 53-5-207 is renumbered
22 and amended to read:

23 **[53-5-207]. 53-10-206. Collection of information.**

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

28 Section 26. Section **53-10-207**, which is renumbered from Section 53-5-208 is renumbered
29 and amended to read:

30 **[53-5-208]. 53-10-207. Peace officers, prosecutors, and magistrates to supply**
31 **information to state and F.B.I. -- Notification of arrest based on warrant.**

1 (1) Every peace officer shall:

2 (a) cause fingerprints of persons he has arrested to be taken on forms provided by the
3 division and the Federal Bureau of Investigation;

4 (b) supply information requested on the forms; and

5 (c) forward without delay both copies to the division, which shall forward the F.B.I. copy
6 to the Identification Division of the Federal Bureau of Investigation.

7 (2) If, after fingerprints have been taken in accordance with Subsection (1), the prosecutor
8 declines to prosecute, or investigative action as described in Section 77-2-3 is terminated, the
9 prosecutor or law enforcement agency shall notify the division of this action within 14 working
10 days.

11 (3) At the preliminary hearing or arraignment of a felony case, the prosecutor shall ensure
12 that each felony defendant has been fingerprinted and an arrest and fingerprint form is transmitted
13 to the division. In felony cases where fingerprints have not been taken, the judge shall order the
14 chief law enforcement officer of the jurisdiction or the sheriff of the county to:

15 (a) cause fingerprints of each felony defendant to be taken on forms provided by the
16 division;

17 (b) supply information requested on the forms; and

18 (c) forward without delay both copies to the division.

19 (4) If an arrest is based upon information about the existence of a criminal warrant of arrest
20 or commitment under Rule 6, Utah Rules of Criminal Procedure, every peace officer shall without
21 delay notify the division of the service of each warrant of arrest or commitment, in a manner
22 specified by the division.

23 Section 27. Section **53-10-208**, which is renumbered from Section 53-5-209 is renumbered
24 and amended to read:

25 **[53-5-209]. 53-10-208. Definition -- Magistrates and court clerks to supply**
26 **information -- Offenses included on statewide warrant system -- Transportation fee to be**
27 **included -- Statewide warrant system responsibility -- Quality control -- Training --**
28 **Technical support -- Transaction costs.**

29 (1) "Statewide warrant system" means the portion of the state court computer system
30 containing records of criminal warrant information that is accessed by modem from the state
31 mainframe computer.

1 (2) Every magistrate or clerk of a court responsible for court records in this state shall
2 furnish the division with:

3 (a) information pertaining to all dispositions of criminal matters, including guilty pleas,
4 convictions, dismissals, acquittals, pleas held in abeyance, or probations granted, within 30 days
5 of the disposition and on forms provided by the division; and

6 (b) information pertaining to the issuance, recall, cancellation, or modification of all
7 warrants of arrest or commitment as described in Rule 6, Utah Rules of Criminal Procedure and
8 Section 78-32-4, within one day of the action and in a manner provided by the division.

9 (3) (a) (i) The division will include on the statewide warrant system all warrants issued for
10 felony offenses and class A, B, and C misdemeanor offenses in the state.

11 (ii) For each offense the division shall indicate whether the magistrate ordered under
12 Section 77-7-5 and Rule 6, Utah Rules of Criminal Procedure, that the accused appear in court.

13 (b) Infractions will not be included on the statewide warrant system, including any
14 subsequent failure to appear warrants issued on an infraction.

15 (4) The division is the agency responsible for the statewide warrant system and shall:

16 (a) ensure quality control of all warrants of arrest or commitment in the statewide warrant
17 system by conducting regular validation checks with every clerk of a court responsible for entering
18 warrant information on the system;

19 (b) establish system procedures and provide training to all criminal justice agencies having
20 access to warrant information;

21 (c) provide technical support, program development, and systems maintenance for the
22 operation of the system; and

23 (d) pay data processing and transaction costs for state, county, and city law enforcement
24 agencies and criminal justice agencies having access to warrant information.

25 (5) (a) Any data processing or transaction costs not funded by legislative appropriation
26 shall be paid on a pro rata basis by all agencies using the system during the fiscal year.

27 (b) This subsection supersedes any conflicting provision in Subsection (4)(d).

28 Section 28. Section **53-10-209**, which is renumbered from Section 53-5-210 is renumbered
29 and amended to read:

30 **[53-5-210]. 53-10-209. Penal institutions and state hospital to supply information.**

31 (1) The warden of the state prison, keeper of any jail or correctional institution, and

1 superintendent of the state hospital shall forward to the division:

2 (a) the fingerprints and recent photographs of all persons confined in each institution under
3 criminal commitment;

4 (b) information relating to the parole, termination or expiration of sentence, or any other
5 release of each person from confinement during the preceding month; and

6 (c) a photograph taken near the time of release.

7 (2) The adult probation and parole section of the Department of Corrections shall furnish
8 to the division:

9 (a) information relating to the revocation or termination of probation or parole; and

10 (b) upon request, the names, fingerprints, photographs, and other data.

11 (3) The chair of the Board of Pardons and Parole shall provide to the division information
12 regarding the issuance, recall, cancellation, or modification of any warrant issued by members of
13 the Board of Pardons and Parole, under Section 77-27-11, within one day of issuance.

14 (4) Information provided to the division under this section shall be on forms designated
15 by the division.

16 Section 29. Section **53-10-210**, which is renumbered from Section 53-5-214.1 is
17 renumbered and amended to read:

18 **[53-5-214.1]. 53-10-210. Response for requests -- Fees.**

19 (1) In responding to requests for criminal background checks, the division shall make an
20 earnest effort to provide the requested information within three weeks of receipt of a request.

21 (2) Fees and other payments received by the division in payment for criminal background
22 check services shall be deposited in the General Fund and the Legislature shall make an annual
23 appropriation for payment of personnel and other costs incurred in providing those services.

24 Section 30. Section **53-10-211**, which is renumbered from Section 53-5-218 is renumbered
25 and amended to read:

26 **[53-5-218]. 53-10-211. Notice required of arrest of school employee for controlled**
27 **substance or sex offense.**

28 (1) The chief administrative officer of the law enforcement agency making the arrest or
29 receiving notice under Subsection (2) shall immediately notify the following individuals:

30 (a) the administrator of teacher certification in the State Office of Education; and

31 (b) the superintendent of schools of the employing public school district or, if the offender

1 is an employee of a private school, the administrator of that school.

2 (2) Subsection (1) applies upon:

3 (a) the arrest of any school employee for any offense:

4 (i) in Section 58-37-8;

5 (ii) in Title 76, Chapter 5, Part 4, Sexual Offenses; or

6 (iii) involving sexual conduct; or

7 (b) upon receiving notice from any other jurisdiction that a school employee has
8 committed an act which would, if committed in Utah, be an offense under Subsection (a).

9 Section 31. Section **53-10-212**, which is renumbered from Section 53-5-219 is renumbered
10 and amended to read:

11 **[53-5-219]. 53-10-212. Supplies and equipment for compliance by reporting**
12 **agencies.**

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

16 Section 32. Section **53-10-301**, which is renumbered from Section 53-4-103 is renumbered
17 and amended to read:

18 **Part 3. Criminal Investigations Bureau**

19 **[53-4-103]. 53-10-301. Criminal Investigations Bureau -- Creation -- Bureau chief**
20 **-- Appointment -- Term -- Compensation.**

21 (1) There is created within the [department] division the Criminal Investigations [Division]
22 Bureau.

23 (2) The [division] bureau shall be administered by a [director] bureau chief appointed by
24 the [commissioner] division director with the approval of the [governor] commissioner.

25 (3) The [~~director is the executive and administrative head of the division and~~] bureau chief
26 shall be experienced in administration and possess additional qualifications as determined by the
27 [commissioner] division director and as provided by law.

28 (4) The [director] bureau chief acts under the supervision and control of the
29 [commissioner] division director and may be removed from his position at the will of the
30 commissioner.

31 (5) The [director] bureau chief shall receive compensation as provided by Title 67, Chapter

1 19, Utah State Personnel Management Act.

2 Section 33. Section **53-10-302**, which is renumbered from Section 53-4-104 is renumbered
3 and amended to read:

4 ~~[53-4-104].~~ **53-10-302. Bureau duties.**

5 The [division] bureau shall:

6 (1) ~~h~~ **UPON REQUEST**, ~~h~~ provide assistance and specialized law enforcement services to local
6a law enforcement

7 agencies;

8 (2) conduct financial investigations regarding suspicious cash transactions, fraud, and
9 money laundering;

10 (3) investigate organized crime, extremist groups, and others promoting violence;

11 (4) investigate criminal activity of terrorist groups;

12 (5) enforce the Utah Criminal Code;

13 (6) cooperate and exchange information with other state agencies and with other law
14 enforcement agencies of government, both within and outside of this state, to obtain information
15 that may achieve more effective results in the prevention, detection, and control of crime and
16 apprehension of criminals;

17 (7) as provided for in state and federal law, investigate and prosecute health care providers
18 who commit fraud under the Medicaid program;

19 (8) as provided for in state and federal law, review and investigate complaints of the abuse
20 and neglect of patients of health-care facilities that receive payments under the state medicaid
21 program;

22 (9) create and maintain a statewide criminal intelligence system;

23 (10) provide specialized case support and investigate illegal drug production, cultivation,
24 and sales;

25 (11) investigate, follow-up, and assist in highway drug interdiction cases;

26 (12) make rules to implement this chapter; and

27 (13) perform the functions specified in Part 2, Narcotics and Alcoholic Beverage Law
28 Enforcement Act.

29 Section 34. Section **53-10-303**, which is renumbered from Section 53-4-105 is renumbered
30 and amended to read:

31 ~~[53-4-105].~~ **53-10-303. Financial Fraud and Money Laundering Forfeiture Account**

1 **created -- Revenue sources -- Use of account designated.**

2 (1) (a) There is created in the General Fund a restricted account called the "Financial Fraud
3 and Money Laundering Forfeiture Account."

4 (b) All monies forfeited or seized to the state through the state or federal court process as
5 a result of investigations regarding suspicious cash transactions, fraud, and money laundering shall
6 be deposited into this account.

7 (2) The Department of Public Safety may expend amounts as appropriated by the
8 Legislature from this account to aid in enforcement efforts to combat financial criminal activity.

9 (3) That portion of funds forfeited or seized that are required to be disbursed to other
10 governmental entities under existing contractual agreements are exempt from this section.

11 (4) The Department of Public Safety as part of the annual budget hearings shall provide
12 the Executive Offices, Criminal Justice, and Legislature Appropriations Subcommittee with a
13 complete accounting of expenditures and revenues from the funds under this section.

14 (5) The Legislature may annually provide, in the Appropriations Act, legislative direction
15 for anticipated expenditures of the monies received under this section.

16 Section 35. Section **53-10-304**, which is renumbered from Section 53-4-202 is renumbered
17 and amended to read:

18 ~~[53-4-202].~~ **53-10-304. Narcotics and alcoholic beverage enforcement --**
19 **Responsibility and jurisdiction.**

20 The [division] bureau shall:

21 (1) have specific responsibility for the enforcement of all laws of the state pertaining to
22 alcoholic beverages and products;

23 (2) have general law enforcement jurisdiction throughout the state;

24 (3) have concurrent law enforcement jurisdiction with all local law enforcement agencies
25 and their officers;

26 (4) cooperate and exchange information with any other state agency and with other law
27 enforcement agencies of government, both within and outside this state, to obtain information that
28 may achieve more effective results in the prevention, detection, and control of crime and
29 apprehension of criminals;

30 (5) cooperate with the council in all matters concerning Title 32A, Alcoholic Beverage
31 Control Act;

1 (6) sponsor or supervise programs or projects related to prevention, detection, and control
2 of violations of:

- 3 (a) Title 32A, Alcoholic Beverage Control Act;
- 4 (b) Title 58, Chapter 37, Utah Controlled Substance Act;
- 5 (c) Title 58, Chapter 37a, Utah Drug Paraphernalia Act;
- 6 (d) Title 58, Chapter 37b, Imitation Controlled Substances Act;
- 7 (e) Title 58, Chapter 37c, Utah Controlled Substance Precursor Act; and
- 8 (f) Title 58, Chapter [38d] 37d, Clandestine Drug Lab Act; and
- 9 (7) assist the governor in an emergency or as the governor may require.

10 Section 36. Section **53-10-305**, which is renumbered from Section 53-4-203 is renumbered
11 and amended to read:

12 ~~[53-4-203]~~. **53-10-305. Duties of bureau chief.**

13 The [director] bureau chief, with the consent of the commissioner, shall do the following:

14 (1) conduct in conjunction with the state boards of education and higher education in state
15 schools, colleges, and universities, an educational program concerning alcoholic products, and
16 work in conjunction with civic organizations, churches, local units of government, and other
17 organizations in the prevention of alcoholic product and drug violations;

18 (2) coordinate law enforcement programs throughout the state and accumulate and
19 disseminate information related to the prevention, detection, and control of violations of this
20 chapter and Title 32A, Alcoholic Beverage Control Act, as it relates to storage or consumption of
21 alcoholic beverages on premises maintained by social clubs, recreational, athletic, and kindred
22 associations;

23 (3) make inspections and investigations as required by the commission and the Department
24 of Alcoholic Beverage Control;

25 (4) consult and cooperate with the council;

26 (5) perform other acts as may be necessary or appropriate concerning control of the use
27 of alcoholic beverages and products and drugs; and

28 (6) make reports and recommendations to the Legislature, the governor, the commissioner,
29 the commission, the Department of Alcoholic Beverage Control, and the council as may be
30 required or requested.

31 Section 37. Section **53-10-401** is enacted to read:

Part 4. Bureau of Forensic Services

53-10-401. Bureau of Forensic Services -- Creation -- Appointment of bureau chief -- Appointment -- Qualifications.

(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 67, Chapter 19, Utah State Personnel Management Act.

Section 38. Section **53-10-402** is enacted to read:

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

1 state;

2 (7) provide assistance to the medical community in establishing guidelines for the proper
3 handling of individuals who are the victims of sexual assault; and

4 (8) upon request, provide law enforcement agencies technical and analytical support in the
5 processing of crime scenes.

6 Section 39. Section **53-10-403**, which is renumbered from Section 53-5-212.1 is
7 renumbered and amended to read:

8 **[53-5-212.1]. 53-10-403. Blood analysis -- Application to offenders.**

9 Sections [~~53-5-212.2, 53-5-212.3~~] 53-10-404, 53-10-405, and [53-5-212.4] 53-10-406
10 apply to any person convicted of any of the following offenses:

11 (1) unlawful sexual intercourse, rape, rape of a child, object rape, object rape of a child,
12 forcible sodomy, sodomy of a child, forcible sexual abuse, sexual abuse of a child or aggravated
13 sexual abuse of a child, aggravated sexual assault, sexual abuse without consent of the victim,
14 incest, sexual exploitation of a minor; or

15 (2) murder or aggravated murder.

16 Section 40. Section **53-10-404**, which is renumbered from Section 53-5-212.2 is
17 renumbered and amended to read:

18 **[53-5-212.2]. 53-10-404. Blood analysis -- Requirement to obtain sample.**

19 (1) A person convicted of an offense listed in Section [~~53-5-212.1~~] 53-10-403 or any
20 person added to the sex offender register as defined in Section 77-27-21.5 shall provide a blood
21 sample at the request of the appropriate agency designated in Subsection (4).

22 (2) (a) The court shall include in the judgment of conviction an order stating that a blood
23 sample shall be drawn at the request of the appropriate agency and, unless the convicted person
24 lacks the ability to pay, he shall reimburse the appropriate agency for the cost of drawing and
25 transmitting the blood sample.

26 (b) If the judgment places the convicted person on probation, the court shall order him to
27 submit to the drawing of a blood sample as a condition of the probation.

28 (3) (a) The appropriate agency shall cause a blood sample to be drawn as soon as possible
29 after conviction and transmitted to the Department of Public Safety.

30 (b) If notified by the Department of Public Safety that a sample is not adequate for
31 analysis, the agency shall draw and transmit an additional sample.

1 (4) The Department of Corrections is the appropriate agency whenever the convicted
2 person is committed to the custody of the Department of Corrections. In all other cases, the
3 appropriate agency is the law enforcement agency attending upon the court.

4 Section 41. Section **53-10-405**, which is renumbered from Section 53-5-212.3 is
5 renumbered and amended to read:

6 **[53-5-212.3]. 53-10-405. Blood analysis -- Sample to be drawn by professional.**

7 (1) A blood sample shall be drawn in a medically acceptable manner by a licensed
8 professional nurse, a licensed practical nurse, a paramedic, a qualified medical technician, a
9 licensed physician, or other person licensed by the state of Utah for this purpose.

10 (2) A person authorized by this section to draw a blood sample shall not be held civilly
11 liable for drawing a sample in a medically acceptable manner.

12 (3) No test result or opinion based upon a test result shall be rendered inadmissible as
13 evidence solely because of deviations from procedures adopted by the department [~~of Public~~
14 ~~Safety~~] that do not affect the reliability of the opinion or test result.

15 (4) No sample is required to be drawn if:

16 (a) the department [~~of Public Safety~~] notifies the court or the appropriate agency that it has
17 previously received an adequate blood sample drawn from the convicted person in accordance with
18 this section; or

19 (b) the court determines that drawing a sample would create a substantial and unreasonable
20 risk to the health of the convicted person.

21 Section 42. Section **53-10-406**, which is renumbered from Section 53-5-212.4 is
22 renumbered and amended to read:

23 **[53-5-212.4]. 53-10-406. Blood analysis -- Bureau responsibilities.**

24 (1) The [~~Department of Public Safety~~] bureau shall:

25 (a) store all blood samples received and autoradiographs and other physical evidence
26 obtained from analysis of those samples;

27 (b) analyze the samples to establish the genetic profile of the donor or to otherwise
28 determine the identity of persons or contract with other qualified public or private laboratories to
29 conduct the analysis;

30 (c) maintain a criminal identification data base containing information derived from blood
31 analysis;

1 (d) utilize the samples to create statistical population frequency data bases, provided that
2 genetic profiles or other information in a population frequency data base may not be identified with
3 specific individuals; and

4 (e) make rules in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking
5 Act, establishing procedures for drawing, transmitting, and analyzing blood samples and for
6 storing and destroying blood samples, autoradiographs and other physical evidence and criminal
7 identification information obtained from such analysis.

8 (2) Procedures for blood analysis may include all techniques which the Department of
9 Public Safety determines are accurate and reliable in establishing identity, including but not limited
10 to, analysis of DNA (deoxyribonucleic acid), antigen antibodies, polymorphic enzymes, or
11 polymorphic proteins.

12 (3) In accordance with Subsection 63-2-302(1), all samples received shall be classified as
13 private and the Department of Public Safety may not transfer or disclose any sample,
14 autoradiograph, physical evidence, or criminal identification information obtained, stored, or
15 maintained under this section, except under its provisions.

16 (4) Notwithstanding the provisions of Subsection 63-2-202(1), the department may deny
17 inspection if it determines that there is a reasonable likelihood that such inspection would prejudice
18 a pending criminal investigation.

19 (5) The department shall adopt procedures governing the inspection of records, samples,
20 and autoradiographs and challenges to the accuracy of records. The procedures shall accommodate
21 the need to preserve the materials from contamination and destruction.

22 (6) Whenever a court reverses the conviction, judgment, or order that created an obligation
23 to provide a blood sample, the person who provided the sample may request destruction of the
24 sample and any criminal identification record created in connection with that sample. Upon receipt
25 of a written request for destruction pursuant to this section and a certified copy of the court order
26 reversing the conviction, judgment, or order, the Department of Public Safety shall destroy any
27 sample received from the person, any physical evidence obtained from that sample and any
28 criminal identification records pertaining to the person, unless the department determines that the
29 person has otherwise become obligated to submit a blood sample as a result of a separate
30 conviction or juvenile adjudication for an offense listed in Section ~~[53-5-212.1]~~ 53-10-403.

31 (7) The department is not required to destroy an autoradiograph or other item of physical

1 evidence obtained from a blood sample if evidence relating to another person subject to the
2 provisions of Sections [53-5-212.2] 53-10-404 and [53-5-212.3] 53-10-405 would thereby be
3 destroyed.

4 (8) A sample, autoradiograph, physical evidence, or criminal identification record may not
5 be affected by an order to set aside a conviction, except under the provisions of this section.

6 Section 43. Section **53-10-501** is enacted to read:

7 **Part 5. Bureau of Communications**

8 **53-10-501. Bureau of Communications -- Creation -- Bureau chief -- Appointment**
9 **-- Qualifications.**

10 (1) There is created within the division the Bureau of Communications.

11 (2) The bureau shall be managed by a bureau chief selected by the division director, with
12 the approval of the commissioner.

13 (3) The bureau chief should be experienced in communications and administration, and
14 possess additional qualifications as determined by the commissioner or division director and as
15 provided by law.

16 (4) The bureau chief acts under the supervision and control of the division director.

17 Section 44. Section **53-10-502** is enacted to read:

18 **53-10-502. Bureau duties.**

19 The bureau:

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

22 (2) provides facilities and acts as a public safety answering point to answer and respond
23 to 9-1-1 calls from a region;

24 (3) provides professional emergency dispatch and communications support for law
25 enforcement, emergency medical, fire suppression, highway maintenance, public works, and public
26 safety agencies representing municipal, county, state, and federal governments; and

27 (4) coordinates incident response.

28 Section 45. Section **53A-2-202** is amended to read:

29 **53A-2-202. Guardianship for residency purposes by responsible adult -- Procedure**
30 **to obtain -- Termination.**

31 (1) For purposes of this part, "responsible adult" means a person 21 years of age or older

1 who is a resident of this state and is willing and able to provide reasonably adequate food, clothing,
2 shelter, and supervision for a minor child.

3 (2) A local board of education may adopt a policy permitting it to designate a responsible
4 adult residing in the school district as legal guardian of a child whose custodial parent or legal
5 guardian does not reside within the state upon compliance with the following requirements:

6 (a) submission to the school district of a signed and notarized affidavit by the child's
7 custodial parent or legal guardian stating that:

8 (i) the child's presence in the district is not for the primary purpose of attending the public
9 schools;

10 (ii) the child's physical, mental, moral, or emotional health would best be served by a
11 transfer of guardianship to the Utah resident;

12 (iii) the affiant is aware that designation of a guardian under this section is equivalent to
13 a court-ordered guardianship under Section 75-5-206 and will suspend or terminate any existing
14 parental or guardianship rights in the same manner as would occur under a court-ordered
15 guardianship;

16 (iv) the affiant consents and submits to any such suspension or termination of parental or
17 guardianship rights;

18 (v) the affiant consents and submits to the jurisdiction of the state district court in which
19 the school district is located in any action relating to the guardianship or custody of the child in
20 question;

21 (vi) the affiant designates a named responsible adult as agent, authorized to accept service
22 on behalf of the affiant of any process, notice, or demand required or permitted to be served in
23 connection with any action under Subsection (2)(a)(v); and

24 (vii) it is the affiant's intent that the child become a permanent resident of the state and
25 reside with and be under the supervision of the named responsible adult;

26 (b) submission to the school district of a signed and notarized affidavit by the responsible
27 adult stating that:

28 (i) the affiant is a resident of the school district and desires to become the guardian of the
29 child;

30 (ii) the affiant consents and submits to the jurisdiction of the state district court in which
31 the school district is located in any action relating to the guardianship or custody of the child in

1 question;

2 (iii) the affiant will accept the responsibilities of guardianship for the duration, including
3 the responsibility to provide adequate supervision, discipline, food, shelter, educational and
4 emotional support, and medical care for the child if designated as the child's guardian; and

5 (iv) the affiant accepts the designation as agent under Subsection (2)(a)(vi);

6 (c) submission to the school district of a signed and notarized affidavit by the child stating
7 that:

8 (i) the child desires to become a permanent resident of Utah and reside with and be
9 responsible to the named responsible adult; and

10 (ii) the child will abide by all applicable rules of any public school which the child may
11 attend after guardianship is awarded; and

12 (d) if the child's custodial parent or legal guardian cannot be found in order to execute the
13 statement required under Subsection (2) (a), the responsible adult must submit an affidavit to that
14 effect to the district. The district shall also submit a copy of the statement to the [~~Law~~
15 Enforcement] Criminal Investigations and Technical Services Division of the Department of
16 Public Safety, established in Section 53-10-103.

17 (3) The district may require the responsible adult, in addition to the documents set forth
18 in Subsection (2), to also submit any other documents which are relevant to the appointment of a
19 guardian of a minor or which the district reasonably believes to be necessary in connection with
20 a given application to substantiate any claim or assertion made in connection with the application
21 for guardianship.

22 (4) Upon receipt of the information and documentation required under Subsections (2) and
23 (3), and a determination by the board that the information is accurate, that the requirements of this
24 section have been met, and that the interests of the child would best be served by granting the
25 requested guardianship, the school board or its authorized representative may designate the
26 applicant as guardian of the child by issuing a designation of guardianship letter to the applicant.

27 (5) (a) If a local school board has adopted a policy permitting the board to designate a
28 guardian under this section, a denial of an application for appointment of a guardian may be
29 appealed to the district court in which the school district is located.

30 (b) The court shall uphold the decision of the board unless it finds, by clear and convincing
31 evidence, that the board's decision was arbitrary and capricious.

1 (c) An applicant may, rather than appealing the board's decision under Subsection (5)(b),
2 file an original Petition for Appointment of Guardian with the district court, which action shall
3 proceed as if no decision had been made by the school board.

4 (6) A responsible adult obtaining guardianship under this section has the same rights,
5 authority, and responsibilities as a guardian appointed under Section 75-5-201.

6 (7) (a) The school district shall deliver the original documents filed with the school district,
7 together with a copy of the designation of guardianship issued by the district, in person or by any
8 form of mail requiring a signed receipt, to the clerk of the state district court in which the school
9 district is located.

10 (b) The court may not charge the school district a fee for filing guardianship papers under
11 this section.

12 (8) (a) The authority and responsibility of a custodial parent or legal guardian submitting
13 an affidavit under this section may be restored by the district, and the guardianship obtained under
14 this section terminated by the district:

15 (i) upon submission to the school district in which the guardianship was obtained of a
16 signed and notarized statement by the person who consented to guardianship under Subsection (2)

17 (a) requesting termination of the guardianship; or

18 (ii) by the person accepting guardianship under Subsection (2) (b) requesting the
19 termination of the guardianship.

20 (b) If the school district determines that it would not be in the best interests of the child
21 to terminate the guardianship, the district may refer the request for termination to the state district
22 court in which the documents were filed under Subsection (5) for further action consistent with the
23 interests of the child.

24 (9) The school district shall retain copies of all documents required by this section until
25 the child in question has reached the age of 18 unless directed to surrender the documents by a
26 court of competent jurisdiction.

27 (10) (a) Intentional submission to a school district of fraudulent or misleading information
28 under this part is punishable under Section 76-8-504.

29 (b) A school district which has reason to believe that a party has intentionally submitted
30 false or misleading information under this part may, after notice and opportunity for the party to
31 respond to the allegation:

1 (i) void any guardianship, authorization, or action which was based upon the false or
2 misleading information; and

3 (ii) recover, from the party submitting the information, the full cost of any benefits
4 received by the child on the basis of the false or misleading information, including tuition, fees,
5 and other unpaid school charges, together with any related costs of recovery.

6 (c) A student whose guardianship or enrollment has been terminated under this section
7 may, upon payment of all applicable tuition and fees, continue in enrollment until the end of the
8 school year unless excluded from attendance for cause.

9 Section 46. Section **53A-3-410** is amended to read:

10 **53A-3-410. Criminal background checks on school personnel -- Notice -- Payment**
11 **of cost -- Request for review.**

12 (1) A school district superintendent or the superintendent's designee:

13 (a) shall require a potential employee or a volunteer who will be given significant
14 unsupervised access to a student in connection with the volunteer's assignment to submit to a
15 criminal background check as a condition for employment or appointment; and

16 (b) where reasonable cause exists, may require an existing employee or volunteer to submit
17 to a criminal background check.

18 (2) The chief administrative officer of a private school may require:

19 (a) a potential employee or volunteer to submit to a criminal background check as a
20 condition for employment or appointment; and

21 (b) where reasonable cause exists, an existing employee or volunteer to submit to a
22 criminal background check.

23 (3) The applicant, volunteer, or employee shall receive written notice that the background
24 check has been requested.

25 (4) (a) Fingerprints of the individual shall be taken, and the [~~Law Enforcement~~] Criminal
26 Investigations and Technical Services Division of the Department of Public Safety, established in
27 Section 53-10-103, shall release the individual's full record of criminal convictions to the
28 administrator requesting the information.

29 (b) Information received by the division from entities other than agencies or political
30 subdivisions of the state may not be released to a private school unless the release is permissible
31 under applicable laws or regulations of the entity providing the information.

1 (5) The superintendent, local school board, or their counterparts at a private school shall
2 consider only those convictions which are job-related for the employee, applicant, or volunteer.

3 (6) (a) The district or private school shall pay the cost of the background check except as
4 otherwise provided in Subsection (6)(b), and the monies collected shall be credited to the [~~Law~~
5 ~~Enforcement~~] Criminal Investigations and Technical Services Division to offset its expenses.

6 (b) The district or private school may require an applicant to pay the costs of a background
7 check as a condition for consideration for employment or appointment, if:

8 (i) the applicant:

9 (A) has passed an initial review;

10 (B) is one of a pool of no more than five candidates for a position; and

11 (C) has not been the subject of a criminal background check of similar scope during the
12 preceding two years that was requested by a potential employer or the State Board of Education;
13 and

14 (ii) a copy of the background check is provided to the district or school considering
15 employment or appointment of the applicant.

16 (7) The [~~Law Enforcement~~] Criminal Investigations and Technical Services Division shall,
17 upon request, seek additional information from regional or national criminal data files in
18 responding to inquiries under this section.

19 (8) (a) A private school seeking information from the Federal Bureau of Investigation or
20 other national criminal data file which the private school may not access directly shall submit its
21 request to the Teacher Certification Section of the State Board of Education, together with the
22 required fee and the school's criminal data-related criteria for limiting or rejecting employment.

23 (b) The section shall submit the request and, upon receiving the requested information,
24 shall determine whether the subject of the inquiry is entitled to employment under the school's
25 criteria.

26 (c) The section shall disclose its determination to the school but may not disclose the data
27 in the national criminal data file.

28 (9) (a) The applicant, volunteer, or employee shall have opportunity to respond to any
29 information received as a result of the background check.

30 (b) A private school applicant, volunteer, or employee who wishes to respond shall:

31 (i) submit a request to the school; and

1 (ii) give a written statement to the Teacher Certification Office authorizing the office to
2 release the background check information to a hearing officer selected by the individual and the
3 school.

4 (c) The individual and the school shall equally share any costs incurred under Subsection
5 (9)(b).

6 (d) A public agency shall resolve any request for review by an applicant, volunteer, or
7 employee seeking employment or employed by the agency through normal administrative
8 procedures established by the agency.

9 (10) If a person is denied employment or is dismissed from employment because of
10 information obtained through a criminal background check, the person shall receive written notice
11 of the reasons for denial or dismissal and have an opportunity to respond to the reasons under the
12 procedures set forth in Subsection (9).

13 (11) Information obtained under this part is confidential and may only be disclosed as
14 provided in this section.

15 Section 47. Section **53A-6-103** is amended to read:

16 **53A-6-103. Qualifications of applicants for certificates -- Changes in qualifications**
17 **-- Criminal background check.**

18 (1) The State Board of Education shall establish the scholarship, training, and experience
19 required of applicants for certificates.

20 (2) The board shall announce any increase in the requirements when made, and they
21 become effective not less than one year from the date of the announcement.

22 (3) The board may determine by examination or otherwise the qualifications of applicants
23 for certificates.

24 (4) (a) The State Office of Education, hereafter referred to as "office," shall require an
25 applicant for certification to submit to a criminal background check as a condition for certification.
26 As used in this section, certification includes reinstatement of a lapsed, suspended, or revoked
27 certificate.

28 (b) The office shall establish a procedure for fingerprinting the applicant and submitting
29 the prints to the [~~Law Enforcement~~] Criminal Investigations and Technical Services Division of
30 the Department of Public Safety, established in Section 53-10-103, for checking against applicable
31 state, regional, and national criminal records files. The [~~Law Enforcement~~] Criminal

1 Investigations and Technical Services Division shall release to the office the applicant's record of
2 all criminal convictions.

3 (c) An applicant shall have opportunity to respond to any information received as a result
4 of the background check.

5 (d) In preparing recommendations concerning certification for submission to the state
6 board, the office shall consider only those convictions which are relevant to the level of
7 certification sought by the applicant. This Subsection (4)(d) applies to convictions occurring both
8 before and after the effective date of this Subsection (4)(d).

9 (e) If a recommendation is made for denial of certification because of information obtained
10 through a criminal background check, the person shall receive written notice of the reasons for the
11 recommendation and have an opportunity to respond in accordance with procedures set forth in
12 Title 63, Chapter 46b, Administrative Procedures Act.

13 (f) Information obtained under this section is confidential and may only be disclosed as
14 provided in this part.

15 (g) The applicant shall pay the costs of conducting the background check.

16 Section 48. Section **53A-6-107** is amended to read:

17 **53A-6-107. State Office of Education tie-in with the Criminal Investigations and**
18 **Technical Services Division.**

19 (1) The State Office of Education may become an online terminal agency with the
20 Department of Public Safety's [~~Law Enforcement~~] Criminal Investigations and Technical Services
21 Division under [~~Subsection 53-5-214(6)~~] Section 53-10-108, and provide relevant information
22 concerning current or prospective employees or volunteers to other school officials as provided
23 in Section 53A-6-106.

24 (2) The cost of the online service shall be borne by the entity making the inquiry, using
25 funds available to the entity, which may include funds authorized under Section 53A-6-103.

26 Section 49. Section **53A-11-501** is amended to read:

27 **53A-11-501. Definitions.**

28 As used in this chapter:

29 (1) "Division" means the [~~Law Enforcement~~] Criminal Investigations and Technical
30 Services Division of the Department of Public Safety, established in Section 53-10-103.

31 (2) "Missing child" has the same meaning as provided in Section 26-2-27.

1 (3) "State registrar" means the State Registrar of Vital Statistics within the Department of
2 Health.

3 Section 50. Section **53A-11-502** is amended to read:

4 **53A-11-502. Identifying records -- Reporting requirements.**

5 (1) Upon notification by the division of a missing child in accordance with Section
6 [53-5-204] 53-10-203, a school in which that child is currently or was previously enrolled shall
7 flag the record of that child in a manner that whenever a copy of or information regarding the
8 record is requested, the school is alerted to the fact that the record is that of a missing child.

9 (2) The school shall immediately report any request concerning flagged records or
10 knowledge as to the whereabouts of any missing child to the division.

11 (3) Upon notification by the division that a missing child has been recovered, the school
12 shall remove the flag from that child's record.

13 Section 51. Section **62A-4a-202.4** is amended to read:

14 **62A-4a-202.4. Access to criminal background information.**

15 (1) For purposes of background screening and investigation of child abuse under this
16 chapter and Title 78, Chapter 3a, Part 3, Abuse, Neglect, and Dependency Proceedings, the
17 division shall have direct access to criminal background information maintained pursuant to Title
18 53, Chapter [5] 10, Part 2, Bureau of Criminal Identification [Act].

19 (2) The division and the Office of the Guardian Ad Litem Director are also authorized to
20 request the Department of Public Safety to conduct a complete Federal Bureau of Investigation
21 criminal background check through the national criminal history system (NCIC).

22 Section 52. Section **62A-4a-413** is amended to read:

23 **62A-4a-413. Agencies and individuals providing services to children -- Felony or**
24 **misdemeanor conviction.**

25 (1) (a) As of July 1, 1990, each public or private agency or individual licensed by the
26 department to provide child placing services, youth programs, substitute, foster, or institutionalized
27 care to children shall, in order to obtain or renew a license under Section 62A-2-108, submit to the
28 department the name and other identifying information, which may include fingerprints, of new
29 and proposed:

30 (i) owners;

31 (ii) directors;

- 1 (iii) members of the governing body;
2 (iv) employees;
3 (v) providers of care; and
4 (vi) volunteers, except parents of children enrolled in the programs.

5 (b) The [~~Law Enforcement~~] Criminal Investigations and Technical Services Division of
6 the Department of Public Safety, established in Section 53-10-103, shall process that information
7 to determine whether the individual has been convicted of any crime.

8 (c) As of July 1, 1997, persons described in Subsection (1)(a) may also be subject to a
9 complete Federal Bureau of Investigation criminal background check through the national criminal
10 history system (NCIC) if they provide out-of-home care for children, in accordance with Section
11 78-3a-307.1. If an FBI fingerprint background check is required pursuant to Section 78-3a-307.1,
12 the provider may be provisionally licensed.

13 (2) An owner, director, member of the governing body, employee, provider of care, or
14 volunteer who has a felony conviction may not provide child placing services, foster care, youth
15 programs, substitute care, or institutionalized care for children in facilities or programs licensed
16 by the department.

17 (3) With regard to an owner, director, member of the governing body, employee, or
18 provider of care who has a misdemeanor conviction, the executive director has discretion to
19 determine whether or not that person may provide any child placing, foster care, youth programs,
20 substitute care, or institutionalized care for children in a facility or program licensed by the
21 department.

22 Section 53. Section **63-63a-9** is amended to read:

23 **63-63a-9. Statewide Warrant Operations Account -- Share of surcharge -- Use.**

24 (1) There is created a restricted account within the General Fund known as the Statewide
25 Warrant Operations Account.

26 (2) The Division of Finance shall allocate 2.5% of the collected surcharge established
27 under Section 63-63a-1, but not to exceed the amount appropriated by the Legislature, to this
28 account.

29 (3) The Legislature may appropriate money from the restricted account to the Department
30 of Public Safety to pay for statewide warrant system costs incurred under [~~Subsection 53-5-209(2)~~]
31 Section 53-10-208.

1 Section 54. Section **64-13-27** is amended to read:

2 **64-13-27. Records -- Access.**

3 (1) (a) The [~~Law Enforcement~~] Criminal Investigations and Technical Services Division
4 of the Department of Public Safety, established in Section 53-10-103, county attorneys' offices,
5 and state and local law enforcement agencies shall furnish to the department upon request a copy
6 of records of any person arrested in this state.

7 (b) The department shall maintain centralized files on all offenders under the jurisdiction
8 of the department and make the files available for review by other criminal justice agencies upon
9 request in cases where offenders are the subject of active investigations.

10 (2) All records maintained by programs under contract to the department providing
11 services to public offenders are the property of the department.

12 Section 55. Section **73-18-20.5** is amended to read:

13 **73-18-20.5. Reporting of theft and recovery of vessels.**

14 (1) (a) Any peace officer upon receiving reliable information that any vessel or outboard
15 motor has been stolen shall immediately report the theft to the [~~Law Enforcement~~] Criminal
16 Investigations and Technical Services Division of the Department of Public Safety, established in
17 Section 53-10-103.

18 (b) Any peace officer upon receiving information that any vessel or outboard motor which
19 was previously reported as stolen has been recovered shall immediately report the recovery to his
20 law enforcement agency and to the [~~Law Enforcement~~] Criminal Investigations and Technical
21 Services Division.

22 (2) The reporting and recovery procedures for vessels and outboard motors shall be the
23 same as those specified in Section 41-1a-1401 for motor vehicles.

24 Section 56. Section **76-6-607** is amended to read:

25 **76-6-607. Report of arrest to division.**

26 Any arrest made for a violation of this part shall be reported by the appropriate jurisdiction
27 to the [~~Law Enforcement~~] Criminal Investigations and Technical Services Division of the
28 Department of Public Safety, established in Section 53-10-103, which shall keep a record of the
29 arrest together with the disposition of the arrest for purposes of inquiry by any law enforcement
30 agency.

31 Section 57. Section **76-10-501** is amended to read:

1 **76-10-501. Uniform law -- Definitions.**

2 (1) (a) The individual right to keep and bear arms being a constitutionally protected right,
3 the Legislature finds the need to provide uniform laws throughout the state. Except as specifically
4 provided by state law, a citizen of the United States or a lawfully admitted alien shall not be:

5 (i) prohibited from owning, possessing, purchasing, transporting, or keeping any firearm
6 at his place of residence, property, business, or in any vehicle under his control; or

7 (ii) required to have a permit or license to purchase, own, possess, transport, or keep a
8 firearm.

9 (b) This part is uniformly applicable throughout this state and in all its political
10 subdivisions and municipalities. All authority to regulate firearms shall be reserved to the state
11 except where the Legislature specifically delegates responsibility to local authorities. Unless
12 specifically authorized by the Legislature by statute, a local authority may not enact or enforce any
13 ordinance, regulation, or rule pertaining to firearms.

14 (2) As used in this part:

15 (a) (i) "Concealed dangerous weapon" means a dangerous weapon that is covered, hidden,
16 or secreted in a manner that the public would not be aware of its presence and is readily accessible
17 for immediate use.

18 (ii) A dangerous weapon shall not be considered a concealed dangerous weapon if it is a
19 firearm which is unloaded and is securely encased.

20 (b) "Crime of violence" means aggravated murder, murder, manslaughter, rape, mayhem,
21 kidnapping, robbery, burglary, housebreaking, extortion, or blackmail accompanied by threats of
22 violence, assault with a dangerous weapon, assault with intent to commit any offense punishable
23 by imprisonment for more than one year, arson punishable by imprisonment for more than one
24 year, or an attempt to commit any of these offenses.

25 (c) "Criminal history background check" means a criminal background check conducted
26 by a licensed firearms dealer on every purchaser of a handgun through the division or the local law
27 enforcement agency where the firearms dealer conducts business.

28 (d) "Dangerous weapon" means any item that in the manner of its use or intended use is
29 capable of causing death or serious bodily injury. The following factors shall be used in
30 determining whether a knife, or any other item, object, or thing not commonly known as a
31 dangerous weapon is a dangerous weapon:

1 (i) the character of the instrument, object, or thing;

2 (ii) the character of the wound produced, if any;

3 (iii) the manner in which the instrument, object, or thing was used; and

4 (iv) the other lawful purposes for which the instrument, object, or thing may be used.

5 (e) "Dealer" means every person who is licensed under crimes and criminal procedure, 18
6 U.S.C. 923 and engaged in the business of selling, leasing, or otherwise transferring a handgun,
7 whether the person is a retail or wholesale dealer, pawnbroker, or otherwise.

8 (f) "Division" means the [~~Law Enforcement~~] Criminal Investigations and Technical
9 Services Division of the Department of Public Safety, created in Section [~~53-5-103~~] 53-10-103.

10 (g) "Firearm" means a pistol, revolver, shotgun, sawed-off shotgun, rifle or sawed-off
11 rifle, or any device that could be used as a dangerous weapon from which is expelled a projectile
12 by action of an explosive.

13 (h) "Fully automatic weapon" means any firearm which fires, is designed to fire, or can
14 be readily restored to fire, automatically more than one shot without manual reloading by a single
15 function of the trigger.

16 (i) "Firearms transaction record form" means a form created by the division to be
17 completed by a person purchasing, selling, or transferring a handgun from a dealer in the state.

18 (j) "Handgun" means a pistol, revolver, or other firearm of any description, loaded or
19 unloaded, from which any shot, bullet, or other missile can be discharged, the length of which, not
20 including any revolving, detachable, or magazine breech, does not exceed 12 inches.

21 (k) "Prohibited area" means any place where it is unlawful to discharge a firearm.

22 (l) "Readily accessible for immediate use" means that a firearm or other dangerous weapon
23 is carried on the person or within such close proximity and in such a manner that it can be retrieved
24 and used as readily as if carried on the person.

25 (m) "Sawed-off shotgun" or "sawed-off rifle" means a shotgun having a barrel or barrels
26 of fewer than 18 inches in length, or in the case of a rifle, having a barrel or barrels of fewer than
27 16 inches in length, or any dangerous weapon made from a rifle or shotgun by alteration,
28 modification, or otherwise, if the weapon as modified has an overall length of fewer than 26
29 inches.

30 (n) "Securely encased" means not readily accessible for immediate use, such as held in a
31 gun rack, or in a closed case or container, whether or not locked, or in a trunk or other storage area

1 of a motor vehicle, not including a glove box or console box.

2 Section 58. Section **76-10-526** is amended to read:

3 **76-10-526. Criminal background check prior to purchase of a handgun.**

4 (1) To establish personal identification and residence in this state for purposes of this part,
5 a dealer shall require any person receiving a handgun to present:

6 (a) one photo identification on a form issued by a governmental agency of the state; and

7 (b) one other documentation of residence which must show an address identical to that
8 shown on the photo identification form.

9 (2) A criminal history background check is required for the sale of a handgun by a licensed
10 firearm dealer in the state.

11 (3) Any person purchasing a handgun from a dealer shall consent in writing to a criminal
12 background check, on a form provided by the division. The form shall also contain the following
13 information:

14 (a) the dealer identification number;

15 (b) the name and address of the person receiving the handgun;

16 (c) the date of birth, height, weight, eye color, and hair color of the person receiving the
17 handgun; and

18 (d) the Social Security number or any other identification number of the person receiving
19 the handgun.

20 (4) (a) The dealer shall send the form required by Subsection (3) to the division
21 immediately upon its completion.

22 (b) No dealer shall sell or transfer any handgun to any person until the dealer has provided
23 the division with the information in Subsection (3) and has received approval from the division
24 under Subsection (5).

25 (5) The dealer shall make a request for criminal history background information by
26 telephone to the division and shall receive approval or denial of the inquiry by telephone.

27 (6) When the dealer calls for a criminal history background check, the division shall:

28 (a) review the criminal history files to determine if the person is prohibited from
29 purchasing, possessing, or transferring a handgun by state or federal law;

30 (b) inform the dealer that:

31 (i) the criminal record indicates the person is so prohibited; or

1 (ii) the person is approved for purchasing, possessing, or transferring a handgun;

2 (c) provide the dealer with a unique transaction number for that inquiry; and

3 (d) provide a response to the requesting dealer during the call for a criminal background,
4 or by return call without delay, except in case of electronic failure or other circumstances beyond
5 the control of the division, the division shall advise the dealer of the reason for such delay and give
6 the dealer an estimate of the length of such delay.

7 (7) The division shall not maintain any records of the criminal history background check
8 longer than 20 days from the date of the dealer's request if the division determines that the person
9 receiving the gun is not prohibited from purchasing, possessing, or transferring the handgun under
10 state or federal law. However, the division shall maintain a log of requests containing the dealer's
11 federal firearms number, the transaction number, and the transaction date for a period of 12
12 months.

13 (8) If the criminal history background check discloses information indicating that the
14 person receiving the handgun is prohibited from purchasing, possessing, or transferring a handgun,
15 the division shall inform the chief law enforcement officer in the jurisdiction where the person
16 resides.

17 (9) If a person is denied the right to purchase a handgun under this section, the person may
18 review his criminal history information and may challenge or amend the information as provided
19 in [~~Subsection 53-5-214(8)~~] Section 53-10-108.

20 (10) The division shall make rules as provided in Title 63, Chapter 46a, Utah
21 Administrative Rulemaking Act, to ensure the identity, confidentiality, and security of all records
22 provided by the division pursuant to this part are in conformance with the requirements of the
23 Brady Handgun Violence Prevention Act, Pub. L. No. 103-159, 107 Stat. 1536 (1993).

24 (11) (a) All dealers shall collect a fee established by the division in accordance with
25 Section 63-38-3.2 for every criminal history background check done pursuant to this part. Until
26 changed by the division through this process, the fee shall be \$7.50.

27 (b) The dealer shall forward at one time all fees collected for criminal history background
28 checks performed during the month to the division by the last day of the month following the sale
29 of a handgun. The division may retain the fees as dedicated credits to cover the cost of
30 administering and conducting the criminal history background check program.

31 Section 59. Section **77-18-9** is amended to read:

1 **77-18-9. Definitions.**

2 As used in this chapter:

3 (1) "Administrative finding" means a decision upon a question of fact reached by an
4 administrative agency following an administrative hearing or other procedure satisfying the
5 requirements of due process.

6 (2) "Certificate of eligibility" means a document issued by the division stating that the
7 criminal record which is the subject of a petition for expungement is eligible for expungement.

8 (3) "Conviction" means judgment by a criminal court on a verdict or finding of guilty after
9 trial, a plea of guilty, or a plea of nolo contendere.

10 (4) "Division" means the [~~Law Enforcement~~] Criminal Investigations and Technical
11 Services Division of the Department of Public Safety, established in Section 53-10-103.

12 (5) "Expungement" means the sealing or destruction of a criminal record, including
13 records of the investigation, arrest, detention, or conviction of the petitioner.

14 (6) "Jurisdiction" means an area of authority.

15 (7) "Petitioner" means a person seeking expungement under this chapter.

16 Section 60. Section **78-3a-206** is amended to read:

17 **78-3a-206. Court records - Inspection.**

18 (1) The court and the probation department shall keep records as required by the board and
19 the presiding judge.

20 (2) Court records shall be open to inspection by:

21 (a) the parents or guardian, other parties in the case, the attorneys, and agencies to which
22 custody of a minor has been transferred; and

23 (b) the Division of [~~Law Enforcement~~] Criminal Investigations and Technical Services,
24 established in Section 53-10-103, for the purpose of establishing good character for issuance of
25 a concealed firearm permit as provided in Section 53-5-704.

26 (3) With the consent of the judge, court records may be inspected by the minor, by persons
27 having a legitimate interest in the proceedings, and by persons conducting pertinent research
28 studies.

29 (4) If a petition is filed charging a minor 16 years of age or older with an offense that
30 would be a felony if committed by an adult, the court shall make available to any person upon
31 request the petition, any adjudication or disposition orders, and the delinquency history summary

1 of the minor charged.

2 (5) Probation officers' records and reports of social and clinical studies are not open to
3 inspection, except by consent of the court, given under rules adopted by the board.

4 Section 61. Section **78-30-3.5** is amended to read:

5 **78-30-3.5. Preplacement adoptive study required -- Exception.**

6 (1) (a) A child may not be placed in an adoptive home until a preplacement adoptive study,
7 evaluating the petitioner as a prospective adoptive parent and the petitioner's home as a prospective
8 adoptive home, has been conducted in accordance with the requirements of this section. The court
9 may authorize temporary placement of a child in a potential adoptive home pending completion
10 of a preplacement adoptive study in accordance with this section.

11 (b) Subsection (1)(a) does not apply if a birth parent has legal custody of the child to be
12 adopted and the petitioner is related to that birth parent as a spouse, parent, step-parent, sibling by
13 half or whole blood or by adoption, aunt, uncle, or first cousin.

14 (c) The requirements of Subsection (1)(a) are satisfied by a previous preplacement
15 adoptive homestudy conducted within three years prior to placement of the child, or an annual
16 updated adoptive study conducted after that three-year period or within one year after finalization
17 of a previous adoption.

18 (2) With regard to adoption proceedings in which a licensed child placing agency has not
19 placed the child, the preplacement adoptive study shall include:

20 (a) criminal history record information received from the [~~Law Enforcement~~] Criminal
21 Investigations and Technical Services Division of the Department of Public Safety in accordance
22 with [~~Subsection 53-5-214(1)~~] Section 53-10-108, regarding each petitioner;

23 (b) a report from the Department of Human Services' child abuse database, obtained
24 pursuant to a waiver executed by each petitioner; and

25 (c) a homestudy conducted by an expert in family relations approved by the court or a
26 certified social worker licensed under Title 58, Chapter 60, Part 2, in a form approved by the
27 Department of Human Services, and certified as having been received by the Division of Child and
28 Family Services, Department of Human Services.

29 (3) A copy of each preplacement adoptive study shall be submitted to the Division of Child
30 and Family Services. Through random screening, that department shall assess the quality and
31 competence of preplacement adoptive studies conducted.

1 (a) Prior to the final hearing in an adoption proceeding, a postplacement adoptive study
2 shall be conducted and submitted to the court.

3 (b) With regard to adoption proceedings in which a licensed child placing agency has not
4 placed the child, the postplacement study shall be conducted by an expert in family relations
5 approved by the court or a certified social worker licensed under Title 58, Chapter 60, Part 2, and
6 shall include:

7 (i) verification of the allegations of fact contained in the petition for adoption, attachments
8 to the petition, and in the report of expenditures required by Section 78-30-15.5;

9 (ii) an evaluation of the progress of the child's placement in the adoptive home; and

10 (iii) a recommendation regarding whether the adoption is in the best interest of the child.

11 (4) If the person or agency conducting the study disapproves the petitioner either in the
12 preplacement or postplacement adoptive study, the court may dismiss the petition. Upon request
13 of the petitioner, the court shall order an additional preplacement adoptive study and hold a hearing
14 on the suitability of the adoption, including testimony of interested parties.

15 (5) Prior to finalization of a petition for adoption the court shall review and consider the
16 information and recommendations contained in the preplacement and postplacement adoptive
17 studies required by this section.

18 **Section 62. Repealer.**

19 This act repeals:

20 **Section 53-4-102, Definitions.**

21 **Section 53-4-201, Short title.**

22 **Section 53-5-201, Short title.**

23 **Section 53-5-202, Definitions.**

Legislative Review Note
as of 2-11-98 4:31 PM

A limited legal review of this bill raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel