

**Senator Margaret Dayton** proposes the following substitute bill:

**AMENDMENTS TO PRIVATE INVESTIGATOR**

**REGULATIONS**

2014 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Margaret Dayton**

House Sponsor: Keith Grover

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**LONG TITLE**

**General Description:**

This bill modifies Title 53, Chapter 9, Private Investigator Regulation Act, and Title 78B, Chapter 8, Part 3, Process Server Act, by amending provisions governing the licensing and requirements of private investigators.

**Highlighted Provisions:**

This bill:

- ▶ requires the Bureau of Criminal Identification to provide renewal notices to licensed private investigators;
- ▶ extends the time that a licensee can renew a license after expiration;
- ▶ modifies the experience requirements for licensure;
- ▶ requires that an applicant for a licensure renewal be a resident of the state;
- ▶ modifies license and registration fees;
- ▶ modifies the information a process server, including a private investigator when acting as a process server, is required to include in a return of service; and
- ▶ makes technical changes.

**Money Appropriated in this Bill:**

None



26 **Other Special Clauses:**

27 None

28 **Utah Code Sections Affected:**

29 AMENDS:

30 **53-9-103**, as last amended by Laws of Utah 2011, Chapter 432

31 **53-9-108**, as last amended by Laws of Utah 2011, Chapter 432

32 **53-9-111**, as last amended by Laws of Utah 2011, Chapter 432

33 **78B-8-302**, as last amended by Laws of Utah 2013, Chapter 352



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

36 Section 1. Section **53-9-103** is amended to read:

37 **53-9-103. Commissioner of Public Safety to administer -- Bureau to issue licenses**  
38 **-- Records -- Bonds -- Rulemaking.**

39 (1) The commissioner shall administer this chapter.

40 (2) (a) The bureau, acting at the direction of the commissioner, shall issue a private  
41 investigator license to ~~any~~ an applicant whom the board finds meets the qualifications for  
42 licensure under this chapter.

43 (b) The bureau shall issue a license to an apprentice applicant who meets the  
44 qualifications for licensure under this chapter within five business days of receipt of the  
45 application.

46 (c) The bureau shall notify each licensee under this chapter when a licensee's license is  
47 due for renewal in accordance with procedures established by rule.

48 (3) (a) The bureau shall keep records of:

49 (i) all applications for licenses under this chapter; and

50 (ii) all bonds and proof of certificates of liability and workers' compensation insurance  
51 required to be filed.

52 (b) The records shall include statements as to whether a license or renewal license has  
53 been issued for each application.

54 (4) If a license is revoked, suspended, canceled, or denied or if a licensee is placed on  
55 probation, the date of filing the order for revocation, suspension, cancellation, denial, or  
56 probation shall be included in the records.

57 (5) The bureau shall maintain:

58 (a) a list of all licensees whose license has been revoked, suspended, placed on  
59 probation, or canceled; and

60 (b) a written record of complaints filed against licensees.

61 (6) [~~The commissioner may make rules in~~] In accordance with Title 63G, Chapter 3,  
62 Utah Administrative Rulemaking Act, [~~as necessary to administer this chapter~~] the  
63 commissioner may make rules governing the administration of the provisions of this chapter.

64 Section 2. Section **53-9-108** is amended to read:

65 **53-9-108. Qualifications for licensure.**

66 (1) (a) An applicant under this chapter shall be at least 21 years of age and a legal  
67 resident of this state.

68 (b) An applicant may not have been:

69 (i) convicted of a felony;

70 (ii) convicted of an act involving illegally using, carrying, or possessing a dangerous  
71 weapon;

72 (iii) convicted of an act of personal violence or force on any person or convicted of  
73 threatening to commit an act of personal violence or force against another person;

74 (iv) convicted of an act constituting dishonesty or fraud;

75 (v) convicted of an act involving moral turpitude;

76 (vi) placed on probation or parole;

77 (vii) named in an outstanding arrest warrant; or

78 (viii) convicted of illegally obtaining or disclosing private, controlled, or protected  
79 records as provided in Section [63G-2-801](#).

80 (c) If previously or currently licensed in another state or jurisdiction, the applicant shall  
81 be in good standing within that state or jurisdiction.

82 (2) In assessing if an applicant meets the requirements under Subsection (1)(b), the  
83 board shall consider mitigating circumstances presented by an applicant.

84 (3) (a) An applicant for an agency license shall have [~~completed~~]:

85 (i) a minimum of 10,000 hours of investigative experience that consists of actual work  
86 performed as a licensed private investigator [~~or as~~], an investigator in the private sector, an  
87 investigator for the federal government, or an investigator for a state, county, or municipal

88 government[-]; or

89 (ii) if the applicant held a registrant license or an apprentice license under this chapter  
90 on or before May 1, 2010, a minimum of 2,000 hours of investigative experience that consists  
91 of actual work performed as a licensed private investigator, an investigator in the private  
92 sector, an investigator for the federal government, or an investigator for a state, county, or  
93 municipal government.

94 (b) An applicant for a registrant license shall have ~~completed~~ a minimum of 2,000  
95 hours of investigative experience that consists of actual investigative work performed as a  
96 licensed private investigator ~~[or as]~~, an investigator in the private sector, an investigator for the  
97 federal government, ~~[or]~~ an investigator for a state, county, or municipal government, or a  
98 process server.

99 (c) ~~[Investigative]~~ At least 2,000 hours of the investigative experience required under  
100 this Subsection (3) shall have been performed within 10 years immediately prior to the  
101 application.

102 (d) An applicant shall substantiate investigative work experience required under this  
103 Subsection (3) by providing:

104 (i) the exact details as to the character and nature of the investigative work on a form  
105 prescribed by the bureau and certified by the applicant's employers[-]; or

106 (ii) if the applicant is applying for the reinstatement of an agency license, internal  
107 records of the applicant that demonstrate the investigative work experience requirement has  
108 previously been met.

109 (e) (i) The applicant shall prove completion of the investigative experience required  
110 under this Subsection (3) to the satisfaction of the board and the board may independently  
111 verify the certification offered on behalf of the applicant.

112 (ii) The board may independently confirm the claimed investigative experience and the  
113 verification of the applicant's employers.

114 (4) An applicant for an apprentice license, lacking the investigative experience required  
115 for a registrant license, shall meet all of the qualification standards in Subsection (1), and shall  
116 complete an apprentice application.

117 (5) An applicant for an agency or registrant license may receive credit toward the hours  
118 of investigative experience required under Subsection (3) as follows:

119 (a) an applicant may receive credit for 2,000 hours of investigative experience if the  
120 applicant:

121 (i) has an associate's degree in criminal justice or police science from an accredited  
122 college or university; or

123 (ii) is certified as a peace officer; and

124 (b) an applicant may receive credit for 4,000 hours of investigative experience if the  
125 applicant has a bachelor's degree in criminal justice or police science from an accredited  
126 college or university.

127 (6) The board shall determine if the applicant may receive credit under Subsection (5)  
128 toward the investigative and educational experience requirements under Subsection (3).

129 (7) An applicant for the renewal of a license under this chapter shall be a legal resident  
130 of this state.

131 Section 3. Section **53-9-111** is amended to read:

132 **53-9-111. License and registration fees -- Deposit in General Fund.**

133 (1) Fees for licensure and renewal [~~shall be~~] are as follows:

134 (a) for an original agency license application and license, [~~\$200~~] \$215, plus an  
135 additional fee for the costs of fingerprint processing and background investigation;

136 (b) for the renewal of an agency license, [~~\$100~~] \$115;

137 (c) for an original registrant or apprentice license application and license, [~~\$100~~] \$115,  
138 plus an additional fee for the costs of fingerprint processing and background investigation;

139 (d) for the renewal of a registrant or apprentice license, [~~\$50~~] \$65;

140 (e) for filing an agency renewal application more than 30 days after the expiration date  
141 of the license, a delinquency fee of [~~\$50~~] \$65;

142 (f) for filing a registrant or apprentice renewal application more than 30 days after the  
143 expiration date of the registration, a delinquency fee of [~~\$30~~] \$45;

144 (g) for the reinstatement of any license, [~~\$50~~] \$65;

145 (h) for a duplicate identification card, [~~\$10~~] \$25; and

146 (i) for the fingerprint processing fee, an amount that does not exceed the cost to the  
147 bureau charged by the Federal Bureau of Investigation for fingerprint processing for the  
148 purpose of obtaining federal criminal history record information.

149 (2) (a) The bureau may renew a license granted under this chapter:

- 150 (i) to a resident of the state;
- 151 (ii) upon receipt of a renewal application on forms as prescribed by the bureau; and
- 152 (iii) upon receipt of the fees prescribed in Subsection (1).

153 (b) (i) The renewal of a license requires the filing of all certificates of insurance or  
 154 proof of surety bond as required by this chapter.

155 (ii) Renewal of a license may not be granted more than [90] 180 days after expiration.

156 (c) A licensee may not engage in [~~any~~] activity subject to this chapter during [~~any~~] the  
 157 period between the date of expiration of the license and the renewal of the license.

158 (3) (a) The bureau shall renew a suspended license if:

159 (i) the period of suspension has been completed;

160 (ii) the bureau has received a renewal application from the applicant on forms  
 161 prescribed by the bureau; and

162 (iii) the applicant has:

163 (A) filed all certificates of insurance or proof of surety bond as required by this  
 164 chapter; and

165 (B) paid the fees required by this section for renewal, including a delinquency fee if the  
 166 application is not received by the bureau within 30 days of the termination of the suspension.

167 (b) Renewal of the license does not entitle the licensee, while the license remains  
 168 suspended and until it is reinstated, to engage in [~~any~~] activity regulated by this chapter, or in  
 169 [~~any~~] other activity or conduct in violation of the order or judgment by which the license was  
 170 suspended.

171 (4) The bureau may not reinstate a revoked license or accept an application for a  
 172 license from a person whose license has been revoked for at least one year from the date of  
 173 revocation.

174 (5) All fees, except the fingerprint processing fee, collected by the bureau under this  
 175 section shall be deposited in the General Fund.

176 Section 4. Section **78B-8-302** is amended to read:

177 **78B-8-302. Process servers.**

178 (1) Complaints, summonses, and subpoenas may be served by [~~any~~] a person who is:

179 (a) 18 years of age or older at the time of service[;]; and

180 (b) [~~and who is~~] not a party to the action or a party's attorney.

181 (2) Except as provided in Subsection (5), the following [~~persons~~] may serve all process  
 182 issued by the courts of this state:

183 (a) a peace officer employed by [~~any~~] a political subdivision of the state acting within  
 184 the scope and jurisdiction of the peace officer's employment;

185 (b) a sheriff or appointed deputy sheriff employed by [~~any~~] a county of the state;

186 (c) a constable, or the constable's deputy, serving in compliance with applicable law;

187 (d) an investigator employed by the state and authorized by law to serve civil process;

188 and

189 (e) a private investigator licensed in accordance with Title 53, Chapter 9, Private  
 190 Investigator Regulation Act.

191 (3) [~~Private investigators~~] A private investigator licensed in accordance with Title 53,  
 192 Chapter 9, Private Investigator Regulation Act, may not [~~arrest anyone~~] make an arrest  
 193 pursuant to a bench warrant.

194 (4) While serving process, a private investigator shall:

195 (a) have on the investigator's person a visible form of credentials and identification  
 196 identifying:

197 (i) the [~~person by~~] investigator's name;

198 (ii) [~~the person as a~~] that the investigator is a licensed private investigator; and

199 (iii) the name and address of the agency employing the investigator or, if the  
 200 investigator is self-employed, the address of the investigator's place of business;

201 (b) verbally communicate to the person being served that the investigator is acting as a  
 202 process server; and

203 (c) print on the first page of each document served:

204 (i) the investigator's name and identification number as a private investigator; and

205 (ii) the address and phone number for the investigator's place of business.

206 [~~(4)~~] (5) ~~Ë→~~ ~~[Ë]~~ **Any service** ~~[Ë]~~ **[Service]** ~~←Ë~~ under this section [~~where~~] when the use of  
 206a force is

207 authorized on the face of the document, or when a breach of the peace is imminent[;] or likely

208 under the totality of the circumstances, may only be ~~Ë→~~ ~~[Ë]~~ **served** ~~[Ë]~~ **[performed]** ~~←Ë~~ by:

209 (a) a law enforcement officer, as defined in Section 53-13-103; or

210 (b) a constable, as defined in Subsection 53-13-105(1)(b)(ii).

211 [~~(5)~~] (6) The following [~~persons~~] may not serve process issued by [~~the courts~~] a court:

- 212 (a) a person convicted of a felony violation of an offense listed in Subsection  
213 [77-41-102](#)(16); or
- 214 (b) a person who is a respondent in a proceeding described in Title 78B, Chapter 7,  
215 Protective Orders, in which a court has granted the petitioner a protective order.  
216 ~~[(6)]~~ (7) A person serving process shall:
- 217 (a) legibly document the date and time of service on the front page of the document  
218 being served;
- 219 (b) legibly print the ~~[person's]~~ process server's name [and], address, and telephone  
220 number on the return of service; ~~[and]~~
- 221 (c) sign the return of service in substantial compliance with Section [78B-5-705](#)~~[-]~~;
- 222 (d) if the process server is a peace officer, sheriff, or deputy sheriff, legibly print the  
223 badge number of the process server on the return of service; and
- 224 (e) if the process server is a private investigator, legibly print the private investigator's  
225 identification number on the return of service.