

1 **AMENDMENTS TO PRIVATE INVESTIGATOR**

2 **REGULATIONS**

3 2014 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Margaret Dayton**

6 House Sponsor: \_\_\_\_\_

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**LONG TITLE**

8 **General Description:**

9 This bill modifies Title 53, Chapter 9, Private Investigator Regulation Act, and Title  
10 78B, Chapter 8, Part 3, Process Server Act, by amending provisions governing the  
11 licensing and requirements of private investigators.  
12

13 **Highlighted Provisions:**

14 This bill:

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

24 **Money Appropriated in this Bill:**

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

88 (b) An applicant for a registrant license shall have [~~completed~~] a minimum of 2,000  
89 hours of investigative experience that consists of actual work performed as a licensed private

90 investigator or as an investigator for the federal government, or for a state, county, or municipal  
91 government.

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

95 (d) An applicant shall substantiate investigative work experience required under this  
96 Subsection (3) by providing the exact details as to the character and nature of the investigative  
97 work on a form prescribed by the bureau and certified by the applicant's employers.

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

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

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

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

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

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

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

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

116 (6) The board shall determine if the applicant may receive credit under Subsection (5)  
117 toward the investigative experience requirements under Subsection (3).

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

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

121 **53-9-111. License and registration fees -- Deposit in General Fund.**122 (1) Fees for licensure and renewal [~~shall be~~] are as follows:123 (a) for an original agency license application and license, [~~\$200~~] \$215, plus an  
124 additional fee for the costs of fingerprint processing and background investigation;125 (b) for the renewal of an agency license, [~~\$100~~] \$115;126 (c) for an original registrant or apprentice license application and license, [~~\$100~~] \$115,  
127 plus an additional fee for the costs of fingerprint processing and background investigation;128 (d) for the renewal of a registrant or apprentice license, [~~\$50~~] \$65;129 (e) for filing an agency renewal application more than 30 days after the expiration date  
130 of the license, a delinquency fee of [~~\$50~~] \$65;131 (f) for filing a registrant or apprentice renewal application more than 30 days after the  
132 expiration date of the registration, a delinquency fee of [~~\$30~~] \$45;133 (g) for the reinstatement of any license, [~~\$50~~] \$65;134 (h) for a duplicate identification card, [~~\$10~~] \$25; and135 (i) for the fingerprint processing fee, an amount that does not exceed the cost to the  
136 bureau charged by the Federal Bureau of Investigation for fingerprint processing for the  
137 purpose of obtaining federal criminal history record information.

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

139 (i) to a resident of the state;140 (ii) upon receipt of a renewal application on forms as prescribed by the bureau; and141 (iii) upon receipt of the fees prescribed in Subsection (1).142 (b) (i) The renewal of a license requires the filing of all certificates of insurance or  
143 proof of surety bond as required by this chapter.144 (ii) Renewal of a license may not be granted more than [~~90~~] 180 days after expiration.145 (c) A licensee may not engage in [~~any~~] activity subject to this chapter during [~~any~~] the  
146 period between the date of expiration of the license and the renewal of the license.

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

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

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

151 (iii) the applicant has:

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

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

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

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

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

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

166 **78B-8-302. Process servers.**

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

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

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

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

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

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

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

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

177 and

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

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

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

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

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

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

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

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

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

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

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

195 ~~[(4)]~~ (5) ~~[Any service]~~ Service under this section ~~[where]~~ when the use of force is  
196 authorized on the face of the document, or when a breach of the peace is imminent~~[-]~~ or likely  
197 under the totality of the circumstances, may only be ~~[served]~~ performed by:

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

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

200 ~~[(5)]~~ (6) The following ~~[persons]~~ may not serve process issued by ~~[the courts]~~ a court:

201 (a) a person convicted of a felony violation of an offense listed in Subsection  
202 77-41-102(16); or

203 (b) a person who is a respondent in a proceeding described in Title 78B, Chapter 7,  
204 Protective Orders, in which a court has granted the petitioner a protective order.

205 ~~[(6)]~~ (7) A person serving process shall:

206 (a) legibly document the date and time of service;

207 (b) legibly print the ~~[person's]~~ process server's name ~~[and]~~, address, and telephone  
208 number on the return of service; ~~[and]~~

209 (c) sign the return of service in substantial compliance with Section 78B-5-705~~[-]~~;

210 (d) if the process server is a peace officer, sheriff, deputy sheriff, constable, or deputy  
211 constable, legibly print the badge number of the process server on the return of service; and

212 (e) if the process server is a private investigator, legibly print the private investigator's  
213 identification number on the return of service.

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**Legislative Review Note**  
**as of 1-8-14 5:11 PM**

**Office of Legislative Research and General Counsel**