

SB0053S02 compared with SB0053S01

~~text~~ shows text that was in SB0053S01 but was deleted in SB0053S02.

text shows text that was not in SB0053S01 but was inserted into SB0053S02.

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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

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;

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- ▶ 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

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

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

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

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

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

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

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

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

(1) The commissioner shall administer this chapter.

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

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

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

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

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

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

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

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

(5) The bureau shall maintain:

(a) a list of all licensees whose license has been revoked, suspended, placed on probation, or canceled; and

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

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

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

53-9-108. Qualifications for licensure.

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

(b) An applicant may not have been:

(i) convicted of a felony;

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

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

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

(v) convicted of an act involving moral turpitude;

(vi) placed on probation or parole;

(vii) named in an outstanding arrest warrant; or

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

(c) If previously or currently licensed in another state or jurisdiction, the applicant shall

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be in good standing within that state or jurisdiction.

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

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

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

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

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

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

(d) An applicant shall substantiate ~~{investigative}~~ work experience required under this Subsection (3) by providing:

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

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

(e) (i) The applicant shall prove completion of the ~~{work}~~ investigative experience required under this Subsection (3) to the satisfaction of the board and the board may

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independently verify the certification offered on behalf of the applicant.

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

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

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

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

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

(ii) is certified as a peace officer; and

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

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

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

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

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

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

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

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

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

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

(e) for filing an agency renewal application more than 30 days after the expiration date

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of the license, a delinquency fee of [~~\$50~~] \$65;

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

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

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

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

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

(i) to a resident of the state;

(ii) upon receipt of a renewal application on forms as prescribed by the bureau; and

(iii) upon receipt of the fees prescribed in Subsection (1).

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

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

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

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

(i) the period of suspension has been completed;

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

(iii) the applicant has:

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

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

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

(4) The bureau may not reinstate a revoked license or accept an application for a

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license from a person whose license has been revoked for at least one year from the date of revocation.

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

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

78B-8-302. Process servers.

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

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

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

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

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

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

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

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

and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) legibly document the date and time of service on the front page of the document being served;

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

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

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

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