

1 **UTAH EMERGENCY MEDICAL SERVICES SYSTEM ACT**

2 **AMENDMENTS**

3 2015 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Paul Ray**

6 Senate Sponsor: Allen M. Christensen

7
8 **LONG TITLE**

9 **General Description:**

10 This bill amends the Utah Emergency Medical Services System Act.

11 **Highlighted Provisions:**

12 This bill:

- 13 ▶ repeals and reenacts background clearance requirements for emergency medical
- 14 service personnel;
- 15 ▶ requires ongoing evaluation of information sources to determine whether
- 16 background clearance should be denied or revoked;
- 17 ▶ requires rulemaking;
- 18 ▶ authorizes the Department of Health to obtain information from specified sources;
- 19 ▶ prohibits agencies providing the information from charging the department for that
- 20 information, except as specified;
- 21 ▶ requires the department to limit access to the information it receives;
- 22 ▶ authorizes the department to charge fees to cover the costs of background
- 23 clearances;
- 24 ▶ requires the Criminal Investigations and Technical Services Division within the
- 25 Department of Public Safety to notify the Department of Health when it receives
- 26 certain information about individuals who have applied to the Department of Health
- 27 for background clearance;



- 28 ▶ requires the department to use its Direct Access Clearance System database to
- 29 manage information about background clearance status;
- 30 ▶ requires local governments to establish cost, quality, and access goals for the ground
- 31 ambulance and paramedic services that serve their areas;
- 32 ▶ makes conforming amendments; and
- 33 ▶ makes technical changes.

34 **Money Appropriated in this Bill:**

35 None

36 **Other Special Clauses:**

37 This bill provides a special effective date.

38 **Utah Code Sections Affected:**

39 AMENDS:

- 40 **26-8a-302**, as enacted by Laws of Utah 1999, Chapter 141
- 41 **26-8a-408**, as last amended by Laws of Utah 2011, Chapter 297
- 42 **26-21-209**, as enacted by Laws of Utah 2012, Chapter 328
- 43 **78A-6-209**, as last amended by Laws of Utah 2012, Chapter 328
- 44 **78A-6-323**, as last amended by Laws of Utah 2012, Chapter 328

45 REPEALS AND REENACTS:

- 46 **26-8a-310**, as last amended by Laws of Utah 2008, Chapter 382



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

49 Section 1. Section **26-8a-302** is amended to read:

50 **26-8a-302. Certification of emergency medical service personnel.**

51 (1) To promote the availability of comprehensive emergency medical services
52 throughout the state, the committee shall establish:

53 (a) initial and ongoing certification and training requirements for emergency medical
54 service personnel in the following categories:

- 55 (i) paramedic;
- 56 (ii) medical director;
- 57 (iii) emergency medical service instructor; and
- 58 (iv) other types of emergency medical personnel as the committee considers necessary;

59 and

60 (b) guidelines for giving credit for out-of-state training and experience.

61 (2) The department shall, based on the requirements established in Subsection (1):

62 (a) develop, conduct, and authorize training and testing for emergency medical service
63 personnel; and

64 (b) issue certifications and certification renewals to emergency medical service
65 personnel.

66 (3) As provided in Section [26-8a-502](#), an individual issued a [~~certificate~~] certification
67 under this section may only provide emergency medical services to the extent allowed by the
68 [~~certificate~~] certification.

69 (4) An individual may not be issued or retain a certification under this section unless
70 the individual obtains and retains background clearance under Section [26-8a-310](#).

71 Section 2. Section [26-8a-310](#) is repealed and reenacted to read:

72 **26-8a-310. Background clearance for emergency medical service personnel.**

73 (1) The department shall determine whether to grant background clearance for an
74 individual seeking certification under Section [26-8a-302](#) from whom it receives:

75 (a) the individual's Social Security number, fingerprints, and other personal
76 identification information specified by the department under Subsection (4); and

77 (b) any fees established by the department under Subsection (10).

78 (2) The department shall determine whether to deny or revoke background clearance
79 for individuals for whom it has previously granted background clearance.

80 (3) The department shall determine whether to grant, deny, or revoke background
81 clearance for an individual based on an initial and ongoing evaluation of information the
82 department obtains under Subsections (5) and (11), which, at a minimum, shall include an
83 initial criminal background check of state, regional, and national databases using the
84 individual's fingerprints.

85 (4) The department shall make rules, in accordance with Title 63G, Chapter 3, Utah
86 Administrative Rulemaking Act, that specify:

87 (a) the criteria the department will use under Subsection (3) to determine whether to
88 grant, deny, or revoke background clearance; and

89 (b) the other personal identification information an individual seeking certification

90 under Section [26-8a-302](#) must submit under Subsection (1).

91 (5) To determine whether to grant, deny, or revoke background clearance, the
92 department may access and evaluate any of the following:

93 (a) Department of Public Safety arrest, conviction, and disposition records described in
94 Title 53, Chapter 10, Criminal Investigations and Technical Services Act, including
95 information in state, regional, and national records files;

96 (b) adjudications by a juvenile court of committing an act that if committed by an adult
97 would be a felony or misdemeanor, if:

98 (i) the applicant is under 28 years of age; or

99 (ii) the applicant:

100 (A) is over 28 years of age; and

101 (B) has been convicted of, has pleaded no contest to, or is currently subject to a plea in
102 abeyance or diversion agreement for a felony or misdemeanor;

103 (c) juvenile court arrest, adjudication, and disposition records, other than those under
104 Subsection (5)(b), as allowed under Section [78A-6-209](#);

105 (d) child abuse or neglect findings described in Section [78A-6-323](#);

106 (e) the Department of Human Services' Division of Child and Family Services
107 Licensing Information System described in Section [62A-4a-1006](#);

108 (f) the Department of Human Services' Division of Aging and Adult Services database
109 of reports of vulnerable adult abuse, neglect, or exploitation, described in Section [62A-3-311.1](#);

110 (g) Division of Occupational and Professional Licensing records of licensing and
111 certification under Title 58, Occupations and Professions;

112 (h) records in other federal criminal background databases available to the state; and

113 (i) any other records of arrests, warrants for arrest, convictions, pleas in abeyance,
114 pending diversion agreements, or dispositions.

115 (6) Except for the Department of Public Safety, an agency may not charge the
116 department for information accessed under Subsection (5).

117 (7) When evaluating information under Subsection (3), the department shall classify a
118 crime committed in another state according to the closest matching crime under Utah law,
119 regardless of how the crime is classified in the state where the crime was committed.

120 (8) The department shall adopt measures to protect the security of information it

121 accesses under Subsection (5), which shall include limiting access by department employees to
122 those responsible for acquiring, evaluating, or otherwise processing the information.

123 (9) The department may disclose personal identification information it receives under
124 Subsection (1) to the Department of Human Services to verify that the subject of the
125 information is not identified as a perpetrator or offender in the information sources described in
126 Subsections (5)(d) through (f).

127 (10) The department may charge fees, in accordance with Section 63J-1-504, to pay
128 for:

129 (a) the cost of obtaining, storing, and evaluating information needed under Subsection
130 (3), both initially and on an ongoing basis, to determine whether to grant, deny, or revoke
131 background clearance; and

132 (b) other department costs related to granting, denying, or revoking background
133 clearance.

134 (11) The Criminal Investigations and Technical Services Division within the
135 Department of Public Safety shall:

136 (a) retain, separate from other division records, personal information under Subsection
137 (1), including any fingerprints sent to it by the Department of Health; and

138 (b) notify the Department of Health upon receiving notice that an individual for whom
139 personal information has been retained is the subject of:

140 (i) a warrant for arrest;

141 (ii) an arrest;

142 (iii) a conviction, including a plea in abeyance; or

143 (iv) a pending diversion agreement.

144 (12) The department shall use the Direct Access Clearance System database created
145 under Section 26-21-209 to manage information about the background clearance status of each
146 individual for whom the department is required to make a determination under Subsection (1).

147 Section 3. Section **26-8a-408** is amended to read:

148 **26-8a-408. Criteria for determining public convenience and necessity.**

149 (1) The criteria for determining public convenience and necessity is set forth in
150 Subsections (2) through (6).

151 (2) Access to emergency medical services shall be maintained or improved. The

152 officer shall consider the impact on existing services, including the impact on response times,
153 call volumes, populations and exclusive geographic service areas served, and the ability of
154 surrounding licensed providers to service their exclusive geographic service areas. The
155 issuance or amendment of a license may not create an orphaned area.

156 (3) The quality of service in the area shall be maintained or improved. The officer
157 shall consider the:

158 (a) staffing and equipment standards of the current licensed provider and the applicant;

159 (b) training and certification levels of the current licensed provider's staff and the
160 applicant's staff;

161 (c) continuing medical education provided by the current licensed provider and the
162 applicant;

163 (d) levels of care as defined by department rule;

164 (e) plan of medical control; and

165 (f) the negative or beneficial impact on the regional emergency medical service system
166 to provide service to the public.

167 (4) The cost to the public shall be justified. The officer shall consider:

168 (a) the financial solvency of the applicant;

169 (b) the applicant's ability to provide services within the rates established under Section
170 [26-8a-403](#);

171 (c) the applicant's ability to comply with cost reporting requirements;

172 (d) the cost efficiency of the applicant; and

173 (e) the cost effect of the application on the public, interested parties, and the emergency
174 medical services system.

175 (5) Local desires concerning cost, quality, and access shall be considered. The officer
176 shall assess and consider:

177 (a) the existing provider's record of providing services and the applicant's record and
178 ability to provide similar or improved services;

179 (b) locally established emergency medical services goals, including those established in
180 Subsection (7);

181 (c) comment by local governments on the applicant's business and operations plans;

182 (d) comment by interested parties that are providers on the impact of the application on

183 the parties' ability to provide emergency medical services;

184 (e) comment by interested parties that are local governments on the impact of the
185 application on the citizens it represents; and

186 (f) public comment on any aspect of the application or proposed license.

187 (6) Other related criteria:

188 (a) the officer considers necessary; or

189 (b) established by department rule.

190 (7) ~~[The role of local governments in the licensing of ground ambulance and paramedic~~
191 ~~providers that serve areas also served by the local governments is important. The Legislature~~
192 ~~strongly encourages local]~~ Local governments ~~[to]~~ shall establish cost, quality, and access goals
193 for the ground ambulance and paramedic services that serve their areas.

194 (8) In a formal adjudicative proceeding, the applicant bears the burden of establishing
195 that public convenience and necessity require the approval of the application for all or part of
196 the exclusive geographic service area requested.

197 Section 4. Section **26-21-209** is amended to read:

198 **26-21-209. Direct Access Clearance System database -- Contents -- Use.**

199 (1) The department shall create and maintain a Direct Access Clearance System
200 database, which:

201 (a) includes the names of individuals for whom the department has received:

202 (i) an application for clearance[; and] under this part; or

203 (ii) an application for background clearance under Section [26-8a-310](#); and

204 (b) indicates ~~[for each applicant]~~ whether an application is pending and whether
205 clearance has been granted and retained~~[-]~~ for:

206 (i) an applicant under this part; and

207 (ii) an applicant for background clearance under Section [26-8a-310](#).

208 (2) (a) The department shall allow covered providers and covered contractors to access
209 the database electronically.

210 (b) Data accessible to a covered provider or covered contractor is limited to the
211 information under ~~[Subsection (1)]~~ Subsections (1)(a)(i) and (1)(b)(i) for:

212 (i) covered individuals engaged by the covered provider or covered contractor; and

213 (ii) individuals:

214 (A) whom the covered provider or covered contractor could engage as covered
215 individuals; and

216 (B) who have provided the covered provider or covered contractor with sufficient
217 personal identification information to uniquely identify the individual in the database.

218 (c) (i) The department may establish fees, in accordance with Section 63J-1-504, for
219 use of the database by a covered contractor.

220 (ii) The fees may include, in addition to any fees established by the department under
221 Subsection 26-21-204(9), an initial set-up fee, an ongoing access fee, and a per-use fee.

222 Section 5. Section 78A-6-209 is amended to read:

223 **78A-6-209. Court records -- Inspection.**

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

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

227 (a) the parents or guardian of a child, a minor who is at least 18 years of age, other
228 parties in the case, the attorneys, and agencies to which custody of a minor has been
229 transferred;

230 (b) for information relating to adult offenders alleged to have committed a sexual
231 offense, a felony or class A misdemeanor drug offense, or an offense against the person under
232 Title 76, Chapter 5, Offenses Against the Person, the State Office of Education for the purpose
233 of evaluating whether an individual should be permitted to obtain or retain a license as an
234 educator or serve as an employee or volunteer in a school, with the understanding that the
235 office must provide the individual with an opportunity to respond to any information gathered
236 from its inspection of the records before it makes a decision concerning licensure or
237 employment;

238 (c) the Criminal Investigations and Technical Services Division, established in Section
239 53-10-103, for the purpose of a criminal history background check for the purchase of a firearm
240 and establishing good character for issuance of a concealed firearm permit as provided in
241 Section 53-5-704;

242 (d) the Division of Child and Family Services for the purpose of Child Protective
243 Services Investigations in accordance with Sections 62A-4a-403 and 62A-4a-409 and
244 administrative hearings in accordance with Section 62A-4a-1009;

245 (e) for information related to a juvenile offender who has committed a sexual offense, a
246 felony, or an offense that if committed by an adult would be a misdemeanor, the Department of
247 Health for the purpose of evaluating under the provisions of Subsection 26-39-404(3) whether
248 a licensee should be permitted to obtain or retain a license to provide child care, with the
249 understanding that the department must provide the individual who committed the offense with
250 an opportunity to respond to any information gathered from its inspection of records before it
251 makes a decision concerning licensure; ~~and~~

252 (f) for information related to a juvenile offender who has committed a sexual offense, a
253 felony, or an offense that if committed by an adult would be a misdemeanor, the Department of
254 Health to determine whether an individual meets the background screening requirements of
255 Title 26, Chapter 21, Part 2, Clearance for Direct Patient Access, with the understanding that
256 the department must provide the individual who committed the offense an opportunity to
257 respond to any information gathered from its inspection of records before it makes a decision
258 under that part[-]; and

259 (g) for information related to a juvenile offender who has committed a sexual offense,
260 a felony, or an offense that if committed by an adult would be a misdemeanor, the Department
261 of Health to determine whether to grant, deny, or revoke background clearance under Section
262 26-8a-310 for an individual who is seeking or who has obtained emergency medical service
263 personnel certification under Section 26-8a-302, with the understanding that the department
264 must provide the individual who committed the offense an opportunity to respond to any
265 information gathered from the department's inspection of records before it makes a
266 determination.

267 (3) With the consent of the judge, court records may be inspected by the child, by
268 persons having a legitimate interest in the proceedings, and by persons conducting pertinent
269 research studies.

270 (4) If a petition is filed charging a minor 14 years of age or older with an offense that
271 would be a felony if committed by an adult, the court shall make available to any person upon
272 request the petition, any adjudication or disposition orders, and the delinquency history
273 summary of the minor charged unless the records are closed by the court upon findings on the
274 record for good cause.

275 (5) Probation officers' records and reports of social and clinical studies are not open to

276 inspection, except by consent of the court, given under rules adopted by the board.

277 (6) (a) Any juvenile delinquency adjudication or disposition orders and the delinquency
278 history summary of any person charged as an adult with a felony offense shall be made
279 available to any person upon request.

280 (b) This provision does not apply to records that have been destroyed or expunged in
281 accordance with court rules.

282 (c) The court may charge a reasonable fee to cover the costs associated with retrieving
283 a requested record that has been archived.

284 Section 6. Section **78A-6-323** is amended to read:

285 **78A-6-323. Additional finding at adjudication hearing -- Petition -- Court**
286 **records.**

287 (1) Upon the filing with the court of a petition under Section **78A-6-304** by the
288 Division of Child and Family Services or any interested person informing the court, among
289 other things, that the division has made a supported finding that a person committed a severe
290 type of child abuse or neglect as defined in Section **62A-4a-1002**, the court shall:

- 291 (a) make a finding of substantiated, unsubstantiated, or without merit;
- 292 (b) include the finding described in Subsection (1)(a) in a written order; and
- 293 (c) deliver a certified copy of the order described in Subsection (1)(b) to the division.

294 (2) The judicial finding under Subsection (1) shall be made:

- 295 (a) as part of the adjudication hearing;
- 296 (b) at the conclusion of the adjudication hearing; or
- 297 (c) as part of a court order entered pursuant to a written stipulation of the parties.

298 (3) (a) Any person described in Subsection **62A-4a-1010**(1) may at any time file with
299 the court a petition for removal of the person's name from the Licensing Information System.

300 (b) At the conclusion of the hearing on the petition, the court shall:

- 301 (i) make a finding of substantiated, unsubstantiated, or without merit;
- 302 (ii) include the finding described in Subsection (1)(a) in a written order; and
- 303 (iii) deliver a certified copy of the order described in Subsection (1)(b) to the division.

304 (4) A proceeding for adjudication of a supported finding under this section of a type of
305 abuse or neglect that does not constitute a severe type of child abuse or neglect may be joined
306 in the juvenile court with an adjudication of a severe type of child abuse or neglect.

307 (5) If a person whose name appears on the Licensing Information system prior to May
308 6, 2002 files a petition during the time that an alleged perpetrator's application for clearance to
309 work with children or vulnerable adults is pending, the court shall hear the matter and enter a
310 final decision no later than 60 days after the filing of the petition.

311 (6) For the purposes of licensing under Sections [26-39-402](#) and [62A-1-118](#), and for the
312 purposes described in ~~[Section]~~ [Sections 26-8a-310](#) and [62A-2-121](#) and Title 26, Chapter 21,
313 Part 2, Clearance for Direct Patient Access:

314 (a) the court shall make available records of its findings under Subsections (1) and (2):

315 (i) for those purposes; and

316 (ii) only to those with statutory authority to access also the Licensing Information
317 System created under Section [62A-4a-1006](#); and

318 (b) any appellate court shall make available court records of appeals from juvenile
319 court decisions under Subsections (1), (2), (3), and (4):

320 (i) for those purposes; and

321 (ii) only to those with statutory authority to access also the Licensing Information
322 System.

323 Section 7. **Effective date.**

324 This bill takes effect on July 1, 2015.

Legislative Review Note
as of 1-27-15 11:23 AM

Office of Legislative Research and General Counsel