

1                   **HEALTH FACILITY LICENSING AMENDMENTS**

2                                   2018 GENERAL SESSION

3                                   STATE OF UTAH

4                           **Chief Sponsor: Carl R. Albrecht**

5                           Senate Sponsor: Daniel Hemmert

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7 **LONG TITLE**

8 **General Description:**

9           This bill amends the Health Care Facility Licensing and Inspection Act.

10 **Highlighted Provisions:**

11           This bill:

12           ▶ permits the Department of Health to collect fingerprints from individuals under 18  
13 years of age who are seeking a clearance for direct patient access at certain  
14 healthcare facilities.

15 **Money Appropriated in this Bill:**

16           None

17 **Other Special Clauses:**

18           None

19 **Utah Code Sections Affected:**

20 AMENDS:

21           **26-21-204**, as enacted by Laws of Utah 2012, Chapter 328

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

24           Section 1. Section **26-21-204** is amended to read:

25           **26-21-204. Clearance.**

26           (1) The department shall determine whether to grant clearance for each applicant for  
27 whom it receives:

28           (a) the personal identification information specified by the department under  
29 Subsection **26-21-204**(4)(b); and

30 (b) any fees established by the department under Subsection [26-21-204\(9\)](#).

31 (2) The department shall establish a procedure for obtaining and evaluating relevant  
32 information concerning covered individuals, including fingerprinting the applicant and  
33 submitting the prints to the Criminal Investigations and Technical Services Division of the  
34 Department of Public Safety for checking against applicable state, regional, and national  
35 criminal records files.

36 (3) The department may review the following sources to determine whether an  
37 individual should be granted or retain clearance, which may include:

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

41 (b) juvenile court arrest, adjudication, and disposition records, as allowed under  
42 Section [78A-6-209](#);

43 (c) federal criminal background databases available to the state;

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

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

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

49 (g) registries of nurse aids described in 42 C.F.R. Sec. 483.156;

50 (h) licensing and certification records of individuals licensed or certified by the  
51 Division of Occupational and Professional Licensing under Title 58, Occupations and  
52 Professions; and

53 (i) the List of Excluded Individuals and Entities database maintained by the United  
54 States Department of Health and Human Services' Office of Inspector General.

55 (4) The department shall adopt rules that:

56 (a) specify the criteria the department will use to determine whether an individual is  
57 granted or retains clearance:

58 (i) based on an initial evaluation and ongoing review of information under Subsection  
59 (3); and

60 (ii) including consideration of the relationship the following may have to patient and  
61 resident protection:

62 (A) warrants for arrest;

63 (B) arrests;

64 (C) convictions, including pleas in abeyance;

65 (D) pending diversion agreements;

66 (E) adjudications by a juvenile court of committing an act that if committed by an adult  
67 would be a felony or misdemeanor, if the individual is over 28 years of age and has been  
68 convicted, has pleaded no contest, or is subject to a plea in abeyance or diversion agreement for  
69 a felony or misdemeanor, or the individual is under 28 years of age; and

70 (F) any other findings under Subsection (3); and

71 (b) specify the personal identification information that must be submitted by an  
72 individual or covered body with an application for clearance, including:

73 (i) the applicant's Social Security number; and

74 (ii) ~~[except for applicants under 18 years of age,]~~ fingerprints.

75 (5) For purposes of Subsection (4)(a), the department shall classify a crime committed  
76 in another state according to the closest matching crime under Utah law, regardless of how the  
77 crime is classified in the state where the crime was committed.

78 (6) The Department of Public Safety, the Administrative Office of the Courts, the  
79 Department of Human Services, the Division of Occupational and Professional Licensing, and  
80 any other state agency or political subdivision of the state:

81 (a) shall allow the department to review the information the department may review  
82 under Subsection (3); and

83 (b) except for the Department of Public Safety, may not charge the department for  
84 access to the information.

85 (7) The department shall adopt measures to protect the security of the information it

86 reviews under Subsection (3) and strictly limit access to the information to department  
87 employees responsible for processing an application for clearance.

88           (8) The department may disclose personal identification information specified under  
89 Subsection (4)(b) to the Department of Human Services to verify that the subject of the  
90 information is not identified as a perpetrator or offender in the information sources described in  
91 Subsections (3)(d) through (f).

92           (9) The department may establish fees, in accordance with Section [63J-1-504](#), for an  
93 application for clearance, which may include:

94           (a) the cost of obtaining and reviewing information under Subsection (3);

95           (b) a portion of the cost of creating and maintaining the Direct Access Clearance  
96 System database under Section [26-21-209](#); and

97           (c) other department costs related to the processing of the application and the ongoing  
98 review of information pursuant to Subsection (4)(a) to determine whether clearance should be  
99 retained.