

PROFESSIONAL LICENSING AMENDMENTS

2023 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Curtis S. Bramble

House Sponsor: A. Cory Maloy

LONG TITLE

Committee Note:

The Business and Labor Interim Committee recommended this bill.

Legislative Vote: 10 voting for 2 voting against 8 absent

General Description:

This bill modifies provisions related to professional licensing.

Highlighted Provisions:

This bill:

- ▶ modifies definitions;
- ▶ authorizes the director of the Division of Professional Licensing to designate certain professional licensing board members to preside over adjudicative proceedings concerning professional licenses;
- ▶ creates a process for review of the designated professional licensing board members' recommended order after an adjudicative proceeding;
- ▶ modifies licensing requirements for certain funeral service establishments and professionals, landscape architects, security personnel, and deception detection examiners; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:



28 None

29 **Utah Code Sections Affected:**

30 AMENDS:

31 **58-1-108**, as last amended by Laws of Utah 2008, Chapter 382

32 **58-1-109**, as last amended by Laws of Utah 2016, Chapter 238

33 **58-1-201**, as last amended by Laws of Utah 2013, Chapter 262

34 **58-1-202**, as last amended by Laws of Utah 2022, Chapter 415

35 **58-1-501**, as last amended by Laws of Utah 2020, Chapters 289, 339

36 **58-9-306**, as last amended by Laws of Utah 2007, Chapter 144

37 **58-53-302**, as last amended by Laws of Utah 2009, Chapter 183

38 **58-63-302**, as last amended by Laws of Utah 2022, Chapter 415

39 **58-64-302**, as last amended by Laws of Utah 2020, Chapters 154 and 339



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

42 Section 1. Section **58-1-108** is amended to read:

43 **58-1-108. Adjudicative proceedings.**

44 (1) The division and all boards created under [~~the authority of~~] this title, including the
45 members of a board designated under Subsection 58-1-109(3), shall comply with the
46 procedures and requirements of Title 13, Chapter 1, Department of Commerce, and Title 63G,
47 Chapter 4, Administrative Procedures Act, in all of their adjudicative proceedings as defined by
48 Subsection **63G-4-103(1)**.

49 (2) Before proceeding under Section **63G-4-502**, the division shall review the proposed
50 action with a committee of no less than three licensees appointed by the chairman of the
51 licensing board created under this title for the profession of the person against whom the action
52 is proposed.

53 (3) Notwithstanding Title 63G, Chapter 4, Administrative Procedures Act, a warning
54 or final disposition letter which does not constitute disciplinary action against the addressee,
55 issued in response to a complaint of unprofessional or unlawful conduct under this title, does
56 not constitute an adjudicative proceeding.

57 Section 2. Section **58-1-109** is amended to read:

58 **58-1-109. Presiding officers -- Content of orders -- Recommended orders -- Final**

59 **orders -- Appeal of orders.**

60 (1) (a) Unless otherwise specified by statute or rule made in accordance with Title 63G,
61 Chapter 3, Utah Administrative Rulemaking Act, the presiding officer for adjudicative
62 proceedings before the division [~~shall be~~] is the director. [~~However, pursuant to~~]

63 (b) Under Title 63G, Chapter 4, Administrative Procedures Act, the director may
64 designate in writing an individual or body of individuals to act as presiding officer to conduct
65 or [~~to~~] assist the director in conducting any part or all of an adjudicative proceeding.

66 (2) Unless otherwise specified by the director, an administrative law judge shall be
67 designated as the presiding officer to conduct formal adjudicative proceedings in accordance
68 with Subsection 63G-4-102(4), Sections 63G-4-204 through 63G-4-207, and 63G-4-209.

69 (3) (a) Unless otherwise specified by the director, the licensing board of the
70 [~~occupation or~~] profession that is the subject of the proceedings shall be designated as the
71 presiding officer to serve as fact finder at the evidentiary hearing in a formal adjudicative
72 proceeding.

73 (b) (i) If the licensing board is composed of seven or more members, the director may
74 designate any odd number of board members to represent the licensing board as the presiding
75 officer under Subsection (3)(a).

76 (ii) Notwithstanding Subsection 58-1-201(3), the vote of the majority of the board
77 members designated under Subsection (3)(b)(i) is sufficient authority for the licensing board to
78 act as the presiding officer.

79 (4) (a) At the close of an evidentiary hearing in an adjudicative proceeding, unless
80 otherwise specified by the director, the presiding officer who served as the fact finder at the
81 hearing shall issue a recommended order based [~~upon~~] on the record developed at the hearing
82 determining all issues pending before the division.

83 (b) If the director designates certain licensing board members under Subsection (3)(b)
84 to represent the licensing board described in Subsection (3)(a), the person who is aggrieved by
85 the designated board members' recommended order may petition the licensing board to review
86 the designated board members' recommended order.

87 (c) The licensing board shall issue a recommended order based on the review under
88 Subsection (4)(b) that shall become the recommended order of the presiding officer.

89 (5) (a) (i) The director shall issue a final order affirming the recommended order or

90 modifying or rejecting all or any part of the recommended order and entering new findings of
 91 fact, conclusions of law, statement of reasons, and order based ~~[upon]~~ on the director's personal
 92 attendance at the hearing or a review of the record developed at the hearing.

93 (ii) Before modifying or rejecting a recommended order, the director shall consult with
 94 the presiding officer who issued the recommended order.

95 (b) (i) If the director issues a final order modifying or rejecting a recommended order,
 96 the licensing board of the ~~[occupation or]~~ profession that is the subject of the proceeding may,
 97 by a two-thirds majority vote of all board members, petition the executive director or designee
 98 within the department to review the director's final order.

99 (ii) The executive director's decision shall become the final order of the division.

100 (c) This ~~[subsection]~~ Subsection (5) does not limit the right of the parties to appeal the
 101 director's final order by filing a request for agency review under Subsection (8).

102 (6) If the director is unable for any reason to rule ~~[upon]~~ on a recommended order of a
 103 presiding officer, the director may designate another person within the division to issue a final
 104 order.

105 (7) If the director or the director's designee does not initiate additional fact finding or
 106 issue a final order within 20 calendar days after the ~~[date of the]~~ day on which the
 107 recommended order of the presiding officer is issued, the recommended order becomes the
 108 final order of the director or the director's designee.

109 (8) The final order of the director may be appealed by filing a request for agency
 110 review with the executive director or the executive director's designee within the department.

111 (9) The content of all orders shall comply with the requirements of Subsection
 112 [63G-4-203\(1\)\(i\)](#) and Sections [63G-4-208](#) and [63G-4-209](#).

113 Section 3. Section **58-1-201** is amended to read:

114 **58-1-201. Boards -- Appointment -- Membership -- Terms -- Vacancies --**
 115 **Quorum -- Per diem and expenses -- Chair -- Financial interest or faculty position in**
 116 **professional school that teaches continuing education prohibited.**

117 (1) (a) (i) The executive director shall appoint the members of the boards established
 118 under this title.

119 (ii) In appointing ~~[these]~~ the board members the executive director shall give
 120 consideration to recommendations by members of the respective ~~[occupations and professions]~~

121 profession and [~~by their~~] the profession's organizations.

122 (b) Each board shall be composed of five members, four of whom [~~shall be~~] are
123 licensed or certified practitioners in good standing of the [~~occupation or~~] profession the board
124 represents, and one of whom [~~shall be~~] is a member of the general public, unless otherwise
125 provided under the specific licensing chapter.

126 (c) (i) The name of each [~~person~~] individual appointed to a board shall be submitted to
127 the governor for confirmation or rejection.

128 (ii) If an appointee is rejected by the governor, the executive director shall appoint
129 another [~~person~~] individual in the same manner as set forth in Subsection (1)(a).

130 (2) (a) (i) Except as required by Subsection (2)(b), as terms of current board members
131 expire, the executive director shall appoint each new board member or reappointed board
132 member to a four-year term.

133 (ii) Upon the expiration of the term of a board member, the board member shall
134 continue to serve until a successor is appointed, but for a period not to exceed six months from
135 the expiration date of the board member's term.

136 (b) Notwithstanding the requirements of Subsection (2)(a), the executive director shall,
137 at the time of appointment or reappointment, adjust the length of terms to ensure that the terms
138 of board members are staggered so that approximately half of the board is appointed every two
139 years.

140 (c) A board member may not serve more than two consecutive terms, and a board
141 member who ceases to serve on a board may not serve again on that board until after the
142 expiration of a two-year period beginning from that cessation of service.

143 (d) (i) When a vacancy occurs in the board membership for any reason, the
144 replacement shall be appointed for the unexpired term.

145 (ii) After filling that term, the replacement board member may be appointed for only
146 one additional full term.

147 (e) The director, with the approval of the executive director, may remove a board
148 member and replace the board member in accordance with this section for the following
149 reasons:

150 (i) the board member fails or refuses to fulfill the responsibilities and duties of a board
151 member, including attendance at board meetings;

- 152 (ii) the board member engages in unlawful or unprofessional conduct; or
- 153 (iii) if appointed to the board position as a licensed member of the board, the board
- 154 member fails to maintain a license that is active and in good standing.

155 (3) (a) A majority of the board members constitutes a quorum.

156 (b) [~~A~~] Except as provided in Subsection 58-1-109(3), a quorum is sufficient authority

157 for the board to act.

158 (4) A board member may not receive compensation or benefits for the board member's

159 service, but may receive per diem and travel expenses in accordance with:

160 (a) Section 63A-3-106;

161 (b) Section 63A-3-107; and

162 (c) rules made by the Division of Finance [~~pursuant to~~] under Sections 63A-3-106 and

163 63A-3-107.

164 (5) Each board shall annually designate one of [~~its~~] the board's members to serve as

165 chair for a one-year period.

166 (6) A board member may not be a member of the faculty of, or have a financial interest

167 in, a vocational or professional college or school that provides continuing education to any

168 licensee if that continuing education is required by statute or rule made in accordance with

169 Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

170 Section 4. Section 58-1-202 is amended to read:

171 **58-1-202. Boards -- Duties, functions, and responsibilities.**

172 (1) [~~The~~] Except as provided in Subsection (2), the duties, functions, and

173 responsibilities of each board established under this title include the following:

174 (a) recommending to the director appropriate rules and statutory changes, including

175 changes to remove regulations that are no longer necessary or effective in protecting the public

176 and enhancing commerce;

177 (b) recommending to the director policy and budgetary matters;

178 (c) approving and establishing a passing score for applicant examinations;

179 (d) screening applicants and recommending licensing, renewal, reinstatement, and

180 relicensure actions to the director in writing;

181 (e) assisting the director in establishing standards of supervision for students or persons

182 in training to become qualified to obtain a license in the [~~occupation or~~] profession [~~it~~] the

183 board represents; and

184 (f) in accordance with Section 58-1-109, acting as presiding officer in conducting
185 hearings associated with adjudicative proceedings and in issuing recommended orders when so
186 designated by the director.

187 (2) Subsection (1) does not apply to boards created in Title 58, Chapter 55, Utah
188 Construction Trades Licensing Act.

189 (3) (a) Each board or commission established under this title may recommend to the
190 appropriate legislative committee whether the board or commission supports a change to a
191 licensing act.

192 (b) This Subsection (3) does not:

193 (i) require a board's approval to amend a practice act; [~~and~~] or

194 (ii) apply to technical or clarifying amendments to a practice act.

195 Section 5. Section **58-1-501** is amended to read:

196 **58-1-501. Unlawful and unprofessional conduct.**

197 (1) "Unlawful conduct" means conduct, by any person, that is defined as unlawful
198 under this title and includes:

199 (a) practicing or engaging in, representing oneself to be practicing or engaging in, or
200 attempting to practice or engage in any [~~occupation or~~] profession requiring licensure under
201 this title if the person is:

202 (i) not licensed to do so or not exempted from licensure under this title; or

203 (ii) restricted from doing so by a suspended, revoked, restricted, temporary,
204 probationary, or inactive license;

205 (b) (i) impersonating another licensee or practicing [~~an occupation or~~] a profession
206 under a false or assumed name, except as permitted by law; or

207 (ii) for a licensee who has had a license under this title reinstated following disciplinary
208 action, practicing the same [~~occupation or~~] profession using a different name than the name
209 used before the disciplinary action, except as permitted by law and after notice to, and approval
210 by, the division;

211 (c) knowingly employing any other person to practice or engage in or attempt to
212 practice or engage in any [~~occupation or~~] profession licensed under this title if the employee is
213 not licensed to do so under this title;

214 (d) knowingly permitting the person's authority to practice or engage in any
215 [~~occupation or~~] profession licensed under this title to be used by another, except as permitted
216 by law;

217 (e) obtaining a passing score on a licensure examination, applying for or obtaining a
218 license, or otherwise dealing with the division or a licensing board through the use of fraud,
219 forgery, or intentional deception, misrepresentation, misstatement, or omission;

220 (f) (i) issuing, or aiding and abetting in the issuance of, an order or prescription for a
221 drug or device to a person located in this state:

222 (A) without prescriptive authority conferred by a license issued under this title, or by
223 an exemption to licensure under this title; or

224 (B) with prescriptive authority conferred by an exception issued under this title or a
225 multistate practice privilege recognized under this title, if the prescription was issued without
226 first obtaining information, in the usual course of professional practice, that is sufficient to
227 establish a diagnosis, to identify underlying conditions, and to identify contraindications to the
228 proposed treatment; and

229 (ii) Subsection (1)(f)(i) does not apply to treatment rendered in an emergency, on-call
230 or cross coverage situation, provided that the person who issues the prescription has
231 prescriptive authority conferred by a license under this title, or is exempt from licensure under
232 this title; or

233 (g) aiding or abetting any other person to violate any statute, rule, or order regulating
234 [~~an occupation or~~] a profession under this title.

235 (2) "Unprofessional conduct" means conduct, by a licensee or applicant, that is defined
236 as unprofessional conduct under this title or under any rule adopted under this title and
237 includes:

238 (a) violating any statute, rule, or order regulating [~~an occupation or~~] a profession under
239 this title;

240 (b) violating, or aiding or abetting any other person to violate, any generally accepted
241 professional or ethical standard applicable to [~~an occupation or~~] a profession regulated under
242 this title;

243 (c) subject to the provisions of Subsection (4), engaging in conduct that results in
244 conviction, a plea of nolo contendere, or a plea of guilty or nolo contendere that is held in

245 abeyance pending the successful completion of probation with respect to a crime [~~of moral~~
246 ~~turpitude or any other crime~~] that, when considered with the functions and duties of the
247 [~~occupation or~~] profession for which the license was issued or is to be issued, bears a
248 substantial relationship to the licensee's or applicant's ability to safely or competently practice
249 the [~~occupation or~~] profession;

250 (d) engaging in conduct that results in disciplinary action, including reprimand,
251 censure, diversion, probation, suspension, or revocation, by any other licensing or regulatory
252 authority having jurisdiction over the licensee or applicant in the same [~~occupation or~~]
253 profession if the conduct would, in this state, constitute grounds for denial of licensure or
254 disciplinary proceedings under Section 58-1-401;

255 (e) engaging in conduct, including the use of intoxicants, drugs, narcotics, or similar
256 chemicals, to the extent that the conduct does, or might reasonably be considered to, impair the
257 ability of the licensee or applicant to safely engage in the [~~occupation or~~] profession;

258 (f) practicing or attempting to practice [~~an occupation or~~] a profession regulated under
259 this title despite being physically or mentally unfit to do so;

260 (g) practicing or attempting to practice [~~an occupation or~~] a profession regulated under
261 this title through gross incompetence, gross negligence, or a pattern of incompetency or
262 negligence;

263 (h) practicing or attempting to practice [~~an occupation or~~] a profession requiring
264 licensure under this title by any form of action or communication which is false, misleading,
265 deceptive, or fraudulent;

266 (i) practicing or attempting to practice [~~an occupation or~~] a profession regulated under
267 this title beyond the scope of the licensee's competency, abilities, or education;

268 (j) practicing or attempting to practice [~~an occupation or~~] a profession regulated under
269 this title beyond the scope of the licensee's license;

270 (k) verbally, physically, mentally, or sexually abusing or exploiting any person through
271 conduct connected with the licensee's practice under this title or otherwise facilitated by the
272 licensee's license;

273 (l) acting as a supervisor without meeting the qualification requirements for that
274 position that are defined by statute or rule;

275 (m) issuing, or aiding and abetting in the issuance of, an order or prescription for a

276 drug or device:

277 (i) without first obtaining information in the usual course of professional practice, that
278 is sufficient to establish a diagnosis, to identify conditions, and to identify contraindications to
279 the proposed treatment; or

280 (ii) with prescriptive authority conferred by an exception issued under this title, or a
281 multi-state practice privilege recognized under this title, if the prescription was issued without
282 first obtaining information, in the usual course of professional practice, that is sufficient to
283 establish a diagnosis, to identify underlying conditions, and to identify contraindications to the
284 proposed treatment;

285 (n) violating a provision of Section 58-1-501.5; or

286 (o) violating the terms of an order governing a license.

287 (3) Unless otherwise specified by statute or administrative rule, in a civil or
288 administrative proceeding commenced by the division under this title, a person subject to any
289 of the unlawful and unprofessional conduct provisions of this title is strictly liable for each
290 violation.

291 (4) The following are not evidence of engaging in unprofessional conduct under
292 Subsection (2)(c):

293 (a) an arrest not followed by a conviction; or

294 (b) a conviction for which an individual's incarceration has ended more than seven
295 years before the date of the division's consideration, unless:

296 (i) after the incarceration the individual has engaged in additional conduct that results
297 in another conviction, a plea of nolo contendere, or a plea of guilty or nolo contendere that is
298 held in abeyance pending the successful completion of probation; or

299 (ii) the conviction was for:

300 (A) a violent felony as defined in Section 76-3-203.5;

301 (B) a felony related to a criminal sexual act [~~pursuant to~~] under Title 76, Chapter 5,
302 Part 4, Sexual Offenses, or Title 76, Chapter 5b, Sexual Exploitation Act; or

303 (C) a felony related to criminal fraud or embezzlement, including a felony [~~pursuant to~~]
304 under Title 76, Chapter 6, Part 5, Fraud, or Title 76, Chapter 6, Part 4, Theft.

305 Section 6. Section 58-9-306 is amended to read:

306 **58-9-306. License by endorsement.**

307 The division may issue a license by endorsement under this chapter to a person who:

308 (1) provides documentation that the funeral service director's current licensure is

309 active, in good standing, and free from any disciplinary action;

310 (2) submits an application on a form provided by the division;

311 (3) pays a fee determined by the department;

312 (4) ~~[is of good moral character in that the person]~~ has not been convicted of:

313 (a) a first or second degree felony; or

314 ~~[(b) a misdemeanor involving moral turpitude; or]~~

315 ~~[(c)]~~ (b) ~~[any other]~~ a crime that when considered with the duties and responsibilities

316 of the license for which the person is applying is considered by the division and the board to

317 indicate that the best interests of the public are not served by granting the applicant a license;

318 (5) has completed five years of lawful and active practice as a licensed funeral service

319 director and embalmer within the 10 years immediately preceding the application for licensure

320 by endorsement;

321 (6) has passed a national examination determined by the division; and

322 (7) has demonstrated competency of the laws and the rules of the state as determined

323 by the division.

324 Section 7. Section **58-53-302** is amended to read:

325 **58-53-302. Qualifications for licensure.**

326 (1) Each applicant for licensure as a landscape architect shall:

327 (a) submit an application in a form prescribed by the division;

328 (b) pay a fee as determined by the department under Section [63J-1-504](#);

329 ~~[(c) provide satisfactory evidence of good moral character;]~~

330 ~~[(d)]~~ (c) (i) have graduated and received an earned bachelors or masters degree from a

331 landscape architecture program meeting criteria established by rule by the division in

332 collaboration with the board and in accordance with Title 63G, Chapter 3, Utah Administrative

333 Rulemaking Act; or

334 (ii) have completed not less than eight years of supervised practical experience in

335 landscape architecture which meets the requirements established by rule by the division in

336 collaboration with the board and in accordance with Title 63G, Chapter 3, Utah Administrative

337 Rulemaking Act; and

338 ~~[(e)]~~ (d) have successfully passed examinations established by rule by the division in
339 collaboration with the board and in accordance with Title 63G, Chapter 3, Utah Administrative
340 Rulemaking Act.

341 (2) Satisfactory completion of each year of a landscape architectural program described
342 in Subsection ~~[(1)(d)(i)]~~ (1)(c)(i) is equivalent to one year of experience for purposes of
343 Subsection ~~[(1)(d)(ii)]~~ (1)(c)(ii).

344 Section 8. Section **58-63-302** is amended to read:

345 **58-63-302. Qualifications for licensure.**

346 (1) Each applicant for licensure as an armored car company or a contract security
347 company shall:

348 (a) submit an application in a form prescribed by the division;

349 (b) pay a fee determined by the department under Section [63J-1-504](#);

350 (c) have a qualifying agent who:

351 (i) ~~[shall meet]~~ meets with the division and the board and ~~[demonstrate]~~ demonstrates
352 that the applicant and the qualifying agent meet the requirements of this section;

353 (ii) is a resident of the state and is responsible management personnel or an owner of
354 the applicant;

355 (iii) exercises material day-to-day authority in the conduct of the applicant's business
356 by making substantive technical and administrative decisions and whose primary employment
357 is with the applicant;

358 (iv) is not concurrently acting as a qualifying agent or employee of another armored car
359 company or contract security company and is not engaged in any other employment on a
360 regular basis;

361 (v) is not involved in any activity that would conflict with the qualifying agent's duties
362 and responsibilities under this chapter to ensure that the qualifying agent's and the applicant's
363 performance under this chapter does not jeopardize the health or safety of the general public;

364 (vi) is not an employee of a government agency;

365 (vii) passes an examination component established by rule by the division in
366 collaboration with the board and in accordance with Title 63G, Chapter 3, Utah Administrative
367 Rulemaking Act; and

368 (viii) (A) demonstrates 6,000 hours of compensated experience as a manager,

369 supervisor, or administrator of an armored car company or a contract security company; or
370 (B) demonstrates 6,000 hours of supervisory experience acceptable to the division in
371 collaboration with the board with a federal, United States military, state, county, or municipal
372 law enforcement agency;

373 (d) if a corporation, provide:

374 (i) the names, addresses, dates of birth, and social security numbers of all corporate
375 officers, directors, and responsible management personnel; and

376 (ii) the names, addresses, dates of birth, and social security numbers, of all
377 shareholders owning 5% or more of the outstanding shares of the corporation, unless waived by
378 the division if the stock is publicly listed and traded;

379 (e) if a limited liability company, provide:

380 (i) the names, addresses, dates of birth, and social security numbers of all company
381 officers, and responsible management personnel; and

382 (ii) the names, addresses, dates of birth, and social security numbers of all individuals
383 owning 5% or more of the equity of the company;

384 (f) if a partnership, provide the names, addresses, dates of birth, and social security
385 numbers of all general partners, and responsible management personnel;

386 (g) if a proprietorship, provide the names, addresses, dates of birth, and social security
387 numbers of the proprietor, and responsible management personnel;

388 (h) have ~~[good moral character in that]~~ officers, directors, shareholders described in
389 Subsection (1)(d)(ii), partners, proprietors, and responsible management personnel ~~[have]~~ who
390 have not been convicted of:

391 (i) a felony; or

392 ~~[(ii) a misdemeanor involving moral turpitude; or]~~

393 ~~[(iii)]~~ (ii) a crime that when considered with the duties and responsibilities of a contract
394 security company or an armored car company by the division and the board indicates that the
395 best interests of the public are not served by granting the applicant a license;

396 (i) document that none of the applicant's officers, directors, shareholders described in
397 Subsection (1)(d)(ii), partners, proprietors, and responsible management personnel:

398 (i) have been declared by a court of competent jurisdiction incompetent by reason of
399 mental defect or disease and not been restored; and

400 (ii) currently suffer from habitual drunkenness or from drug addiction or dependence;

401 (j) file and maintain with the division evidence of:

402 (i) comprehensive general liability insurance in a form and in amounts established by
403 rule by the division in collaboration with the board and in accordance with Title 63G, Chapter

404 3, Utah Administrative Rulemaking Act;

405 (ii) workers' compensation insurance that covers employees of the applicant in
406 accordance with applicable Utah law;

407 (iii) registration with the Division of Corporations and Commercial Code; and

408 (iv) registration as required by applicable law with the:

409 (A) Unemployment Insurance Division in the Department of Workforce Services, for
410 purposes of Title 35A, Chapter 4, Employment Security Act;

411 (B) State Tax Commission; and

412 (C) Internal Revenue Service; and

413 (k) meet with the division and board if requested by the division or board.

414 (2) Each applicant for licensure as an armed private security officer [~~shall~~]:

415 (a) shall submit an application in a form prescribed by the division;

416 (b) shall pay a fee determined by the department under Section [63J-1-504](#);

417 (c) [~~have good moral character in that the applicant has~~] may not have been convicted

418 of:

419 (i) a felony; or

420 [~~(ii) a misdemeanor involving moral turpitude; or~~]

421 [(~~iii~~)] (ii) a crime that when considered with the duties and responsibilities of an armed
422 private security officer by the division and the board indicates that the best interests of the
423 public are not served by granting the applicant a license;

424 (d) may not be prohibited from possession of a firearm or ammunition under 18 U.S.C.
425 Sec. 922(g);

426 (e) may not have been declared incompetent by a court of competent jurisdiction by
427 reason of mental defect or disease and not been restored;

428 (f) may not be currently suffering from habitual drunkenness or from drug addiction or
429 dependence;

430 (g) shall successfully complete basic education and training requirements established

431 by rule by the division in collaboration with the board and in accordance with Title 63G,
432 Chapter 3, Utah Administrative Rulemaking Act, which shall include a minimum of eight
433 hours of classroom or online curriculum;

434 (h) shall successfully complete firearms training requirements established by rule by
435 the division in collaboration with the board and in accordance with Title 63G, Chapter 3, Utah
436 Administrative Rulemaking Act, which shall include a minimum of 12 hours of training;

437 (i) shall pass the examination requirement established by rule by the division in
438 collaboration with the board and in accordance with Title 63G, Chapter 3, Utah Administrative
439 Rulemaking Act; and

440 (j) shall meet with the division and board if requested by the division or the board.

441 (3) Each applicant for licensure as an unarmed private security officer [~~shall~~]:

442 (a) shall submit an application in a form prescribed by the division;

443 (b) shall pay a fee determined by the department under Section [63J-1-504](#);

444 (c) [~~have good moral character in that the applicant has~~] may not have been convicted
445 of:

446 (i) a felony; or

447 [~~(ii) a misdemeanor involving moral turpitude; or~~]

448 [~~(iii)~~] (ii) a crime that when considered with the duties and responsibilities of an
449 unarmed private security officer by the division and the board indicates that the best interests of
450 the public are not served by granting the applicant a license;

451 (d) may not have been declared incompetent by a court of competent jurisdiction by
452 reason of mental defect or disease and not been restored;

453 (e) may not be currently suffering from habitual drunkenness or from drug addiction or
454 dependence;

455 (f) shall successfully complete basic education and training requirements established
456 by rule by the division in collaboration with the board and in accordance with Title 63G,
457 Chapter 3, Utah Administrative Rulemaking Act, which shall include a minimum of eight
458 hours of classroom or online curriculum;

459 (g) shall pass the examination requirement established by rule by the division in
460 collaboration with the board and in accordance with Title 63G, Chapter 3, Utah Administrative
461 Rulemaking Act; and

462 (h) shall meet with the division and board if requested by the division or board.
463 (4) Each applicant for licensure as an armored car security officer [~~shall~~]:
464 (a) shall submit an application in a form prescribed by the division;
465 (b) shall pay a fee determined by the department under Section 63J-1-504;
466 (c) [~~have good moral character in that the applicant has~~] may not have been convicted
467 of:
468 (i) a felony; or
469 [~~(ii) a misdemeanor involving moral turpitude; or~~]
470 [(iii)] (ii) a crime that when considered with the duties and responsibilities of an
471 armored car security officer by the division and the board indicates that the best interests of the
472 public are not served by granting the applicant a license;
473 (d) may not be prohibited from possession of a firearm or ammunition under 18 U.S.C.
474 Sec. 922(g);
475 (e) may not have been declared incompetent by a court of competent jurisdiction by
476 reason of mental defect or disease and not been restored;
477 (f) may not be currently suffering from habitual drunkenness or from drug addiction or
478 dependence;
479 (g) shall successfully complete basic education and training requirements established
480 by rule by the division in collaboration with the board and in accordance with Title 63G,
481 Chapter 3, Utah Administrative Rulemaking Act;
482 (h) shall successfully complete firearms training requirements established by rule by
483 the division in collaboration with the board and in accordance with Title 63G, Chapter 3, Utah
484 Administrative Rulemaking Act;
485 (i) shall pass the examination requirements established by rule by the division in
486 collaboration with the board and in accordance with Title 63G, Chapter 3, Utah Administrative
487 Rulemaking Act; and
488 (j) shall meet with the division and board if requested by the division or the board.
489 (5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
490 division may make a rule establishing when the division shall request a Federal Bureau of
491 Investigation records' review for an applicant who is applying for licensure or licensure renewal
492 under this chapter.

493 (6) To determine if an applicant meets the qualifications of Subsections (1)(h), (2)(c),
494 (3)(c), and (4)(c), the division shall provide an appropriate number of copies of fingerprint
495 cards to the Department of Public Safety with the division's request to:

496 (a) conduct a search of records of the Department of Public Safety for criminal history
497 information relating to each applicant for licensure under this chapter and each applicant's
498 officers, directors, shareholders described in Subsection (1)(d)(ii), partners, proprietors, and
499 responsible management personnel; and

500 (b) forward to the Federal Bureau of Investigation a fingerprint card of each applicant
501 requiring a check of records of the FBI for criminal history information under this section.

502 (7) The Department of Public Safety shall send the division:

503 (a) a written record of criminal history, or certification of no criminal history record, as
504 contained in the records of the Department of Public Safety in a timely manner after receipt of
505 a fingerprint card from the division and a request for review of Department of Public Safety
506 records; and

507 (b) the results of the FBI review concerning an applicant in a timely manner after
508 receipt of information from the FBI.

509 (8) (a) The division shall charge each applicant a fee, in accordance with Section
510 63J-1-504, equal to the cost of performing the records reviews under this section.

511 (b) The division shall pay the Department of Public Safety the costs of all records
512 reviews, and the Department of Public Safety shall pay the FBI the costs of records reviews
513 under this chapter.

514 (9) The division shall use or disseminate the information it obtains from the reviews of
515 criminal history records of the Department of Public Safety and the FBI only to determine if an
516 applicant for licensure or licensure renewal under this chapter is qualified for licensure.

517 Section 9. Section **58-64-302** is amended to read:

518 **58-64-302. Qualifications for licensure.**

519 (1) Each applicant for licensure as a deception detection examiner:

520 (a) shall submit an application in a form prescribed by the division;

521 (b) shall pay a fee determined by the department under Section 63J-1-504;

522 (c) may not have been convicted of a felony~~], a misdemeanor involving moral~~
523 ~~turpitude,~~] or any other crime that when considered with the duties and responsibilities of a

524 deception detection examiner is considered by the division to indicate that the best interests of
525 the public will not be served by granting the applicant a license;

526 (d) may not have been declared by any court of competent jurisdiction incompetent by
527 reason of mental defect or disease and not been restored;

528 (e) may not be currently suffering from habitual drunkenness or from drug addiction or
529 dependence;

530 (f) shall have completed one of the following:

531 (i) have earned a bachelor's degree from a four year university or college meeting
532 standards established by the division by rule made in accordance with Title 63G, Chapter 3,
533 Utah Administrative Rulemaking Act;

534 (ii) have completed not less than 8,000 hours of investigation experience approved by
535 the division; or

536 (iii) have completed a combination of university or college education and investigation
537 experience, as defined by rule made by the division in accordance with Title 63G, Chapter 3,
538 Utah Administrative Rulemaking Act, as being equivalent to the requirements under
539 Subsection (1)(f)(i) or (1)(f)(ii);

540 (g) shall have successfully completed a training program in deception detection
541 meeting criteria established by rule made by the division in accordance with Title 63G, Chapter
542 3, Utah Administrative Rulemaking Act; and

543 (h) shall have performed satisfactorily as a licensed deception detection intern for a
544 period of not less than one year and shall have satisfactorily conducted not less than 100
545 deception detection examinations under the supervision of a licensed deception detection
546 examiner.

547 (2) Each applicant for licensure as a deception detection intern:

548 (a) shall submit an application in a form prescribed by the division;

549 (b) shall pay a fee determined by the department under Section [63J-1-504](#);

550 (c) may not have been convicted of a felony~~[, a misdemeanor involving moral~~
551 ~~turpitude,~~] or any other crime that when considered with the duties and responsibilities of a
552 deception detection intern is considered by the division to indicate that the best interests of the
553 public will not be served by granting the applicant a license;

554 (d) may not have been declared by any court of competent jurisdiction incompetent by

555 reason of mental defect or disease and not been restored;

556 (e) may not be currently suffering from habitual drunkenness or from drug addiction or
557 dependence;

558 (f) shall have completed one of the following:

559 (i) have earned a bachelor's degree from a four year university or college meeting
560 standards established by the division by rule made in accordance with Title 63G, Chapter 3,
561 Utah Administrative Rulemaking Act;

562 (ii) have completed not less than 8,000 hours of investigation experience approved by
563 the division; or

564 (iii) have completed a combination of university or college education and investigation
565 experience, as defined by rule made by the division in accordance with Title 63G, Chapter 3,
566 Utah Administrative Rulemaking Act, as being equivalent to the requirements under
567 Subsection (2)(f)(i) or (2)(f)(ii);

568 (g) shall have successfully completed a training program in deception detection
569 meeting criteria established by rule made by the division in accordance with Title 63G, Chapter
570 3, Utah Administrative Rulemaking Act; and

571 (h) shall provide the division with an intern supervision agreement in a form prescribed
572 by the division under which:

573 (i) a licensed deception detection examiner agrees to supervise the intern; and

574 (ii) the applicant agrees to be supervised by that licensed deception detection examiner.

575 (3) Each applicant for licensure as a deception detection examination administrator:

576 (a) shall submit an application in a form prescribed by the division;

577 (b) shall pay a fee determined by the department under Section [63J-1-504](#);

578 (c) may not have been convicted of a felony~~], a misdemeanor involving moral~~
579 ~~turpitude,~~] or any other crime that when considered with the duties and responsibilities of a
580 deception detection examination administrator is considered by the division to indicate that the
581 best interests of the public will not be served by granting the applicant a license;

582 (d) may not have been declared by a court of competent jurisdiction incompetent by
583 reason of mental defect or disease and not been restored;

584 (e) may not be currently suffering from habitual drunkenness or from drug addiction or
585 dependence;

586 (f) shall have earned an associate degree from a state-accredited university or college or
587 have an equivalent number of years' work experience; and

588 (g) shall have successfully completed a training program and have obtained
589 certification in deception detection examination administration provided by the manufacturer
590 of a scientific or technology-based software application solution that is approved by the
591 director.

592 (4) To determine if an applicant meets the qualifications of Subsection (1)(c), (2)(c), or
593 (3)(c) the division shall provide an appropriate number of copies of fingerprint cards to the
594 Department of Public Safety with the division's request to:

595 (a) conduct a search of records of the Department of Public Safety for criminal history
596 information relating to each applicant for licensure under this chapter; and

597 (b) forward to the Federal Bureau of Investigation a fingerprint card of each applicant
598 requiring a check of records of the F.B.I. for criminal history information under this section.

599 (5) The Department of Public Safety shall send to the division:

600 (a) a written record of criminal history, or certification of no criminal history record, as
601 contained in the records of the Department of Public Safety in a timely manner after receipt of
602 a fingerprint card from the division and a request for review of Department of Public Safety
603 records; and

604 (b) the results of the F.B.I. review concerning an applicant in a timely manner after
605 receipt of information from the F.B.I.

606 (6) (a) The division shall charge each applicant a fee, in accordance with Section
607 63J-1-504, equal to the cost of performing the records reviews under this section.

608 (b) The division shall pay the Department of Public Safety the costs of all records
609 reviews, and the Department of Public Safety shall pay the F.B.I. the costs of records reviews
610 under this chapter.

611 (7) ~~[Information]~~ The division shall use or disseminate information obtained ~~[by the~~
612 ~~division]~~ from the reviews of criminal history records of the Department of Public Safety and
613 the F.B.I. ~~[shall be used or disseminated by the division]~~ only for the purpose of determining if
614 an applicant for licensure under this chapter is qualified for licensure.