

28 Section 1. Section **53-3-106** is amended to read:

29 **53-3-106 . Disposition of revenues under this chapter -- Restricted account**
30 **created -- Uses as provided by appropriation -- Nonlapsing.**

31 (1) There is created within the Transportation Fund a restricted account known as the
32 "Department of Public Safety Restricted Account."

33 (2) The account consists of money generated from the following revenue sources:

34 (a) all money received under this chapter;

35 (b) administrative fees received according to the fee schedule authorized under this
36 chapter and Section 63J-1-504;

37 (c) beginning on January 1, 2013, money received in accordance with Section
38 41-1a-1201; and

39 (d) any appropriations made to the account by the Legislature.

40 (3) (a) The account shall earn interest.

41 (b) All interest earned on account money shall be deposited into the account.

42 (4) The expenses of the department in carrying out this chapter shall be provided for by
43 legislative appropriation from this account.

44 (5) The amount in excess of \$45 of the fees collected under Subsection [~~53-3-105(25)~~]
45 53-3-105(27) shall be appropriated by the Legislature from this account to the
46 department to implement the provisions of Section 53-1-117, except that of the amount
47 in excess of \$45, \$100 shall be deposited into the State Laboratory Drug Testing
48 Account created in Section 26B-1-304.

49 (6) All money received under Subsection [~~41-6a-1406(6)(e)(ii)~~] 41-6a-1406(6)(b)(ii) shall
50 be appropriated by the Legislature from this account to the department to implement the
51 provisions of Section 53-1-117.

52 (7) Beginning in fiscal year 2009-10, the Legislature shall appropriate \$100,000 annually
53 from the account to the state medical examiner appointed under Section 26B-8-202 for
54 use in carrying out duties related to highway crash deaths under Subsection 26B-8-205
55 (1).

56 (8) The division shall remit the fees collected under Subsection 53-3-105(31) to the Bureau
57 of Criminal Identification to cover the costs for the services the Bureau of Criminal
58 Identification provides under Section 53-3-205.5.

59 (9) (a) Beginning on January 1, 2013, the Legislature shall appropriate all money
60 received in the account under Section 41-1a-1201 to the Utah Highway Patrol
61 Division for field operations.

62 (b) The Legislature may appropriate additional money from the account to the Utah
63 Highway Patrol Division for law enforcement purposes.

64 (10) Appropriations to the department from the account are nonlapsing.

65 (11) The department shall report to the Department of Health and Human Services, on or
66 before December 31, the amount the department expects to collect under Subsection [
67 ~~53-3-105(25)~~] 53-3-105(27) in the next fiscal year.

68 Section 2. Section **53-6-203** is amended to read:

69 **53-6-203 . Applicants for admission to training programs or for certification**
70 **examination -- Requirements.**

71 (1) Before being accepted for admission to the training programs conducted by a certified
72 academy, and before being allowed to take a certification examination, each applicant
73 for admission or certification examination shall meet the following requirements:

74 (a) be~~[-either]~~:

75 (i) a United States citizen; [~~or~~]

76 (ii) a United States national; or

77 [~~(ii)~~] (iii) a lawful permanent resident of the United States who:

78 (A) has been in the United States legally for the five years immediately before the
79 day on which the application is made; and

80 (B) has legal authorization to work in the United States;

81 (b) be at least:

82 (i) 19 years old at the time of certification as a special function officer or correctional
83 officer; or

84 (ii) 21 years old at the time of certification as a law enforcement officer;

85 (c) be a high school graduate or furnish evidence of successful completion of an
86 examination indicating an equivalent achievement;

87 (d) have not been convicted of a crime for which the applicant could have been punished
88 by imprisonment in a federal penitentiary or by imprisonment in the penitentiary of
89 this or another state;

90 (e) have demonstrated good moral character, as determined by a background
91 investigation;

92 (f) be free of any physical, emotional, or mental condition that might adversely affect the
93 performance of the applicant's duties as a peace officer; and

94 (g) meet all other standards required by POST.

95 (2) (a) An application for admission to a training program shall be accompanied by a

96 criminal history background check of local, state, and national criminal history files
97 and a background investigation.

98 (b) The costs of the background check and investigation shall be borne by the applicant
99 or the applicant's employing agency.

100 (3) (a) Notwithstanding any expungement statute or rule of any other jurisdiction, any
101 conviction obtained in this state or other jurisdiction, including a conviction that has
102 been expunged, dismissed, or treated in a similar manner to either of these
103 procedures, may be considered for purposes of this section.

104 (b) This provision applies to convictions entered both before and after the effective date
105 of this section.

106 (4) Any background check or background investigation performed under the requirements
107 of this section shall be to determine eligibility for admission to training programs or
108 qualification for certification examinations and may not be used as a replacement for
109 any background investigations that may be required of an employing agency.

110 (5) An applicant shall be considered to be of good moral character under Subsection (1)(e)
111 if the applicant has not engaged in conduct that would be a violation of Subsection
112 53-6-211(1).

113 (6) An applicant seeking certification as a law enforcement officer, as defined in Section
114 53-13-103, shall be qualified to possess a firearm under state and federal law.

115 Section 3. Section **53-6-211** is amended to read:

116 **53-6-211 . Suspension or revocation of certification -- Right to a hearing --**

117 **Grounds -- Notice to employer -- Reporting -- Judicial appeal.**

118 (1) The council has the authority to issue a Letter of Caution, or suspend or revoke the
119 certification of a peace officer, if the peace officer:

120 (a) willfully falsifies any information to obtain certification;

121 (b) has any physical or mental disability affecting the peace officer's ability to perform
122 duties;

123 (c) engages in, or is convicted of, conduct constituting a state or federal criminal
124 offense, but not including a traffic offense that is a class C misdemeanor or infraction;

125 (d) refuses to respond, or fails to respond truthfully, to questions after having been
126 issued a warning issued based on *Garrity v. New Jersey*, 385 U.S. 493 (1967);

127 (e) engages in sexual conduct while on duty;

128 (f) is certified as a law enforcement peace officer, as defined in Section 53-13-102, and
129 is unable to possess a firearm under state or federal law;

- 130 (g) is found by a court or by a law enforcement agency to have knowingly engaged in
131 conduct that involves dishonesty or deception in violation of a policy of the peace
132 officer's employer or in violation of a state or federal law;
- 133 (h) is found by a court or by a law enforcement agency to have knowingly engaged in
134 biased or prejudicial conduct against one or more individuals based on the
135 individual's race, color, sex, pregnancy, age, religion, national origin, disability,
136 sexual orientation, or gender identity; or
- 137 (i) is a chief, sheriff, or administrative officer of a law enforcement agency and fails to
138 comply with Subsection (6).
- 139 (2) The council may not issue a Letter of Caution or suspend or revoke the certification of a
140 peace officer for a violation of state or federal law or a violation of a law enforcement
141 agency's policies, general orders, or guidelines of operation that do not amount to a
142 cause of action under Subsection (1).
- 143 (3) (a) The division is responsible for investigating officers who are alleged to have
144 engaged in conduct in violation of Subsection (1).
- 145 (b) The division shall initiate all adjudicative proceedings under this section by
146 providing to the peace officer involved notice and an opportunity for a hearing before
147 an administrative law judge.
- 148 (c) All adjudicative proceedings under this section are civil actions, notwithstanding
149 whether the issue in the adjudicative proceeding is a violation of statute that may be
150 prosecuted criminally.
- 151 (d) (i) The burden of proof on the division in an adjudicative proceeding under this
152 section is by clear and convincing evidence.
- 153 (ii) If a peace officer asserts an affirmative defense, the peace officer has the burden
154 of proof to establish the affirmative defense by a preponderance of the evidence.
- 155 (e) If the administrative law judge issues findings of fact and conclusions of law stating
156 there is sufficient evidence to demonstrate that the officer engaged in conduct that is
157 in violation of Subsection (1), the division shall present the finding and conclusions
158 issued by the administrative law judge to the council.
- 159 (f) The division shall notify the chief, sheriff, or administrative officer of the police
160 agency which employs the involved peace officer of the investigation and shall
161 provide any information or comments concerning the peace officer received from that
162 agency regarding the peace officer to the council before a Letter of Caution is issued,
163 or a peace officer's certification may be suspended or revoked.

- 164 (g) If the administrative law judge finds that there is insufficient evidence to
165 demonstrate that the officer is in violation of Subsection (1), the administrative law
166 judge shall dismiss the adjudicative proceeding.
- 167 (4) (a) The council shall:
- 168 (i) accept the administrative law judge's findings of fact and conclusions of law, and
169 the information concerning the peace officer provided by the officer's employing
170 agency; and
- 171 (ii) choose whether to issue a Letter of Caution, or suspend or revoke the officer's
172 certification.
- 173 (b) Before making a decision, the council may consider aggravating and mitigating
174 circumstances.
- 175 (c) A member of the council shall recuse him or herself from consideration of an issue
176 that is before the council if the council member:
- 177 (i) has a personal bias for or against the officer;
- 178 (ii) has a substantial pecuniary interest in the outcome of the proceeding and may
179 gain or lose some benefit from the outcome; or
- 180 (iii) employs, supervises, or works for the same law enforcement agency as the
181 officer whose case is before the council.
- 182 (5) (a) Termination of a peace officer, whether voluntary or involuntary, does not
183 preclude suspension or revocation of a peace officer's certification by the council if
184 the peace officer was terminated for any of the reasons under Subsection (1).
- 185 (b) Employment by another agency, or reinstatement of a peace officer by the original
186 employing agency after termination by that agency, whether the termination was
187 voluntary or involuntary, does not preclude suspension or revocation of a peace
188 officer's certification by the council if the peace officer was terminated for any of the
189 reasons under Subsection (1).
- 190 (6) (a) A chief, sheriff, or administrative officer of a law enforcement agency who is
191 made aware of an allegation against a peace officer employed by that agency that
192 involves conduct in violation of Subsections (1)(a) through (h) shall conduct an
193 administrative or internal investigation into the allegation and report the findings of
194 the investigation to the division if the allegation is substantiated.
- 195 (b) If a peace officer who is the subject of an internal or administrative investigation into
196 allegations that include any of the conditions or circumstances outlined in
197 Subsections (1)(a) through (h) resigns, retires, or otherwise separates from the

198 investigating law enforcement agency before the conclusion of the investigation, the
199 chief, sheriff, or administrative officer of that law enforcement agency shall complete
200 the investigation and report the findings to the division.

201 (7) The council's issuance of a Letter of Caution, or suspension or revocation of an officer's
202 certification under Subsection (4) may be appealed under Title 63G, Chapter 4, Part 4,
203 Judicial Review.

204 Section 4. Section **53-6-302** is amended to read:

205 **53-6-302 . Applicants for certification examination -- Requirements.**

206 (1) Before being allowed to take a dispatcher certification examination, each applicant shall
207 meet the following requirements:

208 (a) be~~[-either]~~:

209 (i) a United States citizen;

210 (ii) a United States national; or

211 [~~(ii)~~] (iii) a lawful permanent resident of the United States who:

212 (A) has been in the United States legally for the five years immediately before the
213 day on which the application is made; and

214 (B) has legal authorization to work in the United States;

215 (b) be 18 years old or older at the time of employment as a dispatcher;

216 (c) be a high school graduate or have a G.E.D. equivalent;

217 (d) have not been convicted of a crime for which the applicant could have been punished
218 by imprisonment in a federal penitentiary or by imprisonment in the penitentiary of
219 this or another state;

220 (e) have demonstrated good moral character, as determined by a background
221 investigation;

222 (f) be free of any physical, emotional, or mental condition that might adversely affect the
223 performance of the applicant's duty as a dispatcher; and

224 (g) meet all other standards required by POST.

225 (2) (a) An application for certification shall be accompanied by a criminal history
226 background check of local, state, and national criminal history files and a background
227 investigation.

228 (b) The costs of the background check and investigation shall be borne by the applicant
229 or the applicant's employing agency.

230 (3) (a) Notwithstanding Title 77, Chapter 40a, Expungement, regarding expungements,
231 or a similar statute or rule of any other jurisdiction, any conviction obtained in this

232 state or other jurisdiction, including a conviction that has been expunged, dismissed,
 233 or treated in a similar manner to either of these procedures, may be considered for
 234 purposes of this section.

235 (b) Subsection (3)(a) applies to convictions entered both before and after May 1, 1995.

236 (4) Any background check or background investigation performed under the requirements
 237 of this section shall be to determine eligibility for admission to training programs or
 238 qualification for certification examinations and may not be used as a replacement for
 239 any background investigations that may be required of an employing agency.

240 (5) An applicant is considered to be of good moral character under Subsection (1)(e) if the
 241 applicant has not engaged in conduct that would be a violation of Subsection 53-6-309
 242 (1).

243 Section 5. Section **53-6-309** is amended to read:

244 **53-6-309 . Suspension or revocation of certification -- Right to a hearing --**

245 **Grounds -- Notice to employer -- Reporting.**

246 (1) The council has the authority to issue a Letter of Caution, or suspend or revoke the
 247 certification of a dispatcher, if the dispatcher:

248 (a) willfully falsifies any information to obtain certification;

249 (b) has any physical or mental disability affecting the dispatcher's ability to perform
 250 duties;

251 (c) is addicted to alcohol or any controlled substance, unless the dispatcher reports the
 252 addiction to the employer and to the director as part of a departmental early
 253 intervention process;

254 (d) engages in, or is convicted of, conduct constituting a state or federal criminal
 255 offense, but not including a traffic offense that is a class C misdemeanor or infraction;

256 (e) refuses to respond, or fails to respond truthfully, to questions after having been
 257 issued a warning based on *Garrity v. New Jersey*, 385 U.S. 493 (1967); or

258 (f) engages in sexual conduct while on duty.

259 (2) The council may not issue a Letter of Caution, or suspend or revoke the certification of
 260 a dispatcher for a violation of the employing agency's policies, general orders, or
 261 guidelines of operation that do not amount to a cause of action under Subsection (1).

262 (3) (a) The division is responsible for investigating dispatchers who are alleged to have
 263 engaged in conduct in violation of Subsection (1).

264 (b) The division shall initiate all adjudicative proceedings under this section by
 265 providing to the dispatcher involved notice and an opportunity for a hearing before an

- 266 administrative law judge.
- 267 (c) All adjudicative proceedings under this section are civil actions, notwithstanding
268 whether the issue in the adjudicative proceeding is a violation of statute that may be
269 prosecuted criminally.
- 270 (d) (i) The burden of proof on the division in an adjudicative proceeding under this
271 section is by clear and convincing evidence.
- 272 (ii) If a dispatcher asserts an affirmative defense, the dispatcher has the burden of
273 proof to establish the affirmative defense by a preponderance of the evidence.
- 274 (e) If the administrative law judge issues findings of fact and conclusions of law stating
275 there is sufficient evidence to demonstrate that the dispatcher engaged in conduct that
276 is in violation of Subsection (1), the division shall present the findings and
277 conclusions issued by the administrative law judge to the council.
- 278 (f) The division shall notify the agency that employs the involved dispatcher of the
279 investigation and shall provide any information or comments concerning the
280 dispatcher received from that agency regarding the dispatcher to the council before a
281 Letter of Caution is issued, or a dispatcher's certification may be suspended or
282 revoked.
- 283 (g) If the administrative law judge finds that there is insufficient evidence to
284 demonstrate that the dispatcher is in violation of Subsection (1), the administrative
285 law judge shall dismiss the adjudicative proceeding.
- 286 (4) (a) The council shall:
- 287 (i) accept the administrative law judge's findings of fact and conclusions of law and
288 the information concerning the dispatcher provided by the dispatcher's employing
289 agency; and
- 290 (ii) choose whether to issue a Letter of Caution, or suspend or revoke the dispatcher's
291 certification.
- 292 (b) Before making a decision, the council may consider aggravating and mitigating
293 circumstances.
- 294 (c) A council member shall recuse himself or herself from consideration of an issue that
295 is before the council if the council member:
- 296 (i) has a personal bias for or against the dispatcher;
- 297 (ii) has a substantial pecuniary interest in the outcome of the proceeding and may
298 gain or lose some benefit from the outcome; or
- 299 (iii) employs, supervises, or works for the same agency as the dispatcher whose case

- 300 is before the council.
- 301 (5) (a) Termination of a dispatcher, whether voluntary or involuntary, does not preclude
302 suspension or revocation of a dispatcher's certification by the council if the dispatcher
303 was terminated for any of the reasons under Subsection (1).
- 304 (b) Employment by another agency, or reinstatement of a dispatcher by the original
305 employing agency after termination by that agency, whether the termination was
306 voluntary or involuntary, does not preclude suspension or revocation of a dispatcher's
307 certification by the council if the dispatcher was terminated for any of the reasons
308 under Subsection (1).
- 309 (6) (a) An agency that is made aware of an allegation against a dispatcher employed by
310 that agency that involves conduct in violation of Subsection (1) shall investigate the
311 allegation and report to the division if the allegation is found to be true.
- 312 (b) If a dispatcher who is the subject of an internal or administrative investigation into
313 allegations that include any of the conditions or circumstances outlined in Subsection
314 (1) resigns, retires, or otherwise separates from the investigating law enforcement
315 agency before the conclusion of the investigation, the agency shall report the
316 allegations and any investigation results to the division.
- 317 (7) The council's issuance of a Letter of Caution, or suspension or revocation of an officer's
318 certification under Subsection (4) may be appealed under Title 63G, Chapter 4, Part 4,
319 Judicial Review.

320 Section 6. **Effective date.**

321 This bill takes effect on May 1, 2024.