

**VULNERABLE POPULATION AMENDMENTS**

2024 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Karianne Lisonbee**

Senate Sponsor: Wayne A. Harper

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**LONG TITLE**

**General Description:**

This bill concerns protections for vulnerable populations.

**Highlighted Provisions:**

This bill:

- ▶ requires criminal background checks for certain individuals who will have direct access to patients, children, or vulnerable adults;
- ▶ requires the Division of Professional Licensing to create and maintain a registry of individuals who have committed certain offenses involving children or vulnerable adults;
- ▶ requires individuals with specific convictions or circumstances to register with the registry and provides criminal penalties for failing to register; and
- ▶ makes technical and conforming changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**26B-1-211**, as renumbered and amended by Laws of Utah 2022, Chapter 255

**26B-2-120**, as last amended by Laws of Utah 2023, Chapter 344 and renumbered and



28 amended by Laws of Utah 2023, Chapter 305

29 **58-1-106**, as last amended by Laws of Utah 2018, Chapter 318

30 ENACTS:

31 **58-1-701**, Utah Code Annotated 1953

32 **58-1-702**, Utah Code Annotated 1953

33 **58-1-703**, Utah Code Annotated 1953

34 **58-1-704**, Utah Code Annotated 1953

35 **58-1-705**, Utah Code Annotated 1953

36 **58-1-706**, Utah Code Annotated 1953



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

39 Section 1. Section **26B-1-211** is amended to read:

40 **26B-1-211. Background checks for employees -- Access to abuse and neglect**  
41 **information to screen employees and volunteers.**

42 (1) As used in this section, "bureau" means the Bureau of Criminal Identification  
43 created in Section **53-10-201**.

44 (2) (a) [~~Beginning~~] Except as provided in Subsection (2)(b), beginning July 1, 2018,  
45 the department may require a fingerprint-based local, regional, and national criminal history  
46 background check and ongoing monitoring of:

47 [~~(a)~~] (i) all staff, contracted employees, and volunteers who:

48 [~~(i)~~] (A) have access to protected health information or personal identifying  
49 information;

50 [~~(ii)~~] (B) have direct access to patients, children, or vulnerable adults as defined in  
51 Section **26B-2-101**;

52 [~~(iii)~~] (C) work in areas of privacy and data security;

53 [~~(iv)~~] (D) handle financial information, including receipt of funds, reviewing invoices,  
54 making payments, and other types of financial information; and

55 [~~(v)~~] (E) perform audit functions, whether internal or external, on behalf of the  
56 department; and

57 [~~(b)~~] (ii) job applicants who have been offered a position with the department and the  
58 job requirements include those described in Subsection [~~(2)(a)~~] (2)(a)(i).

59           (b) (i) Except as provided in Subsection (2)(b)(ii), the department shall require a  
60 fingerprint-based local, regional, and national criminal history background check and ongoing  
61 monitoring for all staff, contracted employees, and volunteers under Subsection (2)(a)(i)(B).

62           (ii) An individual who holds a license that requires a background check under Title 58,  
63 Occupations and Professions, on or before May 1, 2024, is exempt from the requirement under  
64 Subsection (2)(b)(i).

65           (3) Beginning July 1, 2022, for the purposes described in Subsection (2), the  
66 department may also access:

67           (a) the department's Management Information System created in Section 80-2-1001;

68           (b) the department's Licensing Information System created in Section 80-2-1002;

69           (c) the statewide database of the Division of Aging and Adult Services created by  
70 Section 26B-6-210; and

71           (d) juvenile court records under Subsection 80-3-404(4).

72           (4) Each individual in a position listed in Subsection (2) shall provide a completed  
73 fingerprint card to the department upon request.

74           (5) The department shall require that an individual required to submit to a background  
75 check under Subsection (4) provide a signed waiver on a form provided by the department that  
76 meets the requirements of Subsection 53-10-108(4).

77           (6) For a noncriminal justice background search and registration in accordance with  
78 Subsection 53-10-108(13), the department shall submit to the bureau:

79           (a) the applicant's personal identifying information and fingerprints for a criminal  
80 history search of applicable local, regional, and national databases; and

81           (b) a request for all information received as a result of the local, regional, and  
82 nationwide background check.

83           (7) The department is responsible for the payment of all fees required by Subsection  
84 53-10-108(15) and any fees required to be submitted to the Federal Bureau of Investigation by  
85 the bureau.

86           (8) The department may make rules in accordance with Title 63G, Chapter 3, Utah  
87 Administrative Rulemaking Act, that:

88           (a) determine how the department will assess the employment status of an individual  
89 upon receipt of background information;

90 (b) determine when an individual would be disqualified from holding a position based  
91 on:

92 (i) the type of crimes and the severity of those crimes; or

93 (ii) one or more substantiated or supported findings of abuse, neglect, or exploitation;

94 and

95 (c) identify the appropriate privacy risk mitigation strategy to be used in accordance  
96 with Subsection 53-10-108(13)(b).

97 Section 2. Section 26B-2-120 is amended to read:

98 **26B-2-120. Background check -- Direct access to children or vulnerable adults.**

99 (1) As used in this section:

100 (a) (i) "Applicant" means, notwithstanding Section 26B-2-101:

101 (A) an individual who applies for an initial license or certification or a license or  
102 certification renewal under this part;

103 (B) an individual who is associated with a licensee and has or will likely have direct  
104 access to a child or a vulnerable adult;

105 (C) an individual who is associated with a health care provider and has or will likely  
106 have direct access to a child or a vulnerable adult;

107 [~~(D)~~] (D) an individual who provides respite care to a foster parent or an adoptive  
108 parent on more than one occasion;

109 [~~(E)~~] (E) a department contractor;

110 [~~(F)~~] (F) an individual who transports a child for a youth transportation company;

111 [~~(G)~~] (G) a guardian submitting an application on behalf of an individual, other than the  
112 child or vulnerable adult who is receiving the service, if the individual is 12 years old or older  
113 and resides in a home, that is licensed or certified by the office; or

114 [~~(H)~~] (H) a guardian submitting an application on behalf of an individual, other than  
115 the child or vulnerable adult who is receiving the service, if the individual is 12 years old or  
116 older and is a person described in Subsection (1)(a)(i)(A), (B), (C), [~~or~~] (D), or (E).

117 (ii) "Applicant" does not include:

118 (A) an individual who is in the custody of the Division of Child and Family Services or  
119 the Division of Juvenile Justice Services; or

120 (B) an individual who applies for employment with, or is employed by, the Department

121 of Health and Human Services.

122 (b) "Application" means a background screening application to the office.

123 (c) "Bureau" means the Bureau of Criminal Identification within the Department of  
124 Public Safety, created in Section 53-10-201.

125 (d) "Certified peer support specialist" means the same as that term is defined in Section  
126 26B-5-610.

127 (e) "Criminal finding" means a record of:

128 (i) an arrest or a warrant for an arrest;

129 (ii) charges for a criminal offense; or

130 (iii) a criminal conviction.

131 (f) "Incidental care" means occasional care, not in excess of five hours per week and  
132 never overnight, for a foster child.

133 (g) "Mental health professional" means an individual who:

134 (i) is licensed under Title 58, Chapter 60, Mental Health Professional Practice Act; and

135 (ii) engaged in the practice of mental health therapy.

136 (h) "Non-criminal finding" means a record maintained in:

137 (i) the Division of Child and Family Services' Management Information System  
138 described in Section 80-2-1001;

139 (ii) the Division of Child and Family Services' Licensing Information System described  
140 in Section 80-2-1002;

141 (iii) the Division of Aging and Adult Services' vulnerable adult abuse, neglect, or  
142 exploitation database described in Section 26B-6-210;

143 (iv) the Sex and Kidnap Offender Registry described in Title 77, Chapter 41, Sex and  
144 Kidnap Offender Registry, or a national sex offender registry; or

145 (v) a state child abuse or neglect registry.

146 (i) (i) "Peer support specialist" means an individual who:

147 (A) has a disability or a family member with a disability, or is in recovery from a  
148 mental illness or a substance use disorder; and

149 (B) uses personal experience to provide support, guidance, or services to promote  
150 resiliency and recovery.

151 (ii) "Peer support specialist" includes a certified peer support specialist.

- 152 (iii) "Peer support specialist" does not include a mental health professional.
- 153 (j) "Personal identifying information" means:
- 154 (i) current name, former names, nicknames, and aliases;
- 155 (ii) date of birth;
- 156 (iii) physical address and email address;
- 157 (iv) telephone number;
- 158 (v) driver license or other government-issued identification;
- 159 (vi) social security number;
- 160 (vii) only for applicants who are 18 years old or older, fingerprints, in a form specified
- 161 by the office; and
- 162 (viii) other information specified by the office by rule made in accordance with Title
- 163 63G, Chapter 3, Utah Administrative Rulemaking Act.
- 164 (k) "Practice of mental health therapy" means the same as that term is defined in
- 165 Section 58-60-102.
- 166 (2) Except as provided in Subsection (12), an applicant or a representative shall submit
- 167 the following to the office:
- 168 (a) personal identifying information;
- 169 (b) a fee established by the office under Section 63J-1-504; and
- 170 (c) a disclosure form, specified by the office, for consent for:
- 171 (i) an initial background check upon submission of the information described in this
- 172 Subsection (2);
- 173 (ii) ongoing monitoring of fingerprints and registries until no longer associated with a
- 174 licensee for 90 days;
- 175 (iii) a background check when the office determines that reasonable cause exists; and
- 176 (iv) retention of personal identifying information, including fingerprints, for
- 177 monitoring and notification as described in Subsections (3)(d) and (4); and
- 178 (d) if an applicant resided outside of the United States and its territories during the five
- 179 years immediately preceding the day on which the information described in Subsections (2)(a)
- 180 through (c) is submitted to the office, documentation establishing whether the applicant was
- 181 convicted of a crime during the time that the applicant resided outside of the United States or
- 182 its territories.

- 183 (3) The office:
- 184 (a) shall perform the following duties as part of a background check of an applicant:
- 185 (i) check state and regional criminal background databases for the applicant's criminal  
186 history by:
- 187 (A) submitting personal identifying information to the bureau for a search; or
- 188 (B) using the applicant's personal identifying information to search state and regional  
189 criminal background databases as authorized under Section 53-10-108;
- 190 (ii) submit the applicant's personal identifying information and fingerprints to the  
191 bureau for a criminal history search of applicable national criminal background databases;
- 192 (iii) search the Division of Child and Family Services' Licensing Information System  
193 described in Section 80-2-1002;
- 194 (iv) if the applicant is applying to become a prospective foster or adoptive parent,  
195 search the Division of Child and Family Services' Management Information System described  
196 in Section 80-2-1001 for:
- 197 (A) the applicant; and
- 198 (B) any adult living in the applicant's home;
- 199 (v) for an applicant described in Subsection [~~(1)(a)(i)(F)~~] (1)(a)(i)(G), search the  
200 Division of Child and Family Services' Management Information System described in Section  
201 80-2-1001;
- 202 (vi) search the Division of Aging and Adult Services' vulnerable adult abuse, neglect,  
203 or exploitation database described in Section 26B-6-210;
- 204 (vii) search the juvenile court records for substantiated findings of severe child abuse  
205 or neglect described in Section 80-3-404; and
- 206 (viii) search the juvenile court arrest, adjudication, and disposition records, as provided  
207 under Section 78A-6-209;
- 208 (b) shall conduct a background check of an applicant for an initial background check  
209 upon submission of the information described in Subsection (2);
- 210 (c) may conduct all or portions of a background check of an applicant, as provided by  
211 rule, made by the office in accordance with Title 63G, Chapter 3, Utah Administrative  
212 Rulemaking Act:
- 213 (i) for an annual renewal; or

214 (ii) when the office determines that reasonable cause exists;

215 (d) may submit an applicant's personal identifying information, including fingerprints,  
216 to the bureau for checking, retaining, and monitoring of state and national criminal background  
217 databases and for notifying the office of new criminal activity associated with the applicant;

218 (e) shall track the status of an applicant under this section to ensure that the applicant is  
219 not required to duplicate the submission of the applicant's fingerprints if the applicant applies  
220 for:

221 (i) more than one license;

222 (ii) direct access to a child or a vulnerable adult in more than one human services  
223 program; or

224 (iii) direct access to a child or a vulnerable adult under a contract with the department;

225 (f) shall track the status of each individual with direct access to a child or a vulnerable  
226 adult and notify the bureau within 90 days after the day on which the license expires or the  
227 individual's direct access to a child or a vulnerable adult ceases;

228 (g) shall adopt measures to strictly limit access to personal identifying information  
229 solely to the individuals responsible for processing and entering the applications for  
230 background checks and to protect the security of the personal identifying information the office  
231 reviews under this Subsection (3);

232 (h) as necessary to comply with the federal requirement to check a state's child abuse  
233 and neglect registry regarding any individual working in a congregate care program, shall:

234 (i) search the Division of Child and Family Services' Licensing Information System  
235 described in Section [80-2-1002](#); and

236 (ii) require the child abuse and neglect registry be checked in each state where an  
237 applicant resided at any time during the five years immediately preceding the day on which the  
238 applicant submits the information described in Subsection (2) to the office; and

239 (i) shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative  
240 Rulemaking Act, to implement the provisions of this Subsection (3) relating to background  
241 checks.

242 (4) (a) With the personal identifying information the office submits to the bureau under  
243 Subsection (3), the bureau shall check against state and regional criminal background databases  
244 for the applicant's criminal history.



245 (b) With the personal identifying information and fingerprints the office submits to the  
246 bureau under Subsection (3), the bureau shall check against national criminal background  
247 databases for the applicant's criminal history.

248 (c) Upon direction from the office, and with the personal identifying information and  
249 fingerprints the office submits to the bureau under Subsection (3)(d), the bureau shall:

250 (i) maintain a separate file of the fingerprints for search by future submissions to the  
251 local and regional criminal records databases, including latent prints; and

252 (ii) monitor state and regional criminal background databases and identify criminal  
253 activity associated with the applicant.

254 (d) The bureau is authorized to submit the fingerprints to the Federal Bureau of  
255 Investigation Next Generation Identification System, to be retained in the Federal Bureau of  
256 Investigation Next Generation Identification System for the purpose of:

257 (i) being searched by future submissions to the national criminal records databases,  
258 including the Federal Bureau of Investigation Next Generation Identification System and latent  
259 prints; and

260 (ii) monitoring national criminal background databases and identifying criminal  
261 activity associated with the applicant.

262 (e) The Bureau shall notify and release to the office all information of criminal activity  
263 associated with the applicant.

264 (f) Upon notice that an individual's direct access to a child or a vulnerable adult has  
265 ceased for 90 days, the bureau shall:

266 (i) discard and destroy any retained fingerprints; and

267 (ii) notify the Federal Bureau of Investigation when the license has expired or an  
268 individual's direct access to a child or a vulnerable adult has ceased, so that the Federal Bureau  
269 of Investigation will discard and destroy the retained fingerprints from the Federal Bureau of  
270 Investigation Next Generation Identification System.

271 (5) (a) Except as provided in Subsection (5)(b), after conducting the background check  
272 described in Subsections (3) and (4), the office shall deny an application to an applicant who,  
273 within three years before the day on which the applicant submits information to the office  
274 under Subsection (2) for a background check, has been convicted of:

275 (i) a felony or misdemeanor involving conduct that constitutes any of the following:

276 (A) an offense identified as domestic violence, lewdness, voyeurism, battery, cruelty to  
277 animals, or bestiality;

278 (B) a violation of any pornography law, including sexual exploitation of a minor or  
279 aggravated sexual exploitation of a minor;

280 (C) sexual solicitation;

281 (D) an offense included in Title 76, Chapter 5, Offenses Against the Individual, Title  
282 76, Chapter 5b, Sexual Exploitation Act, Title 76, Chapter 4, Part 4, Enticement of a Minor, or  
283 Title 76, Chapter 7, Offenses Against the Family;

284 (E) aggravated arson, as described in Section 76-6-103;

285 (F) aggravated burglary, as described in Section 76-6-203;

286 (G) aggravated robbery, as described in Section 76-6-302;

287 (H) identity fraud crime, as described in Section 76-6-1102;

288 (I) sexual battery, as described in Section 76-9-702.1; or

289 (J) a violent offense committed in the presence of a child, as described in Section  
290 76-3-203.10; or

291 (ii) a felony or misdemeanor offense committed outside of the state that, if committed  
292 in the state, would constitute a violation of an offense described in Subsection (5)(a)(i).

293 (b) (i) Subsection (5)(a) does not apply to an applicant who is seeking a position as a  
294 peer support provider, a mental health professional, or in a program that serves only adults with  
295 a primary mental health diagnosis, with or without a co-occurring substance use disorder.

296 (ii) The office shall conduct a comprehensive review of an applicant described in  
297 Subsection (5)(b)(i) in accordance with Subsection (6).

298 (6) The office shall conduct a comprehensive review of an applicant's background  
299 check if the applicant:

300 (a) has a felony or class A misdemeanor conviction for an offense described in  
301 Subsection (5) with a date of conviction that is more than three years before the date on which  
302 the applicant submits the information described in Subsection (2);

303 (b) has a felony charge or conviction for an offense not described in Subsection (5)  
304 with a date of charge or conviction that is no more than 10 years before the date on which the  
305 applicant submits the application under Subsection (2) and no criminal findings or  
306 non-criminal findings after the date of conviction;

307 (c) has a class B misdemeanor or class C misdemeanor conviction for an offense  
308 described in Subsection (5) with a date of conviction that is more than three years after, and no  
309 more than 10 years before, the date on which the applicant submits the information described  
310 in Subsection (2) and no criminal findings or non-criminal findings after the date of conviction;

311 (d) has a misdemeanor conviction for an offense not described in Subsection (5) with a  
312 date of conviction that is no more than three years before the date on which the applicant  
313 submits information described in Subsection (2) and no criminal findings or non-criminal  
314 findings after the date of conviction;

315 (e) is currently subject to a plea in abeyance or diversion agreement for an offense  
316 described in Subsection (5);

317 (f) appears on the Sex and Kidnap Offender Registry described in Title 77, Chapter 41,  
318 Sex and Kidnap Offender Registry, or a national sex offender registry;

319 (g) has a record of an adjudication in juvenile court for an act that, if committed by an  
320 adult, would be a felony or misdemeanor, if the applicant is:

321 (i) under 28 years old; or

322 (ii) 28 years old or older and has been convicted of, has pleaded no contest to, or is  
323 currently subject to a plea in abeyance or diversion agreement for a felony or a misdemeanor  
324 offense described in Subsection (5);

325 (h) has a pending charge for an offense described in Subsection (5);

326 (i) has a listing in the Division of Child and Family Services' Licensing Information  
327 System described in Section 80-2-1002 that occurred no more than 15 years before the date on  
328 which the applicant submits the information described in Subsection (2) and no criminal  
329 findings or non-criminal findings dated after the date of the listing;

330 (j) has a listing in the Division of Aging and Adult Services' vulnerable adult abuse,  
331 neglect, or exploitation database described in Section 26B-6-210 that occurred no more than 15  
332 years before the date on which the applicant submits the information described in Subsection  
333 (2) and no criminal findings or non-criminal findings dated after the date of the listing;

334 (k) has a substantiated finding of severe child abuse or neglect under Section 80-3-404  
335 or 80-3-504 that occurred no more than 15 years before the date on which the applicant submits  
336 the information described in Subsection (2) and no criminal findings or non-criminal findings  
337 dated after the date of the finding;

- 338 (l) (i) is seeking a position:
- 339 (A) as a peer support provider;
- 340 (B) as a mental health professional; or
- 341 (C) in a program that serves only adults with a primary mental health diagnosis, with or
- 342 without a co-occurring substance use disorder; and
- 343 (ii) within three years before the day on which the applicant submits the information
- 344 described in Subsection (2):
- 345 (A) has a felony or misdemeanor charge or conviction;
- 346 (B) has a listing in the Division of Child and Family Services' Licensing Information
- 347 System described in Section 80-2-1002;
- 348 (C) has a listing in the Division of Aging and Adult Services' vulnerable adult abuse,
- 349 neglect, or exploitation database described in Section 26B-6-210; or
- 350 (D) has a substantiated finding of severe child abuse or neglect under Section 80-3-404
- 351 or 80-3-504;
- 352 (m) (i) (A) is seeking a position in a congregate care program;
- 353 (B) is seeking to become a prospective foster or adoptive parent; or
- 354 (C) is an applicant described in Subsection ~~[(1)(a)(i)(F)]~~ (1)(a)(i)(G); and
- 355 (ii) (A) has an infraction conviction for conduct that constitutes an offense or violation
- 356 described in Subsection (5)(a)(i)(A) or (B);
- 357 (B) has a listing in the Division of Child and Family Services' Licensing Information
- 358 System described in Section 80-2-1002;
- 359 (C) has a listing in the Division of Aging and Adult Services' vulnerable adult abuse,
- 360 neglect, or exploitation database described in Section 26B-6-210;
- 361 (D) has a substantiated finding of severe child abuse or neglect under Section 80-3-404
- 362 or 80-3-504; or
- 363 (E) has a listing on the registry check described in Subsection (13)(a) as having a
- 364 substantiated or supported finding of a severe type of child abuse or neglect as defined in
- 365 Section 80-1-102; or
- 366 (n) is seeking to become a prospective foster or adoptive parent and has, or has an adult
- 367 living with the applicant who has, a conviction, finding, or listing described in Subsection
- 368 (6)(m)(ii).

369 (7) (a) The comprehensive review shall include an examination of:  
370 (i) the date of the offense or incident;  
371 (ii) the nature and seriousness of the offense or incident;  
372 (iii) the circumstances under which the offense or incident occurred;  
373 (iv) the age of the perpetrator when the offense or incident occurred;  
374 (v) whether the offense or incident was an isolated or repeated incident;  
375 (vi) whether the offense or incident directly relates to abuse of a child or vulnerable  
376 adult, including:  
377 (A) actual or threatened, nonaccidental physical, mental, or financial harm;  
378 (B) sexual abuse;  
379 (C) sexual exploitation; or  
380 (D) negligent treatment;  
381 (vii) any evidence provided by the applicant of rehabilitation, counseling, psychiatric  
382 treatment received, or additional academic or vocational schooling completed; and  
383 (viii) the applicant's risk of harm to clientele in the program or in the capacity for  
384 which the applicant is applying.  
385 (b) At the conclusion of the comprehensive review, the office shall deny an application  
386 to an applicant if the office finds:  
387 (i) that approval would likely create a risk of harm to a child or a vulnerable adult; or  
388 (ii) an individual is prohibited from having direct access to a child or vulnerable adult  
389 by court order.  
390 (8) The office shall approve an application to an applicant who is not denied under this  
391 section.  
392 (9) (a) The office may conditionally approve an application of an applicant, for a  
393 maximum of 60 days after the day on which the office sends written notice to the applicant  
394 under Subsection (11), without requiring that the applicant be directly supervised, if the office:  
395 (i) is awaiting the results of the criminal history search of national criminal background  
396 databases; and  
397 (ii) would otherwise approve an application of the applicant under this section.  
398 (b) The office may conditionally approve an application of an applicant, for a  
399 maximum of one year after the day on which the office sends written notice to the applicant

400 under Subsection (11), without requiring that the applicant be directly supervised if the office:

401 (i) is awaiting the results of an out-of-state registry for providers other than foster and  
402 adoptive parents; and

403 (ii) would otherwise approve an application of the applicant under this section.

404 (c) Upon receiving the results of the criminal history search of a national criminal  
405 background database, the office shall approve or deny the application of the applicant in  
406 accordance with this section.

407 (10) (a) A licensee or department contractor may not permit an individual to have  
408 direct access to a child or a vulnerable adult without being directly supervised unless:

409 (i) the individual is associated with the licensee or department contractor and the  
410 department conducts a background screening in accordance with this section;

411 (ii) the individual is the parent or guardian of the child, or the guardian of the  
412 vulnerable adult;

413 (iii) the individual is approved by the parent or guardian of the child, or the guardian of  
414 the vulnerable adult, to have direct access to the child or the vulnerable adult;

415 (iv) the individual is only permitted to have direct access to a vulnerable adult who  
416 voluntarily invites the individual to visit; or

417 (v) the individual only provides incidental care for a foster child on behalf of a foster  
418 parent who has used reasonable and prudent judgment to select the individual to provide the  
419 incidental care for the foster child.

420 (b) Notwithstanding any other provision of this section, an individual for whom the  
421 office denies an application may not have direct access to a child or vulnerable adult unless the  
422 office approves a subsequent application by the individual.

423 (11) (a) Within 30 days after the day on which the applicant submits the information  
424 described in Subsection (2), the office shall notify the applicant of any potentially disqualifying  
425 criminal findings or non-criminal findings.

426 (b) If the notice under Subsection (11)(a) states that the applicant's application is  
427 denied, the notice shall further advise the applicant that the applicant may, under Subsection  
428 [26B-2-111\(2\)](#), request a hearing in the department's Office of Administrative Hearings, to  
429 challenge the office's decision.

430 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

431 office shall make rules, consistent with this part:

432 (i) defining procedures for the challenge of the office's background check decision  
433 described in Subsection (11)(b); and

434 (ii) expediting the process for renewal of a license under the requirements of this  
435 section and other applicable sections.

436 (12) (a) An individual or a department contractor who provides services in an adults  
437 only substance use disorder program, as defined by rule made in accordance with Title 63G,  
438 Chapter 3, Utah Administrative Rulemaking Act, is exempt from this section.

439 (b) The exemption described in Subsection (12)(a) does not extend to a program  
440 director or a member, as defined by Section 26B-2-105, of the program.

441 (c) An individual who would qualify as an applicant solely under Subsection  
442 (1)(a)(i)(C) is exempt from this section if the individual, on or before May 1, 2024, holds a  
443 license that requires a background check under Title 58, Occupations and Professions.

444 (13) (a) Except as provided in Subsection (13)(b), in addition to the other requirements  
445 of this section, if the background check of an applicant is being conducted for the purpose of  
446 giving clearance status to an applicant seeking a position in a congregate care program or an  
447 applicant seeking to become a prospective foster or adoptive parent, the office shall:

448 (i) check the child abuse and neglect registry in each state where each applicant resided  
449 in the five years immediately preceding the day on which the applicant applied to be a foster or  
450 adoptive parent, to determine whether the prospective foster or adoptive parent is listed in the  
451 registry as having a substantiated or supported finding of child abuse or neglect; and

452 (ii) check the child abuse and neglect registry in each state where each adult living in  
453 the home of the applicant described in Subsection (13)(a)(i) resided in the five years  
454 immediately preceding the day on which the applicant applied to be a foster or adoptive parent,  
455 to determine whether the adult is listed in the registry as having a substantiated or supported  
456 finding of child abuse or neglect.

457 (b) The requirements described in Subsection (13)(a) do not apply to the extent that:

458 (i) federal law or rule permits otherwise; or

459 (ii) the requirements would prohibit the Division of Child and Family Services or a  
460 court from placing a child with:

461 (A) a noncustodial parent under Section 80-2a-301, 80-3-302, or 80-3-303; or

462 (B) a relative, other than a noncustodial parent, under Section 80-2a-301, 80-3-302, or  
463 80-3-303, pending completion of the background check described in Subsection (5).

464 (c) Notwithstanding Subsections (5) through (10), the office shall deny a clearance to  
465 an applicant seeking a position in a congregate care program or an applicant to become a  
466 prospective foster or adoptive parent if the applicant has been convicted of:

467 (i) a felony involving conduct that constitutes any of the following:

468 (A) child abuse, as described in Sections 76-5-109, 76-5-109.2, and 76-5-109.3;

469 (B) commission of domestic violence in the presence of a child, as described in Section  
470 76-5-114;

471 (C) abuse or neglect of a child with a disability, as described in Section 76-5-110;

472 (D) endangerment of a child or vulnerable adult, as described in Section 76-5-112.5;

473 (E) aggravated murder, as described in Section 76-5-202;

474 (F) murder, as described in Section 76-5-203;

475 (G) manslaughter, as described in Section 76-5-205;

476 (H) child abuse homicide, as described in Section 76-5-208;

477 (I) homicide by assault, as described in Section 76-5-209;

478 (J) kidnapping, as described in Section 76-5-301;

479 (K) child kidnapping, as described in Section 76-5-301.1;

480 (L) aggravated kidnapping, as described in Section 76-5-302;

481 (M) human trafficking of a child, as described in Section 76-5-308.5;

482 (N) an offense described in Title 76, Chapter 5, Part 4, Sexual Offenses;

483 (O) sexual exploitation of a minor, as described in Title 76, Chapter 5b, Sexual  
484 Exploitation Act;

485 (P) aggravated exploitation of a minor, as described in Section 76-5b-201.1;

486 (Q) aggravated arson, as described in Section 76-6-103;

487 (R) aggravated burglary, as described in Section 76-6-203;

488 (S) aggravated robbery, as described in Section 76-6-302;

489 (T) lewdness involving a child, as described in Section 76-9-702.5;

490 (U) incest, as described in Section 76-7-102; or

491 (V) domestic violence, as described in Section 77-36-1; or

492 (ii) an offense committed outside the state that, if committed in the state, would



493 constitute a violation of an offense described in Subsection (13)(c)(i).

494 (d) Notwithstanding Subsections (5) through (10), the office shall deny a license or  
495 license renewal to an individual seeking a position in a congregate care program or a  
496 prospective foster or adoptive parent if, within the five years immediately preceding the day on  
497 which the individual's application or license would otherwise be approved, the individual was  
498 convicted of a felony involving conduct that constitutes a violation of any of the following:

- 499 (i) aggravated assault, as described in Section 76-5-103;  
500 (ii) aggravated assault by a prisoner, as described in Section 76-5-103.5;  
501 (iii) mayhem, as described in Section 76-5-105;  
502 (iv) an offense described in Title 58, Chapter 37, Utah Controlled Substances Act;  
503 (v) an offense described in Title 58, Chapter 37a, Utah Drug Paraphernalia Act;  
504 (vi) an offense described in Title 58, Chapter 37b, Imitation Controlled Substances  
505 Act;  
506 (vii) an offense described in Title 58, Chapter 37c, Utah Controlled Substance  
507 Precursor Act; or  
508 (viii) an offense described in Title 58, Chapter 37d, Clandestine Drug Lab Act.

509 (e) In addition to the circumstances described in Subsection (6), the office shall  
510 conduct the comprehensive review of an applicant's background check under this section if the  
511 registry check described in Subsection (13)(a) indicates that the individual is listed in a child  
512 abuse and neglect registry of another state as having a substantiated or supported finding of a  
513 severe type of child abuse or neglect as defined in Section 80-1-102.

514 (14) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,  
515 the office may make rules, consistent with this part, to:

- 516 (a) establish procedures for, and information to be examined in, the comprehensive  
517 review described in Subsections (6) and (7); and  
518 (b) determine whether to consider an offense or incident that occurred while an  
519 individual was in the custody of the Division of Child and Family Services or the Division of  
520 Juvenile Justice Services for purposes of approval or denial of an application for a prospective  
521 foster or adoptive parent.

522 Section 3. Section 58-1-106 is amended to read:

523 **58-1-106. Division -- Duties, functions, and responsibilities.**

- 524 (1) The duties, functions, and responsibilities of the division include the following:
- 525 (a) prescribing, adopting, and enforcing rules to administer this title;
- 526 (b) investigating the activities of any person whose occupation or profession is
- 527 regulated or governed by the laws and rules administered and enforced by the division;
- 528 (c) subpoenaing witnesses, taking evidence, and requiring by subpoena duces tecum
- 529 the production of any books, papers, documents, records, contracts, recordings, tapes,
- 530 correspondence, or information relevant to an investigation upon a finding of sufficient need by
- 531 the director or by the director's designee;
- 532 (d) taking administrative and judicial action against persons in violation of the laws
- 533 and rules administered and enforced by the division, including the issuance of cease and desist
- 534 orders;
- 535 (e) seeking injunctions and temporary restraining orders to restrain unauthorized
- 536 activity;
- 537 (f) complying with Title 52, Chapter 4, Open and Public Meetings Act;
- 538 (g) issuing, refusing to issue, revoking, suspending, renewing, refusing to renew, or
- 539 otherwise acting upon any license;
- 540 (h) preparing and submitting to the governor and the Legislature an annual report of the
- 541 division's operations, activities, and goals;
- 542 (i) preparing and submitting to the executive director a budget of the expenses for the
- 543 division;
- 544 (j) establishing the time and place for the administration of examinations; [~~and~~]
- 545 (k) preparing lists of licensees and making these lists available to the public at cost
- 546 upon request unless otherwise prohibited by state or federal law[-]; and
- 547 (l) complying with the requirements described in Part 7, Vulnerable Population Abuse
- 548 Registry.
- 549 (2) The division may not include home telephone numbers or home addresses of
- 550 licensees on the lists prepared under Subsection (1)(k), except as otherwise provided by rules
- 551 of the division made in accordance with Title 63G, Chapter 3, Utah Administrative
- 552 Rulemaking Act.
- 553 (3) (a) The division may provide the home address or home telephone number of a
- 554 licensee on a list prepared under Subsection (1) upon the request of an individual who provides

555 proper identification and the reason for the request, in writing, to the division.

556 (b) A request under Subsection (3)(a) is limited to providing information on only one  
557 licensee per request.

558 (c) The division shall provide, by rule, what constitutes proper identification under  
559 Subsection (3)(a).

560 (4) (a) Notwithstanding any contrary provisions in Title 63G, Chapter 2, Government  
561 Records Access and Management Act, the division may share licensee information with:

562 (i) the division's contracted agents when sharing the information in compliance with  
563 state or federal law; and

564 (ii) a person who is evaluating the progress or monitoring the compliance of an  
565 individual who has been disciplined by the division under this title.

566 (b) The division may make rules to implement the provisions of this Subsection (4).

567 (5) All rules made by the division under this title shall be made in accordance with  
568 Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

569 Section 4. Section **58-1-701** is enacted to read:

570 **Part 7. Vulnerable Population Abuse Registry**

571 **58-1-701. Definitions.**

572 As used in this part:

573 (1) "Business day" means a day on which state offices are open for regular business.

574 (2) "Conviction" means the same as the term "convicted" is defined in Section

575 [76-3-201](#).

576 (3) "Correctional facility" means the same as that term is defined in Section [64-13-1](#).

577 (4) "Department" means the Department of Corrections.

578 (5) "Offender" means an individual required to register as provided in Section

579 [58-1-703](#).

580 (6) (a) "Online identifier" means an email, chat, instant messenger, social networking,  
581 or similar name used for Internet communication.

582 (b) "Online identifier" does not mean a date of birth, social security number, PIN  
583 number, or Internet password.

584 (7) "Primary residence" means the location where the offender regularly resides, even  
585 if the offender intends to move to another location or return to another location at a future time.

586 (8) "Register" means to comply with the requirements of this part and the rules made  
587 by the division under this part.

588 (9) "Registry website" means the Vulnerable Population Abuse Registry website  
589 described in Section 58-1-702 and the information on the website.

590 (10) "Traffic offense" does not include a violation of Title 41, Chapter 6a, Part 5,  
591 Driving Under the Influence and Reckless Driving.

592 Section 5. Section **58-1-702** is enacted to read:

593 **58-1-702. Vulnerable Population Abuse Registry -- Division and agency**  
594 **requirements.**

595 (1) The division shall:

596 (a) develop and operate a system to collect, analyze, maintain, and disseminate  
597 information on offenders;

598 (b) make information listed in Subsection (2)(a) available to the public;

599 (c) share information provided by an offender under this part that may not be made  
600 available to the public under Subsection (2)(a):

601 (i) for the purposes of this part; or

602 (ii) in accordance with Section 63G-2-206;

603 (d) ensure that information is entered into the registry in a timely manner;

604 (e) maintain the registry website;

605 (f) index the registry website by:

606 (i) the surname of the offender; and

607 (ii) postal code;

608 (g) include on the registry website a disclaimer that informs the public that:

609 (i) the information contained on the registry website is obtained from offenders and  
610 government records and the division does not guarantee the registry website's accuracy or  
611 completeness;

612 (ii) members of the public are not allowed to use information from the registry website  
613 to harass or threaten an offender or a member of an offender's family; and

614 (iii) harassment, stalking, or threats against an offender or an offender's family is  
615 prohibited and may violate Utah criminal laws; and

616 (h) construct and maintain the registry website so that before a user may access registry

617 website information, the user is required to indicate that the user has read and agrees to comply  
618 with the terms of the disclaimer described in Subsection (1)(g).

619 (2) (a) Except as provided in Subsection (2)(c), the registry website shall include for  
620 each offender:

621 (i) the offender's name;

622 (ii) any aliases by which the offender is known, but not including any online  
623 identifiers;

624 (iii) the postal code of the offender's primary residence;

625 (iv) the offender's physical description, including date of birth, height, weight, eye  
626 color, and hair color;

627 (v) a current photograph of the offender;

628 (vi) the offenses listed in Section 58-1-703 of which the offender has been convicted;

629 and

630 (vii) any other relevant identifying information as determined by the division.

631 (b) The information described in Subsection (2)(a) may be obtained from court records,  
632 prison or jail booking records, driver license records, or another source that is lawfully  
633 available to the division.

634 (c) The division shall redact the names, addresses, phone numbers, and other  
635 information that, if disclosed, specifically identifies individual victims.

636 (3) A court shall, within three business days after the day on which a conviction is  
637 entered for an offense listed in Section 58-1-703, forward a signed copy of the conviction to the  
638 division.

639 (4) If an offender is in the custody of the department, the department shall register the  
640 offender upon the offender's:

641 (a) release from confinement based on parole status, termination or expiration of  
642 sentence, or escape; or

643 (b) entrance to or release from a community-based residential treatment program  
644 operated by or under contract with the department.

645 (5) If an offender is not in the custody of the department and is confined in a  
646 correctional facility not operated by or under contract with the department, the sheriff of the  
647 county in which the offender is confined shall register the offender upon the offender's release

648 from confinement.

649 (6) If an offender is in the custody of the Division of Juvenile Justice Services, the  
650 Division of Juvenile Justice Services shall register the offender with the division before  
651 releasing the offender from custody.

652 (7) An agency in the state that registers an offender on probation, an offender who has  
653 been released from confinement to parole status or termination, or an offender whose sentence  
654 has expired, shall inform the offender of the duty to comply with the continuing registration  
655 requirements of this part during the offender's period of registration.

656 (8) The division and any individual or entity acting at the request of or upon the  
657 direction of the division are:

658 (a) immune from civil liability for damages; and

659 (b) presumed to have acted in good faith by reporting, processing, and posting the  
660 information in the registry.

661 (9) The division may make rules, in accordance with Title 63G, Chapter 3, Utah  
662 Administrative Rulemaking Act, to implement this part.

663 Section 6. Section **58-1-703** is enacted to read:

664 **58-1-703. Individuals who are required to register -- Registerable offenses.**

665 (1) An individual is required to register with the division if the individual:

666 (a) has a conviction for one or more of the following offenses:

667 (i) Section [76-5-110](#), abuse or neglect of a child with a disability;

668 (ii) Section [76-5-111](#), abuse of a vulnerable adult;

669 (iii) Section [76-5-111.2](#), aggravated abuse of a vulnerable adult;

670 (iv) Section [76-5-111.3](#), personal dignity exploitation of a vulnerable adult;

671 (v) Section [76-5-111.4](#), financial exploitation of a vulnerable adult;

672 (vi) Section [76-5-112.5](#), endangerment of a child or vulnerable adult; or

673 (vii) attempting, soliciting, or conspiring to commit an offense listed in Subsections

674 (1)(a)(i) through (vi); or

675 (b) (i) has been convicted of a crime, or an attempt, solicitation, or conspiracy to  
676 commit a crime, in another jurisdiction, including a state, federal, or military court, that is  
677 substantially equivalent to the offenses listed in Subsection (1)(a); and

678 (ii) (A) is a Utah resident; or

679 (B) is not a Utah resident, but who, in any 12-month period, is in this state for a total of  
680 30 or more days, regardless of whether the individual intends to permanently reside in this  
681 state;

682 (c) was found not guilty by reason of insanity in this state of an offense under  
683 Subsection (1)(a) or in another jurisdiction under circumstances that would require registration  
684 under Subsection (1)(b); or

685 (d) was adjudicated delinquent based on one or more offenses listed in Subsection  
686 (1)(a) and who has been committed to the Division of Juvenile Justice Services for that offense  
687 and remains in the custody of the Division of Juvenile Justice Services 30 days before the  
688 individual's 21st birthday.

689 (2) An individual who is required to register under this section shall register as an  
690 offender as described in Section [58-1-704](#).

691 Section 7. Section **58-1-704** is enacted to read:

692 **58-1-704. Registration on Vulnerable Population Abuse Registry -- Offender**  
693 **responsibilities.**

694 (1) An offender with a conviction for any offense listed in Section [58-1-703](#) shall  
695 remain on the registry for:

696 (a) a period of 10 years after the day on which the offender completes the offender's  
697 sentence for a misdemeanor conviction; and

698 (b) a lifetime period for a felony conviction.

699 (2) (a) The registration requirement described in Subsection (1) is not subject to  
700 exemptions and may not be terminated or altered.

701 (b) An offender is required to remain on the registry as described in Subsection (1)  
702 even if the offender's offense is expunged under Title 77, Chapter 40a, Expungement, or  
703 reduced to a lower degree of offense under Section [76-3-402](#).

704 (3) (a) An offender who is required to register under Section [58-1-703](#) shall register  
705 with the division to be included on the registry in the manner prescribed by the division no later  
706 than 30 days after the day on which:

707 (i) the offender's sentence is entered, if the offender is not subject to confinement as  
708 part of sentencing;

709 (ii) the offender is released from confinement; or

710 (iii) the offender is present in the state for 30 or more days.  
711 (b) For the duration that an offender is required to register under Subsection (1), the  
712 offender shall register:  
713 (i) every year during the month of the offender's date of birth, and pay a \$100 fee to the  
714 division; and  
715 (ii) within three business days of the offender's change of:  
716 (A) primary residence; or  
717 (B) place of employment.  
718 (c) An offender shall provide the division with the following information:  
719 (i) all names and aliases by which the offender is or has been known;  
720 (ii) the address of the offender's primary residence;  
721 (iii) a physical description, including the offender's date of birth, height, weight, eye  
722 color, and hair color;  
723 (iv) a current photograph of the offender;  
724 (v) telephone numbers used by the offender;  
725 (vi) a copy of the offender's passport, if a passport has been issued to the offender;  
726 (vii) all professional licenses that authorize the offender to engage in an occupation or  
727 carry out a trade or business, including any identifiers, such as numbers;  
728 (viii) the name, telephone number, and address of the offender's place of employment;  
729 (ix) the name, telephone number, and address of any place that the offender works as a  
730 volunteer;  
731 (x) the offender's social security number; and  
732 (xi) if relevant to the offender's offense, the offender's online identifiers.  
733 (4) (a) An offender may change the offender's name in accordance with Title 42,  
734 Chapter 1, Change of Name, if the name change is not contrary to the interests of the public.  
735 (b) Notwithstanding Section 42-1-2, an offender shall provide notice to the division at  
736 least 30 days before the day on which the hearing for the name change is held.  
737 (c) The court shall provide a copy of the order granting the offender's name change to  
738 the division within 10 days after the day on which the court issues the order.  
739 (d) If the court orders an offender's name changed, the division shall publish on the  
740 registry website the offender's former name, and the offender's changed name as an alias.



741 (5) The division shall deposit fees collected from an offender under Subsection  
742 (3)(b)(i) into the General Fund as a dedicated credit, to be used by the division for maintaining  
743 the registry under this part and monitoring offender registration compliance, including the costs  
744 of:

- 745 (a) data entry;
- 746 (b) processing registrations;
- 747 (c) updating registration information; and
- 748 (d) ensuring offender compliance with registration requirements under this part.

749 Section 8. Section **58-1-705** is enacted to read:

750 **58-1-705. Penalties for failure to register.**

751 (1) An offender who knowingly fails to register as required under Subsection  
752 58-1-704(3) or provides false or incomplete information is guilty of a class A misdemeanor.

753 (2) An offender who violates Subsection (1) shall be sentenced to serve a term of  
754 imprisonment of not less than 30 days.

755 (3) (a) The Board of Pardons and Parole or a court may not release an offender who is  
756 serving a term of imprisonment under Subsection (2).

757 (b) Subsection (3)(a) supersedes any contrary provision of law.

758 Section 9. Section **58-1-706** is enacted to read:

759 **58-1-706. Classification of information.**

760 Notwithstanding Title 63G, Chapter 2, Government Records Access and Management  
761 Act, information under Subsection 58-1-702(2)(a) is public information, unless otherwise  
762 restricted under Subsection 58-1-702(2)(c).

763 Section 10. **Effective date.**

764 This bill takes effect on May 1, 2024.