

Utah

TITLE 53. PUBLIC SAFETY CODE CHAPTER 10. CRIMINAL INVESTIGATIONS AND TECHNICAL SERVICES DIVISION PART 1. GENERAL PROVISIONS

Utah Code Ann. § 53-10-102 (2005)

§ 53-10-102. Definitions

As used in this chapter:

(1) "Administration of criminal justice" means performance of any of the following: detection, apprehension, detention, pretrial release, posttrial release, prosecution, adjudication, correctional supervision, or rehabilitation of accused persons or criminal offenders.

(2) "Alcoholic beverages" has the same meaning as provided in Section 32A-1-105.

(3) "Alcoholic products" has the same meaning as provided in Section 32A-1-105.

(4) "Commission" means the Alcoholic Beverage Control Commission.

(5) "Communications services" means the technology of reception, relay, and transmission of information required by public safety agencies in the performance of their duty.

(6) "Conviction record" means criminal history information indicating a record of a criminal charge which has led to a declaration of guilt of an offense.

(7) "Criminal history record information" means information on individuals consisting of identifiable descriptions and notations of:

(a) arrests, detentions, indictments, informations, or other formal criminal charges, and any disposition arising from any of them; and

(b) sentencing, correctional supervision, and release.

(8) "Criminalist" means the scientific discipline directed to the recognition, identification, individualization, and evaluation of physical evidence by application of the natural sciences in law-science matters.

(9) "Criminal justice agency" means courts or a government agency or subdivision of a government agency that administers criminal justice under a statute, executive order, or local ordinance and that allocates greater than 50% of its annual budget to the administration of criminal justice.

(10) "Department" means the Department of Public Safety.

(11) "Director" means the division director appointed under Section 53-10-103.

(12) "Division" means the Criminal Investigations and Technical Services Division created in Section 53-10-103.

(13) "Executive order" means an order of the president of the United States or the chief executive of a state that has the force of law and that is published in a manner permitting regular public access to it.

(14) "Forensic" means dealing with the application of scientific knowledge relating to criminal evidence.

(15) "**Missing child**" means any **person** under the age of 18 years who is **missing** from his or her home environment or a temporary placement facility for any reason and whose location cannot be determined by the **person** responsible for the **child's** care.

(16) "**Missing person**" has the same meaning as provided in Section 26-2-27.

(17) "Pathogens" means disease-causing agents.

(18) "Physical evidence" means something submitted to the bureau to determine the truth of a matter using scientific methods of analysis.

(19) "Qualifying entity" means a business, organization, or a governmental entity which employs persons who deal with:

- (a) national security interests;
- (b) care, custody, or control of children;
- (c) fiduciary trust over money; or
- (d) health care to children or vulnerable adults.

§ 53-10-108. Restrictions on access, use, and contents of division records -- Limited use of records for employment purposes -- Challenging accuracy of records -- Usage fees -- Missing children records

(1) Dissemination of information from a criminal history record or warrant of arrest information from division files is limited to:

(a) criminal justice agencies for purposes of administration of criminal justice and for employment screening by criminal justice agencies;

(b) noncriminal justice agencies or individuals for any purpose authorized by statute, executive order, court rule, court order, or local ordinance;

(c) agencies or individuals for the purpose of obtaining required clearances connected with foreign travel or obtaining citizenship;

(d) (i) agencies or individuals pursuant to a specific agreement with a criminal justice agency to provide services required for the administration of criminal justice; and

(ii) the agreement shall specifically authorize access to data, limit the use of the data to purposes for which given, and ensure the security and confidentiality of the data;

(e) agencies or individuals for the purpose of a preplacement adoptive study, in accordance with the requirements of Section 78-30-3.5;

(f) (i) agencies and individuals as the commissioner authorizes for the express purpose of research, evaluative, or statistical activities pursuant to an agreement with a criminal justice agency; and

(ii) private security agencies through guidelines established by the commissioner for employment background checks for their own employees and prospective employees;

(g) a qualifying entity for employment background checks for their own employees and persons who have applied for employment with the qualifying entity; and

(h) other agencies and individuals as the commissioner authorizes and finds necessary for protection of life and property and for offender identification, apprehension, and prosecution pursuant to an agreement.

(2) An agreement under Subsection (1)(f) or (1)(h) shall specifically authorize access to data, limit the use of data to research, evaluative, or statistical purposes, preserve the anonymity of individuals to whom the information relates, and ensure the confidentiality and security of the data.

(3) (a) Before requesting information under Subsection (1)(g), a qualifying entity must obtain a signed waiver from the person whose information is requested.

(b) The waiver must notify the signee:

(i) that a criminal history background check will be conducted;

(ii) who will see the information; and

(iii) how the information will be used.

(c) Information received by a qualifying entity under Subsection (1)(g) may only be:

(i) available to persons involved in the hiring or background investigation of the employee; and

(ii) used for the purpose of assisting in making an employment or promotion decision.

(d) A person who disseminates or uses information obtained from the division under Subsection (1)(g) for purposes other than those specified under Subsection (3)(c), in addition to any penalties provided under this section, is subject to civil liability.

(e) A qualifying entity that obtains information under Subsection (1)(g) shall provide the employee or employment applicant an opportunity to:

(i) review the information received as provided under Subsection (8); and

(ii) respond to any information received.

(f) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the division may make rules to implement this Subsection (3).

(g) (i) The applicant fingerprint card fee under Subsection (1)(g) is \$ 15.

(ii) The name check fee under Subsection (1)(g) is \$ 10.

(iii) These fees remain in effect until changed by the division through the process under Section 63-38-3.2.

(iv) Funds generated under Subsections (3)(g)(i), (3)(g)(ii), and (8)(b) shall be deposited in the General Fund as a dedicated credit by the department to cover the costs incurred in providing the information.

(h) The division or its employees are not liable for defamation, invasion of privacy, negligence, or any other claim in connection with the contents of information disseminated under Subsection (1)(g).

(4) Any criminal history record information obtained from division files may be used only for the purposes for which it was provided and may not be further disseminated, except that a criminal history provided to an agency pursuant to Subsection (1)(e) may be provided by the agency to the person who is the subject of the history, another licensed child-placing agency, or the attorney for the adoptive parents for the purpose of facilitating an adoption.

(5) If an individual has no prior criminal convictions, criminal history record information contained in the division's computerized criminal history files may not include arrest or disposition data concerning an individual who has been acquitted, his charges dismissed, or when no complaint against him has been filed.

(6) (a) This section does not preclude the use of the division's central computing facilities for the storage and retrieval of criminal history record information.

(b) This information shall be stored so it cannot be modified, destroyed, or accessed by unauthorized agencies or individuals.

(7) Direct access through remote computer terminals to criminal history record information in the division's files is limited to those agencies authorized by the commissioner under procedures designed to prevent unauthorized access to this information.

(8) (a) The commissioner shall establish procedures to allow an individual right of access to review and receive a copy of his criminal history report.

(b) A processing fee for the right of access service, including obtaining a copy of the individual's criminal history report under Subsection (8)(a) is \$ 10. This fee remains in effect until changed by the commissioner through the process under Section 63-38-3.2.

(c) (i) The commissioner shall establish procedures for an individual to challenge the completeness and accuracy of criminal history record information contained in the division's computerized criminal history files regarding that individual.

(ii) These procedures shall include provisions for amending any information found to be inaccurate or incomplete.

(9) The private security agencies as provided in Subsection (1)(f)(ii):

(a) shall be charged for access; and

(b) shall be registered with the division according to rules made by the division under Title 63, Chapter 46a, Utah Administrative Rulemaking Act.

(10) Before providing information requested under this section, the division shall give priority to criminal justice agencies needs.

(11) (a) Misuse of access to criminal history record information is a class B misdemeanor.

(b) The commissioner shall be informed of the misuse.

TITLE 53. PUBLIC SAFETY CODE
CHAPTER 10. CRIMINAL INVESTIGATIONS AND TECHNICAL SERVICES DIVISION
PART 2. BUREAU OF CRIMINAL IDENTIFICATION

§ 53-10-202. Criminal identification -- Duties of bureau

The bureau shall:

(1) procure and file information relating to identification and activities of persons who:

(a) are fugitives from justice;

(b) are wanted or missing;

(c) have been arrested for or convicted of a crime under the laws of any state or nation; and

(d) are believed to be involved in racketeering, organized crime, or a dangerous offense;

(2) establish a statewide uniform crime reporting system that shall include:

(a) statistics concerning general categories of criminal activities;

(b) statistics concerning crimes that exhibit evidence of prejudice based on race, religion, ancestry, national origin, ethnicity, or other categories that the division finds appropriate; and

(c) other statistics as required by the Federal Bureau of Investigation;

(3) make a complete and systematic record and index of the information obtained under this part;

(4) subject to the restrictions in this part, establish policy concerning the use and dissemination of data obtained under this part;

(5) publish an annual report concerning the extent, fluctuation, distribution, and nature of crime in Utah;

(6) establish a statewide central register for the identification and location of missing persons, which may include:

(a) identifying data including fingerprints of each missing person;

(b) identifying data of any missing person who is reported as missing to a law enforcement agency having jurisdiction;

(c) dates and circumstances of any persons requesting or receiving information from the register; and

(d) any other information, including blood types and photographs found necessary in furthering the purposes of this part;

(7) publish a quarterly directory of missing persons for distribution to persons or entities likely to be instrumental in the identification and location of missing persons;

(8) list the name of every missing person with the appropriate nationally maintained missing persons lists;

(9) establish and operate a 24-hour communication network for reports of missing persons and reports of sightings of missing persons;

(10) coordinate with the National Center for Missing and Exploited Children and other agencies to facilitate the identification and location of missing persons and the identification of unidentified persons and bodies;

(11) receive information regarding missing persons, as provided in Sections 26-2-27 and 53A-11-502, and stolen vehicles, vessels, and outboard motors, as provided in Section 41-1a-1401;

(12) adopt systems of identification, including the fingerprint system, to be used by the division to facilitate law enforcement; and

(13) assign a distinguishing number or mark of identification to any pistol or revolver, as provided in Section 76-10-520.

§ 53-10-203. **Missing persons** -- Reports -- Notification

(1) Each law enforcement agency that is investigating the report of a **missing person** shall provide information regarding that report to the division. The report shall include descriptive information and the date and location of the last-known contact with the **missing person**.

(2) The division shall notify the state registrar of Vital Statistics and the FBI National Crime Information Center of all **missing persons** reported in accordance with Subsection (1) and shall provide the state registrar with information concerning the identity of those **missing persons**.

(3) If the division has reason to believe that a **missing person** reported in accordance with Subsection (1) has been enrolled in a specific school in this state, the division shall also notify the last-known school of that report.

(4) Upon learning of the recovery of a **missing person**, the division shall notify the state registrar and any school that it has previously informed of the **person's** disappearance.

(5) The division shall, by rule, determine the manner and form of reports, notices, and information required by this section.

(6) Upon notification by the state registrar or school **personnel** that a request for a birth certificate, school record, or other information concerning a **missing person** has been made, or that an investigation is needed in accordance with Section 53A-11-503, the division shall immediately notify the local law enforcement authority.

§ 53-10-204. **Missing person** records -- Confidentiality -- Availability

Inquiries made regarding **missing persons** are confidential and are available only to:

- (1) a law enforcement agency investigating a report of a **missing person**;
- (2) an agency having the responsibility or authority to care for, treat, or supervise a **person** who is the subject of a placement in temporary or substitute care or an adoption proceeding;
- (3) a court, upon a finding that access to the records may be necessary for the determination of an issue before it;
- (4) the office of the public prosecutor or its deputies;
- (5) any person engaged in bona fide research when approved by the director of the division, excluding names and addresses; and
- (6) entities or persons authorized to receive the information in accordance with Section 53-10-203.

TITLE 53A. STATE SYSTEM OF PUBLIC EDUCATION
CHAPTER 11. STUDENTS IN PUBLIC SCHOOLS
PART 5. IDENTIFICATION OF MISSING CHILDREN

§ 53A-11-501. Definitions

As used in this chapter:

- (1) "Division" means the Criminal Investigations and Technical Services Division of the Department of Public Safety, established in Section 53-10-103.

(2) "Missing child" has the same meaning as provided in Section 26-2-27.

(3) "State registrar" means the State Registrar of Vital Statistics within the Department of Health.

§ 53A-11-502. Identifying records -- Reporting requirements

(1) Upon notification by the division of a missing child in accordance with Section 53-10-203, a school in which that child is currently or was previously enrolled shall flag the record of that child in a manner that whenever a copy of or information regarding the record is requested, the school is alerted to the fact that the record is that of a missing child.

(2) The school shall immediately report any request concerning flagged records or knowledge as to the whereabouts of any missing child to the division.

(3) Upon notification by the division that a missing child has been recovered, the school shall remove the flag from that child's record.

§ 53A-11-503. Requirement of birth certificate for enrollment of students -- Procedures

(1) Upon enrollment of a student for the first time in a particular school, that school shall notify in writing the person enrolling the student that within 30 days he must provide either a certified copy of the student's birth certificate, or other reliable proof of the student's identity and age, together with an affidavit explaining the inability to produce a copy of the birth certificate.

(2) (a) Upon the failure of a person enrolling a student to comply with Subsection (1), the school shall notify that person in writing that unless he complies within 10 days the case shall be referred to the local law enforcement authority for investigation.

(b) If compliance is not obtained within that ten day period, the school shall refer the case to the division.

(4) The school shall immediately report to the division any affidavit received pursuant to this subsection which appears inaccurate or suspicious.

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