

Senator Daniel W. Thatcher proposes the following substitute bill:

PUBLIC SAFETY FEE REVISIONS

2018 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Daniel W. Thatcher

House Sponsor: Eric K. Hutchings

LONG TITLE

General Description:

This bill provides that fees for some services provided by the Department of Public Safety shall be set in accordance with the Budgetary Procedures Act.

Highlighted Provisions:

This bill:

- ▶ removes some Department of Public Safety fees from statute;
- ▶ requires that some department fees shall be set as required by the Budgetary Procedures Act; and
- ▶ makes conforming and technical corrections.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

53-1-106, as last amended by Laws of Utah 2013, Chapter 295

53-3-109, as last amended by Laws of Utah 2016, Chapter 175

53-5-706, as last amended by Laws of Utah 2017, Chapter 286



- 26 [53-5-707](#), as last amended by Laws of Utah 2017, Chapter 286
- 27 [53-5-707.5](#), as enacted by Laws of Utah 2017, Chapter 286
- 28 [53-7-223](#), as last amended by Laws of Utah 2010, Chapter 61
- 29 [53-7-224](#), as enacted by Laws of Utah 1993, Chapter 234
- 30 [53-9-111](#), as last amended by Laws of Utah 2014, Chapter 378
- 31 [53-10-108](#), as last amended by Laws of Utah 2015, Chapters 255 and 389
- 32 [53-10-404.5](#), as last amended by Laws of Utah 2014, Chapter 331
- 33 [53-11-115](#), as last amended by Laws of Utah 2015, Chapter 170
- 34 [76-10-526](#), as last amended by Laws of Utah 2014, Chapter 226

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

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

38 **53-1-106. Department duties -- Powers.**

39 (1) In addition to the responsibilities contained in this title, the department shall:

40 (a) make rules and perform the functions specified in Title 41, Chapter 6a, Traffic
41 Code, including:

42 (i) setting performance standards for towing companies to be used by the department,
43 as required by Section [41-6a-1406](#); and

44 (ii) advising the Department of Transportation regarding the safe design and operation
45 of school buses, as required by Section [41-6a-1304](#);

46 (b) make rules to establish and clarify standards pertaining to the curriculum and
47 teaching methods of a motor vehicle accident prevention course under Section [31A-19a-211](#);

48 (c) aid in enforcement efforts to combat drug trafficking;

49 (d) meet with the Department of Technology Services to formulate contracts, establish
50 priorities, and develop funding mechanisms for dispatch and telecommunications operations;

51 (e) provide assistance to the Crime Victim Reparations Board and the Utah Office for
52 Victims of Crime in conducting research or monitoring victims' programs, as required by
53 Section [63M-7-505](#);

54 (f) develop sexual assault exam protocol standards in conjunction with the Utah
55 Hospital Association;

56 (g) engage in emergency planning activities, including preparation of policy and

57 procedure and rulemaking necessary for implementation of the federal Emergency Planning
58 and Community Right to Know Act of 1986, as required by Section 53-2a-702; and

59 (h) implement the provisions of Section 53-2a-402, the Emergency Management
60 Assistance Compact.

61 (2) (a) The department [~~may~~] shall establish a schedule of fees as required or allowed
62 in this title for services provided by the department.

63 (b) [~~The~~] All fees not established in statute shall be established in accordance with
64 Section 63J-1-504.

65 (3) The department may establish or contract for the establishment of an Organ
66 Procurement Donor Registry in accordance with Section 26-28-120.

67 Section 2. Section 53-3-109 is amended to read:

68 **53-3-109. Records -- Access -- Fees -- Rulemaking.**

69 (1) (a) Except as provided in this section, all records of the division shall be classified
70 and disclosed in accordance with Title 63G, Chapter 2, Government Records Access and
71 Management Act.

72 (b) The division may only disclose personal identifying information:

73 (i) when the division determines it is in the interest of the public safety to disclose the
74 information; and

75 (ii) in accordance with the federal Driver's Privacy Protection Act of 1994, 18 U.S.C.
76 Chapter 123.

77 (c) The division may disclose personal identifying information:

78 (i) to a licensed private investigator holding a valid agency license, with a legitimate
79 business need;

80 (ii) to an insurer, insurance support organization, or a self-insured entity, or its agents,
81 employees, or contractors that issues any motor vehicle insurance under Title 31A, Chapter 22,
82 Part 3, Motor Vehicle Insurance, for use in connection with claims investigation activities,
83 antifraud activities, rating, or underwriting for any person issued a license certificate under this
84 chapter; or

85 (iii) to a depository institution as defined in Section 7-1-103 for use in accordance with
86 the federal Driver's Privacy Protection Act of 1994, 18 U.S.C. Chapter 123.

87 (2) (a) A person who receives personal identifying information shall be advised by the

88 division that the person may not:

89 (i) disclose the personal identifying information from that record to any other person;

90 or

91 (ii) use the personal identifying information from that record for advertising or

92 solicitation purposes.

93 (b) Any use of personal identifying information by an insurer or insurance support
94 organization, or by a self-insured entity or its agents, employees, or contractors not authorized
95 by Subsection (1)(c)(ii) is:

96 (i) an unfair marketing practice under Section 31A-23a-402; or

97 (ii) an unfair claim settlement practice under Subsection 31A-26-303(3).

98 (3) (a) Notwithstanding the provisions of Subsection (1)(b), the division or its designee
99 may disclose portions of a driving record, in accordance with this Subsection (3), to:

100 (i) an insurer as defined under Section 31A-1-301, or a designee of an insurer, for
101 purposes of assessing driving risk on the insurer's current motor vehicle insurance
102 policyholders;

103 (ii) an employer or a designee of an employer, for purposes of monitoring the driving
104 record and status of current employees who drive as a responsibility of the employee's
105 employment if the requester demonstrates that the requester has obtained the written consent of
106 the individual to whom the information pertains; and

107 (iii) an employer or the employer's agents to obtain or verify information relating to a
108 holder of a commercial driver license that is required under 49 U.S.C. Chapter 313.

109 (b) A disclosure under Subsection (3)(a)(i) shall:

110 (i) include the licensed driver's name, driver license number, date of birth, and an
111 indication of whether the driver has had a moving traffic violation that is a reportable violation,
112 as defined under Section 53-3-102 during the previous month;

113 (ii) be limited to the records of drivers who, at the time of the disclosure, are covered
114 under a motor vehicle insurance policy of the insurer; and

115 (iii) be made under a contract with the insurer or a designee of an insurer.

116 (c) A disclosure under Subsection (3)(a)(ii) or (iii) shall:

117 (i) include the licensed driver's name, driver license number, date of birth, and an
118 indication of whether the driver has had a moving traffic violation that is a reportable violation,

119 as defined under Section [53-3-102](#), during the previous month;

120 (ii) be limited to the records of a current employee of an employer;

121 (iii) be made under a contract with the employer or a designee of an employer; and

122 (iv) include an indication of whether the driver has had a change reflected in the

123 driver's:

124 (A) driving status;

125 (B) license class;

126 (C) medical self-certification status; or

127 (D) medical examiner's certificate under 49 C.F.R. Sec. 391.45.

128 (d) The contract under Subsection (3)(b)(iii) or (c)(iii) shall specify:

129 (i) the criteria for searching and compiling the driving records being requested;

130 (ii) the frequency of the disclosures;

131 (iii) the format of the disclosures, which may be in bulk electronic form; and

132 (iv) a reasonable charge for the driving record disclosures under this Subsection (3).

133 (4) The division may charge fees:

134 (a) ~~[collect fees]~~ in accordance with Section [53-3-105](#) for searching and compiling its

135 files or furnishing a report on the driving record of a person;

136 (b) ~~[prepare]~~ for each document prepared under the seal of the division and deliver

137 upon request, a certified copy of any record of the division, and charge a fee ~~[under]~~ set in

138 accordance with Section [63J-1-504](#) for each document authenticated; and

139 (c) ~~[charge reasonable fees]~~ established in accordance with the procedures and

140 requirements of Section [63J-1-504](#) for disclosing personal identifying information under

141 Subsection (1)(c).

142 (5) Each certified copy of a driving record furnished in accordance with this section is

143 admissible in any court proceeding in the same manner as the original.

144 (6) (a) A driving record furnished under this section may only report on the driving

145 record of a person for a period of 10 years.

146 (b) Subsection (6)(a) does not apply to court or law enforcement reports, reports of

147 commercial driver license violations, or reports for commercial driver license holders.

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

149 division may make rules to designate:

- 150 (a) what information shall be included in a report on the driving record of a person;
- 151 (b) the form of a report or copy of the report which may include electronic format;
- 152 (c) the form of a certified copy, as required under Section [53-3-216](#), which may include
153 electronic format;
- 154 (d) the form of a signature required under this chapter which may include electronic
155 format;
- 156 (e) the form of written request to the division required under this chapter which may
157 include electronic format;
- 158 (f) the procedures, requirements, and formats for disclosing personal identifying
159 information under Subsection (1)(c); and
- 160 (g) the procedures, requirements, and formats necessary for the implementation of
161 Subsection (3).

162 (8) (a) It is a class B misdemeanor for a person to knowingly or intentionally access,
163 use, disclose, or disseminate a record created or maintained by the division or any information
164 contained in a record created or maintained by the division for a purpose prohibited or not
165 permitted by statute, rule, regulation, or policy of a governmental entity.

166 (b) A person who discovers or becomes aware of any unauthorized use of records
167 created or maintained by the division shall inform the commissioner and the division director
168 of the unauthorized use.

169 Section 3. Section [53-5-706](#) is amended to read:

170 **53-5-706. Permit -- Fingerprints transmitted to bureau -- Report from bureau.**

171 (1) (a) Except as provided in Subsection (2), the fingerprints of each applicant for a
172 permit under Section [53-5-707](#) or [53-5-707.5](#) shall be taken on a form prescribed by the bureau.

173 (b) Upon receipt of the fingerprints, the applicant fingerprint card fee prescribed in
174 Section [53-10-108](#), and the fee prescribed in Section [53-5-707](#) or [53-5-707.5](#), the bureau shall
175 conduct a search of its files for criminal history information pertaining to the applicant, and
176 shall request the Federal Bureau of Investigation to conduct a similar search through its files.

177 (c) If the fingerprints are insufficient for the Federal Bureau of Investigation to conduct
178 a search of its files for criminal history information, the application or concealed firearm permit
179 may be denied, suspended, or revoked until sufficient fingerprints are submitted by the
180 applicant.

181 (2) (a) If the permit applicant has previously applied to the bureau for a permit to carry
182 concealed firearms, the bureau shall note the previous identification numbers and other data
183 which would provide positive identification in the files of the bureau on the copy of any
184 subsequent permit submitted to the bureau in accordance with this section.

185 (b) No additional application form, fingerprints, or fee are required under this
186 Subsection (2).

187 Section 4. Section **53-5-707** is amended to read:

188 **53-5-707. Concealed firearm permit -- Fees -- Concealed Weapons Account.**

189 (1) (a) An applicant for a concealed firearm permit shall pay a fee of [~~\$24.75~~] \$25 at
190 the time of filing an application.

191 (b) A nonresident applicant shall pay an additional \$10 for the additional cost of
192 processing a nonresident application.

193 (c) The bureau shall waive the initial fee for an applicant who is a law enforcement
194 officer under Section **53-13-103**.

195 (d) Concealed firearm permit renewal fees for active duty service members and the
196 spouse of an active duty service member shall be waived.

197 (2) The renewal fee for the permit is [~~\$15~~] \$20. A nonresident shall pay an additional
198 \$5 for the additional cost of processing a nonresidential renewal.

199 (3) The replacement fee for the permit is \$10.

200 (4) (a) The late fee for the renewal permit is \$7.50.

201 (b) As used in this section, "late fee" means the fee charged by the bureau for a renewal
202 submitted on a permit that has been expired for more than 30 days but less than one year.

203 (5) (a) There is created a restricted account within the General Fund known as the
204 "Concealed Weapons Account."

205 (b) The account shall be funded from fees collected under this section and Section
206 **53-5-707.5**.

207 (c) Funds in the account shall be used to cover costs relating to the issuance of
208 concealed firearm permits under this part and may not be used for any other purpose.

209 (6) (a) The bureau may collect any fees charged by an outside agency for additional
210 services required by statute as a prerequisite for issuance of a permit.

211 [~~(b) The bureau may modify the fee under Subsection (1)(a) by adjusting that fee so~~

212 ~~that the total of the fee under Subsection (1)(a) and the fee under Subsection (6)(a) is the~~
213 ~~nearest even dollar amount to that total.]~~

214 ~~[(c)]~~ (b) The bureau shall promptly forward any fees collected under Subsection (6)(a)
215 to the appropriate agency.

216 (7) The bureau shall make an annual report in writing to the Legislature's Law
217 Enforcement and Criminal Justice Interim Committee on the amount and use of the fees
218 collected under this section and Section 53-5-707.5.

219 Section 5. Section 53-5-707.5 is amended to read:

220 **53-5-707.5. Provisional concealed firearm permit -- Fees -- Disposition of fees.**

221 (1) (a) An applicant for a provisional concealed firearm permit, as described in Section
222 53-5-704.5, shall pay a fee of [~~\$24.75~~] \$25 at the time of filing an application.

223 (b) A nonresident applicant shall pay an additional \$10 for the additional cost of
224 processing a nonresident application.

225 (2) The replacement fee for the permit is \$10.

226 (3) Fees collected under this section shall be remitted to the Concealed Weapons
227 Account, as described in Subsection 53-5-707(5).

228 (4) (a) The bureau may collect any fees charged by an outside agency for additional
229 services required by statute as a prerequisite for issuance of a permit.

230 ~~[(b) The bureau may modify the fee under Subsection (1)(a) by adjusting that fee so~~
231 ~~that the total of the fee under Subsection (1)(a) and the fee under Subsection (4)(a) is the~~
232 ~~nearest even dollar amount to that total.]~~

233 ~~[(c)]~~ (b) The bureau shall promptly forward any fees collected under Subsection (4)(a)
234 to the appropriate agency.

235 Section 6. Section 53-7-223 is amended to read:

236 **53-7-223. State license for display operators, special effects operators, and flame**
237 **effects operators -- Permit -- Fee -- Division duties -- Revocation.**

238 (1) (a) A person may not purchase or possess display fireworks, special effects
239 fireworks, or flame effects, or discharge any of them in public unless the person has obtained
240 the appropriate license from the division, except under Subsection (1)(b).

241 (b) (i) Subsection (1)(a) does not apply to any person who participates in a meeting, as
242 limited under Subsection (1)(b)(ii), with other persons solely to receive training, to practice, or

243 provide instruction regarding flame effects performance.

244 (ii) A meeting under Subsection (1)(b)(i) may include a nonpaying and unsolicited
245 audience of not more than 25 persons.

246 (2) The division shall:

247 (a) issue an annual license to any display operator, special effects operator, or flame
248 effects operator who:

249 (i) applies for the permit;

250 (ii) pays [a \$40] the fee set in accordance with Section 63J-1-504;

251 (iii) demonstrates proof of competence; and

252 (iv) certifies that the operator will comply with board rules governing placement and
253 discharge of fireworks or flame effects;

254 (b) provide the licensee with a copy of the rules governing placement and discharge of
255 fireworks or flame effects made under Section 53-7-204; and

256 (c) together with county and municipal officers enforce Sections 53-7-220 through
257 53-7-225.

258 (3) The division may:

259 (a) revoke a license issued under this section for cause;

260 (b) seize display and special effects fireworks, fireworks, and unclassified fireworks
261 that are offered for sale, sold, or in the possession of an individual in violation of Sections
262 53-7-220 through 53-7-225;

263 (c) prevent or stop the use of flame effects that is unlawful or that is endangering
264 persons or property; and

265 (d) create application and certification forms.

266 Section 7. Section 53-7-224 is amended to read:

267 **53-7-224. Licensing importers and wholesalers -- Fee.**

268 The division shall:

269 (1) annually license each importer and wholesaler of pyrotechnic devices; and

270 (2) charge an annual license fee [~~of \$250~~] set in accordance with Section 63J-1-504.

271 Section 8. Section 53-9-111 is amended to read:

272 **53-9-111. License and registration fees -- Deposit in General Fund.**

273 (1) Fees for individual and agency licensure and renewal [~~are as follows:~~] shall be in

274 accordance with Section [63J-1-504](#).

275 ~~[(a) for an original agency license application and license, \$215, plus an additional fee~~
276 ~~for the costs of fingerprint processing and background investigation;]~~

277 ~~[(b) for the renewal of an agency license, \$115;]~~

278 ~~[(c) for an original registrant or apprentice license application and license, \$115, plus~~
279 ~~an additional fee for the costs of fingerprint processing and background investigation;]~~

280 ~~[(d) for the renewal of a registrant or apprentice license, \$65;]~~

281 ~~[(e) for filing an agency renewal application more than 30 days after the expiration date~~
282 ~~of the license, a delinquency fee of \$65;]~~

283 ~~[(f) for filing a registrant or apprentice renewal application more than 30 days after the~~
284 ~~expiration date of the registration, a delinquency fee of \$45;]~~

285 ~~[(g) for the reinstatement of any license, \$65;]~~

286 ~~[(h) for a duplicate identification card, \$25; and]~~

287 ~~[(i) for the fingerprint processing fee, an amount that does not exceed the cost to the~~
288 ~~bureau charged by the Federal Bureau of Investigation for fingerprint processing for the~~
289 ~~purpose of obtaining federal criminal history record information.]~~

290 (2) (a) The bureau may renew a license granted under this chapter:

291 (i) to a resident of the state;

292 (ii) upon receipt of a renewal application on forms as prescribed by the bureau; and

293 (iii) upon receipt of the fees prescribed in Subsection (1).

294 (b) (i) The renewal of a license requires the filing of all certificates of insurance or
295 proof of surety bond as required by this chapter.

296 (ii) Renewal of a license may not be granted more than 180 days after expiration.

297 (c) A licensee may not engage in activity subject to this chapter during the period
298 between the date of expiration of the license and the renewal of the license.

299 (3) (a) The bureau shall renew a suspended license if:

300 (i) the period of suspension has been completed;

301 (ii) the bureau has received a renewal application from the applicant on forms
302 prescribed by the bureau; and

303 (iii) the applicant has:

304 (A) filed all certificates of insurance or proof of surety bond as required by this

305 chapter; and

306 (B) paid the fees required by this section for renewal, including a delinquency fee if the
307 application is not received by the bureau within 30 days of the termination of the suspension.

308 (b) Renewal of the license does not entitle the licensee, while the license remains
309 suspended and until it is reinstated, to engage in activity regulated by this chapter, or in other
310 activity or conduct in violation of the order or judgment by which the license was suspended.

311 (4) The bureau may not reinstate a revoked license or accept an application for a
312 license from a person whose license has been revoked for at least one year from the date of
313 revocation.

314 (5) All fees, except the fingerprint processing fee, collected by the bureau under this
315 section shall be deposited in the General Fund.

316 Section 9. Section **53-10-108** is amended to read:

317 **53-10-108. Restrictions on access, use, and contents of division records -- Limited**
318 **use of records for employment purposes -- Challenging accuracy of records -- Usage fees**
319 **-- Missing children records -- Penalty for misuse of records.**

320 (1) As used in this section:

321 (a) "FBI Rap Back System" means the rap back system maintained by the Federal
322 Bureau of Investigation.

323 (b) "Rap back system" means a system that enables authorized entities to receive
324 ongoing status notifications of any criminal history reported on individuals whose fingerprints
325 are registered in the system.

326 (c) "WIN Database" means the Western Identification Network Database that consists
327 of eight western states sharing one electronic fingerprint database.

328 (2) Dissemination of information from a criminal history record, including information
329 obtained from a fingerprint background check or name check, or warrant of arrest information
330 from division files is limited to:

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

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

335 (c) agencies or individuals for the purpose of obtaining required clearances connected

336 with foreign travel or obtaining citizenship;

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

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

341 (e) agencies or individuals for the purpose of a preplacement adoptive study, in
342 accordance with the requirements of Sections 78B-6-128 and 78B-6-130;

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

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

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

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

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

357 (4) (a) Before requesting information under Subsection (2)(g), a qualifying entity must
358 obtain a signed waiver from the person whose information is requested.

359 (b) The waiver must notify the signee:

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

361 (ii) who will see the information; and

362 (iii) how the information will be used.

363 (c) Information received by a qualifying entity under Subsection (2)(g) may only be:

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

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

367 (d) A person who disseminates or uses information obtained from the division under
368 Subsection (2)(g) for purposes other than those specified under Subsection (4)(c), in addition to
369 any penalties provided under this section, is subject to civil liability.

370 (e) A qualifying entity that obtains information under Subsection (2)(g) shall provide
371 the employee or employment applicant an opportunity to:

372 (i) review the information received as provided under Subsection (9); and

373 (ii) respond to any information received.

374 (f) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
375 division may make rules to implement this Subsection (4).

376 (g) The division or its employees are not liable for defamation, invasion of privacy,
377 negligence, or any other claim in connection with the contents of information disseminated
378 under Subsection (2)(g).

379 (5) (a) Any criminal history record information obtained from division files may be
380 used only for the purposes for which it was provided and may not be further disseminated,
381 except under Subsection (5)(b), (c), or (d).

382 (b) A criminal history provided to an agency pursuant to Subsection (2)(e) may be
383 provided by the agency to the person who is the subject of the history, another licensed
384 child-placing agency, or the attorney for the adoptive parents for the purpose of facilitating an
385 adoption.

386 (c) A criminal history of a defendant provided to a criminal justice agency under
387 Subsection (2)(a) may also be provided by the prosecutor to a defendant's defense counsel,
388 upon request during the discovery process, for the purpose of establishing a defense in a
389 criminal case.

390 (d) A public transit district, as described in Title 17B, Chapter 2a, Part 8, Public
391 Transit District Act, that is under contract with a state agency to provide services may, for the
392 purposes of complying with Subsection [62A-5-103.5\(5\)](#), provide a criminal history record to
393 the state agency or the agency's designee.

394 (6) The division may not disseminate criminal history record information to qualifying
395 entities under Subsection (2)(g) regarding employment background checks if the information is
396 related to charges:

397 (a) that have been declined for prosecution;

398 (b) that have been dismissed; or

399 (c) regarding which a person has been acquitted.

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

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

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

407 (9) (a) The commissioner shall establish procedures to allow an individual right of
408 access to review and receive a copy of the individual's criminal history report.

409 (b) A processing fee for the right of access service, including obtaining a copy of the
410 individual's criminal history report under Subsection (9)(a) [~~is \$15 . This fee remains in effect~~
411 ~~until changed by the commissioner through the process under~~] shall be set in accordance with
412 Section [63J-1-504](#).

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

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

418 (10) The private security agencies as provided in Subsection (2)(f)(ii):

419 (a) shall be charged for access; and

420 (b) shall be registered with the division according to rules made by the division under
421 Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

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

424 (12) (a) It is a class B misdemeanor for a person to knowingly or intentionally access,
425 use, disclose, or disseminate a record created, maintained, or to which access is granted by the
426 division or any information contained in a record created, maintained, or to which access is
427 granted by the division for a purpose prohibited or not permitted by statute, rule, regulation, or
428 policy of a governmental entity.

429 (b) A person who discovers or becomes aware of any unauthorized use of records
430 created or maintained, or to which access is granted by the division shall inform the
431 commissioner and the director of the Utah Bureau of Criminal Identification of the
432 unauthorized use.

433 (13) (a) Subject to Subsection (13)(b), a qualifying entity or an entity described in
434 Subsection (2)(b) may request that the division register fingerprints taken for the purpose of
435 conducting current and future criminal background checks under this section with:

436 (i) the WIN Database rap back system, or any successor system;

437 (ii) the FBI Rap Back System; or

438 (iii) a system maintained by the division.

439 (b) A qualifying entity or an entity described in Subsection (2)(b) may only make a
440 request under Subsection (13)(a) if the entity:

441 (i) has the authority through state or federal statute or federal executive order;

442 (ii) obtains a signed waiver from the individual whose fingerprints are being registered;

443 and

444 (iii) establishes a privacy risk mitigation strategy to ensure that the entity only receives
445 notifications for individuals with whom the entity maintains an authorizing relationship.

446 (14) The division is authorized to submit fingerprints to the FBI Rap Back System to
447 be retained in the FBI Rap Back System for the purpose of being searched by future
448 submissions to the FBI Rap Back System, including latent fingerprint searches.

449 ~~[(15) (a) (i) The applicant fingerprint card fee under Subsection (2) is \$20.]~~

450 ~~[(ii) The name check fee under Subsection (2) is \$15.]~~

451 ~~[(iii) The fee to register fingerprints under Subsection (13)(a)(i) is \$5.]~~

452 ~~[(iv) The fees described in this Subsection (15)(a) remain in effect until changed by the~~
453 ~~division through the process under Section [63J-1-504](#).]~~

454 (15) (a) The division shall impose fees set in accordance with Section [63J-1-504](#) for
455 the applicant fingerprint card, name check, and to register fingerprints under Subsection
456 (13)(a).

457 (b) Funds generated under this Subsection (15) shall be deposited into the General
458 Fund as a dedicated credit by the department to cover the costs incurred in providing the
459 information.

460 (c) The division may collect fees charged by an outside agency for services required
461 under this section.

462 Section 10. Section **53-10-404.5** is amended to read:

463 **53-10-404.5. Obtaining DNA specimen at time of booking -- Payment of fee upon**
464 **conviction.**

465 (1) (a) When a sheriff books a person for any offense under Subsections
466 **53-10-403**(1)(c) and (d), the sheriff shall obtain a DNA specimen from the person upon
467 booking of the person at the county jail, except under Subsection (1)(b).

468 (b) If at the time of booking the sheriff is able to obtain information from the bureau
469 stating that the bureau has on file a DNA specimen for the person, the sheriff is not required to
470 obtain an additional DNA specimen.

471 (2) The person booked under Subsection (1) shall pay a fee [~~of \$150~~] set in accordance
472 with Section **63J-1-504** for the cost of obtaining the DNA specimen if:

473 (a) the charge upon which the booking is based is resolved by a conviction or the
474 person is convicted of any charge arising out of the same criminal episode regarding which the
475 DNA specimen was obtained; and

476 (b) the person's DNA sample is not on file under Subsection (1)(b).

477 (3) (a) All fees collected under Subsection (2) shall be deposited in the DNA Specimen
478 Restricted Account created in Section **53-10-407**, except that the agency collecting the fee may
479 retain not more than \$25 per individual specimen for the costs of obtaining the DNA specimen.

480 (b) The agency collecting the [~~\$150~~] fee may not retain from each separate fee more
481 than \$25, and no amount of the [~~\$150~~] fee may be credited to any other fee or agency
482 obligation.

483 (4) Any DNA specimen obtained under this section shall be held and may not be
484 processed until:

485 (a) the court has bound the person over for trial following a preliminary hearing for any
486 charge arising out of the same criminal episode regarding which the person was booked;

487 (b) the person has waived the preliminary hearing for any charge arising out of the
488 same criminal episode regarding which the person was booked; or

489 (c) a grand jury has returned an indictment for any charge arising out of the same
490 criminal episode regarding which the person was booked.

491 Section 11. Section **53-11-115** is amended to read:

492 **53-11-115. License fees -- Deposit in General Fund.**

493 (1) Fees for individual and agency licensure, registration, and renewal ~~[are:]~~ shall be
494 set in accordance with Section [63J-1-504](#).

495 ~~[(a) for an original bail enforcement agent license application and license, \$250, which~~
496 ~~shall include the costs of fingerprint processing and background investigation;]~~

497 ~~[(b) for the renewal of a bail enforcement agent or bail bond recovery agency license,~~
498 ~~\$150;]~~

499 ~~[(c) for an original bail recovery agent license application and license, \$150, which~~
500 ~~shall include the costs of fingerprint processing and background investigation;]~~

501 ~~[(d) for the renewal of each bail recovery agent license, \$100;]~~

502 ~~[(e) for an original bail recovery apprentice license application and license, \$150,~~
503 ~~which shall include the costs of fingerprint processing and background investigation;]~~

504 ~~[(f) for the renewal of each bail recovery apprentice license, \$100;]~~

505 ~~[(g) for filing a renewal application under Subsection (1)(b) more than 30 days after the~~
506 ~~expiration date of the license, a delinquency fee of \$50;]~~

507 ~~[(h) for filing a renewal application under Subsection (1)(d) more than 30 days after the~~
508 ~~expiration date of the registration, a delinquency fee of \$30;]~~

509 ~~[(i) for filing a renewal application under Subsection (1)(f) more than 30 days after the~~
510 ~~expiration date of the apprentice license, a delinquency fee of \$30;]~~

511 ~~[(j) for the reinstatement of a bail enforcement agent or bail bond recovery agency~~
512 ~~license, \$50;]~~

513 ~~[(k) for a duplicate identification card, \$10; and]~~

514 ~~[(l) for reinstatement of an identification card, \$10;]~~

515 (2) (a) The bureau may renew a license granted under this chapter upon receipt of an
516 application on forms as prescribed by the board and upon receipt of the applicable fees
517 ~~[prescribed in Subsection (1);]~~ if the licensee's application meets all the requirements for
518 renewal.

519 (b) If the bureau determines the license renewal application does not meet all the
520 requirements for renewal, the bureau shall submit the renewal application to the board for
521 review and action.

522 (c) A license may not be renewed more than 90 days after its expiration.

523 (d) A licensee may not engage in any activity subject to this chapter during any period
524 between the date of expiration of the license and the renewal of the license.

525 (3) (a) The board may reinstate a suspended license upon completion of the term of
526 suspension.

527 (b) Renewal of the license does not entitle the licensee, while the license remains
528 suspended and until it is reinstated, to engage in any activity regulated by this chapter, or in any
529 other activity or conduct in violation of the order or judgment by which the license was
530 suspended.

531 (4) The board may not reinstate a revoked license or accept an application for a license
532 from a person whose license has been revoked for at least one year after the date of revocation.

533 (5) All fees collected by the department under this section shall be deposited in the
534 General Fund.

535 Section 12. Section **76-10-526** is amended to read:

536 **76-10-526. Criminal background check prior to purchase of a firearm -- Fee --**
537 **Exemption for concealed firearm permit holders and law enforcement officers.**

538 (1) For purposes of this section, "valid permit to carry a concealed firearm" does not
539 include a temporary permit issued under Section [53-5-705](#).

540 (2) (a) To establish personal identification and residence in this state for purposes of
541 this part, a dealer shall require an individual receiving a firearm to present one photo
542 identification on a form issued by a governmental agency of the state.

543 (b) A dealer may not accept a driving privilege card issued under Section [53-3-207](#) as
544 proof of identification for the purpose of establishing personal identification and residence in
545 this state as required under this Subsection (2).

546 (3) (a) A criminal history background check is required for the sale of a firearm by a
547 licensed firearm dealer in the state.

548 (b) Subsection (3)(a) does not apply to the sale of a firearm to a Federal Firearms
549 Licensee.

550 (4) (a) An individual purchasing a firearm from a dealer shall consent in writing to a
551 criminal background check, on a form provided by the bureau.

552 (b) The form shall contain the following information:

- 553 (i) the dealer identification number;
- 554 (ii) the name and address of the individual receiving the firearm;
- 555 (iii) the date of birth, height, weight, eye color, and hair color of the individual
556 receiving the firearm; and
- 557 (iv) the social security number or any other identification number of the individual
558 receiving the firearm.
- 559 (5) (a) The dealer shall send the information required by Subsection (4) to the bureau
560 immediately upon its receipt by the dealer.
- 561 (b) A dealer may not sell or transfer a firearm to an individual until the dealer has
562 provided the bureau with the information in Subsection (4) and has received approval from the
563 bureau under Subsection (7).
- 564 (6) The dealer shall make a request for criminal history background information by
565 telephone or other electronic means to the bureau and shall receive approval or denial of the
566 inquiry by telephone or other electronic means.
- 567 (7) When the dealer calls for or requests a criminal history background check, the
568 bureau shall:
- 569 (a) review the criminal history files, including juvenile court records, to determine if
570 the individual is prohibited from purchasing, possessing, or transferring a firearm by state or
571 federal law;
- 572 (b) inform the dealer that:
- 573 (i) the records indicate the individual is prohibited; or
- 574 (ii) the individual is approved for purchasing, possessing, or transferring a firearm;
- 575 (c) provide the dealer with a unique transaction number for that inquiry; and
- 576 (d) provide a response to the requesting dealer during the call for a criminal
577 background check, or by return call, or other electronic means, without delay, except in case of
578 electronic failure or other circumstances beyond the control of the bureau, the bureau shall
579 advise the dealer of the reason for the delay and give the dealer an estimate of the length of the
580 delay.
- 581 (8) (a) The bureau may not maintain any records of the criminal history background
582 check longer than 20 days from the date of the dealer's request, if the bureau determines that
583 the individual receiving the firearm is not prohibited from purchasing, possessing, or

584 transferring the firearm under state or federal law.

585 (b) However, the bureau shall maintain a log of requests containing the dealer's federal
586 firearms number, the transaction number, and the transaction date for a period of 12 months.

587 (9) If the criminal history background check discloses information indicating that the
588 individual attempting to purchase the firearm is prohibited from purchasing, possessing, or
589 transferring a firearm, the bureau shall inform the law enforcement agency in the jurisdiction
590 where the individual resides.

591 (10) If an individual is denied the right to purchase a firearm under this section, the
592 individual may review the individual's criminal history information and may challenge or
593 amend the information as provided in Section 53-10-108.

594 (11) The bureau shall make rules in accordance with Title 63G, Chapter 3, Utah
595 Administrative Rulemaking Act, to ensure the identity, confidentiality, and security of all
596 records provided by the bureau under this part are in conformance with the requirements of the
597 Brady Handgun Violence Prevention Act, Pub. L. No. 103-159, 107 Stat. 1536 (1993).

598 (12) (a) [(†)] A dealer shall collect a criminal history background check fee [~~of \$7.50~~]
599 for the sale of a firearm under this section. [(††)] This fee remains in effect until changed by the
600 bureau through the process [~~under~~] in accordance with Section 63J-1-504.

601 (b) (i) The dealer shall forward at one time all fees collected for criminal history
602 background checks performed during the month to the bureau by the last day of the month
603 following the sale of a firearm.

604 (ii) The bureau shall deposit the fees in the General Fund as dedicated credits to cover
605 the cost of administering and conducting the criminal history background check program.

606 (13) An individual with a concealed firearm permit issued under Title 53, Chapter 5,
607 Part 7, Concealed Firearm Act, is exempt from the background check and corresponding fee
608 required in this section for the purchase of a firearm if:

609 (a) the individual presents the individual's concealed firearm permit to the dealer prior
610 to purchase of the firearm; and

611 (b) the dealer verifies with the bureau that the individual's concealed firearm permit is
612 valid.

613 (14) A law enforcement officer, as defined in Section 53-13-103, is exempt from the
614 background check fee required in this section for the purchase of a personal firearm to be

615 carried while off-duty if the law enforcement officer verifies current employment by providing
616 a letter of good standing from the officer's commanding officer and current law enforcement
617 photo identification. This section may only be used by a law enforcement officer to purchase a
618 personal firearm once in a 24-month period.

619 (15) (a) A dealer may participate in the redeemable coupon program described in this
620 Subsection (15) and Subsection 53-10-202(18).

621 (b) A participating dealer shall:

622 (i) accept the redeemable coupon only from the individual whose name is on the
623 coupon and apply it only toward the purchase of a gun safe;

624 (ii) collect the receipts from the purchase of gun safes using the redeemable coupon
625 and send them to the Bureau of Criminal Identification for redemption; and

626 (iii) make the firearm safety brochure described in Subsection 53-10-202(18) available
627 to customers free of charge.

628 Section 13. **Effective date.**

629 This bill takes effect on July 1, 2018.