

1 **UNIFORM CRIMINAL RECORDS ACCURACY ACT**

2 2019 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Lyle W. Hillyard**

5 House Sponsor: _____

6

LONG TITLE

7 **General Description:**

8 This bill enacts the Uniform Criminal Records Accuracy Act.

9 **Highlighted Provisions:**

10 This bill:

- 11 ▶ defines terms;
- 12 ▶ requires a central repository to be responsible for statewide criminal information;
- 13 ▶ provides that a dissemination log be kept showing when and to whom criminal
- 14 history record information is provided;

15

- 16 ▶ requires that the central repository and any contributing agency correct information
- 17 shown to be incorrect;

- 18 ▶ sets requirements for the collection and submission of biometric information;

19 ▶ requires that the central repository make rules and establish procedures to resolve
20 conflicts and maintain the accuracy of criminal history information;

- 21 ▶ creates a Mistaken Identity Prevention Registry;

- 22 ▶ provides for periodic audits; and

- 23 ▶ makes technical and conforming changes.

24 **Money Appropriated in this Bill:**

25 None

26 **Other Special Clauses:**

27 None



28 **Utah Code Sections Affected:**

29 AMENDS:

- 30 **7-1-212**, as enacted by Laws of Utah 2018, Chapter 427
- 31 **19-1-308**, as enacted by Laws of Utah 2018, Chapter 427
- 32 **26-1-17.1**, as enacted by Laws of Utah 2018, Chapter 427
- 33 **35A-1-104.1**, as enacted by Laws of Utah 2018, Chapter 427
- 34 **53-10-108**, as last amended by Laws of Utah 2018, Chapters 417 and 427
- 35 **53G-11-402**, as renumbered and amended by Laws of Utah 2018, Chapter 3
- 36 **53G-11-403**, as renumbered and amended by Laws of Utah 2018, Chapter 3
- 37 **59-1-206.1**, as enacted by Laws of Utah 2018, Chapter 427
- 38 **63A-2-106**, as enacted by Laws of Utah 2018, Chapter 427
- 39 **63M-2-304**, as enacted by Laws of Utah 2018, Chapter 427
- 40 **67-3-10**, as enacted by Laws of Utah 2018, Chapter 427
- 41 **76-10-526**, as last amended by Laws of Utah 2018, Chapter 417

42 ENACTS:

- 43 **53-19-101**, Utah Code Annotated 1953
- 44 **53-19-102**, Utah Code Annotated 1953
- 45 **53-19-103**, Utah Code Annotated 1953
- 46 **53-19-104**, Utah Code Annotated 1953
- 47 **53-19-201**, Utah Code Annotated 1953
- 48 **53-19-202**, Utah Code Annotated 1953
- 49 **53-19-203**, Utah Code Annotated 1953
- 50 **53-19-204**, Utah Code Annotated 1953
- 51 **53-19-205**, Utah Code Annotated 1953
- 52 **53-19-301**, Utah Code Annotated 1953
- 53 **53-19-302**, Utah Code Annotated 1953
- 54 **53-19-303**, Utah Code Annotated 1953
- 55 **53-19-304**, Utah Code Annotated 1953
- 56 **53-19-305**, Utah Code Annotated 1953
- 57 **53-19-306**, Utah Code Annotated 1953
- 58 **53-19-307**, Utah Code Annotated 1953

- 59 [53-19-308](#), Utah Code Annotated 1953
 - 60 [53-19-309](#), Utah Code Annotated 1953
 - 61 [53-19-401](#), Utah Code Annotated 1953
 - 62 [53-19-402](#), Utah Code Annotated 1953
 - 63 [53-19-403](#), Utah Code Annotated 1953
 - 64 [53-19-501](#), Utah Code Annotated 1953
 - 65 [53-19-502](#), Utah Code Annotated 1953
 - 66 [53-19-503](#), Utah Code Annotated 1953
 - 67 [53-19-504](#), Utah Code Annotated 1953
 - 68 [53-19-505](#), Utah Code Annotated 1953
 - 69 [53-19-506](#), Utah Code Annotated 1953
 - 70 [53-19-507](#), Utah Code Annotated 1953
 - 71 [53-19-601](#), Utah Code Annotated 1953
 - 72 [53-19-602](#), Utah Code Annotated 1953
 - 73 [53-19-701](#), Utah Code Annotated 1953
 - 74 [53-19-702](#), Utah Code Annotated 1953
 - 75 [53-19-801](#), Utah Code Annotated 1953
 - 76 [53-19-802](#), Utah Code Annotated 1953
 - 77 [53-19-803](#), Utah Code Annotated 1953
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78

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

80 Section 1. Section **7-1-212** is amended to read:

81 **7-1-212. Background checks for employees.**

82 (1) As used in this section, "bureau" means the Bureau of Criminal Identification
83 created in Section [53-10-201](#).

84 (2) Beginning July 1, 2018, the department shall require current employees in, and all
85 applicants for, the following positions to submit to a fingerprint-based local, regional, and
86 national criminal history background check and ongoing monitoring as a condition of
87 employment:

88 (a) agency information security managers;

89 (b) financial institutions examiners;

90 (c) financial institutions managers; and

91 (d) financial institutions specialists.

92 (3) Each individual in a position listed in Subsection (2) shall provide a completed
93 fingerprint card to the department upon request.

94 (4) The department shall require that an individual required to submit to a background
95 check under Subsection (3) provide a signed waiver on a form provided by the department that
96 meets the requirements of Subsection 53-10-108(4).

97 (5) For a noncriminal justice background search and registration in accordance with
98 Subsection 53-10-108~~(13)~~(11), the department shall submit to the bureau:

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

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

103 (6) The department is responsible for the payment of all fees required by Subsection
104 53-10-108~~(15)~~(13) and any fees required to be submitted to the Federal Bureau of
105 Investigation by the bureau.

106 (7) The department may make rules in accordance with Title 63G, Chapter 3, Utah
107 Administrative Rulemaking Act, that:

108 (a) determine how the department will assess the employment status of an individual
109 upon receipt of background information; and

110 (b) identify the appropriate privacy risk mitigation strategy to be used in accordance
111 with Subsection 53-10-108~~(13)~~(11)(b).

112 Section 2. Section 19-1-308 is amended to read:

113 **19-1-308. Background checks for employees.**

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

116 (2) Beginning July 1, 2018, the department shall require all appointees and applicants
117 for the following positions to submit to a fingerprint-based local, regional, and national
118 criminal history background check and ongoing monitoring as a condition of employment:

119 (a) administrative services managers;

120 (b) financial analysts;

- 121 (c) financial managers; and
- 122 (d) schedule AB and AD employees, in accordance with Section 67-19-15, in
- 123 appointed positions.
- 124 (3) Each appointee or applicant for a position listed in Subsection (2) shall provide a
- 125 completed fingerprint card to the department upon request.
- 126 (4) The department shall require that an individual required to submit to a background
- 127 check under Subsection (3) provide a signed waiver on a form provided by the department that
- 128 meets the requirements of Subsection 53-10-108(4).
- 129 (5) For a noncriminal justice background search and registration in accordance with
- 130 Subsection 53-10-108~~(13)~~(11), the department shall submit to the bureau:
- 131 (a) the applicant's personal identifying information and fingerprints for a criminal
- 132 history search of applicable local, regional, and national databases; and
- 133 (b) a request for all information received as a result of the local, regional, and
- 134 nationwide background check.
- 135 (6) The department is responsible for the payment of all fees required by Subsection
- 136 53-10-108~~(15)~~(13) and any fees required to be submitted to the Federal Bureau of
- 137 Investigation by the bureau.
- 138 (7) The department may make rules in accordance with Title 63G, Chapter 3, Utah
- 139 Administrative Rulemaking Act, that:
- 140 (a) determine how the department will assess the employment status of an individual
- 141 upon receipt of background information; and
- 142 (b) identify the appropriate privacy risk mitigation strategy to be used in accordance
- 143 with Subsection 53-10-108~~(13)~~(11)(b).
- 144 Section 3. Section 26-1-17.1 is amended to read:
- 145 **26-1-17.1. Background checks for employees.**
- 146 (1) As used in this section, "bureau" means the Bureau of Criminal Identification
- 147 created in Section 53-10-201.
- 148 (2) Beginning July 1, 2018, the department may require a fingerprint-based local,
- 149 regional, and national criminal history background check and ongoing monitoring of:
- 150 (a) all staff, contracted employees, and volunteers who:
- 151 (i) have access to protected health information or personal identifying information;

152 (ii) have direct contact with patients, children, or vulnerable adults as defined in
153 Section 62A-2-120;
154 (iii) work in areas of privacy and data security;
155 (iv) handle financial information, including receipt of funds, reviewing invoices,
156 making payments, and other types of financial information; and
157 (v) perform audit functions, whether internal or external, on behalf of the department;
158 and

159 (b) job applicants who have been offered a position with the department and the job
160 requirements include those described in Subsection (2)(a).

161 (3) Each individual in a position listed in Subsection (2) shall provide a completed
162 fingerprint card to the department upon request.

163 (4) The department shall require that an individual required to submit to a background
164 check under Subsection (3) provide a signed waiver on a form provided by the department that
165 meets the requirements of Subsection 53-10-108(4).

166 (5) For a noncriminal justice background search and registration in accordance with
167 Subsection 53-10-108~~(13)~~(11), the department shall submit to the bureau:

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

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

172 (6) The department is responsible for the payment of all fees required by Subsection
173 53-10-108~~(15)~~(13) and any fees required to be submitted to the Federal Bureau of
174 Investigation by the bureau.

175 (7) The department may make rules in accordance with Title 63G, Chapter 3, Utah
176 Administrative Rulemaking Act, that:

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

179 (b) determine the type of crimes and the severity that would disqualify an individual
180 from holding a position; and

181 (c) identify the appropriate privacy risk mitigation strategy to be used in accordance
182 with Subsection 53-10-108~~(13)~~(11)(b).

183 Section 4. Section **35A-1-104.1** is amended to read:

184 **35A-1-104.1. Background checks for employees.**

185 (1) As used in this section, "bureau" means the Bureau of Criminal Identification
186 created in Section [53-10-201](#).

187 (2) Beginning July 1, 2018, the department may require current employees in, and all
188 applicants for, the following positions to submit to a fingerprint-based local, regional, and
189 national criminal history background check and ongoing monitoring as a condition of
190 employment:

191 (a) employees that access or may access federal tax information; and

192 (b) employees serving or interacting with vulnerable populations as defined in Section
193 [35A-1-102](#).

194 (3) Each individual in a position listed in Subsection (2) shall provide a completed
195 fingerprint card to the department upon request.

196 (4) The department shall require that an individual required to submit to a background
197 check under Subsection (3) provide a signed waiver on a form provided by the department that
198 meets the requirements of Subsection [53-10-108](#)(4).

199 (5) For a noncriminal justice background search and registration in accordance with
200 Subsection [53-10-108](#)~~(13)~~(11), the department shall submit to the bureau:

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

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

205 (6) The department is responsible for the payment of all fees required by Subsection
206 [53-10-108](#)~~(15)~~(13) and any fees required to be submitted to the Federal Bureau of
207 Investigation by the bureau.

208 (7) The department may make rules in accordance with Title 63G, Chapter 3, Utah
209 Administrative Rulemaking Act, that:

210 (a) determine how the department will assess the employment status of an individual
211 upon receipt of background information; and

212 (b) identify the appropriate privacy risk mitigation strategy to be used in accordance
213 with Subsection [53-10-108](#)~~(13)~~(11)(b).

214 Section 5. Section **53-10-108** is amended to read:

215 **53-10-108. Restrictions on access, use, and contents of division records -- Limited**
216 **use of records for employment purposes -- Challenging accuracy of records -- Usage fees**
217 **-- Missing children records -- Penalty for misuse of records.**

218 (1) As used in this section:

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

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

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

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

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

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

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

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

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

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

241 (f) agencies or individuals for the purpose of a preplacement adoptive study, in
242 accordance with the requirements of Sections [78B-6-128](#) and [78B-6-130](#);

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

245 (h) state agencies for the purpose of conducting a background check for the following
246 individuals:

- 247 (i) employees;
- 248 (ii) applicants for employment;
- 249 (iii) volunteers; and
- 250 (iv) contract employees;

251 (i) governor's office for the purpose of conducting a background check on the
252 following individuals:

- 253 (i) cabinet members;
- 254 (ii) judicial applicants; and
- 255 (iii) members of boards, committees, and commissions appointed by the governor;
- 256 (j) agencies and individuals as the commissioner authorizes for the express purpose of
257 research, evaluative, or statistical activities pursuant to an agreement with a criminal justice
258 agency; and

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

262 (3) An agreement under Subsection (2)(j) shall specifically authorize access to data,
263 limit the use of data to research, evaluative, or statistical purposes, preserve the anonymity of
264 individuals to whom the information relates, and ensure the confidentiality and security of the
265 data.

266 (4) (a) Before requesting information, a qualifying entity under Subsection (2)(c), state
267 agency, or other agency or individual described in Subsections (2)(d) through (i) shall obtain a
268 signed waiver from the person whose information is requested.

- 269 (b) The waiver shall notify the signee:
 - 270 (i) that a criminal history background check will be conducted;
 - 271 (ii) who will see the information; and
 - 272 (iii) how the information will be used.

273 (c) A qualifying entity under Subsection (2)(c), state agency, or other agency or
274 individual described in Subsections (2)(d) through (g) that submits a request for a noncriminal
275 justice name based background check of local databases to the bureau shall provide to the

276 bureau:

277 (i) personal identifying information for the subject of the background check; and

278 (ii) the fee required by Subsection [~~(15)(a)(ii)~~] (13).

279 (d) A qualifying entity under Subsection (2)(c), state agency, or other agency or

280 individual described in Subsections (2)(d) through (g) that submits a request for a WIN

281 database check to the bureau shall provide to the bureau:

282 (i) personal identifying information for the subject of the background check;

283 (ii) a fingerprint card for the subject of the background check; and

284 (iii) the fee required by Subsection [~~(15)(a)(i)~~] (13).

285 (e) Information received by a qualifying entity under Subsection (2)(c), state agency, or

286 other agency or individual described in Subsections (2)(d) through (i) may only be:

287 (i) available to individuals involved in the hiring or background investigation of the job

288 applicant or employee;

289 (ii) used for the purpose of assisting in making an employment appointment, selection,

290 or promotion decision; and

291 (iii) used for the purposes disclosed in the waiver signed in accordance with Subsection

292 (4)(b).

293 (f) An individual who disseminates or uses information obtained from the division

294 under Subsections (2)(c) through (i) for purposes other than those specified under Subsection

295 (4)(e), in addition to any penalties provided under this section, is subject to civil liability.

296 (g) A qualifying entity under Subsection (2)(c), state agency, or other agency or

297 individual described in Subsections (2)(d) through (i) that obtains background check

298 information shall provide the subject of the background check an opportunity to:

299 (i) review the information received as provided under [~~Subsection (9)~~] Section

300 53-19-302; and

301 (ii) respond to any information received.

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

303 division may make rules to implement this Subsection (4).

304 (i) The division or its employees are not liable for defamation, invasion of privacy,

305 negligence, or any other claim in connection with the contents of information disseminated

306 under Subsections (2)(c) through (i).

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

310 (b) A criminal history provided to an agency pursuant to Subsection (2)(f) may be
311 provided by the agency to the individual who is the subject of the history, another licensed
312 child-placing agency, or the attorney for the adoptive parents for the purpose of facilitating an
313 adoption.

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

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

322 ~~[(6) The division may not disseminate criminal history record information to qualifying~~
323 ~~entities under Subsection (2)(c) regarding employment background checks if the information is~~
324 ~~related to charges:]~~

325 ~~[(a) that have been declined for prosecution;]~~

326 ~~[(b) that have been dismissed; or]~~

327 ~~[(c) regarding which a person has been acquitted.]~~

328 ~~[(7)]~~ (6) (a) This section does not preclude the use of the division's central computing
329 facilities for the storage and retrieval of criminal history record information.

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

332 ~~[(8)]~~ (7) Direct access through remote computer terminals to criminal history record
333 information in the division's files is limited to those agencies authorized by the commissioner
334 under procedures designed to prevent unauthorized access to this information.

335 ~~[(9) (a) The commissioner shall establish procedures to allow an individual right of~~
336 ~~access to review and receive a copy of the individual's criminal history report.]~~

337 ~~[(b) A processing fee for the right of access service, including obtaining a copy of the~~

338 individual's criminal history report under Subsection (9)(a) shall be set in accordance with
339 Section ~~63J-1-504~~.]

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

343 [~~(ii) These procedures shall include provisions for amending any information found to~~
344 ~~be inaccurate or incomplete.~~]

345 [~~(10)~~] (8) The private security agencies as provided in Subsection (2)(g):

346 (a) shall be charged for access; and

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

349 [~~(11)~~] (9) Before providing information requested under this section, the division shall
350 give priority to criminal justice agencies needs.

351 [~~(12)~~] (10) (a) It is a class B misdemeanor for a person to knowingly or intentionally
352 access, use, disclose, or disseminate a record created, maintained, or to which access is granted
353 by the division or any information contained in a record created, maintained, or to which access
354 is granted by the division for a purpose prohibited or not permitted by statute, rule, regulation,
355 or policy of a governmental entity.

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

360 [~~(13)~~] (11) (a) Subject to Subsection [~~(13)~~] (11)(b), a qualifying entity or an entity
361 described in Subsection (2)(b) may request that the division register fingerprints taken for the
362 purpose of conducting current and future criminal background checks under this section with:

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

364 (ii) the FBI Rap Back System; or

365 (iii) a system maintained by the division.

366 (b) A qualifying entity or an entity described in Subsection (2)(b) may only make a
367 request under Subsection [~~(13)~~] (11)(a) if the entity:

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

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

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

373 ~~[(14)]~~ (12) The division is authorized to submit fingerprints to the FBI Rap Back
374 System to be retained in the FBI Rap Back System for the purpose of being searched by future
375 submissions to the FBI Rap Back System, including latent fingerprint searches.

376 ~~[(15)]~~ (13) (a) The division shall impose fees set in accordance with Section 63J-1-504
377 for the applicant fingerprint card, name check, and to register fingerprints under Subsection
378 ~~[(13)]~~ (11)(a).

379 (b) Funds generated under this Subsection ~~[(15)]~~ (13) shall be deposited into the
380 General Fund as a dedicated credit by the department to cover the costs incurred in providing
381 the information.

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

384 ~~[(16)]~~ (14) For the purposes of conducting a criminal background check authorized
385 under Subsection (2)(h) or (2)(i), the Department of Human Resource Management, in
386 accordance with Title 67, Chapter 19, Utah State Personnel Management Act, and the
387 governor's office shall have direct access to criminal background information maintained under
388 Title 53, Chapter 10, Part 2, Bureau of Criminal Identification.

389 Section 6. Section 53-19-101 is enacted to read:

390 **CHAPTER 19. UNIFORM CRIMINAL RECORDS ACCURACY ACT**

391 **Part 1. General Provisions**

392 **53-19-101. Title.**

393 This chapter is known as the "Uniform Criminal Records Accuracy Act."

394 Section 7. Section 53-19-102 is enacted to read:

395 **53-19-102. Definitions.**

396 As used in this chapter:

397 (1) "Accurate criminal-history-record information" means criminal-history-record
398 information that correctly reflects all reportable events relating to a subject.

399 (2) "Administration of criminal justice" means detection, apprehension, detention,

400 pretrial release, post-trial release, prosecution, adjudication, correctional supervision, or
401 rehabilitation of a subject. The term includes criminal-identification activities and collection,
402 storage, maintenance, submission, and dissemination of criminal-history-record information.

403 (3) "Biometric information" means fingerprints and other unique biological or physical
404 characteristics of an individual which a contributing justice agency is required or permitted by
405 Section [53-10-110](#) to use for identification.

406 (4) "Central repository" means the Bureau of Criminal Identification, created in Section
407 [53-10-201](#).

408 (5) "Contributing justice agency" means a court, political subdivision or agent of a
409 political subdivision, governing entity of this state, or any governmental agency which is
410 authorized to engage in the administration of criminal justice. The term does not include the
411 central repository.

412 (6) "Criminal-history-record information" means information, consisting of a
413 description of a subject and notation of a reportable event, collected, received, stored,
414 maintained, submitted, or disseminated by a contributing justice agency or the central
415 repository. The term includes biometric information. The term does not include
416 noncriminal-history-record information.

417 (7) "Disseminate" or "Dissemination" means oral, written, or electronic transmission or
418 other disclosure of criminal-history-record information to a person other than the central
419 repository.

420 (8) "Noncriminal-history-record information" means information collected:

421 (a) as a result of an inquiry about an activity, habit, practice, possession, association, or
422 financial status of an individual; and

423 (b) to anticipate, prevent, monitor, or investigate criminal activity.

424 (9) "Person" means the same as that term is defined in Section [68-3-12.5](#).

425 (10) "Reportable event" means any of the following relating to a felony or
426 misdemeanor, other than a traffic violation, or offense under Title 78A, Chapter 6, Juvenile
427 Court Act:

428 (a) an arrest resulting in booking into a detention facility or collection of biometric
429 information;

430 (b) a disposition after an arrest described in Subsection (10)(a) without initiation of a

431 criminal proceeding;

432 (c) an initiation of a criminal proceeding;

433 (d) a disposition of a criminal proceeding, including diversion, dismissal, indefinite

434 postponement, acquittal, guilty plea, conviction, sentencing, and modification, reversal, and

435 revocation of the disposition;

436 (e) a commitment to or release from a place of detention or custodial supervision;

437 (f) a commencement or conclusion of noncustodial supervision;

438 (g) a completion of a sentence;

439 (h) an expungement of criminal-history-record information;

440 (i) a grant of clemency, including pardon or commutation, or restoration of rights; and

441 (j) a finding that a defendant is incompetent to proceed by a court at any stage of a

442 criminal proceeding.

443 (11) "State" means a state of the United States, the District of Columbia, Puerto Rico,

444 the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction

445 of the United States, including a federally recognized Native American tribe.

446 (12) "Subject" means an individual about whom criminal-history-record information is

447 collected, stored, maintained, submitted, or disseminated as required or permitted by this

448 chapter or Title 53, Chapter 10, Criminal Investigations and Technical Services Division.

449 Section 8. Section **53-19-103** is enacted to read:

450 **53-19-103. Public records.**

451 Except as otherwise provided by Title 63G, Chapter 2, Government Records Access

452 and Management Act, or court rule or order, the court docket, court file, and information

453 contained in a docket or file, are public records.

454 Section 9. Section **53-19-104** is enacted to read:

455 **53-19-104. Dissemination log.**

456 (1) A dissemination log required by Section [53-19-205](#) or [53-19-304](#) shall include each

457 criminal-history-record information request and dissemination to a person identifiable by the

458 contributing justice agency or central repository.

459 (2) A dissemination log required by Section [53-19-205](#) or [53-19-304](#) shall be separate

460 from noncriminal-history record information and criminal-history-record information. The log

461 shall include at least:

- 462 (a) the name of the subject about whom criminal-history-record information is
463 requested;
464 (b) the name of the person making the request and the person's associated address;
465 (c) the name of the individual making the dissemination;
466 (d) the date of the request;
467 (e) the date of the dissemination; and
468 (f) a statement whether the information was disseminated for a purpose other than the
469 administration of criminal justice.

470 (3) A dissemination log required by Section 53-19-205 or 53-19-304 is available to the
471 public only as provided by law other than this chapter.

472 (4) An entry in a dissemination log required by Section 53-19-205 or 53-19-304 shall
473 be maintained as long as the associated criminal-history-record information is maintained.

474 Section 10. Section **53-19-201** is enacted to read:

475 **Part 2. Contributing Justice Agency**

476 **53-19-201. Collection and submission of information to central repository.**

477 (1) A contributing justice agency that has custody of, or control, authority, or
478 jurisdiction over, an individual for a reportable event shall collect, store, and maintain
479 criminal-history-record information on the event.

480 (2) Not later than five days after the agency collects the information, the agency shall
481 submit the information to the central repository in accordance with rules established by the
482 central repository.

483 Section 11. Section **53-19-202** is enacted to read:

484 **53-19-202. Collection and submission of biometric information.**

485 (1) A contributing justice agency that has custody of, or control, authority, or
486 jurisdiction over, an individual as a result of the individual's involvement in a reportable event
487 shall determine whether biometric information about the individual has been collected and
488 submitted to the central repository for the event. If the contributing justice agency is a court,
489 the contributing justice agency representing the state before the court shall make the
490 determination and report the results of its determination to the court.

491 (2) If a contributing justice agency determines under Subsection (1) that biometric
492 information has not been collected and submitted to the central repository, the agency, using

493 any procedure available to it under Section [53-10-110](#), shall collect the missing biometric
494 information.

495 (3) Not later than five days after collection, the agency shall submit the information to
496 the central repository in accordance with procedures established by the central repository.

497 Section 12. Section **53-19-203** is enacted to read:

498 **53-19-203. Accuracy and correction of information.**

499 (1) A contributing justice agency shall collect, store, maintain, submit, and disseminate
500 accurate criminal-history-record information in compliance with procedures established by the
501 central repository.

502 (2) Not later than 14 days after a contributing justice agency discovers that it possesses
503 inaccurate criminal-history-record information, the agency shall:

504 (a) correct its records;

505 (b) notify the central repository of the inaccuracy and correction; and

506 (c) if another contributing justice agency received the information under Subsection
507 [53-19-204](#)(2) within one year before the discovery, notify the agency of the inaccuracy and
508 correction.

509 Section 13. Section **53-19-204** is enacted to read:

510 **53-19-204. Dissemination of criminal-history-record information.**

511 (1) A contributing justice agency may disseminate criminal-history-record information
512 only as required or permitted by this chapter or Section [53-10-108](#).

513 (2) A contributing justice agency may disseminate criminal-history-record information
514 to another contributing justice agency on request of the other agency in connection with the
515 duties of the requesting agency.

516 Section 14. Section **53-19-205** is enacted to read:

517 **53-19-205. Dissemination log of contributing justice agency.**

518 (1) A contributing justice agency shall create, store, and maintain a dissemination log
519 complying with Section [53-19-104](#).

520 (2) Not later than 14 days after the agency disseminates criminal-history-record
521 information, the agency shall enter the information required by Section [53-19-104](#) in the
522 dissemination log.

523 Section 15. Section **53-19-301** is enacted to read:

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Part 3. Central Repository

53-19-301. Duty of central repository.

(1) The central repository shall receive, store, maintain, and disseminate criminal-history-record information reported to the central repository under this chapter.

(2) The central repository may disseminate criminal-history-record information only as required or permitted by this chapter or Title 53, Chapter 10, Criminal Investigations and Technical Services Act.

(3) The central repository shall receive, store, maintain, and disseminate accurate criminal-history-record information in compliance with procedures established by the department under Section [53-19-702](#).

(4) The central repository shall establish procedures to resolve data conflicts and discover missing data for accurate criminal-history-record information.

Section 16. Section **53-19-302** is enacted to read:

53-19-302. Dissemination of information to subject.

(1) Not later than 14 days after the central repository receives a request from a subject for the subject's criminal-history-record information, the central repository shall search its records and:

(a) if the search discloses criminal-history-record information about the subject, disseminate the information to the subject; or

(b) if the search does not disclose criminal-history-record information about the subject, notify the subject of the fact.

(2) Criminal-history-record information disseminated under this section shall include a conspicuous notice that it is provided for review by the subject and may not be relied on or considered current for use by another person.

Section 17. Section **53-19-303** is enacted to read:

53-19-303. Dissemination of information to person authorized by subject.

(1) A subject may authorize another person to receive the subject's criminal-history-record information from the central repository.

(2) Before the central repository disseminates criminal-history-record information under Subsection (1), the central repository shall determine whether the information contains:

(a) a disposition after an arrest without initiation of a criminal proceeding; or

555 (b) a disposition of a criminal proceeding, including diversion, dismissal, indefinite
556 postponement, acquittal, guilty plea, conviction, and sentencing, and modification, reversal,
557 and revocation of the disposition, for every arrest or initiation of a criminal proceeding.

558 (3) If the central repository determines under Subsection (2) that the information does
559 not contain a disposition, the central repository shall attempt to determine the disposition and,
560 if the central repository determines the disposition, include that disposition in:

561 (a) the relevant records maintained by the central repository; and

562 (b) the information to be disseminated.

563 (4) After complying with Subsection (3), and before the central repository disseminates
564 information under this section, the central repository shall remove from the information to be
565 disseminated any notation of an arrest or initiation of criminal proceedings if:

566 (a) 18 months have elapsed since the later of the date of the arrest or initiation of
567 criminal proceedings;

568 (b) a disposition has not been identified with respect to the arrest;

569 (c) a warrant is not outstanding with respect to the arrest; and

570 (d) a proceeding which may result in a conviction is not pending with respect to the
571 arrest.

572 (5) Subsection (4) does not apply if Section [53-10-108](#) requires that the person receive
573 all criminal-history-record information about the subject.

574 (6) Not later than five days after the central repository disseminates information under
575 this section, the central repository shall send the same information to the subject, based on the
576 contact information provided by the person requesting the information.

577 Section 18. Section **53-19-304** is enacted to read:

578 **53-19-304. Dissemination log of central repository.**

579 The central repository shall create, store, and maintain a dissemination log complying
580 with Section [53-19-104](#). Not later than 14 days after the central repository disseminates
581 criminal-history-record information, the central repository shall enter the information required
582 by Section [53-19-104](#) in the dissemination log.

583 Section 19. Section **53-19-305** is enacted to read:

584 **53-19-305. Correction of inaccurate information.**

585 Not later than 14 days after the central repository determines that it possesses inaccurate

586 criminal-history-record information, the central repository shall follow the procedures in
587 Subsections 53-19-403(1) through (4).

588 Section 20. Section **53-19-306** is enacted to read:

589 **53-19-306. Establishment of procedures.**

590 The central repository shall make rules in accordance with Title 63G, Chapter 3, Utah
591 Administrative Rulemaking Act, to establish procedures and forms:

592 (1) as necessary to carry out its powers and duties under this chapter;

593 (2) for the manner and form in which a contributing justice agency collects, stores,
594 maintains, submits, and disseminates criminal-history-record information, including biometric
595 information;

596 (3) to ensure that all criminal-history-record information for the same subject is linked;
597 and

598 (4) for reporting, exchanging, and seeking correction of criminal-history-record
599 information under this chapter.

600 Section 21. Section **53-19-307** is enacted to read:

601 **53-19-307. Dissemination of information for statistical or research purposes.**

602 Consistent with Subsection 53-10-108(3), the central repository may:

603 (1) subject to Subsection (2), disseminate criminal-history-record information,
604 including personally identifiable information, for a statistical or research purpose; and

605 (2) limit the use and subsequent dissemination of information disseminated under this
606 section and the procedures established by the central repository.

607 Section 22. Section **53-19-308** is enacted to read:

608 **53-19-308. Public information.**

609 (1) The central repository shall inform the public of the existence and accessibility of
610 criminal-history-record information collected, stored, maintained, and disseminated by
611 contributing justice agencies and the central repository.

612 (2) The central repository shall inform the public, at least annually, concerning the:

613 (a) extent and general nature of criminal-history-record information collected, stored,
614 maintained, and disseminated in this state;

615 (b) number of corrections to criminal-history-record information made by the central
616 repository;

617 (c) results of audits under Section 53-19-602 and the status of any correction of
618 deficiencies identified; and

619 (d) requirements and forms for a subject to access, review, and seek correction of
620 criminal-history-record information received, stored, or maintained by the central repository,
621 including the right to appeal an adverse determination.

622 Section 23. Section 53-19-309 is enacted to read:

623 **53-19-309. Training.**

624 (1) The central repository regularly shall provide training to contributing justice
625 agencies concerning submitting information on a reportable event and the importance of the
626 information to subjects, the public, and the criminal-justice system.

627 (2) The central repository periodically shall identify, and provide remedial training to,
628 any contributing justice agency that does not meet the requirements of this chapter.

629 Section 24. Section 53-19-401 is enacted to read:

630 **Part 4. Correction of Criminal-history-record Information**

631 **53-19-401. Request to correct.**

632 (1) A subject may seek correction of criminal-history-record information by sending
633 the central repository or the contributing justice agency storing the information a request for
634 correction, specifying the information alleged to be inaccurate and providing the allegedly
635 correct information.

636 (2) A contributing justice agency that receives the request shall inform the subject that
637 only the central repository can act on the subject's request and that the contributing justice
638 agency will forward the request to the central repository.

639 (3) Not later than five days after receiving the request, the contributing justice agency
640 shall forward to the central repository the request and any criminal-history-record information
641 relating to the subject.

642 Section 25. Section 53-19-402 is enacted to read:

643 **53-19-402. Review of request.**

644 (1) Not later than 40 days after receipt of a request under Section 53-19-401, the
645 central repository shall review and approve or deny the request. The director of the central
646 repository may extend the time to review and act on the request for up to 21 days if the director
647 certifies that there is good cause for an extension and notifies the subject. The extension may

648 not be renewed unless the subject agrees.

649 (2) If the central repository does not act within the period provided in Subsection (1),
650 the request is considered denied.

651 (3) Title 63G, Chapter 4, Administrative Procedures Act, governs review of action or
652 nonaction by the central repository concerning a request under Section [53-19-401](#).
653 Notwithstanding Title 63G, Chapter 4, Administrative Procedures Act, if the request is
654 considered denied under Subsection (2), the central repository has the burden of proof in a
655 subsequent review.

656 Section 26. Section **53-19-403** is enacted to read:

657 **53-19-403. Correction of record.**

658 Not later than 14 days after the central repository approves a request under Section
659 [53-19-401](#) or the decision under Section [53-19-402](#) becomes final and not subject to appeal, the
660 central repository shall:

661 (1) correct its records;

662 (2) disseminate notice of the inaccuracy and correction to the subject and each person
663 to whom the central repository disseminated inaccurate information for a purpose of
664 administration of criminal justice within one year before the date of approval of the correction;

665 (3) notify the contributing justice agency that provided the inaccurate information of
666 the inaccuracy and correction; and

667 (4) on request of the subject:

668 (a) disseminate notice of the inaccuracy and correction to each person the subject
669 identifies as having received the inaccurate information under Section [53-19-303](#); and

670 (b) provide the subject at no cost one certified copy of the accurate information.

671 Section 27. Section **53-19-501** is enacted to read:

672 **Part 5. Mistaken-Identity-Prevention Registry**

673 **53-19-501. Creation and maintenance of registry.**

674 The central repository shall create and maintain a mistaken-identity-prevention registry:

675 (1) consisting of information voluntarily provided by:

676 (a) a victim of mistaken identity; or

677 (b) an individual whose name or other identifying characteristic is similar to that of
678 another individual who is the subject of criminal-history-record information; and

- 679 (2) designed to prevent:
680 (a) creation of inaccurate criminal-history-record information;
681 (b) inaccurate modification of criminal-history-record information;
682 (c) mistaken arrest; and
683 (d) confusion of an individual with another individual when criminal-history-record
684 information is searched.

685 Section 28. Section **53-19-502** is enacted to read:

686 **53-19-502. Requirements for registry.**

- 687 (1) The central repository shall make rules establishing procedures for entry of
688 information concerning an individual in the mistaken-identity-prevention registry. The
689 procedures shall require:
690 (a) submission by the individual of a request to be entered in the registry; and
691 (b) collection of biometric information from the individual.
692 (2) Using the procedures under Subsection (1), the central repository shall determine
693 whether the individual has a name or other identifying characteristic similar to that of another
694 individual who is the subject of criminal-history-record information.

695 (a) If the central repository determines the individual does have a similar name or
696 characteristic, the central repository shall enter the information concerning the individual in the
697 mistaken-identity-protection registry.

698 (b) If the central repository determines the individual does not have a similar name or
699 characteristic, the individual may seek relief under Title 63G, Chapter 4, Administrative
700 Procedures Act.

701 Section 29. Section **53-19-503** is enacted to read:

702 **53-19-503. Certification.**

703 Not later than 14 days after entering information concerning an individual in the
704 mistaken-identity-prevention registry under Section [53-19-502](#), the central repository shall
705 provide the individual a certification that the individual is not a specified individual with a
706 similar name or identifying characteristic who is the subject of criminal-history-record
707 information. The certification is prima facie evidence of the facts certified. A person, court, or
708 law enforcement officer may rely on the accuracy of the information in the certification.

709 Section 30. Section **53-19-504** is enacted to read:

710 **53-19-504. Dissemination of registry information.**711 (1) The central repository may not use or disseminate information from the
712 mistaken-identity-prevention registry except as provided in this part.713 (2) The central repository shall disseminate information from the
714 mistaken-identity-prevention registry to a contributing justice agency if the central repository
715 has reason to believe that identifying information on a reportable event may be inaccurate or
716 incorrectly associated with an individual.717 (3) The central repository may disseminate information from the
718 mistaken-identity-prevention registry to a national mistaken-identity-prevention registry if the
719 national registry is created and maintained by a federal law-enforcement agency with a purpose
720 and protections similar to the registry created in this part.721 Section 31. Section **53-19-505** is enacted to read:722 **53-19-505. Verification of identity.**723 If a contributing justice agency seeks to establish the identity of an individual and the
724 individual presents a certification issued under Section [53-19-503](#), the agency shall accept the
725 certification of the individual's identity unless the agency has a reasonable basis to doubt the
726 individual's identity or the authenticity of the certification, in which case the agency shall
727 contact the central repository to verify the authenticity of the certification, using procedures
728 established by the central repository.729 Section 32. Section **53-19-506** is enacted to read:730 **53-19-506. Limitation on use of registry information.**731 (1) A contributing justice agency and the central repository may access or use
732 information from the mistaken-identity-prevention registry only to:733 (a) identify accurately an individual about whom the agency has requested or received
734 registry information; or735 (b) investigate, prosecute, or adjudicate an individual for an offense relating to
736 participating in, using, or operating the registry.737 (2) If information in the mistaken-identity-prevention registry is accessed or used for a
738 purpose other than permitted under Subsection (1):739 (a) the information and any information acquired as a result of the improper access or
740 use is not admissible in any criminal or civil action; and

741 (b) the central repository shall notify the individual whose information was accessed or
742 used improperly, not later than five days after it discovers the access or use.

743 Section 33. Section **53-19-507** is enacted to read:

744 **53-19-507. Removal of information from registry.**

745 (1) The central repository shall make rules establishing procedures regarding a request
746 to remove information from the mistaken-identity-prevention registry.

747 (2) Not later than 14 days after receiving a request complying with procedures
748 established under Subsection (1) from an individual for removal of information the individual
749 voluntarily submitted under Subsection 53-19-502(1), the central repository shall remove the
750 information from the mistaken-identity-prevention registry.

751 Section 34. Section **53-19-601** is enacted to read:

752 **Part 6. Systems Security and Audit**

753 **53-19-601. Security requirements.**

754 To promote the confidentiality and security of criminal-history-record information
755 collected, received, stored, maintained, submitted, and disseminated under this chapter, the
756 central repository shall establish procedures to:

- 757 (1) protect information from loss or damage;
- 758 (2) allow only an authorized person access to the information;
- 759 (3) select, supervise, and train individuals authorized to access the information;
- 760 (4) if computerized data processing is used, meet the technical guidance for the
761 security of systems established by the department; and
- 762 (5) maintain an index of each data breach.

763 Section 35. Section **53-19-602** is enacted to read:

764 **53-19-602. Audit.**

765 (1) The state auditor shall cause an audit to be conducted annually of a sample of
766 contributing justice agencies and at least once every three years of the central repository.

767 (2) If the state auditor certifies that an audit required by an entity of the United States
768 satisfies the requirements of this section, an additional audit is not required of the central
769 repository or contributing justice agency subject to the audit.

770 (3) An audit under this section shall:

- 771 (a) assess operational practices of the central repository for consistency, efficiency, and

772 security;

773 (b) assess the integrity of each computerized system and database and each physical
774 location where criminal-history-record information is stored;

775 (c) assess any data breach in the central repository and response to the breach; and

776 (d) review a representative sample of criminal-history-record information stored by a
777 contributing justice agency or the central repository and determine the number of missing
778 reportable events and amount and nature of missing biometric information in the sample, in
779 part by examining public records of the courts of this state.

780 (4) A contributing justice agency and the central repository shall give the state auditor
781 access to the records, reports, listings, and information required to conduct an audit under this
782 section. An officer, employee, or contractor of this state or a political subdivision of this state
783 with relevant information shall cooperate with the state auditor and provide information
784 requested for an audit.

785 (5) The state auditor shall prepare and make available a public report containing the
786 results of audits under this section and a list of any deficiencies and recommendations for
787 correction of deficiencies.

788 Section 36. Section **53-19-701** is enacted to read:

789 **Part 7. Enforcement and Implementation**

790 **53-19-701. Remedies.**

791 (1) The department, the central repository, or a subject, in addition to other remedies
792 provided by this chapter and Title 53, Chapter 10, Criminal Investigations and Technical
793 Services Act, may commence an action to compel compliance with or enjoin a violation of this
794 chapter. The court may award reasonable attorney fees and court costs to a subject who prevails
795 in the action.

796 (2) A subject has a cause of action for an intentional or reckless violation of this
797 chapter or procedures established under this chapter. This Subsection (2) does not affect other
798 remedies as provided by this chapter or Title 53, Chapter 10, Criminal Investigations and
799 Technical Services Act. If the court finds by a preponderance of the evidence that the subject
800 was injured by an intentional or reckless violation, the court shall award:

801 (a) the greater of:

802 (i) actual damages; or

803 (ii) \$500 for each violation up to \$2,000 in the action; and

804 (b) reasonable attorney fees and court costs.

805 Section 37. Section **53-19-702** is enacted to read:

806 **53-19-702. Duties and authority of department.**

807 (1) The department shall make rules in accordance with Title 63G, Chapter 3, Utah
808 Administrative Rulemaking Act, and establish procedures to implement this chapter that
809 include provisions that:

810 (a) govern the accuracy, dissemination, and review of, and individual access to,
811 criminal-history-record information;

812 (b) electronic data, including biometric information, shall be stored in a manner that
813 complies with the procedures established under Section [53-19-601](#);

814 (c) establish technical guidance for the security of systems described in Subsections
815 (1)(a) and (b); and

816 (d) set reasonable fees in accordance with Section [63J-1-504](#) for the cost of
817 disseminating criminal-history-record information and provide a subject free access to the
818 subject's information at least once each calendar year.

819 (2) The department may designate any governmental agency, other than the central
820 repository or a court, as a contributing justice agency.

821 (3) The department may investigate any matter relating to the administration and
822 enforcement of this chapter.

823 Section 38. Section **53-19-801** is enacted to read:

824 **Part 8. Miscellaneous Provisions**

825 **53-19-801. Uniformity of application and construction.**

826 In applying and construing this uniform act, consideration shall be given to the need to
827 promote uniformity of the law with respect to its subject matter among states that enact it.

828 Section 39. Section **53-19-802** is enacted to read:

829 **53-19-802. Transitional provision.**

830 Sections [53-19-203](#), [53-19-305](#), [53-19-401](#), [53-19-402](#), and [53-19-403](#) apply to
831 criminal-history-record information that is in existence before, on, or after May 14, 2019,
832 regardless of the date the information was created or when the reportable event occurred.

833 Section 40. Section **53-19-803** is enacted to read:

834 **53-19-803. Severability.**

835 If any provision of this chapter or its application to any person or circumstance is held
836 invalid, the invalidity does not affect other provisions or applications of this chapter which can
837 be given effect without the invalid provision or application, and to this end the provisions of
838 this chapter are severable.

839 Section 41. Section **53G-11-402** is amended to read:

840 **53G-11-402. Background checks for non-licensed employees, contract employees,**
841 **volunteers, and charter school governing board members.**

842 (1) An LEA or qualifying private school shall:

843 (a) require the following individuals to submit to a nationwide criminal background
844 check and ongoing monitoring as a condition for employment or appointment:

845 (i) a non-licensed employee;

846 (ii) a contract employee;

847 (iii) a volunteer who will be given significant unsupervised access to a student in
848 connection with the volunteer's assignment; and

849 (iv) a charter school governing board member;

850 (b) collect the following from an individual required to submit to a background check
851 under Subsection (1)(a):

852 (i) personal identifying information;

853 (ii) subject to Subsection (2), a fee described in Subsection [~~53-10-108(15)~~]

854 ~~53-10-108(13)~~; and

855 (iii) consent, on a form specified by the LEA or qualifying private school, for:

856 (A) an initial fingerprint-based background check by the FBI and the bureau upon
857 submission of the application; and

858 (B) retention of personal identifying information for ongoing monitoring through
859 registration with the systems described in Section **53G-11-404**;

860 (c) submit the individual's personal identifying information to the bureau for:

861 (i) an initial fingerprint-based background check by the FBI and the bureau; and

862 (ii) ongoing monitoring through registration with the systems described in Section

863 **53G-11-404** if the results of the initial background check do not contain disqualifying criminal
864 history information as determined by the LEA or qualifying private school in accordance with

865 Section 53G-11-405; and

866 (d) identify the appropriate privacy risk mitigation strategy that will be used to ensure
867 that the LEA or qualifying private school only receives notifications for individuals with whom
868 the LEA or qualifying private school maintains an authorizing relationship.

869 (2) An LEA or qualifying private school may not require an individual to pay the fee
870 described in Subsection (1)(b)(ii) unless the individual:

871 (a) has passed an initial review; and

872 (b) is one of a pool of no more than five candidates for the position.

873 (3) By September 1, 2018, an LEA or qualifying private school shall:

874 (a) collect the information described in Subsection (1)(b) from individuals:

875 (i) who were employed or appointed prior to July 1, 2015; and

876 (ii) with whom the LEA or qualifying private school currently maintains an authorizing
877 relationship; and

878 (b) submit the information to the bureau for ongoing monitoring through registration
879 with the systems described in Section 53G-11-404.

880 (4) An LEA or qualifying private school that receives criminal history information
881 about a licensed educator under Subsection 53G-11-403(5) shall assess the employment status
882 of the licensed educator as provided in Section 53G-11-405.

883 (5) An LEA or qualifying private school may establish a policy to exempt an individual
884 described in Subsections (1)(a)(i) through (iv) from ongoing monitoring under Subsection (1) if
885 the individual is being temporarily employed or appointed.

886 Section 42. Section 53G-11-403 is amended to read:

887 **53G-11-403. Background checks for licensed educators.**

888 The State Board of Education shall:

889 (1) require a license applicant to submit to a nationwide criminal background check
890 and ongoing monitoring as a condition for licensing;

891 (2) collect the following from an applicant:

892 (a) personal identifying information;

893 (b) a fee described in Subsection 53-10-108~~(15)~~(13); and

894 (c) consent, on a form specified by the State Board of Education, for:

895 (i) an initial fingerprint-based background check by the FBI and bureau upon

896 submission of the application;

897 (ii) retention of personal identifying information for ongoing monitoring through
898 registration with the systems described in Section 53G-11-404; and

899 (iii) disclosure of any criminal history information to the individual's employing LEA
900 or qualifying private school;

901 (3) submit an applicant's personal identifying information to the bureau for:

902 (a) an initial fingerprint-based background check by the FBI and bureau; and

903 (b) ongoing monitoring through registration with the systems described in Section
904 53G-11-404 if the results of the initial background check do not contain disqualifying criminal
905 history information as determined by the State Board of Education in accordance with Section
906 53G-11-405;

907 (4) identify the appropriate privacy risk mitigation strategy that will be used to ensure
908 that the State Board of Education only receives notifications for individuals with whom the
909 State Board of Education maintains an authorizing relationship;

910 (5) notify the employing LEA or qualifying private school upon receipt of any criminal
911 history information reported on a licensed educator employed by the LEA or qualifying private
912 school; and

913 (6) (a) collect the information described in Subsection (2) from individuals who were
914 licensed prior to July 1, 2015, by the individual's next license renewal date; and

915 (b) submit the information to the bureau for ongoing monitoring through registration
916 with the systems described in Section 53G-11-404.

917 Section 43. Section 59-1-206.1 is amended to read:

918 **59-1-206.1. Definitions -- Background checks for employees.**

919 (1) As used in this section:

920 (a) "Bureau" means the Bureau of Criminal Identification created in Section 53-10-201.

921 (b) "Return information" means the same as that term is defined in 26 U.S.C. Sec.

922 6103.

923 (2) The commission shall:

924 (a) require the following individuals to submit to a nationwide criminal background
925 check and ongoing monitoring of that nationwide criminal background check as a condition of
926 employment:

927 (i) an employee or contractor of the commission that has access to return information
928 in the custody of the commission, regardless of whether access by the employee or contractor is
929 authorized; and

930 (ii) an employee or contractor of the commission that has access to information in the
931 custody of the commission in the Utah Criminal Justice Information System, regardless of
932 whether access by the employee or contractor is authorized; and

933 (b) require the following individuals to submit to a nationwide criminal background
934 check and ongoing monitoring of the nationwide criminal background check:

935 (i) an employee or contractor of another state agency, or an employee of the office of
936 the attorney general, that has access to return information in the custody of the commission,
937 regardless of whether access by the employee or contractor is authorized; and

938 (ii) an employee or contractor of another state agency, or an employee of the office of
939 the attorney general, that has access to information in the custody of the commission in the
940 Utah Criminal Justice Information System, regardless of whether access by the employee or
941 contractor is authorized.

942 (3) The commission shall collect the following from an individual required to submit
943 to a background check under Subsection (2):

944 (a) the personal identifying information required on the fingerprint card; and

945 (b) consent, on a form specified by the commission, for:

946 (i) an initial fingerprint-based state, regional, and national background check by the
947 Federal Bureau of Investigation and the bureau upon submission of the application; and

948 (ii) retention of personal identifying information for ongoing monitoring through
949 registration with the systems described in Subsection [~~53-10-108(13)~~] 53-10-108(11).

950 (4) For an individual required to submit to a background check under Subsection (2),
951 the commission shall submit the individual's personal identifying information to the bureau for:

952 (a) an initial fingerprint-based background check by the Federal Bureau of
953 Investigation and the bureau; and

954 (b) ongoing monitoring through registration with the systems described in Subsection
955 [~~53-10-108(13)~~] 53-10-108(11) if the results of the initial background check do not contain
956 disqualifying criminal history information as determined by the commission.

957 (5) The commission shall:

958 (a) submit any fees required under Subsection [~~53-10-108(15)~~] 53-10-108(13) to the
959 bureau; and

960 (b) identify the appropriate privacy risk mitigation strategy that will be used to ensure
961 that the commission only receives notifications for individuals described in Subsection (2).

962 (6) The bureau shall provide all the results from the state, regional, and nationwide
963 criminal history background checks and monitoring performed under Subsection (4) to the
964 commission.

965 (7) On or before May 1, 2019, the commission shall:

966 (a) collect the information and consent described in Subsection (3) from individuals
967 described in Subsection (2)(a) who:

- 968 (i) were employed by or under contract with the commission prior to May 8, 2018; and
- 969 (ii) are employed by or under contract with the commission; and

970 (b) submit the information and consent described in Subsection (3) to the bureau for
971 ongoing monitoring through registration with the systems described in Subsection
972 [~~53-10-108(13)~~] 53-10-108(11).

973 (8) Upon receipt of criminal history information under Subsection [~~53-10-108(13)~~]
974 53-10-108(11) regarding an individual described in Subsection (2)(a), the commission shall
975 assess the employment status of the employee or contractor.

976 (9) Upon receipt of criminal history information under Subsection [~~53-10-108(13)~~]
977 53-10-108(11) regarding an individual described in Subsection (2)(b), the commission shall
978 deny the employee or contractor access to:

- 979 (a) return information in the custody of the commission; and
- 980 (b) information in the custody of the commission in the Utah Criminal Justice
981 Information System.

982 Section 44. Section **63A-2-106** is amended to read:

983 **63A-2-106. Background checks for employees.**

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

986 (2) Beginning July 1, 2018, the division shall require all applicants for the following
987 positions to submit to a fingerprint-based local, regional, and national criminal history
988 background check and ongoing monitoring as a condition of employment:

989 (a) assistant directors;

990 (b) contract analysts; and

991 (c) purchasing agents.

992 (3) Each applicant for a position listed in Subsection (2) shall provide a completed
993 fingerprint card to the division upon request.

994 (4) The division shall require that an individual required to submit to a background
995 check under Subsection (3) provide a signed waiver on a form provided by the division that
996 meets the requirements of Subsection ~~53-10-108(4)~~.

997 (5) For a noncriminal justice background search and registration in accordance with
998 Subsection [~~53-10-108(13)~~] 53-10-108(11), the division shall submit to the bureau:

999 (a) the applicant's personal identifying information and fingerprints for a criminal
1000 history search of applicable local, regional, and national databases; and

1001 (b) a request for all information received as a result of the local, regional, and
1002 nationwide background check.

1003 (6) The division is responsible for the payment of all fees required by Subsection
1004 [~~53-10-108(15)~~] 53-10-108(13) and any fees required to be submitted to the Federal Bureau of
1005 Investigation by the bureau.

1006 (7) The division may make rules in accordance with Title 63G, Chapter 3, Utah
1007 Administrative Rulemaking Act, that:

1008 (a) determine how the division will assess the employment status of an individual upon
1009 receipt of background information; and

1010 (b) identify the appropriate privacy risk mitigation strategy to be used in accordance
1011 with Subsection [~~53-10-108(13)~~] 53-10-108(11)(b).

1012 Section 45. Section **63M-2-304** is amended to read:

1013 **63M-2-304. Background checks for employees.**

1014 (1) As used in this section, "bureau" means the Bureau of Criminal Identification
1015 created in Section 53-10-201.

1016 (2) Beginning July 1, 2018, the governing authority:

1017 (a) shall require all applicants for Schedule A positions, in accordance with Section
1018 67-19-15, to submit to a fingerprint-based local, regional, and national criminal history
1019 background check and ongoing monitoring as a condition of employment; and

1020 (b) may require applicants for time limited positions to submit to a fingerprint-based,
1021 local, regional, and national criminal history background check and ongoing monitoring as a
1022 condition of employment if the applicant, as an employee:

1023 (i) will interact with children, or vulnerable adults as defined in Section [62A-2-120](#); or

1024 (ii) may have access to sensitive personal and financial information.

1025 (3) Each individual in a position listed in Subsection (2) shall provide a completed
1026 fingerprint card to the governing authority upon request.

1027 (4) The governing authority shall require that an individual required to submit to a
1028 background check under Subsection (3) provide a signed waiver on a form provided by the
1029 governing authority that meets the requirements of Subsection [53-10-108](#)(4).

1030 (5) For a noncriminal justice background search and registration in accordance with
1031 Subsection [~~53-10-108(13)~~] [53-10-108\(11\)](#), the governing authority shall submit to the bureau:

1032 (a) the applicant's personal identifying information and fingerprints for a criminal
1033 history search of applicable local, regional, and national databases; and

1034 (b) a request for all information received as a result of the local, regional, and
1035 nationwide background check.

1036 (6) The governing authority is responsible for the payment of all fees required by
1037 Subsection [~~53-10-108(15)~~] [53-10-108\(13\)](#) and any fees required to be submitted to the Federal
1038 Bureau of Investigation by the bureau.

1039 (7) The governing authority may make rules in accordance with Title 63G, Chapter 3,
1040 Utah Administrative Rulemaking Act, that:

1041 (a) determine how the governing authority will assess the employment status of an
1042 individual upon receipt of background information; and

1043 (b) identify the appropriate privacy risk mitigation strategy to be used in accordance
1044 with Subsection [~~53-10-108(13)~~] [53-10-108\(11\)](#)(b).

1045 Section 46. Section **67-3-10** is amended to read:

1046 **67-3-10. Background checks for employees.**

1047 (1) As used in this section, "bureau" means the Bureau of Criminal Identification
1048 created in Section [53-10-201](#).

1049 (2) Beginning July 1, 2018, the state auditor shall require employees involved in an
1050 audit, investigation, or review requiring access to information and records, the access to which

1051 requires a background check by federal statute or regulation, to submit to a fingerprint-based
1052 local, regional, and national criminal history background check and ongoing monitoring as a
1053 condition of employment.

1054 (3) Each individual in a position listed in Subsection (2) shall provide a completed
1055 fingerprint card to the state auditor upon request.

1056 (4) The state auditor shall require that an individual required to submit to a background
1057 check under Subsection (3) provide a signed waiver on a form provided by the state auditor that
1058 meets the requirements of Subsection ~~53-10-108(4)~~.

1059 (5) For a noncriminal justice background search and registration in accordance with
1060 Subsection ~~[53-10-108(13)]~~ 53-10-108(11), the state auditor shall submit to the bureau:

1061 (a) the applicant's personal identifying information and fingerprints for a criminal
1062 history search of applicable local, regional, and national databases; and

1063 (b) a request for all information received as a result of the local, regional, and
1064 nationwide background check.

1065 (6) The state auditor is responsible for the payment of all fees required by Subsection
1066 ~~[53-10-108(15)]~~ 53-10-108(13) and any fees required to be submitted to the Federal Bureau of
1067 Investigation by the bureau.

1068 (7) The state auditor may set office policy that:

1069 (a) determines how the state auditor will assess the employment status of an individual
1070 upon receipt of background information; and

1071 (b) identifies the appropriate privacy risk mitigation strategy to be used in accordance
1072 with Subsection ~~[53-10-108(13)(b)]~~ 53-10-108(11)(b).

1073 Section 47. Section **76-10-526** is amended to read:

1074 **76-10-526. Criminal background check prior to purchase of a firearm -- Fee --**
1075 **Exemption for concealed firearm permit holders and law enforcement officers.**

1076 (1) For purposes of this section, "valid permit to carry a concealed firearm" does not
1077 include a temporary permit issued under Section 53-5-705.

1078 (2) (a) To establish personal identification and residence in this state for purposes of
1079 this part, a dealer shall require an individual receiving a firearm to present one photo
1080 identification on a form issued by a governmental agency of the state.

1081 (b) A dealer may not accept a driving privilege card issued under Section 53-3-207 as

1082 proof of identification for the purpose of establishing personal identification and residence in
1083 this state as required under this Subsection (2).

1084 (3) (a) A criminal history background check is required for the sale of a firearm by a
1085 licensed firearm dealer in the state.

1086 (b) Subsection (3)(a) does not apply to the sale of a firearm to a Federal Firearms
1087 Licensee.

1088 (4) (a) An individual purchasing a firearm from a dealer shall consent in writing to a
1089 criminal background check, on a form provided by the bureau.

1090 (b) The form shall contain the following information:

1091 (i) the dealer identification number;

1092 (ii) the name and address of the individual receiving the firearm;

1093 (iii) the date of birth, height, weight, eye color, and hair color of the individual
1094 receiving the firearm; and

1095 (iv) the social security number or any other identification number of the individual
1096 receiving the firearm.

1097 (5) (a) The dealer shall send the information required by Subsection (4) to the bureau
1098 immediately upon its receipt by the dealer.

1099 (b) A dealer may not sell or transfer a firearm to an individual until the dealer has
1100 provided the bureau with the information in Subsection (4) and has received approval from the
1101 bureau under Subsection (7).

1102 (6) The dealer shall make a request for criminal history background information by
1103 telephone or other electronic means to the bureau and shall receive approval or denial of the
1104 inquiry by telephone or other electronic means.

1105 (7) When the dealer calls for or requests a criminal history background check, the
1106 bureau shall:

1107 (a) review the criminal history files, including juvenile court records, to determine if
1108 the individual is prohibited from purchasing, possessing, or transferring a firearm by state or
1109 federal law;

1110 (b) inform the dealer that:

1111 (i) the records indicate the individual is prohibited; or

1112 (ii) the individual is approved for purchasing, possessing, or transferring a firearm;

1113 (c) provide the dealer with a unique transaction number for that inquiry; and
1114 (d) provide a response to the requesting dealer during the call for a criminal
1115 background check, or by return call, or other electronic means, without delay, except in case of
1116 electronic failure or other circumstances beyond the control of the bureau, the bureau shall
1117 advise the dealer of the reason for the delay and give the dealer an estimate of the length of the
1118 delay.

1119 (8) (a) The bureau may not maintain any records of the criminal history background
1120 check longer than 20 days from the date of the dealer's request, if the bureau determines that
1121 the individual receiving the firearm is not prohibited from purchasing, possessing, or
1122 transferring the firearm under state or federal law.

1123 (b) However, the bureau shall maintain a log of requests containing the dealer's federal
1124 firearms number, the transaction number, and the transaction date for a period of 12 months.

1125 (9) If the criminal history background check discloses information indicating that the
1126 individual attempting to purchase the firearm is prohibited from purchasing, possessing, or
1127 transferring a firearm, the bureau shall inform the law enforcement agency in the jurisdiction
1128 where the individual resides.

1129 (10) If an individual is denied the right to purchase a firearm under this section, the
1130 individual may review the individual's criminal history information and may challenge or
1131 amend the information as provided in Section [~~53-10-108~~] [53-19-302](#).

1132 (11) The bureau shall make rules in accordance with Title 63G, Chapter 3, Utah
1133 Administrative Rulemaking Act, to ensure the identity, confidentiality, and security of all
1134 records provided by the bureau under this part are in conformance with the requirements of the
1135 Brady Handgun Violence Prevention Act, Pub. L. No. 103-159, 107 Stat. 1536 (1993).

1136 (12) (a) A dealer shall collect a criminal history background check fee for the sale of a
1137 firearm under this section. This fee remains in effect until changed by the bureau through the
1138 process in accordance with Section [63J-1-504](#).

1139 (b) (i) The dealer shall forward at one time all fees collected for criminal history
1140 background checks performed during the month to the bureau by the last day of the month
1141 following the sale of a firearm.

1142 (ii) The bureau shall deposit the fees in the General Fund as dedicated credits to cover
1143 the cost of administering and conducting the criminal history background check program.

1144 (13) An individual with a concealed firearm permit issued under Title 53, Chapter 5,
1145 Part 7, Concealed Firearm Act, is exempt from the background check and corresponding fee
1146 required in this section for the purchase of a firearm if:

1147 (a) the individual presents the individual's concealed firearm permit to the dealer prior
1148 to purchase of the firearm; and

1149 (b) the dealer verifies with the bureau that the individual's concealed firearm permit is
1150 valid.

1151 (14) A law enforcement officer, as defined in Section [53-13-103](#), is exempt from the
1152 background check fee required in this section for the purchase of a personal firearm to be
1153 carried while off-duty if the law enforcement officer verifies current employment by providing
1154 a letter of good standing from the officer's commanding officer and current law enforcement
1155 photo identification. This section may only be used by a law enforcement officer to purchase a
1156 personal firearm once in a 24-month period.