

1 **PUBLIC LIBRARY BACKGROUND CHECK REQUIREMENTS**

2 2022 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Dan N. Johnson**

5 Senate Sponsor: _____

7 **LONG TITLE**

8 **General Description:**

9 This bill provides for criminal background checks of librarians and employees of public
10 libraries.

11 **Highlighted Provisions:**

12 This bill:

- 13 ▶ defines terms;
- 14 ▶ requires criminal background checks for librarians and employees of public
15 libraries;
- 16 ▶ grants rulemaking authority to the State Library Board in relation to the criminal
17 background checks;
- 18 ▶ provides for the due process of individuals subject to a criminal background check;
19 and
- 20 ▶ makes technical and conforming changes.

21 **Money Appropriated in this Bill:**

22 None

23 **Other Special Clauses:**

24 None

25 **Utah Code Sections Affected:**

26 AMENDS:

27 **9-7-101**, as last amended by Laws of Utah 2019, Chapter 221



28 [9-7-205](#), as last amended by Laws of Utah 2017, Chapter 48
 29 [9-7-407](#), as last amended by Laws of Utah 2019, Chapter 221
 30 [9-7-507](#), as last amended by Laws of Utah 2019, Chapter 221

31 ENACTS:

32 [9-7-205.5](#), Utah Code Annotated 1953
 33 [9-7-205.6](#), Utah Code Annotated 1953



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

36 Section 1. Section [9-7-101](#) is amended to read:

37 **[9-7-101. Definitions.](#)**

38 As used in this chapter:

39 (1) "Authorized entity" means:

- 40 (a) the board;
- 41 (b) a library board; or
- 42 (c) a city or county library.

43 ~~[(1)]~~ (2) "Board" means the State Library Board created in Section [9-7-204](#).

44 (3) "Bureau" means the Bureau of Criminal Identification within the Department of
 45 Public Safety created in Section [53-10-201](#).

46 ~~[(2)]~~ (4) "Division" means the State Library Division.

47 ~~[(3)]~~ (5) "Library board" means the library board of directors appointed locally as
 48 authorized by Section [9-7-402](#) or [9-7-502](#) and which exercises general policy authority for
 49 library services within a city or county of the state, regardless of the title by which the board is
 50 known locally.

51 (6) "Personal identifying information" includes:

- 52 (a) current name;
- 53 (b) former names;
- 54 (c) nicknames;
- 55 (d) aliases;
- 56 (e) date of birth;
- 57 (f) address;
- 58 (g) telephone number;

- 59 (h) driver license number or other government-issued identification number;
- 60 (i) social security number; and
- 61 (j) fingerprints.

62 [~~(4)~~] (7) "Physical format" means a transportable medium in which analog or digital
 63 information is published, such as print, microform, magnetic disk, or optical disk.

64 [~~(5)~~] (8) "Policy" means the public library online access policy adopted by a library
 65 board to meet the requirements of Section 9-7-215.

66 [~~(6)~~] (9) "Political subdivision" means a county, city, town, school district, public
 67 transit district, redevelopment agency, or special improvement or taxing district.

68 [~~(7)~~] (10) "State agency" means:

- 69 (a) the state; or
- 70 (b) an office, department, agency, authority, commission, board, institution, hospital,
 71 college, university, or other instrumentality of the state.

72 [~~(8)~~] (11) (a) "State publication" means a book, compilation, directory, document,
 73 contract or grant report, hearing memorandum, journal, law, legislative bill, magazine, map,
 74 monograph, order, ordinance, pamphlet, periodical, proceeding, public memorandum,
 75 resolution, register, rule, report, statute, audiovisual material, electronic publication,
 76 micrographic form and tape or disc recording regardless of format or method of reproduction,
 77 issued or published by a state agency or political subdivision for distribution.

78 (b) "State publication" does not include correspondence, internal confidential
 79 publications, office memoranda, university press publications, or publications of the state
 80 historical society.

81 Section 2. Section 9-7-205 is amended to read:

82 **9-7-205. Duties of board and director.**

- 83 (1) The board shall:
 - 84 (a) promote, develop, and organize a state library and make provisions for its housing;
 - 85 (b) promote and develop library services throughout the state in cooperation with other
 86 state or municipal libraries, schools, or other agencies wherever practical;
 - 87 (c) promote the establishment of district, regional, or multicounty libraries as
 88 conditions within particular areas of the state may require;
 - 89 (d) supervise the books and materials of the state library and require the keeping of

90 careful and complete records of the condition and affairs of the state library;

91 (e) establish policies for the administration of the division and for the control,
92 distribution, and lending of books and materials to those libraries, institutions, groups, or
93 individuals entitled to them under this chapter;

94 (f) serve as the agency of the state for the administration of state or federal funds that
95 may be appropriated to further library development within the state;

96 (g) aid and provide general advisory assistance in the development of statewide school
97 library service and encourage contractual and cooperative relations between school and public
98 libraries;

99 (h) give assistance, advice, and counsel to all tax-supported libraries within the state
100 and to all communities or persons proposing to establish a tax-supported library and conduct
101 courses and institutes on the approved methods of operation, selection of books, or other
102 activities necessary to the proper administration of a library;

103 (i) furnish or contract for the furnishing of library or information service to state
104 officials, state departments, or any groups that in the opinion of the director warrant the
105 furnishing of those services, particularly through the facilities of traveling libraries to those
106 parts of the state otherwise inadequately supplied by libraries;

107 (j) where sufficient need exists and if the director considers it advisable, establish and
108 maintain special departments in the state library to provide services for the blind, visually
109 impaired, persons with disabilities, and professional, occupational, and other groups;

110 (k) administer a depository library program by collecting state publications, and
111 providing a bibliographic information system;

112 (l) require the collection of information and statistics necessary to the work of the state
113 library and the distribution of findings and reports;

114 (m) make any report concerning the activities of the state library to the governor as the
115 governor may require; ~~and~~

116 (n) develop standards for public libraries~~[-]; and~~

117 (o) make rules, in accordance with Title 63G, Chapter 3, Utah Administrative
118 Rulemaking Act, regarding:

119 (i) procedures for gathering, submitting, and reviewing criminal background checks of
120 librarians and library employees of city and county libraries;

- 121 (ii) criteria for disqualifying an individual based on the individual's criminal history;
- 122 (iii) the process for complying with the due process requirements described in Section
- 123 9-7-205.6; and
- 124 (iv) procedures for a librarian or library employee to self-report a conviction, an arrest,
- 125 or offense information.

126 (2) The director shall, under the policy direction of the board, carry out the

127 responsibilities under Subsection (1).

128 Section 3. Section **9-7-205.5** is enacted to read:

129 **9-7-205.5. Background checks for librarians and library employees -- Bureau**

130 **responsibilities.**

131 The bureau shall:

132 (1) upon request from an authorized entity, register the fingerprints submitted by the

133 authorized entity as part of a background check with:

134 (a) the WIN Database rap back system, or any successor system; and

135 (b) the rap back system maintained by the Federal Bureau of Investigation;

136 (2) notify an authorized entity when a new entry is made against an individual whose

137 fingerprints are registered with the rap back systems described in Subsection (1)(a) regarding:

138 (a) an alleged offense; or

139 (b) a conviction, including a plea in abeyance;

140 (3) assist authorized entities to identify the appropriate privacy risk mitigation strategy

141 that is to be used to ensure that the authorized entity only receives notifications for individuals

142 with whom the authorized entity maintains an authorizing relationship; and

143 (4) collaborate with the board to provide training to authorized entities on notification

144 procedures and privacy risk mitigation strategies.

145 Section 4. Section **9-7-205.6** is enacted to read:

146 **9-7-205.6. Due process -- Review of criminal history information.**

147 (1) (a) In accordance with Section [53-10-108](#), an authorized entity shall provide an

148 individual an opportunity to review and respond to any criminal history information received

149 under this chapter.

150 (b) If an authorized entity disqualifies an individual as a result of criminal history

151 information received under this chapter, an individual may request a review of:

152 (i) the information received; and
 153 (ii) the reasons for the disqualification.
 154 (c) An authorized entity shall provide an individual described in Subsection (1)(b) with
 155 written notice of:

156 (i) the reasons for the disqualification; and
 157 (ii) the individual's right to request a review of the disqualification.

158 (2) A library board shall make decisions regarding criminal history information for the
 159 individuals subject to the background check requirements in accordance with:

160 (a) Subsection (3);
 161 (b) administrative procedures established by the library board; and
 162 (c) rules established by the state board.

163 (3) When making decisions regarding individuals subject to background checks under
 164 this chapter, an authorized entity shall consider:

165 (a) any convictions, including pleas in abeyance;
 166 (b) any matters involving a felony; and
 167 (c) any matters involving an alleged:
 168 (i) sexual offense;
 169 (ii) class A misdemeanor drug offense;
 170 (iii) offense against the individual under Title 76, Chapter 5, Offenses Against the

171 Person;
 172 (iv) class A misdemeanor property offense that is alleged to have occurred within the
 173 previous three years; and

174 (v) any other type of criminal offense, if more than one occurrence of the same type of
 175 offense is alleged to have occurred within the previous eight years.

176 Section 5. Section **9-7-407** is amended to read:

177 **9-7-407. Librarian and other personnel.**

178 (1) The library board of directors shall appoint a competent [~~person~~] individual as
 179 librarian to have immediate charge of the library with those duties and compensation for
 180 services that [~~it~~] the library board of directors determines.

181 (2) The librarian shall act as the executive officer for the library board.

182 ~~(2)~~ (3) The library board shall appoint, upon the recommendation of the librarian,

183 other personnel as needed.

184 (4) (a) The library board shall require the librarian, and each employee of the library, to
185 submit to a nationwide criminal background check and ongoing monitoring as required in this
186 section.

187 (b) A librarian or library employee who began employment before May 4, 2022, shall
188 comply with Subsection (4)(a) before July 1, 2022.

189 (c) Except as provided in Subsection (4)(d), an individual who will begin employment
190 as a librarian or library employee on or after May 4, 2022, shall comply with Subsection (4)(a)
191 before beginning employment.

192 (d) An individual described in Subsection (4)(c) may begin employment before the
193 results of the criminal background check are received if the individual is visually monitored by
194 an individual who has passed the criminal background check while the individual awaiting the
195 results of the criminal background check is present in the library during hours of operation.

196 (5) To conduct a background check under this section, the library board shall:

197 (a) collect from the individual the individual's personal identifying information, and
198 consent, on a form specified by the State Library Board, for:

199 (i) an initial fingerprint-based background check by the FBI and bureau upon
200 submission of the application;

201 (ii) retention of personal identifying information for ongoing monitoring through
202 registration with the systems described in Section [9-7-205.5](#); and

203 (iii) disclosure of any criminal history information to the library and the library board
204 of directors;

205 (b) submit the individual's personal identifying information to the bureau for:

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

207 (ii) ongoing monitoring through registration with the systems described in Section
208 [9-7-205.5](#) if the results of the initial background check do not contain disqualifying criminal
209 history information as determined by the library board in accordance with Section [9-7-205.6](#)
210 and rules made by the State Library Board under Subsection [9-7-205\(1\)\(o\)](#);

211 (c) identify the appropriate privacy risk mitigation strategy that will be used to ensure
212 that the library board only receives notifications for individuals with whom the library board
213 maintains an authorizing relationship; and

214 (d) notify the employing library upon receipt of any criminal history information
215 reported on the individual.

216 (6) An individual subject to the background check requirements under this section shall
217 self-report conviction, arrest, or offense information in accordance with rules made by the State
218 Library Board under Subsection 9-7-205(1)(o).

219 Section 6. Section 9-7-507 is amended to read:

220 **9-7-507. Librarian and other personnel.**

221 (1) (a) The library board of directors shall recommend to the county executive for
222 appointment a competent person to serve as librarian.

223 (b) The county executive shall, within 30 days of the recommendation, either make the
224 appointment or request that the library board submit another recommendation.

225 (c) The librarian shall be an employee of the county subject to the personnel policies,
226 procedures, and compensation plans approved by the county executive and county legislative
227 body.

228 (d) The librarian shall act as the executive officer for the library board.

229 (2) (a) All library personnel are employees of the county.

230 (b) The librarian or the librarian's designee shall hire library personnel in accordance
231 with the county merit system, personnel policies and procedures, and compensation plans
232 approved by the county executive and county legislative body.

233 (3) As used in this section "librarian" means the county library director.

234 (4) (a) The library board shall require the librarian, and each employee of the library, to
235 submit to a nationwide criminal background check and ongoing monitoring as required in this
236 section.

237 (b) A librarian or library employee who began employment before May 4, 2022, shall
238 comply with Subsection (4)(a) before July 1, 2022.

239 (c) Except as provided in Subsection (4)(d), an individual who will begin employment
240 as a librarian or library employee on or after May 4, 2022, shall comply with Subsection (4)(a)
241 before beginning employment.

242 (d) An individual described in Subsection (4)(c) may begin employment before the
243 results of the criminal background check are received if the individual is visually monitored by
244 an individual who has passed the criminal background check while the individual awaiting the

245 results of the criminal background check is present in the library during hours of operation.
246 (5) To conduct a background check under this section, the library board shall:
247 (a) collect from the individual the individual's personal identifying information, and
248 consent, on a form specified by the State Library Board, for:
249 (i) an initial fingerprint-based background check by the FBI and bureau upon
250 submission of the application;
251 (ii) retention of personal identifying information for ongoing monitoring through
252 registration with the systems described in Section [9-7-205.5](#); and
253 (iii) disclosure of any criminal history information to the library and the library board
254 of directors;
255 (b) submit the individual's personal identifying information to the bureau for:
256 (i) an initial fingerprint-based background check by the FBI and bureau; and
257 (ii) ongoing monitoring through registration with the systems described in Section
258 [9-7-205.5](#) if the results of the initial background check do not contain disqualifying criminal
259 history information as determined by the library board in accordance with Section [9-7-205.6](#)
260 and rules made by the State Library Board under Subsection [9-7-205\(1\)\(o\)](#);
261 (c) identify the appropriate privacy risk mitigation strategy that will be used to ensure
262 that the library board only receives notifications for individuals with whom the library board
263 maintains an authorizing relationship; and
264 (d) notify the employing library upon receipt of any criminal history information
265 reported on the individual.
266 (6) An individual subject to the background check requirements under this section shall
267 self-report conviction, arrest, or offense information in accordance with rules made by the State
268 Library Board under Subsection [9-7-205\(1\)\(o\)](#).