

## HB0118S01 compared with HB0118

~~text~~ shows text that was in HB0118 but was deleted in HB0118S01.

text shows text that was not in HB0118 but was inserted into HB0118S01.

**DISCLAIMER:** This document is provided to assist you in your comparison of the two bills. Sometimes this automated comparison will NOT be completely accurate. Therefore, you need to read the actual bills. This automatically generated document could contain inaccuracies caused by: limitations of the compare program; bad input data; or other causes.

Representative Brian M. Greene proposes the following substitute bill:

### PUBLIC ACCESS OF ADMINISTRATIVE ACTION

#### AMENDMENTS

2016 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Brian M. Greene**

Senate Sponsor: ~~\_\_\_\_\_~~ Curtis S. Bramble

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#### LONG TITLE

##### General Description:

This bill modifies the Administrative Procedures Act to address public access to administrative actions.

##### Highlighted Provisions:

This bill:

- ▶ addresses access of information on public state-controlled websites;
- ▶ addresses application of the Government Records Access and Management Act; and
- ▶ addresses the Open and Public Meetings Act.

##### Money Appropriated in this Bill:

None

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### Other Special Clauses:

None

### Utah Code Sections Affected:

ENACTS:

**63G-4-106**, Utah Code Annotated 1953

**63G-4-107**, Utah Code Annotated 1953

**63G-4-108**, Utah Code Annotated 1953

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

Section 1. Section **63G-4-106** is enacted to read:

**63G-4-106. Access to state-controlled websites.**

(1) As used in this section and ~~{Section}~~ Sections 63G-4-107 and 63G-4-108:

(a) "Administrative disciplinary action" means, subject to the limitations described in Section 63G-4-102, state agency action against the interest of an individual that affects a legal right, duty, privilege, immunity, or other legal interest of an individual, including agency action to deny, revoke, suspend, modify, annul, withdraw, or amend an authority, right, or license.

(b) "Record of administrative disciplinary action" means a notice, request, complaint, report, order, or other information related to an administrative disciplinary action.

(c) "State-controlled website" means a website:

(i) operated by:

(A) an agency; or

(B) a third party pursuant to a contract with an agency under which the agency controls the data available to the public; and

(ii) that includes personally identifiable information.

(2) Unless otherwise required by federal law, if an agency maintains, on a state-controlled website available to the public, a record of administrative disciplinary action, the agency shall remove the record of administrative disciplinary action from public access on the state-controlled website by no later than 10 years from the date:

(a) a final order related to the administrative disciplinary action was issued; or

(b) the administrative disciplinary action was commenced, if no final order was issued related to the administrative disciplinary action.

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(3) Notwithstanding Subsection (2):

(a) a record of administrative disciplinary action issued in accordance with this chapter shall maintain its record classification pursuant to Subsection 63G-2-301(2)(c) or (3)(t); and

(b) a person may make a request for the record of administrative disciplinary action in accordance with Title 63G, Chapter 2, Government Records Access and Management Act.

Section 2. Section **63G-4-107** is enacted to read:

### **63G-4-107. Petition to remove agency action from public access.**

(1) ~~{A person}~~ An individual may petition the agency that maintains, on a state-controlled website available to the public, a record of administrative disciplinary action, ~~{for an order}~~ to remove the record of administrative disciplinary action from public access on the state-controlled website, if:

~~{a}~~ i five years have passed since:

~~{ii}~~ A the date the final order was issued; or

~~{iii}~~ B if no final order was issued, the date the administrative disciplinary action was commenced; ~~{and~~

~~— (b) the person}~~ or

(i) the individual has obtained a criminal expungement order under Title 77, Chapter 40, Utah Expungement Act, for the individual's criminal records related to the same incident or conviction upon which the administrative disciplinary action was based;

(b) the individual has successfully completed all action required by the agency relating to the administrative disciplinary action within the time frame set forth in the final order, or if no time frame is specified in the final order, within the time frame set forth in Title 63G, Chapter 4, Administrative Procedures Act;

(c) from the time that the original administrative disciplinary action was filed, the individual has not violated the same statutory provisions or administrative rules related to those statutory provisions that resulted in the original administrative disciplinary action; and

(d) the individual pays an application fee determined by the agency in accordance with Section 63J-1-504.

(2) The ~~{person}~~ individual petitioning the agency under Subsection (1) shall provide the agency with a written request containing the following information:

(a) the petitioner's full name, address, telephone number, and date of birth;

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(b) the information the petitioner seeks to remove from public access; and

(c) an affidavit certifying that the petitioner is in compliance with the provisions of Subsection (1).

(3) Within 30 days of receiving the documents and information described in Subsection (2):

(a) the agency shall review the petition and all documents submitted with the petition to determine whether the petitioner has met the requirements of Subsections (1) and (2); and

(b) if the agency determines that the petitioner has met the requirements of Subsections (1) and (2), the agency shall ~~order that~~ **immediately remove** the record of administrative disciplinary action ~~be immediately removed~~ from public access on the state-controlled website.

(4) Notwithstanding the provisions of Subsection (3), an agency is not required to remove a recording, written minutes, or other electronic information from the Utah Public Notice Website, created under Section 63F-1-701, if the recording, written minutes, or other electronic information is required to be available to the public on the Utah Public Notice Website under the provisions of Title 52, Chapter 4, Open and Public Meetings Act.

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### **Legislative Review Note**

~~Office of Legislative Research and General Counsel~~ Section 3. Section 63G-4-108 is enacted to read:

#### **63G-4-108. Impact on duty to disclose an administrative action.**

The removal of a record of an administrative disciplinary action from a state-controlled website in accordance with Section 63G-4-106 or 63G-4-107 does not affect any separate legal duty or requirement that the subject of the administrative disciplinary action may have to disclose the action.