

PUBLIC SAFETY OFFICER PRIVACY AMENDMENTS

2017 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Mike K. McKell

Senate Sponsor: _____

LONG TITLE

General Description:

This bill shields the name of a law enforcement officer who is involved in a critical incident for up to 180 days.

Highlighted Provisions:

This bill:

- ▶ requires that the name of a law enforcement officer involved in a critical incident be kept private until the end of the investigation;
- ▶ further requires that the officer's name be released if the officer is charged with a crime at the end of the investigation; and
- ▶ provides that the officer's name shall be released not later than six months after an incident.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

76-2-408, as enacted by Laws of Utah 2015, Chapter 178

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



28 Section 1. Section **76-2-408** is amended to read:

29 **76-2-408. Peace officer use of force -- Investigations.**

30 (1) As used in this section:

31 (a) "Dangerous weapon" is a firearm or an object that in the manner of its use or
32 intended use is capable of causing death or serious bodily injury.

33 (b) "Investigating agency" is a law enforcement agency, the county or district attorney's
34 office, or an interagency task force composed of officers from multiple law enforcement
35 agencies.

36 (c) "Officer" is a law enforcement officer as defined in Section [53-13-103](#).

37 (d) "Officer-involved critical incident" is any of the following:

38 (i) the use of a dangerous weapon by an officer against a person that causes injury to
39 any person;

40 (ii) a fatal injury to any person except the officer, resulting from the use of a motor
41 vehicle by an officer;

42 (iii) the death of a person who is in law enforcement custody, but not including deaths
43 that are the result of disease, natural causes, or conditions that have been medically diagnosed
44 prior to the person's death; or

45 (iv) a fatal injury to a person resulting from the efforts of an officer attempting to
46 prevent a person's escape from custody, make an arrest, or otherwise gain physical control of a
47 person.

48 (2) When an officer-involved critical incident occurs:

49 (a) upon receiving notice of the officer-involved critical incident, the law enforcement
50 agency having jurisdiction where the incident occurred shall, as soon as practical, notify the
51 county or district attorney having jurisdiction where the incident occurred; and

52 (b) the chief executive of the law enforcement agency and the county or district
53 attorney having jurisdiction where the incident occurred shall:

54 (i) jointly designate an investigating agency for the officer-involved critical incident;
55 and

56 (ii) designate which agency is the lead investigative agency if the officer-involved
57 critical incident involves multiple investigations.

58 (3) The investigating agency under Subsection (2) may not be the law enforcement

59 agency employing the officer who is alleged to have caused or contributed to the
60 officer-involved critical incident.

61 (4) This section does not preclude the law enforcement agency employing an officer
62 alleged to have caused or contributed to the officer-involved critical incident from conducting
63 an internal administrative investigation.

64 (5) Each law enforcement agency that is part of or administered by the state or any of
65 ~~its~~ the state's political subdivisions shall, by December 31, 2015, adopt and post on ~~its~~ the
66 law enforcement agency's publicly accessible website:

67 (a) the policies and procedures the agency has adopted to select the investigating
68 agency if an officer-involved critical incident occurs in ~~its~~ the agency's jurisdiction and one of
69 ~~its~~ the agency's officers is alleged to have caused or contributed to the officer-involved
70 incident; and

71 (b) the protocols the agency has adopted to ensure that any investigation of
72 officer-involved incidents occurring in ~~its~~ the agency's jurisdiction are conducted
73 professionally, thoroughly, and impartially.

74 (6) ~~The~~ At the discretion of the agency, ~~the~~ the ~~officer's~~ officer's name may not be
74a released to the public by any public official or public
75 employee conducting or participating in an official investigation of an officer-involved critical
76 incident, or any person acting on behalf of a public official or public employee, until the
77 official investigation is concluded.

78 (7) Notwithstanding Subsection (6), the name of an officer involved in an
79 officer-involved critical incident shall be released not later than ~~the~~ [six] four ~~the~~ months after
79a the incident.

Legislative Review Note
Office of Legislative Research and General Counsel