

HB0082S01 compared with HB0082

{Omitted text} shows text that was in HB0082 but was omitted in HB0082S01

inserted text shows text that was not in HB0082 but was inserted into HB0082S01

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1

Law Enforcement Modifications

2025 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Matthew H. Gwynn

Senate Sponsor: Michael K. McKell

2

3 LONG TITLE

4 General Description:

5 This bill addresses due process rights for peace officers in certain circumstances.

6 Highlighted Provisions:

7 This bill:

8 ▶ addresses the procedures a prosecution agency is required to follow when the prosecution agency creates a system for tracking past peace officer misconduct that the agency has to disclose to a defendant in certain circumstances; {and}

11 ▶ enacts provisions related to procedures that are required to be undertaken by a law enforcement agency before the law enforcement agency may take an adverse decision regarding a law enforcement officer's employment; and

11 ▶ makes technical and conforming changes.

15 Money Appropriated in this Bill:

16 None

17 Other Special Clauses:

18 None

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20 AMENDS:

21 **63I-2-253** , as last amended by Laws of Utah 2024, Third Special Session, Chapters 5, 5 , as last
amended by Laws of Utah 2024, Third Special Session, Chapters 5, 5

22 ENACTS:

23 **53-25-601** , Utah Code Annotated 1953 , Utah Code Annotated 1953

24 **53-25-602** , Utah Code Annotated 1953 , Utah Code Annotated 1953

25 **53-25-603** , Utah Code Annotated 1953 , Utah Code Annotated 1953

26 **53-25-701 , Utah Code Annotated 1953 , Utah Code Annotated 1953**

27 **53-25-702 , Utah Code Annotated 1953 , Utah Code Annotated 1953**

28

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

30 Section 1. Section 1 is enacted to read:

26

Part 6. Requirements Related to Brady Material

32 **53-25-601. Definitions.**

As used in this part:

29 (1) "Brady identification system" means any type of system used by a prosecution agency to assist in tracking and disclosing Brady material to defendants being prosecuted by the prosecution agency.

32 (2) "Brady material" means potential impeachment information that a prosecutor has disclosed or may disclose to a defendant being prosecuted for a criminal offense relating to conduct of a peace officer who was involved in the arrest or investigation of the defendant.

36 (3) "Law enforcement agency" means a public agency having general police power and charged with making arrests in connection with enforcement of the criminal laws, statutes, or ordinances of this state or political subdivisions of this state.

39 (4)

(a) "Peace officer" means any officer certified in accordance with Chapter 13, Peace Officer Classifications.

41 (b) "Peace officer" includes any employee of a law enforcement agency whose job duties include providing courtroom testimony in support of the enforcement of criminal laws, statutes, or ordinances.

44 (5) "POST" means the Peace Officer Standards and Training Division created in Section 53-6-103.

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46 (6) "Prosecution agency" means a city attorney, county attorney, district attorney, the attorney general,
or other prosecution agency.

53 Section 2. Section 2 is enacted to read:

54 **53-25-602. Prosecution agency's requirements related to Brady material.**

50 (1)

(a) A prosecution agency may use a Brady identification system to fulfill the prosecution agency's discovery obligations regarding Brady material under federal law, state law, court order, or court rule.

53 (b) A prosecution agency is not required to maintain a Brady identification system and may determine that the prosecution agency's discovery obligations regarding Brady material can be met through another procedure.

56 (2) A prosecution agency that uses a Brady identification system may make disclosures of Brady material to a defendant in a prosecution even if the prosecution agency has not made a final decision regarding whether the peace officer who is the subject of the Brady material will be placed onto the prosecution agency's Brady identification system.

60 (3)

(a) Except as provided in Subsection (3)(b), before a prosecution agency may initially place a peace officer on the prosecution agency's Brady identification system, or add additional information to the prosecution agency's Brady identification system regarding a peace officer already on the prosecution agency's Brady identification system for a reason unrelated to the initial placement, the prosecution agency shall:

66 (i) provide the peace officer with written notice that the prosecution agency intends to:

68 (A) place the peace officer onto the prosecution agency's Brady identification system; or

70 (B) if the peace officer is already on the prosecution agency's Brady identification system, add additional information about the peace officer onto the prosecution agency's Brady identification system;

73 (ii) provide the peace officer with copies of any documents, records, and other evidence relied upon by the prosecution agency that is seeking to place the peace officer, or add additional information regarding the peace officer, onto the Brady identification system; and

77 (iii) provide the peace officer with an opportunity to dispute the peace officer's placement, or addition of information regarding the peace officer, onto the Brady identification system.

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- 80 (b) A prosecution agency is not required to provide the procedures described in Subsection (3)(a) if the
Brady material underlying the peace officer's placement onto the Brady identification system relates
to a criminal conviction{+} or a finalized POST {#} decision related to Brady material.{+}
- 84 (4)
- (a) If a peace officer is employed by a law enforcement agency and is placed onto a prosecution
agency's Brady identification system in accordance with this section, the prosecution agency shall
notify the peace officer's employer regarding the placement.
- 87 (b) A peace officer who is placed onto a prosecution agency's Brady identification system before May
7, 2025, may request within 180 calendar days after May 7, 2025, a review by the prosecution
agency regarding the peace officer's placement and, if the prosecution agency receives the request,
the prosecution agency shall undertake the review.
- 92 (5) A prosecution agency that uses a Brady identification system shall adopt a policy, accessible to any
peace officer in the prosecution agency's jurisdiction, that includes:
- 94 (a) the criteria used by the prosecution agency to place an officer on the prosecution agency's Brady
identification system including:
- 96 (i) a description of what conduct qualifies as Brady material; and
- 97 (ii) a description of other conduct not defined in this part that the prosecution agency determines will
get a peace officer placed on the prosecution agency's Brady identification system; and
- 100 (b) the rights, procedures, and limitations described in Subsection (3).
- 101 (6) If a peace officer is placed onto a prosecution agency's Brady identification system and then is
placed on another prosecution agency's Brady identification system, the other prosecution agency:
- 104 (a) does not have to provide the peace officer with the rights and procedures described in Subsection (3)
(a), if the peace officer's placement is based on the same conduct that led to the peace officer being
placed on the initial prosecution agency's Brady identification system and the peace officer was
provided the rights and procedures described in Subsection (3)(a) by the initial prosecution agency;
and
- 109 (b) shall:
- 110 (i) provide the peace officer with written notice that the prosecution agency has added the peace officer
to the prosecution agency's Brady identification system;
- 112 (ii) provide the peace officer with an opportunity to respond in writing to the peace officer's placement
on the prosecution agency's Brady identification system; and

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- 114 (iii) review the peace officer's response described in Subsection (6)(b)(ii).
- 115 (7) A peace officer may not seek judicial review of a prosecution agency's determination to place an
officer on a Brady identification system in accordance with this section.
- 117 (8) Any information or record maintained by a prosecution agency in a Brady identification system is
not subject to disclosure under Title 63G, Chapter 2, Government Records Access and Management
Act.
- 120 (9) This section does not:
- 121 (a) create a private cause of action by a peace officer or by a law enforcement agency against a
prosecution agency or the prosecution agency's employees for the procedures and determination
related to the placement of a peace officer onto a Brady identification system; or
- 125 (b) restrict or limit a prosecution agency from fulfilling the prosecution agency's discovery obligations.

131 Section 3. Section 3 is enacted to read:

132 **53-25-603. Peace officer and employing law enforcement agency requirements related to**
Brady material.

130 (1)

- (a) If a peace officer has been placed onto a prosecution agency's Brady identification system after
being provided the rights and procedures described in Subsection 53-25-603(3) and the peace officer
is subpoenaed by a different prosecution agency to testify in court, the peace officer shall disclose
that placement to the prosecution agency that issued the subpoena as soon as practicable after
receiving the subpoena.
- 136 (b) If a peace officer fails to disclose the peace officer's placement on a Brady identification system
as described in Subsection (1)(a), the peace officer's employing law enforcement agency may take
disciplinary action against the peace officer.

139 (2)

- (a) A law enforcement agency may not use the placement of a peace officer onto a Brady identification
system as described in Section 53-25-603 as the sole reason for taking or denying any of the
following employment actions against the peace officer:
- 142 (i) demotion;
- 143 (ii) suspension;
- 144 (iii) termination; or
- 145 (iv) any other disciplinary action.

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- 146 (b) Notwithstanding Subsection (2)(a), a law enforcement agency may use the underlying facts of the
Brady material that were the basis for the peace officer's placement onto a Brady identification
system for taking a disciplinary action against the peace officer in accordance with the law
enforcement agency's adopted policies and procedures and governing law.
- 151 (3) A chief, sheriff, or administrative officer of a law enforcement agency who knows of an allegation
against a peace officer employed by the chief's, sheriff's, or administrative officer's law enforcement
agency involving Brady material shall conduct an administrative or internal investigation into the
allegation and, if after the law enforcement agency's adopted policies and procedures are followed
and the allegation is substantiated, report the findings of the investigation to:
- 157 (a) if the law enforcement agency is a private law enforcement agency or a city, county, or other local
law enforcement agency, the county attorney of the jurisdiction where the law enforcement agency
is located; or
- 160 (b) if the law enforcement agency is a state law enforcement agency, to the attorney general.

165 Section 4. Section 4 is enacted to read:

Part 7. Law Enforcement Officer Employment Due Process

53-25-701. Definitions.

As used in this part:

- 169 (1) "Adverse employment decision" means a decision affecting a law enforcement officer's employment
that could result in:
- 171 (a) reduction of rank;
- 172 (b) suspension without pay exceeding three days; or
- 173 (c) termination of employment.
- 174 (2) "Legal representative" means an attorney, who is licensed to practice law in this state.
- 175 (3) "Non-attorney advocate" means an individual who is not licensed to practice law in this state and
whom a law enforcement officer selects to assist the law enforcement officer in any hearings related
to the law enforcement officer's employment.

178 Section 5. Section 5 is enacted to read:

53-25-702. Notice of internal investigation -- Discovery -- Right to counsel.

- 180 (1) If a law enforcement officer is the subject of an internal investigation by the law enforcement
agency that employs the law enforcement officer that could result in an adverse employment

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decision against the law enforcement officer, the law enforcement agency shall, at least 48 hours before any interview of the law enforcement officer related to the internal investigation:

- 185 (a) notify the law enforcement officer that the law enforcement officer is the subject of the internal
investigation;
- 187 (b) provide the time and location for the interview; and
- 188 (c) notify the law enforcement officer that the law enforcement officer may bring a legal representative
or non-attorney advocate to the interview to assist the law enforcement officer in the interview.
- 191 (2) During an internal investigation conducted regarding a law enforcement officer that could result
in an adverse employment decision against the law enforcement officer, the law enforcement
officer has the right to have a legal representative or a non-attorney advocate, paid for at the law
enforcement officer's expense, who may be present during any interview of the law enforcement
officer conducted during an internal investigation.
- 196 (3)
- (a) Before any disciplinary hearing may be held that could result in an adverse employment decision
against a law enforcement officer, the law enforcement agency employing the law enforcement
officer shall:
- 199 (i) provide any information and evidence to the law enforcement officer or, if applicable, the law
enforcement officer's legal representative or non-attorney advocate; and
- 202 (ii) allow a reasonable time for the law enforcement officer and, if applicable, the law enforcement
officer's legal representative or non-attorney advocate, to review the information and evidence.
- 205 (b) If a law enforcement agency fails to provide the required information and evidence described in
Subsection (3)(a), the information or evidence may not be used against the law enforcement officer
in the disciplinary hearing.
- 208 (4) At any disciplinary hearing that could result in an adverse employment decision against a law
enforcement officer, the law enforcement officer or, if applicable, a legal representative or a non-
attorney advocate of the law enforcement officer, paid for at the law enforcement officer's expense,
has the right to:
- 212 (a) make opening and closing statements;
- 213 (b) if applicable, examine and cross-examine any witness; and
- 214 (c) introduce relevant evidence.
- 215

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- (5) For a law enforcement officer who has completed any employment probationary period, a law enforcement agency may only terminate the law enforcement officer's employment if the law enforcement agency has complied with the requirements of this section.
- 219 (6) This section does not:
- 220 (a) apply to the termination of employment of a law enforcement officer due to budget constraints of
the government entity that oversees the law enforcement agency that employs the law enforcement
officer; or
- 223 (b) limit the rights of a law enforcement officer under Title 17, Chapter 30 Deputy Sheriffs - Merit
System, Title 10, Chapter 3, Part 11, Personnel Rules and Benefits, or Title 63A, Chapter 17, Part 3,
Classification and Career Service or any other section of code.
- 227 Section 6. Section **63I-2-253** is amended to read:
- 228 **63I-2-253. Repeal dates: Titles 53 through 53G.**
- 164 (1) Subsection 53-1-104(1)(b), regarding the Air Ambulance Committee, is repealed July 1, 2024.
- 166 (2) Section 53-1-118, Public Safety Honoring Heroes Restricted Account -- Creation -- Funding --
Distribution of funds by the commissioner, is repealed July 1, 2024.
- 168 (3) Section 53-1-120, Utah Law Enforcement Memorial Support Restricted Account -- Creation --
Funding -- Distribution of funds by the commissioner, is repealed July 1, 2024.
- 171 (4) Section 53-2a-303, Statewide mutual aid committee, is repealed October 1, 2024.
- 172 (5) Title 53, Chapter 2c, COVID-19 Health and Economic Response Act, is repealed July 1, 2026.
- 174 (6) Section 53-2d-101.1, Contracting authority -- Rulemaking authority, is repealed July 1, 2024.
- 176 (7) Section 53-2d-107, Air Ambulance Committee -- Membership -- Duties, is repealed July 1, 2024.
- 178 (8) Section 53-2d-302, Trauma system advisory committee, is repealed October 1, 2024.
- 179 (9) Section 53-7-109, Firefighter Support Restricted Account, is repealed July 1, 2024.
- 180 (10) Section 53-9-104, Board -- Creation-- Qualifications -- Appointments -- Terms -- Immunity, is
repealed October 1, 2024.
- 182 (11) Section 53-9-105, Powers and duties of the board, is repealed October 1, 2024.
- 183 (12) Section 53-9-106, Meetings -- Hearings, is repealed October 1, 2024.
- 184 (13) Section 53-22-104.1, School Security Task Force -- Membership -- Duties -- Per diem -- Report --
Expiration, is repealed December 31, 2025.
- 186 (14) Section 53-22-104.2, The School Security Task Force -- Education Advisory Board, is repealed
December 31, 2025.

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- 188 (15) Section 53-25-103, Airport dangerous weapon possession reporting requirements, is repealed
December 31, 2031.
- 190 (16) Subsection 53-25-602(4)(b), regarding the rights of a peace officer placed onto a prosecution
agency's Brady identification system before May 7, 2025, is repealed December 1, 2025.
- 193 [~~(16)~~] (17) Section 53B-8-114, Continuation of previously authorized scholarships, is repealed July 1,
2024.
- 195 [~~(17)~~] (18) Section 53B-10-101, Terrel H. Bell Teaching Incentive Loans program -- Eligible students
-- Cancellation of incentive loans -- Repayment by recipient who fails to meet requirements --
Duration of incentive loans, is repealed July 1, 2027.
- 198 [~~(18)~~] (19) Subsection 53F-2-504(6), regarding a report on the Salary Supplement for Highly Needed
Educators, is repealed July 1, 2026.
- 200 [~~(19)~~] (20) Section 53F-2-524, Teacher bonuses for extra assignments, is repealed July 1, 2024.
- 202 [~~(20)~~] (21) Section 53F-5-221, Management of energy and water use pilot program, is repealed July 1,
2028.
- 204 [~~(21)~~] (22) Section 53F-5-222, Mentoring and Supporting Teacher Excellence and Refinement Pilot
Program, is repealed July 1, 2028.
- 206 [~~(22)~~] (23) Section 53F-5-223, Stipends for Future Educators Grant Program, is repealed July 1, 2028.
- 208 [~~(23)~~] (24) Section 53F-9-401, Autism Awareness Restricted Account, is repealed July 1, 2024.
- 210 [~~(24)~~] (25) Section 53F-9-403, Kiwanis Education Support Fund, is repealed July 1, 2024.
- 211 [~~(25)~~] (26) Subsection 53G-11-502(1), regarding implementation of the educator evaluation process, is
repealed July 1, 2029.
- 213 [~~(26)~~] (27) Section 53G-11-506, Establishment of educator evaluation program -- Joint committee, is
repealed July 1, 2029.
- 215 [~~(27)~~] (28) Section 53G-11-507, Components of educator evaluation program, is repealed July 1, 2029.
- 217 [~~(28)~~] (29) Section 53G-11-508, Summative evaluation timelines -- Review of summative evaluations,
is repealed July 1, 2029.
- 219 [~~(29)~~] (30) Section 53G-11-509, Mentor for provisional educator, is repealed July 1, 2029.
- 220 [~~(30)~~] (31) Section 53G-11-510, State board to describe a framework for the evaluation of educators, is
repealed July 1, 2029.
- 222 [~~(31)~~] (32) Section 53G-11-511, Rulemaking for privacy protection, is repealed July 1, 2029.
- 223

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[(32)] (33) Subsection_53G-11-520(1), regarding optional alternative educator evaluation processes, is repealed July 1, 2029.

225 [(33)] (34) Subsection 53G-11-520(2), regarding an exception from educator evaluation process requirements, is repealed July 1, 2029.

292 Section 7. **Effective date.**

This bill takes effect on May 7, 2025.

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