

1 **Surveillance and Investigatory Technology Amendments**

2026 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Ryan D. Wilcox**

Senate Sponsor:

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2 **LONG TITLE**

3 **General Description:**

4 This bill concerns the use of surveillance and investigatory technology.

5 **Highlighted Provisions:**

6 This bill:

- 7 ▶ defines terms;
- 8 ▶ establishes limitations on the ability of a law enforcement agency to use a surveillance or
- 9 investigatory technology;
- 10 ▶ provides for the exclusion of information obtained in violation of law in certain
- 11 circumstances;
- 12 ▶ creates a private right of action against a law enforcement agency for the law enforcement
- 13 agency's prohibited use of a surveillance or investigatory technology, and waives
- 14 governmental immunity for the private right of action;
- 15 ▶ requires a law enforcement agency to annually report information concerning the law
- 16 enforcement agency's use of certain technology to the State Commission on Criminal
- 17 and Juvenile Justice (commission);
- 18 ▶ requires the commission to annually collect and report information received from law
- 19 enforcement agencies regarding the use of certain technology to the Law Enforcement
- 20 and Criminal Justice Interim Committee;
- 21 ▶ creates a sunset review for the law enforcement agency technology data reporting
- 22 requirements; 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:

31 **63G-7-301**, as last amended by Laws of Utah 2025, First Special Session, Chapter 9  
32 **63I-1-277**, as last amended by Laws of Utah 2024, Third Special Session, Chapter 5  
33 **77-23e-102**, as last amended by Laws of Utah 2025, First Special Session, Chapter 9

34 ENACTS:

- 35 **77-23e-201**, Utah Code Annotated 1953
- 36 **77-23e-202**, Utah Code Annotated 1953
- 37 **77-23e-203**, Utah Code Annotated 1953
- 38 **77-23e-204**, Utah Code Annotated 1953
- 39 **77-23e-205**, Utah Code Annotated 1953

40 REPEALS:

- 41 **77-23e-101**, as enacted by Laws of Utah 2021, Chapter 200

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

44 Section 1. Section **63G-7-301** is amended to read:

45 **63G-7-301 . Waivers of immunity.**

- 46 (1)(a) Immunity from suit of each governmental entity is waived as to any contractual  
47 obligation.
- 48 (b) Actions arising out of contractual rights or obligations are not subject to the  
49 requirements of Section 63G-7-401, 63G-7-402, 63G-7-403, or 63G-7-601.
- 50 (c) The Division of Water Resources is not liable for failure to deliver water from a  
51 reservoir or associated facility authorized by Title 73, Chapter 26, Bear River  
52 Development Act, if the failure to deliver the contractual amount of water is due to  
53 drought, other natural condition, or safety condition that causes a deficiency in the  
54 amount of available water.
- 55 (2) Immunity from suit of each governmental entity is waived:
  - 56 (a) as to any action brought to recover, obtain possession of, or quiet title to real or  
57 personal property;
  - 58 (b) as to any action brought to foreclose mortgages or other liens on real or personal  
59 property, to determine any adverse claim on real or personal property, or to obtain an  
60 adjudication about any mortgage or other lien that the governmental entity may have  
61 or claim on real or personal property;
  - 62 (c) as to any action based on the negligent destruction, damage, or loss of goods,  
63 merchandise, or other property while it is in the possession of any governmental  
64 entity or employee, if the property was seized for the purpose of forfeiture under any

- 65 provision of state law;
- 66 (d) subject to Section 63G-7-302, as to any action brought under the authority of Utah  
67 Constitution, Article I, Section 22, for the recovery of compensation from the  
68 governmental entity when the governmental entity has taken or damaged private  
69 property for public uses without just compensation;
- 70 (e) as to any claim for attorney fees or costs under Section 63G-2-209, 63G-2-405, or  
71 63G-2-802;
- 72 (f) for actual damages under Title 67, Chapter 21, Utah Protection of Public Employees  
73 Act;
- 74 (g) as to any action brought to obtain relief from a land use regulation that imposes a  
75 substantial burden on the free exercise of religion under Title 63L, Chapter 5, Utah  
76 Religious Land Use Act;
- 77 (h) except as provided in Subsection 63G-7-201(3), as to any injury caused by:
- 78 (i) a defective, unsafe, or dangerous condition of any highway, road, street, alley,  
79 crosswalk, sidewalk, culvert, tunnel, bridge, viaduct, or other structure located on  
80 them; or
- 81 (ii) any defective or dangerous condition of a public building, structure, dam,  
82 reservoir, or other public improvement;
- 83 (i) subject to Subsections 63G-7-101(4) and 63G-7-201(4), as to any injury proximately  
84 caused by a negligent act or omission of an employee committed within the scope of  
85 employment;
- 86 (j) notwithstanding Subsection 63G-7-101(4), as to a claim for an injury resulting from a  
87 sexual battery, as provided in Section 76-5-418, committed:
- 88 (i) against a student of a public elementary or secondary school, including a charter  
89 school; and
- 90 (ii) by an employee of a public elementary or secondary school or charter school who:
- 91 (A) at the time of the sexual battery, held a position of special trust, as defined in  
92 Section 76-5-404.1, with respect to the student;
- 93 (B) is criminally charged in connection with the sexual battery; and
- 94 (C) the public elementary or secondary school or charter school knew or in the  
95 exercise of reasonable care should have known, at the time of the employee's  
96 hiring, to be a sex offender, a kidnap offender, or a child abuse offender as  
97 described in Section 53-29-202, required to register under Title 53, Chapter 29,  
98 Sex, Kidnap, and Child Abuse Offender Registry, whose status as a sex

- 99 offender, kidnap offender, or child abuse offender would have been revealed in  
 100 a background check under Section 53G-11-402;
- 101 (k) as to any action brought under Section 78B-6-2303;
- 102 (l) as to any action brought to obtain relief under Title 53H, Chapter 7, Part 7, Student  
 103 Legal Representation;
- 104 (m) as to any action brought under Section 53-30-301; ~~and~~
- 105 (n) as to any action or suit brought under Section 20A-19-301 and as to any  
 106 compensation or expenses awarded under Subsection 20A-19-301(5)[-] ; and
- 107 (o) as to any action brought under Section 77-23e-204.
- 108 (3)(a) As used in this Subsection (3):
- 109 (i) "Code of conduct" means a code of conduct that:
- 110 (A) is not less stringent than a model code of conduct, created by the State Board  
 111 of Education, establishing a professional standard of care for preventing the  
 112 conduct described in Subsection (3)(a)(i)(D);
- 113 (B) is adopted by the applicable local education governing body;
- 114 (C) regulates behavior of a school employee toward a student; and
- 115 (D) includes a prohibition against any sexual conduct between an employee and a  
 116 student and against the employee and student sharing any sexually explicit or  
 117 lewd communication, image, or photograph.
- 118 (ii) "Local education agency" means:
- 119 (A) a school district;
- 120 (B) a charter school; or
- 121 (C) the Utah Schools for the Deaf and the Blind.
- 122 (iii) "Local education governing board" means:
- 123 (A) for a school district, the local school board;
- 124 (B) for a charter school, the charter school governing board; or
- 125 (C) for the Utah Schools for the Deaf and the Blind, the state board.
- 126 (iv) "Public school" means a public elementary or secondary school.
- 127 (v) "Sexual abuse" means the offense described in Subsection 76-5-404.1(2).
- 128 (vi) "Sexual battery" means the offense described in Section 76-5-418, considering  
 129 the term "child" in that section to include an individual under 18 years old.
- 130 (b) Notwithstanding Subsection 63G-7-101(4), immunity from suit is waived as to a  
 131 claim against a local education agency for an injury resulting from a sexual battery or  
 132 sexual abuse committed against a student of a public school by a paid employee of

133 the public school who is criminally charged in connection with the sexual battery or  
 134 sexual abuse, unless:

135 (i) at the time of the sexual battery or sexual abuse, the public school was subject to a  
 136 code of conduct; and

137 (ii) before the sexual battery or sexual abuse occurred, the public school had:

138 (A) provided training on the code of conduct to the employee; and

139 (B) required the employee to sign a statement acknowledging that the employee  
 140 has read and understands the code of conduct.

141 (4)(a) As used in this Subsection (4):

142 (i) "Institution of higher education" means the same as that term is defined in Section  
 143 53H-1-101.

144 (ii) "Policy governing behavior" means a policy adopted by a higher education  
 145 institution or the Utah Board of Higher Education that:

146 (A) establishes a professional standard of care for preventing the conduct  
 147 described in Subsections (4)(a)(ii)(C) and (D);

148 (B) regulates behavior of a special trust employee toward a subordinate student;

149 (C) includes a prohibition against any sexual conduct between a special trust  
 150 employee and a subordinate student; and

151 (D) includes a prohibition against a special trust employee and subordinate student  
 152 sharing any sexually explicit or lewd communication, image, or photograph.

153 (iii) "Sexual battery" means the offense described in Section 76-5-418.

154 (iv) "Special trust employee" means an employee of an institution of higher education  
 155 who is in a position of special trust, as defined in Section 76-5-404.1, with a  
 156 higher education student.

157 (v) "Subordinate student" means a student:

158 (A) of an institution of higher education; and

159 (B) whose educational opportunities could be adversely impacted by a special  
 160 trust employee.

161 (b) Notwithstanding Subsection 63G-7-101(4), immunity from suit is waived as to a  
 162 claim for an injury resulting from a sexual battery committed against a subordinate  
 163 student by a special trust employee, unless:

164 (i) the institution of higher education proves that the special trust employee's  
 165 behavior that otherwise would constitute a sexual battery was:

166 (A) with a subordinate student who was at least 18 years old at the time of the

- 167 behavior; and
- 168 (B) with the student's consent; or
- 169 (ii)(A) at the time of the sexual battery, the institution of higher education was
- 170 subject to a policy governing behavior; and
- 171 (B) before the sexual battery occurred, the higher education institution had taken
- 172 steps to implement and enforce the policy governing behavior.

173 Section 2. Section **63I-1-277** is amended to read:

174 **63I-1-277 . Repeal dates: Title 77.**

175 [Reserved] Section 77-23e-205, regarding annual reporting requirements for law

176 enforcement agency use of a surveillance or investigatory technology, is repealed July 1, 2033.

177 Section 3. Section **77-23e-102** is amended to read:

178 **CHAPTER 23e. Limitations on Government Use of Technology**

179 **Part 1. Government Use of Facial Recognition Technology**

180 **77-23e-102 . Definitions.**

181 As used in this [chapter] part:

- 182 (1) "Department" means the Department of Public Safety, created in Section 53-1-103.
- 183 (2) "Facial biometric data" means data derived from a measurement, pattern, contour, or
- 184 other characteristic of an individual's face, either directly or from an image.
- 185 (3)(a) "Facial recognition comparison" means the process of comparing an image or
- 186 facial biometric data to an image database.
- 187 (b) "Facial recognition comparison" does not include biometric surveillance information
- 188 as that term is defined in Section 77-23d-102.
- 189 (4)(a) "Facial recognition system" means a computer system that, for the purpose of
- 190 attempting to determine the identity of an unknown individual, uses an algorithm to
- 191 compare biometric data of the face of the unknown individual to facial biometric data
- 192 of known individuals.
- 193 (b) "Facial recognition system" does not include:
- 194 (i) a system described in Subsection (4)(a) that is available for use, free of charge, by
- 195 the general public; or
- 196 (ii) a system a consumer uses for the consumer's private purposes.
- 197 (5)(a) "Government entity" means:
- 198 (i) an executive department agency of the state;
- 199 (ii) the office of:

- 200 (A) the governor;
- 201 (B) the lieutenant governor;
- 202 (C) the state auditor;
- 203 (D) the attorney general; or
- 204 (E) the state treasurer;
- 205 (iii) the Board of Pardons and Parole;
- 206 (iv) the Board of Examiners;
- 207 (v) the National Guard;
- 208 (vi) the Career Service Review Office;
- 209 (vii) the State Board of Education;
- 210 (viii) the Utah Board of Higher Education;
- 211 (ix) the State Archives;
- 212 (x) the Office of the Legislative Auditor General;
- 213 (xi) the Office of Legislative Fiscal Analyst;
- 214 (xii) the Office of Legislative Research and General Counsel;
- 215 (xiii) the Legislature;
- 216 (xiv) a legislative committee of the Legislature;
- 217 (xv) a court, the Judicial Council, the Administrative Office of the Courts, and
- 218 similar administrative units in the judicial branch;
- 219 (xvi) an institution of higher education as that term is defined in Section 53H-1-101;
- 220 (xvii) an entity within the system of public education that receives funding from the
- 221 state; or
- 222 (xviii) a political subdivision of the state as that term is defined in Section 63G-7-102.
- 223 (b) "Government entity" includes:
- 224 (i) every office, agency, board, bureau, committee, department, advisory board, or
- 225 commission of an entity described in Subsection (5)(a) that is funded or
- 226 established by the government to carry out the public's business; or
- 227 (ii) an individual acting as an agent of a government entity or acting on behalf of an
- 228 entity described in this Subsection (5).
- 229 (6)(a) "Image database" means a database maintained by a government entity that
- 230 contains images the government entity captures of an individual while the individual
- 231 interacts with the government entity.
- 232 (b) "Image database" does not include publicly available information.
- 233 (7) "Law enforcement agency" means a public entity that exists primarily to prevent, detect,

234 or prosecute crime or enforce criminal statutes or ordinances.

235 (8) "Trained employee" means an individual who is trained to make a facial recognition  
236 comparison and identification and who has completed implicit bias training.

237 Section 4. Section **77-23e-201** is enacted to read:

238 **Part 2. Limitations on Law Enforcement Use of Technology for Surveillance or**

239

### Investigatory Purposes

240 **77-23e-201 . Definitions.**

241 As used in this part:

242 (1) "Artificial intelligence technology" means the same as that term is defined in Section  
243 13-72-101.

244 (2) "Biometric surveillance information" means the same as that term is defined in Section  
245 77-23d-102.

246 (3) "Declared emergency" means a state of emergency that is declared by:

247 (a) the president of the United States;

248 (b) the governor in an executive order under Title 53, Chapter 2a, Part 2, Disaster  
249 Response and Recovery Act; or

250 (c) the chief executive officer of a political subdivision in a proclamation under Title 53,  
251 Chapter 2a, Part 2, Disaster Response and Recovery Act.

252 (4) "Facial recognition system" means the same as that term is defined in Section  
253 77-23e-102.

254 (5) "Imaging surveillance device" means the same as that term is defined in Section  
255 77-23d-102.

256 (6) "Law enforcement agency" means the same as that term is defined in Section  
257 77-23e-102.

258 (7) "Location tracking" means information concerning the location of an individual or an  
259 electronic device.

260 (8) "Open-source data gathering" means the collection or analysis of information from  
261 social media platforms, websites, or other digital actions or communications.

262 (9) "Reverse-keyword information" means the same as that term is defined in Section  
263 77-23f-101.

264 (10) "Reverse-location information" means the same as that term is defined in Section  
265 77-23f-101.

266 (11) "Surveillance" means observing, collecting, monitoring, or recording an individual's  
267 digital or physical activities or communications.

268 (12) "Surveillance or investigatory technology" means a technology that can be used for  
269 surveillance or the investigation of alleged criminal activity, using:

270 (a) biometric surveillance information;

271 (b) a facial recognition system;

272 (c) an imaging surveillance device;

273 (d) location tracking;

274 (e) open-source data gathering;

275 (f) reverse-keyword information; or

276 (g) reverse-location data.

277 (13)(a) "Technology" means a computer system, device, application, software,  
278 hardware, algorithm, program, or a similar product.

279 (b) "Technology" includes artificial intelligence technology.

280 Section 5. Section **77-23e-202** is enacted to read:

281 **77-23e-202 . Limitations on law enforcement agency use of technology for**  
282 **surveillance or investigatory purposes -- Exceptions.**

283 (1)(a) Except as provided in Subsection (2), on or after July 1, 2027, a law enforcement  
284 agency may not use a surveillance or investigatory technology unless the use of the  
285 surveillance or investigatory technology is specifically authorized by state statute.

286 (b) A state statute that regulates the use of a surveillance or investigatory technology  
287 constitutes an authorization under Subsection (1)(a).

288 (c) A law enforcement agency is considered to be using a surveillance or investigatory  
289 technology under this section regardless of whether:

290 (i) the law enforcement agency's use is based on a purchase, contract, trial, pilot  
291 program, or demonstration; or

292 (ii) the law enforcement agency obtains information from the use of a surveillance or  
293 investigatory technology by requesting or directing another entity to use the  
294 surveillance or investigatory technology on the law enforcement agency's behalf.

295 (2) A law enforcement agency may use a surveillance or investigatory technology that is  
296 not specifically permitted by state statute if the use of the surveillance or investigatory  
297 technology is:

298 (a) limited to one 30-day period; and

299 (b) in response to a declared emergency.

- 300 (3)(a) Except as provided in Subsection (3)(b), an update or upgrade to, or expansion of,  
301 a surveillance or investigatory technology that is authorized for use under Subsection  
302 (1)(a) is not considered a new surveillance or investigatory technology that requires a  
303 new statutory authorization under Subsection (1)(a).
- 304 (b) An update or upgrade to, or expansion of, an existing surveillance or investigatory  
305 technology authorized under Subsection (1)(a) requires a new statutory authorization  
306 if the update, upgrade, or expansion adds or enables a new operational capability or  
307 data collection or analysis function.
- 308 (4) Nothing in this section permits the use of any technology that is prohibited under state  
309 or federal law, and a surveillance or investigatory technology may only be used as  
310 permitted under applicable state and federal law.

311 Section 6. Section **77-23e-203** is enacted to read:

312 **77-23e-203 . Exclusion of information.**

313 Information obtained in violation of the provisions of this part is subject to the rules  
314 governing exclusion as if the information were obtained in violation of the Fourth Amendment  
315 to the United States Constitution or Utah Constitution, Article I, Section 14.

316 Section 7. Section **77-23e-204** is enacted to read:

317 **77-23e-204 . Right of action for violation.**

- 318 (1) Subject to Section 78B-3-101.3, a person who has been injured by a law enforcement  
319 agency's use of a surveillance or investigatory technology in violation of Section  
320 77-23e-202 may bring an action against the law enforcement agency for the relief  
321 described in Subsection (2) if:
- 322 (a) the law enforcement agency's use of the surveillance or investigatory technology was  
323 a knowing or reckless violation of Section 77-23e-202; and
- 324 (b) the information obtained as a result of the violation described in Subsection (1)(a)  
325 caused the person's injury.
- 326 (2) If in the action described in Subsection (1) the court finds by a preponderance of the  
327 evidence a violation described in Subsection (1), the court shall award:
- 328 (a) compensatory damages established by the plaintiff, or \$2,000, whichever is greater;  
329 (b) preliminary and other equitable or declaratory relief; and
- 330 (c) reasonable attorney fees and reasonably incurred litigation costs.
- 331 (3) It is a complete defense to an action brought under this section if the law enforcement  
332 agency acted under a good faith determination that Section 77-23e-202 permitted the  
333 conduct that caused the violation of Section 77-23e-202.

334 Section 8. Section **77-23e-205** is enacted to read:

335 **77-23e-205 . Annual reporting requirements for law enforcement agency use of a**  
336 **surveillance or investigatory technology.**

337 (1) Beginning on July 1, 2028, a law enforcement agency shall annually, on or before July 1  
338 of each year, report to the State Commission on Criminal and Juvenile Justice:

339 (a) the type and, if applicable, the name and vendor, for each surveillance or  
340 investigatory technology that the law enforcement agency used during the preceding  
341 year; and

342 (b) the authorization under Section 77-23e-202 for each item described in Subsection  
343 (1)(a), including:

344 (i) for an authorization under Subsection 77-23e-202(1)(a), for a surveillance or  
345 investigatory technology that is authorized by state statute, the citation to the state  
346 statute that authorizes the use of the surveillance or investigatory technology; and

347 (ii) for an authorization under Subsection 77-23e-202(2), for a surveillance or  
348 investigatory technology temporarily used in response to a declared emergency:

349 (A) the dates that the surveillance or investigatory technology were used by the  
350 law enforcement agency;

351 (B) the date of the declared emergency; and

352 (C) the entity that declared the emergency.

353 (2) The State Commission on Criminal and Juvenile Justice shall:

354 (a) compile a report of the data submitted under Subsection (1); and

355 (b) annually on or before October 1, provide the report to the Law Enforcement and  
356 Criminal Justice Interim Committee.

357 Section 9. **Repealer.**

358 This bill repeals:

359 Section **77-23e-101, Title.**

360 Section 10. **Effective Date.**

361 This bill takes effect on May 6, 2026.