

1 **RESTRICTION ON STATE EMPLOYEES**

2 1998 GENERAL SESSION

3 STATE OF UTAH

4 **Sponsor: Jordan Tanner**5 AN ACT RELATING TO STATE OFFICERS AND EMPLOYEES; PROHIBITING  
6 RECORDING TELEPHONE CONVERSATIONS WITHOUT CONSENT; GRANTING  
7 RULEMAKING AUTHORITY; PROVIDING PENALTIES; AND MAKING TECHNICAL  
8 CORRECTIONS.

9 This act affects sections of Utah Code Annotated 1953 as follows:

10 AMENDS:

11 **67-19-34**, as last amended by Chapter 259, Laws of Utah 199112 **67-19-37**, as enacted by Chapter 280, Laws of Utah 1990

13 ENACTS:

14 **67-16-4.1**, Utah Code Annotated 195315 *Be it enacted by the Legislature of the state of Utah:*16 Section 1. Section **67-16-4.1** is enacted to read:17 **67-16-4.1. Recording conversations -- Penalties for violation.**18 (1) ~~h [A] EXCEPT AS PROVIDED IN SUBSECTION (3), A~~ ~~h~~ public officer or public employee  
18a ~~h~~ , DURING THE PERFORMANCE OF THE EMPLOYEE OR OFFICER'S DUTIES, WITHIN THE SCOPE OF  
18b EMPLOYMENT, OR UNDER COLOR OF AUTHORITY, h may not record telephone conversations  
without  
19 theconsent of all parties.20 (2) A public officer or public employee who violates this chapter may be dismissed from  
21 employment, removed from office as provided by law, or disciplined according to the disciplinary  
22 procedures established by the Department of Human Resource Management under Section  
23 67-19-34.24 ~~h [3] Nothing in this section prohibits a public officer or public employee from intercepting~~  
25 ~~communications as authorized by court order as provided in Section 77-23a-8.] h~~

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25a        h (3) THIS SECTION DOES NOT APPLY TO:  
25b        (a) PUBLIC OFFICERS OR PUBLIC EMPLOYEES INTERCEPTING COMMUNICATIONS AS  
25c        PROVIDED IN TITLE 77, SECTION 23a, INTERCEPTION OF COMMUNICATIONS;  
25d        (b) PEACE OFFICERS AS DEFINED IN TITLE 77, CHAPTER 1a, PEACE OFFICER DESIGNATION;  
25e        AND  
25f        (c) EMPLOYEES OF PUBLIC AGENCIES AND PUBLIC SAFETY AGENCIES PROVIDING  
25g        EMERGENCY TELEPHONE SERVICES AS PROVIDED IN TITLE 69, CHAPTER 2, EMERGENCY  
25h        TELEPHONE SERVICE LAW. h  
26        Section 2. Section **67-19-34** is amended to read:  
27        **67-19-34. Rulemaking power to executive director.**

1        In accordance with this chapter and Title 63, Chapter 46a, Utah Administrative  
2        Rulemaking Act, the executive director shall make rules regulating:  
3                (1) disciplinary actions for employees subject to discipline under Section 67-19-37;  
4                (2) the testing of employees for the use of controlled substances or alcohol as provided in  
5        Section 67-19-36;  
6                (3) the confidentiality of drug testing and test results performed under Section 67-19-36  
7        in accordance with Title 63, Chapter 2, Government Records Access and Management Act; [and]  
8                (4) minimum blood levels of alcohol or drug content for work effectiveness of an  
9        employee[.]; and

10                (5) disciplinary actions for public employees subject to discipline under Section 67-16-4.1.

11        Section 3. Section **67-19-37** is amended to read:

12        **67-19-37. Discipline of employees.**

13        An employee [shall be] is subject to the disciplinary rules [of discipline of] established by  
14        the executive director [made in accordance with] under Section 67-19-34, if he:

15                (1) refuses to submit to testing procedures provided in Section 67-19-36;

16                (2) refuses to complete a drug rehabilitation program in accordance with Subsection  
17        67-19-38(3);

18                (3) is convicted under a federal or state criminal statute regulating the manufacture,  
19        distribution, dispensation, possession, or use of a controlled substance; or

20                (4) manufactures, dispenses, possesses, uses, or distributes a controlled substance in  
21        violation of state or federal law during work hours or on state property[.]; or

22                (5) records a telephone conversation in violation of Section 67-16-4.1.

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**Legislative Review Note**  
**as of 1-23-98 11:52 AM**

A limited legal review of this bill raises no obvious constitutional or statutory concerns.

**Office of Legislative Research and General Counsel**