

**DEPARTMENT OF WORKFORCE SERVICES -
ACCESS TO FINANCIAL RECORDS**

2005 GENERAL SESSION

STATE OF UTAH

Sponsor: Scott K. Jenkins

Karen Hale

LONG TITLE

General Description:

This bill modifies financial information privacy provisions of the Judicial Code.

Highlighted Provisions:

This bill:

► provides that the Benefit Payment Control Unit and the Payment Error Prevention Unit of the Department of Workforce Services are exempt from certain financial information privacy provisions of the Judicial Code when conducting an examination of financial records as part of an official investigation.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

78-27-50, as last amended by Chapter 90, Laws of Utah 2003

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

Section 1. Section **78-27-50** is amended to read:

78-27-50. Financial information privacy -- Inapplicable to certain official



28 **investigations.**

29 (1) Sections 78-27-45 through 78-27-47 do not apply when an examination of records
30 is a part of an official investigation by:

- 31 (a) local police;
- 32 (b) a sheriff;
- 33 (c) a peace officer;
- 34 (d) a city attorney;
- 35 (e) a county attorney;
- 36 (f) a district attorney;
- 37 (g) the attorney general;
- 38 (h) the Department of Public Safety;
- 39 (i) the Office of Recovery Services of the Department of Human Services;
- 40 (j) the Insurance Department;
- 41 (k) the Department of Commerce;
- 42 (l) the Benefit Payment Control Unit or the Payment Error Prevention Unit of the
43 Department of Workforce Services;
- 44 ~~(m)~~ (m) the state auditor; or
- 45 ~~(n)~~ (n) the State Tax Commission.

46 (2) Except for the Office of Recovery Services, if a governmental entity listed in
47 Subsection (1) seeks a record, the entity shall obtain the record as follows:

- 48 (a) if the record is a nonprotected record, by request in writing that:
 - 49 (i) certifies that an official investigation is being conducted; and
 - 50 (ii) is signed by a representative of the governmental entity that is conducting the
51 official investigation; or
- 52 (b) if the record is a protected record, by obtaining:
 - 53 (i) a subpoena authorized by statute; or
 - 54 (ii) other legal process:
 - 55 (A) ordered by a court of competent jurisdiction; and
 - 56 (B) served upon the financial institution.

57 (3) If the Office of Recovery Services seeks a record, it shall obtain the record pursuant
58 to:

- 59 (a) Subsection 62A-11-104(7);
- 60 (b) Section 62A-11-304.1;
- 61 (c) Section 62A-11-304.5; or
- 62 (d) Title IV, Part D of the Social Security Act as codified in 42 U.S.C. 651 et seq.
- 63 (4) A financial institution may not give notice to any person named or referenced
- 64 within the record disclosed pursuant to Subsection (2)(a).
- 65 (5) In accordance with Section 78-27-48, the agency conducting the official
- 66 investigation that obtains a record from a financial institution under this section shall reimburse
- 67 the financial institution for costs reasonably and directly incurred by the financial institution.

Legislative Review Note
as of 12-7-04 8:44 AM

Based on a limited legal review, this legislation has not been determined to have a high probability of being held unconstitutional.

Office of Legislative Research and General Counsel

Interim Committee Note
as of 12-08-04 9:49 AM

The Workforce Services and Community and Economic Development Interim Committee recommended this bill.

Fiscal Note
Bill Number SB0016

Department of Workforce Services - Access to Financial Records *17-Jan-05*
2:13 PM

State Impact

No fiscal impact.

Individual and Business Impact

No fiscal impact.

Office of the Legislative Fiscal Analyst