

LAW ENFORCEMENT OFFICER INVESTIGATION

AMENDMENTS

2016 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Paul Ray

Senate Sponsor: _____

LONG TITLE

General Description:

This bill modifies the Public Safety Code regarding law enforcement officers.

Highlighted Provisions:

This bill:

- ▶ provides policies and procedures for the investigation and interrogation of any law enforcement officer;
 - ▶ provides that the specified personal information of an officer being investigated may not be released to anyone who is not part of the investigation, without written consent of the officer being investigated or other representatives, as specified;
 - ▶ establishes the process by which information may be recorded in an officer's personnel file and the process by which an officer can respond to that information;
- and
- ▶ provides that an officer cannot be penalized or threatened with a penalty for exercising the officer's specified rights.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:



28 ENACTS:

29 **53-6a-101**, Utah Code Annotated 1953

30 **53-6a-102**, Utah Code Annotated 1953

31 **53-6a-103**, Utah Code Annotated 1953

32 **53-6a-104**, Utah Code Annotated 1953

33 **53-6a-105**, Utah Code Annotated 1953

34 **53-6a-106**, Utah Code Annotated 1953

35 **53-6a-107**, Utah Code Annotated 1953

36 **53-6a-108**, Utah Code Annotated 1953



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

39 Section 1. Section **53-6a-101** is enacted to read:

40 **CHAPTER 6a. INVESTIGATION OF LAW ENFORCEMENT OFFICER**

41 **53-6a-101. Title.**

42 This chapter is known as "Investigation of Law Enforcement Officer."

43 Section 2. Section **53-6a-102** is enacted to read:

44 **53-6a-102. Disciplinary investigations of law enforcement officers.**

45 The provisions of this chapter apply only to law enforcement officers, as defined by
46 Section **53-13-103**, who are under investigation for possible suspension, demotion, or
47 dismissal.

48 Section 3. Section **53-6a-103** is enacted to read:

49 **53-6a-103. Minimum standards -- Interrogations and investigations.**

50 (1) When a law enforcement officer is being investigated, the following minimum
51 standards apply:

52 (a) the law enforcement officer shall be informed of the following, when notified of
53 any investigation:

54 (i) the nature of the investigation;

55 (ii) the identity and authority of the person conducting the investigation; and

56 (iii) the identity of all persons present during any interrogation; and

57 (b) the law enforcement officer shall be allowed to make handwritten or electronic
58 notes.

59 (2) Any interrogation of a law enforcement officer in connection with an investigation
60 shall be for a reasonable period of time and allow for rest and personal necessity breaks.

61 (3) (a) All interrogations of any law enforcement officer in connection with the
62 investigation shall be recorded.

63 (b) The law enforcement officer shall be provided a copy of the recording or transcript
64 of the recording of the interrogation upon written request.

65 (4) (a) Any law enforcement officer being questioned in an administrative investigation
66 has the right to be represented by counsel or a representative of the officer's choosing.

67 (b) The law enforcement officer may request counsel or representation at any time
68 during an investigation and shall be granted up to 48 hours to secure representation prior to
69 being required to answer questions.

70 (5) If an officer is being questioned or accused of criminal, or potential criminal
71 wrongdoing, the officer shall be given a proper admonition as defined in Garrity v. New Jersey,
72 385 U.S. 493 (1967).

73 Section 4. Section **53-6a-104** is enacted to read:

74 **53-6a-104. Complaints filed against a law enforcement officer -- Process and**
75 **hearings.**

76 (1) When a formal written complaint is made against a law enforcement officer, any
77 investigation shall be conducted in a reasonable amount of time.

78 (2) The investigation shall be considered complete upon:

79 (a) notice to the law enforcement officer being investigated of a pre-disciplinary
80 hearing; or

81 (b) a determination that the complaint is unfounded or unsubstantiated.

82 (3) Complaints determined to be unfounded or unsubstantiated may not be released to
83 the public.

84 (4) The results of a substantiated complaint may only be released to involved parties or
85 the person who filed the complaint.

86 (5) This section does not limit any investigation of alleged criminal activity.

87 Section 5. Section **53-6a-105** is enacted to read:

88 **53-6a-105. Release of personal information.**

89 (1) When a law enforcement officer is being investigated, the release of the following

90 information to anyone not involved in the investigation is prohibited without written consent
91 from the law enforcement officer who is the subject of the investigation:

92 (a) a law enforcement officer's home address;

93 (b) a law enforcement officer's photograph; or

94 (c) any information that may be considered confidential.

95 (2) In the event of an officer-involved critical incident, as defined in Section [76-2-408](#),
96 the name of any law enforcement officer involved may be released only after the law
97 enforcement officer has been notified.

98 Section 6. Section **53-6a-106** is enacted to read:

99 **53-6a-106. Personnel files of law enforcement officers.**

100 (1) An officer shall be given notification if the agency enters the following information
101 into the officer's personnel file:

102 (a) information regarding an investigation; or

103 (b) proposed discipline and a copy of the documents.

104 (2) A law enforcement officer being investigated has 30 days within which to file a
105 written response to any comment entered into the officer's personnel file. The written response
106 shall be attached to and shall accompany the comment.

107 Section 7. Section **53-6a-107** is enacted to read:

108 **53-6a-107. Retaliation for exercising rights.**

109 A law enforcement officer may not be penalized or threatened with a penalty for
110 exercising the law enforcement officer's rights under this chapter.

111 Section 8. Section **53-6a-108** is enacted to read:

112 **53-6a-108. Discipline.**

113 (1) The provisions of this part do not apply to a law enforcement officer in a
114 probationary employment status at the time a complaint is filed.

115 (2) In a dismissal hearing, the hearing officer shall be independent and not connected
116 with either the officer being investigated or the agency conducting the investigation.

117 (3) If a termination hearing is convened by the agency:

118 (a) an independent hearing officer or board shall be convened to determine if
119 termination is warranted; and

120 (b) both parties may provide any of the following to substantiate the guilt or innocence

121 of the officer:
122 (i) documents;
123 (ii) evidence; and
124 (iii) witnesses.

Legislative Review Note
Office of Legislative Research and General Counsel