

EMPLOYMENT AMENDMENTS

2018 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Craig Hall

Senate Sponsor: _____

LONG TITLE

General Description:

This bill expands nepotism provisions of Title 52, Chapter 3, Prohibiting Employment of Relatives, to include a dating partner.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ expands nepotism provisions of Title 52, Chapter 3, Prohibiting Employment of Relatives, to include a dating partner; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

52-3-1, as last amended by Laws of Utah 2015, Chapter 56

52-3-2, Utah Code Annotated 1953

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

Section 1. Section **52-3-1** is amended to read:



28 **52-3-1. Employment of relatives prohibited -- Exceptions.**29 (1) ~~[For purposes of this section]~~ As used in this chapter:30 (a) "Appointee" means an employee whose salary, wages, pay, or compensation is paid
31 from public funds.32 (b) "Chief administrative officer" means the person who has ultimate responsibility for
33 the operation of the department or agency of the state or a political subdivision.34 (c) "Dating partner" means an individual with whom another individual has a dating
35 relationship.36 (d) "Dating relationship" means an interpersonal relationship of a:37 (i) sexually intimate nature; or38 (ii) romantic nature, regardless of whether the relationship involves sexual intimacy.39 ~~[(c)]~~ (e) "Public officer" means a person who holds a position that is compensated by
40 public funds.41 ~~[(d)]~~ (f) "Relative" means a father, mother, husband, wife, son, daughter, sister,
42 brother, grandfather, grandmother, uncle, aunt, nephew, niece, grandson, granddaughter, first
43 cousin, mother-in-law, father-in-law, brother-in-law, sister-in-law, son-in-law, [or]
44 daughter-in-law, or dating partner.45 (2) In determining, based on a totality of circumstances, whether a dating relationship
46 exists under Subsection (1)(d):47 (a) a person shall consider all relevant factors, including:48 (i) whether the individuals have developed interpersonal bonding above a mere casual
49 fraternization;50 (ii) the length of the individuals' relationship;51 (iii) the nature and the frequency of the individuals' interactions, including52 communications indicating that the individuals intended to begin a dating relationship;53 (iv) the ongoing expectations of the individuals, individually or jointly, with respect to
54 the relationship;55 (v) whether, by statement or conduct, the individuals demonstrated an affirmation of
56 their relationship to others; and57 (vi) whether other reasons exist that support or detract from a finding that a dating
58 relationship exists; and

59 (b) it is not necessary that a person find all, or a particular number, of the factors
 60 described in Subsection (2)(a) to support the existence of a dating relationship.

61 ~~[(2)(a)] (3) (a) [No]~~ A public officer may not employ, appoint, or vote for or
 62 recommend the appointment of [a relative in or to any position or employment, when the
 63 salary, wages, pay, or compensation of the appointee will be paid from public funds and] an
 64 appointee when the appointee will be directly supervised by a relative, [except as follows]
 65 unless:

66 (i) the appointee is eligible or qualified to be employed by a department or agency of
 67 the state or a political subdivision of the state as a result of [his] the appointee's compliance
 68 with civil service ~~[laws or regulations,]~~ or merit system laws or regulations;

69 (ii) the appointee will be compensated from funds designated for vocational training;

70 (iii) the appointee will be employed for a period of 12 weeks or less;

71 (iv) the appointee is a volunteer as defined by the employing entity; or

72 (v) the chief administrative officer determines that the appointee is the only or best
 73 person available, qualified, or eligible for the position.

74 (b) ~~[No]~~ A public officer may not directly supervise an appointee who is a relative
 75 [when the salary, wages, pay, or compensation of the relative will be paid from public funds,
 76 except as follows] of the public officer, unless:

77 (i) the ~~[relative]~~ appointee was appointed or employed before the public officer
 78 assumed [his] the public officer's supervisory position, if the ~~[relative's]~~ appointee's
 79 appointment did not violate the provisions of this chapter in effect at the time of [his] the
 80 appointee's appointment;

81 (ii) the appointee is eligible or qualified to be employed by a department or agency of
 82 the state or a political subdivision of the state as a result of [his] the appointee's compliance
 83 with civil service ~~[laws or regulations,]~~ or merit system laws or regulations;

84 (iii) the appointee will be compensated from funds designated for vocational training;

85 (iv) the appointee will be employed for a period of 12 weeks or less;

86 (v) the appointee is a volunteer as defined by the employing entity;

87 (vi) the appointee is the only person available, qualified, or eligible for the position; or

88 (vii) the chief administrative officer determines that the public officer is the only

89 ~~[person]~~ individual available or best qualified to perform supervisory functions for the

90 appointee.

91 (c) When a public officer supervises a relative under Subsection ~~[(2)]~~ (3)(b):

92 (i) the public officer shall ~~[make]~~ immediately submit a complete written disclosure of
93 the ~~[relationship to the chief administrative officer of the agency or institution; and]~~ public
94 officer's relationship with the relative:

95 (A) for a public officer subject to the requirements of Title 67, Chapter 16, Utah Public
96 Officers' and Employees' Ethics Act, in the same manner the public officer is required to make
97 a disclosure under Section [67-16-7](#);

98 (B) for a public officer subject to the requirements of Title 17, Chapter 16a, County
99 Officers and Employees Disclosure Act, in the same manner the public officer is required to
100 make a disclosure under Section [17-16a-6](#); and

101 (C) for a public officer subject to the requirements of Title 10, Chapter 3, Part 13,
102 Municipal Officers' and Employees' Ethics Act, in the same manner the public officer is
103 required to make a disclosure under Section [10-3-1306](#); and

104 (ii) the public officer ~~[who exercises authority over a relative]~~ may not evaluate the
105 relative's job performance or recommend salary increases for the relative.

106 (d) A disclosure submitted under this Subsection (3) is public, and the person or entity
107 with which the public officer files the disclosure shall make the disclosure available for public
108 inspection.

109 ~~[(3)]~~ (4) ~~[No]~~ An appointee may not accept or retain employment if ~~[he is paid from~~
110 ~~public funds, and he is]~~ accepting or retaining employment will place the appointee under the
111 direct supervision of a relative, ~~[except as follows]~~ unless:

112 (a) the relative was appointed or employed before the ~~[public officer assumed his]~~
113 appointee assumed the appointee's position, if the relative's appointment did not violate the
114 provisions of this chapter in effect at the time of ~~[his]~~ the relative's appointment;

115 (b) the appointee was or is eligible or qualified to be employed by a department or
116 agency of the state or a political subdivision of the state as a result of ~~[his]~~ the appointee's
117 compliance with civil service ~~[laws or regulations,]~~ or merit system laws or regulations;

118 (c) the appointee is the only person available, qualified, or eligible for the position;

119 (d) the appointee is compensated from funds designated for vocational training;

120 (e) the appointee is employed for a period of 12 weeks or less;

121 (f) the appointee is a volunteer as defined by the employing entity; or

122 (g) the chief administrative officer [~~has determined~~] determines that the appointee's
123 relative is the only [~~person~~] individual available or qualified to supervise the appointee.

124 Section 2. Section **52-3-2** is amended to read:

125 **52-3-2. Each day of violation a separate offense.**

126 Each day [~~any such person, father, mother, husband, wife, son, daughter, sister, brother,~~
127 ~~uncle, aunt, nephew, niece, first cousins, mother-in-law, father-in-law, brother-in-law,~~
128 ~~sister-in-law, son-in-law or daughter-in-law, is retained in office by any of said officials shall~~
129 ~~be regarded as~~] a relative remains unlawfully in office in violation of this chapter is a separate
130 offense.

Legislative Review Note
Office of Legislative Research and General Counsel