

HB0133S01 compared with HB0133

~~deleted text~~ shows text that was in HB0133 but was deleted in HB0133S01.

Inserted text shows text that was not in HB0133 but was inserted into HB0133S01.

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Representative Craig Hall proposes the following substitute bill:

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~~ household member.

Highlighted Provisions:

This bill:

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

Money Appropriated in this Bill:

None

Other Special Clauses:

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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:

52-3-1. Employment of relatives and household members prohibited --

Exceptions.

(1) [~~For purposes of this section~~] As used in this chapter:

(a) "Appointee" means an employee whose salary, wages, pay, or compensation is paid from public funds.

(b) "Chief administrative officer" means the person who has ultimate responsibility for the operation of the department or agency of the state or a political subdivision.

~~(c) "Dating partner" means an individual with whom another individual has a dating relationship.~~

~~— (d) "Dating relationship" means an interpersonal relationship of a:~~

~~— (i) sexually intimate nature; or~~

~~— (ii) romantic nature, regardless of whether the relationship involves sexual intimacy.~~

~~— (c) (e) "Household member" means a person who resides in the same residence as the public officer.~~

~~(e) (d)~~ "Public officer" means a person who holds a position that is compensated by public funds.

~~(d) (ff) (e)~~ "Relative" means a father, mother, husband, wife, son, daughter, sister, brother, grandfather, grandmother, uncle, aunt, nephew, niece, grandson, granddaughter, first cousin, mother-in-law, father-in-law, brother-in-law, sister-in-law, son-in-law, ~~(ff) or (ff)~~ daughter-in-law , or dating partner.

~~— (2) In determining, based on a totality of circumstances, whether a dating relationship exists under Subsection (1)(d):~~

~~— (a) a person shall consider all relevant factors, including:~~

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~~(i) whether the individuals have developed interpersonal bonding above a mere casual fraternization;~~

~~(ii) the length of the individuals' relationship;~~

~~(iii) the nature and the frequency of the individuals' interactions, including communications indicating that the individuals intended to begin a dating relationship;~~

~~(iv) the ongoing expectations of the individuals, individually or jointly, with respect to the relationship;~~

~~(v) whether, by statement or conduct, the individuals demonstrated an affirmation of their relationship to others; and~~

~~(vi) whether other reasons exist that support or detract from a finding that a dating relationship exists; and~~

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

~~[(2)(a)] (3)(a);~~

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

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

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

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

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

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

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

(i) the [relative] appointee was appointed or employed before the public officer

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assumed ~~[his]~~ the public officer's supervisory position, if the ~~[relative's]~~ appointee's appointment did not violate the provisions of this chapter in effect at the time of ~~[his]~~ the appointee's appointment;

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

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

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

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

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

(vii) the chief administrative officer determines that the public officer is the only ~~[person]~~ individual available or best qualified to perform supervisory functions for the appointee.

(c) When a public officer supervises a relative or household member under Subsection ~~{(2)}~~ ~~{(3)}~~ (b):

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

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

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

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

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

(d) A disclosure submitted under this Subsection (~~{3}~~2) is public, and the person or

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entity with which the public officer files the disclosure shall make the disclosure available for public inspection.

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

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

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

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

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

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

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

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

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

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

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

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~~Office of Legislative Research and General Counsel~~