

LAW ENFORCEMENT PROTECTION AMENDMENTS

2018 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Don L. Ipson

House Sponsor: Lee B. Perry

LONG TITLE

General Description:

This bill amends provisions relating to publicly available personal information of law enforcement officers.

Highlighted Provisions:

This bill:

- ▶ creates a process by which a law enforcement officer may have their own personal information removed from publicly available state or local government sites;
 - ▶ requires that the law enforcement officer deliver copies of a form to the affected state or local government agency;
 - ▶ provides that the ban on the information may remain in place for up to four years;
- and
- ▶ makes conforming and technical amendments.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53-18-102, as enacted by Laws of Utah 2017, Chapter 266

53-18-103, as enacted by Laws of Utah 2017, Chapter 266



28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48
49
50
51
52
53
54
55
56
57
58

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

Section 1. Section **53-18-102** is amended to read:

53-18-102. Definitions.

As used in this chapter:

(1) "Access software provider" means a provider of software, including client or server software, or enabling tools that do any one or more of the following:

(a) filter, screen, allow, or disallow content;

(b) pick, choose, analyze, or digest content; or

(c) transmit, receive, display, forward, cache, search, subset, organize, reorganize, or translate content.

(2) "Immediate family member" means a law enforcement officer's spouse, child [~~or spouse of a child, sibling or spouse of a sibling, or~~], parent, or grandparent who resides with the officer.

(3) "Interactive computer service" means the same as that term is defined in Subsection 47 U.S.C. 230(f).

(4) "Law enforcement officer" or "officer":

(a) means the same as that term is defined in Section [53-13-103](#);

(b) includes "correctional officers" as defined in Section [53-13-104](#); and

(c) refers only to officers who are currently employed by, retired from, or were killed in the line of duty while in the employ of a state or local governmental law enforcement agency.

(5) "Personal information" means a law enforcement officer's or law enforcement officer's immediate family member's address, telephone number, personal mobile telephone number, pager number, personal email address, personal photograph, directions to locate the law enforcement officer's home, or photographs of the law enforcement officer's or the officer's immediate family member's home or vehicle.

(6) "Publicly post" or "publicly display" means to intentionally communicate or otherwise make available to the general public.

Section 2. Section **53-18-103** is amended to read:

53-18-103. Internet posting of personal information of law enforcement officers -- Prohibitions.

59 (1) (a) A state or local governmental agency that has received the form described in
60 Subsection (1)(b) from a law enforcement officer may not publicly post on the Internet the
61 personal information of any law enforcement officer employed by the state or any political
62 subdivision [on the Internet unless the agency has obtained written permission from the officer
63 and has the written permission in the agency's possession].

64 (b) Each state or local government agency employing law enforcement officers shall:

65 (i) provide a form for an officer to request the removal or concealment of the officer's
66 personal information from the state or local government agencies' publicly accessible websites
67 and databases;

68 (ii) inform the officer how to submit a form under this section;

69 (iii) upon request, assist an officer in completing the form; and

70 (iv) include on any form a disclaimer informing the officer that by submitting a
71 completed form the officer may not receive official announcements affecting the officer's
72 property, including notices about proposed annexations, incorporation, or zoning
73 modifications.

74 (2) A county clerk, upon receipt of the form described in Subsection (1)(b) from a law
75 enforcement officer, completed and submitted under this section, shall:

76 (a) classify the law enforcement officer's voter registration record in the lieutenant
77 governor's statewide voter registration database developed under Section [20A-2-109](#) as a
78 private record; and

79 (b) classify the law enforcement officer's marriage licenses and marriage license
80 applications, if any, as private records.

81 (3) A county recorder, treasurer, auditor, or tax assessor, upon receipt of the form
82 described in Subsection (1)(b) from a law enforcement officer, completed and submitted under
83 this section, shall:

84 (a) provide a method for the assessment roll and index and the tax roll and index that
85 will block public access to the law enforcement officer's personal information; and

86 (b) provide to the law enforcement officer who submits the form a written disclaimer
87 informing the officer that the officer may not receive official announcements affecting the
88 officer's property, including notices about proposed annexations, incorporations, or zoning
89 modifications.

90 (4) A form submitted under this section remains in effect for the shorter of:

91 (a) four years from the date on which the form was signed by the officer, regardless of
92 whether the officer's qualifying employment is terminated during the four years; or

93 (b) one year after official notice of the law enforcement officer's death is transmitted by
94 the officer's immediate family or the officer's employing agency to all state and local
95 government agencies that are reasonably expected to have records containing personal
96 information of the deceased officer.

97 (5) Notwithstanding Subsection (4), the law enforcement officer, or the officer's
98 immediate family if the officer is deceased, may rescind the form at any time.

99 ~~[(2)]~~ (6) An individual may not [knowingly], with intent to frighten or harass a law
100 enforcement officer, publicly post on the Internet the personal information of any law
101 enforcement officer [or of the officer's immediate family members] knowing the person is a
102 law enforcement officer [or that the person is the immediate family member of a law
103 enforcement officer].

104 (a) A violation of this Subsection (2) is a class B misdemeanor.

105 (b) A violation of this Subsection (2) that results in bodily injury to the officer, or a
106 member of the officer's immediate family, is a class A misdemeanor.

107 (c) Each act against a separate individual in violation of this Subsection (2) is a
108 separate offense. The defendant may also be charged separately with the commission of any
109 other criminal conduct related to the commission of an offense under this Subsection (2).

110 ~~[(3)]~~ (7) (a) A business or association may not publicly post or publicly display on the
111 Internet the personal information of any law enforcement officer if that officer has, either
112 directly or through an agent designated under Subsection (3)(c), provided to that business or
113 association a written demand to not disclose the officer's personal information.

114 (b) A written demand made under this Subsection (3) by a law enforcement officer is
115 effective for four years beginning on the day the demand is delivered, regardless of whether or
116 not the law enforcement officer's employment as an officer has terminated during the four
117 years.

118 (c) A law enforcement officer may designate in writing the officer's employer or a
119 representative of any voluntary professional association of law enforcement officers to act on
120 behalf of the officer and as the officer's agent to make a written demand pursuant to this

121 chapter.

122 (d) (i) A business or association that receives a written demand from a law enforcement
123 officer under Subsection (3)(a) shall remove the officer's personal information from public
124 display on the Internet, including the removal of information provided to cellular telephone
125 applications, within 24 hours of the delivery of the written demand, and shall ensure that the
126 information is not posted again on the same Internet website or any other Internet website the
127 recipient of the written demand maintains or exercises control over.

128 (ii) After receiving the law enforcement officer's written demand, the person, business,
129 or association may not publicly post or publicly display on the Internet, the personal
130 information of the law enforcement officer.

131 (iii) This Subsection (3)(d) does not prohibit a telephone corporation, as defined in
132 Section 54-2-1, or its affiliate or other voice service provider, including providers of
133 interconnected voice over Internet protocol service as defined in 47 C.F.R. 9.3, from
134 transferring the law enforcement officer's personal information to any person, business, or
135 association, if the transfer is authorized by federal or state law, regulation, order, terms of
136 service, or tariff, or is necessary in the event of an emergency, or to collect a debt owed by the
137 officer to the telephone corporation or its affiliate.

138 (iv) This Subsection (3)(d) does not apply to a telephone corporation or other voice
139 service provider, including providers of interconnected voice over Internet protocol service,
140 with respect to directories or directories listings to the extent the entity offers a nonpublished
141 listing option.

142 [~~(4)~~] (8) (a) A law enforcement officer whose personal information is made public as a
143 result of a violation of Subsection [~~(3)~~] (7) may bring an action seeking injunctive or
144 declarative relief in any court of competent jurisdiction.

145 (b) If a court finds that a violation has occurred, it may grant injunctive or declarative
146 relief and shall award the law enforcement officer court costs and reasonable attorney fees.

147 (c) If the defendant fails to comply with an order of the court issued under this
148 Subsection [~~(4)~~] (8), the court may impose a civil penalty of not more than \$1,000 for the
149 defendant's failure to comply with the court's order.

150 [~~(5)~~] (9) (a) A person, business, or association may not solicit, sell, or trade on the
151 Internet the personal information of a law enforcement officer, if the dissemination of the

152 personal information poses an imminent and serious threat to the law enforcement officer's
153 safety or the safety of the law enforcement officer's immediate family and the person making
154 the information available on the Internet knows or reasonably should know of the imminent
155 and serious threat.

156 (b) A law enforcement officer whose personal information is knowingly publicly
157 posted or publicly displayed on the Internet may bring an action in any court of competent
158 jurisdiction. If a jury or court finds that a defendant has committed a violation of Subsection
159 [(5)] (9)(a), the jury or court shall award damages to the officer in the amount of triple the cost
160 of actual damages or \$4,000, whichever is greater.

161 [(6)] (10) An interactive computer service or access software is not liable under
162 Subsections [(3)] (7)(d)(i) and [(5)] (9) for information or content provided by another
163 information content provider.

164 [(7)] (11) Unless a state or local government agency receives a completed form directly
165 from the law enforcement officer [~~requests that certain information be removed or protected~~
166 ~~from disclosure in accordance with Section 63G-2-302, a county recorder~~] in accordance with
167 Subsection (1), a state or local government official who makes information available for public
168 inspection in accordance with [~~Section 17-21-19~~] state law is not in violation of this chapter.

Legislative Review Note
Office of Legislative Research and General Counsel