

1 **AT-RISK GOVERNMENT EMPLOYEE INFORMATION**

2 **PROTECTION AMENDMENTS**

3 2019 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Lee B. Perry**

6 Senate Sponsor: Karen Mayne

7

8 **LONG TITLE**

9 **General Description:**

10 This bill modifies provisions relating to personal information of certain government
11 employees.

12 **Highlighted Provisions:**

13 This bill:

- 14 ▶ modifies the definition of "public information" in the context of provisions relating
15 to protecting personal information of law enforcement officers;
- 16 ▶ modifies requirements relating to a form that a law enforcement officer may submit
17 to protect personal information from being posted on the Internet;
- 18 ▶ modifies provisions relating to the private classification of personal information of
19 at-risk government employees; and
- 20 ▶ enacts language relating to the length of time that a form requesting private
21 classification of personal information remains in effect and the rescission of the
22 form.

23 **Money Appropriated in this Bill:**

24 None

25 **Other Special Clauses:**

26 None

27 **Utah Code Sections Affected:**



28 AMENDS:

29 **53-18-102**, as last amended by Laws of Utah 2018, Chapter 311

30 **53-18-103**, as last amended by Laws of Utah 2018, Chapter 311

31 **63G-2-303**, as last amended by Laws of Utah 2013, Chapter 426



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

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

35 **53-18-102. Definitions.**

36 As used in this chapter:

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

- 39 (a) filter, screen, allow, or disallow content;
- 40 (b) pick, choose, analyze, or digest content; or
- 41 (c) transmit, receive, display, forward, cache, search, subset, organize, reorganize, or
42 translate content.

43 (2) "Immediate family member" means a law enforcement officer's spouse, child,
44 parent, or grandparent who resides with the officer.

45 (3) "Interactive computer service" means the same as that term is defined in Subsection
46 47 U.S.C. 230(f).

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

- 48 (a) means the same as that term is defined in Section **53-13-103**;
- 49 (b) includes "correctional officers" as defined in Section **53-13-104**; and
- 50 (c) refers only to officers who are currently employed by, retired from, or were killed in
51 the line of duty while in the employ of a state or local governmental law enforcement agency.

52 (5) "Personal information":

- 53 (a) means a law enforcement officer's or law enforcement officer's immediate family
54 member's home address, home telephone number, personal mobile telephone number, personal
55 pager number, personal email address, personal photograph, directions to locate the law
56 enforcement officer's home, or photographs of the law enforcement officer's or the officer's
57 immediate family member's home or vehicle[-]; and

58 (b) includes a record or a part of a record that:

59 (i) a law enforcement officer requests to be classified as private under ~~Ĥ→ [Title 63G,~~
 60 ~~Chapter 2, Government Records Access and Management Act]~~ Subsection 63G-2-302(1)(h) ←Ĥ ;
 60a and

61 (ii) is classified as private under Title 63G, Chapter 2, Government Records Access
 62 and Management Act.

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

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

66 **53-18-103. Internet posting of personal information of law enforcement officers --**
 67 **Prohibitions.**

68 (1) (a) A state or local governmental agency that has received the form described in
 69 Subsection (1)(b) from a law enforcement officer may not publicly post on the Internet the
 70 personal information of any law enforcement officer employed by the state or any political
 71 subdivision.

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

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

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

77 (iii) upon request, assist an officer in completing the form; ~~[and]~~

78 (iv) include on ~~[any]~~ the form a disclaimer informing the officer that by submitting a
 79 completed form the officer may not receive official announcements affecting the officer's
 80 property, including notices about proposed annexations, incorporation, or zoning
 81 modifications~~[-]; and~~

82 (v) require a form submitted by a law enforcement officer to be signed by the highest
 83 ranking elected or appointed official in the officer's chain of command certifying that the
 84 individual requesting removal or concealment is a law enforcement officer.

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

87 (a) classify the law enforcement officer's voter registration record in the lieutenant
 88 governor's statewide voter registration database developed under Section **20A-2-109** as a
 89 private record; and

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

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

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

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

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

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

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

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

110 (6) An individual may not, with intent to frighten or harass a law enforcement officer,
111 publicly post on the Internet the personal information of any law enforcement officer knowing
112 the person is a law enforcement officer.

113 (a) A violation of this Subsection (6) is a class B misdemeanor.

114 (b) A violation of this Subsection (6) that results in bodily injury to the officer, or a
115 member of the officer's immediate family, is a class A misdemeanor.

116 (c) Each act against a separate individual in violation of this Subsection (6) is a
117 separate offense. The defendant may also be charged separately with the commission of any
118 other criminal conduct related to the commission of an offense under this Subsection (6).

119 (7) (a) A business or association may not publicly post or publicly display on the
120 Internet the personal information of any law enforcement officer if that officer has, either

121 directly or through an agent designated under Subsection (7)(c), provided to that business or
122 association a written demand to not disclose the officer's personal information.

123 (b) A written demand made under this Subsection (7) by a law enforcement officer is
124 effective for four years beginning on the day the demand is delivered, regardless of whether or
125 not the law enforcement officer's employment as an officer has terminated during the four
126 years.

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

131 (d) (i) A business or association that receives a written demand from a law enforcement
132 officer under Subsection (7)(a) shall remove the officer's personal information from public
133 display on the Internet, including the removal of information provided to cellular telephone
134 applications, within 24 hours of the delivery of the written demand, and shall ensure that the
135 information is not posted again on the same Internet website or any other Internet website the
136 recipient of the written demand maintains or exercises control over.

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

140 (iii) This Subsection (7)(d) does not prohibit a telephone corporation, as defined in
141 Section [54-2-1](#), or its affiliate or other voice service provider, including providers of
142 interconnected voice over Internet protocol service as defined in 47 C.F.R. 9.3, from
143 transferring the law enforcement officer's personal information to any person, business, or
144 association, if the transfer is authorized by federal or state law, regulation, order, terms of
145 service, or tariff, or is necessary in the event of an emergency, or to collect a debt owed by the
146 officer to the telephone corporation or its affiliate.

147 (iv) This Subsection (7)(d) does not apply to a telephone corporation or other voice
148 service provider, including providers of interconnected voice over Internet protocol service,
149 with respect to directories or directories listings to the extent the entity offers a nonpublished
150 listing option.

151 (8) (a) A law enforcement officer whose personal information is made public as a

152 result of a violation of Subsection (7) may bring an action seeking injunctive or declarative
153 relief in any court of competent jurisdiction.

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

156 (c) If the defendant fails to comply with an order of the court issued under this
157 Subsection (8), the court may impose a civil penalty of not more than \$1,000 for the
158 defendant's failure to comply with the court's order.

159 (9) (a) A person, business, or association may not solicit, sell, or trade on the Internet
160 the personal information of a law enforcement officer, if the dissemination of the personal
161 information poses an imminent and serious threat to the law enforcement officer's safety or the
162 safety of the law enforcement officer's immediate family and the person making the
163 information available on the Internet knows or reasonably should know of the imminent and
164 serious threat.

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

170 (10) An interactive computer service or access software is not liable under Subsections
171 (7)(d)(i) and (9) for information or content provided by another information content provider.

172 (11) Unless a state or local government agency receives a completed form directly from
173 the law enforcement officer in accordance with Subsection (1), a state or local government
174 official who makes information available for public inspection in accordance with state law is
175 not in violation of this chapter.

176 Section 3. Section **63G-2-303** is amended to read:

177 **63G-2-303. Private information concerning certain government employees.**

178 (1) As used in this section:

179 (a) "At-risk government employee" means a current or former:

180 (i) peace officer as specified in Section [53-13-102](#);

181 [~~(ii) supreme court justice;~~]

182 [~~(iii)~~] (ii) state or federal judge of an appellate, district, justice, or juvenile court, or [a]

183 court commissioner;

184 ~~[(iv) justice court judge;]~~

185 ~~[(v)]~~ (iii) judge authorized by Title 39, Chapter 6, Utah Code of Military Justice;

186 ~~[(vi) federal judge;]~~

187 ~~[(vii) federal magistrate judge;]~~

188 ~~[(viii)]~~ (iv) judge authorized by Armed Forces, Title 10, United States Code;

189 ~~[(ix) United States Attorney;]~~

190 ~~[(x) Assistant United States Attorney;]~~

191 (v) federal prosecutor;

192 ~~[(xi)]~~ (vi) [a] prosecutor appointed pursuant to Armed Forces, Title 10, United States

193 Code;

194 ~~[(xii)]~~ (vii) [a] law enforcement official as defined in Section 53-5-711; [or]

195 ~~[(xiii)]~~ (viii) [a] prosecutor authorized by Title 39, Chapter 6, Utah Code of Military

196 Justice[-]; or

197 (ix) state or local government employee who, because of the ~~§~~ → **unique** ← ~~§~~ nature of the

197a employee's

198 ~~§~~ → **regular** ← ~~§~~ work ~~§~~ → **assignments or because of one or more recent credible threats**

198a **directed to or against the employee** ← ~~§~~ , would be at immediate and substantial risk of physical

198b harm if the employee's personal

199 information is disclosed.

200 (b) "Family member" means the spouse, child, sibling, parent, or grandparent of an
201 at-risk government employee who is living with the employee.

202 (c) "Personal information" means the employee's or the employee's family member's

203 home address, home telephone number, personal mobile telephone number, personal pager

204 number, personal email address, social security number, insurance coverage, marital status, or

205 payroll deductions.

206 (2) (a) Pursuant to Subsection 63G-2-302(1)(h), an at-risk government employee may
207 file a written application that:

208 (i) gives notice of the employee's status as an at-risk government employee to each
209 agency of a government entity holding a record or a part of a record that would disclose the
210 employee's ~~[or the employee's family member's home address, home telephone number, Social~~
211 ~~Security number, insurance coverage, marital status, or payroll deductions]~~ personal

212 information; and

213 (ii) requests that the government agency classify those records or parts of records as

214 private.

215 (b) An at-risk government employee desiring to file an application under this section
216 may request assistance from the government agency to identify the individual records
217 containing ~~[the private]~~ personal information ~~[specified in Subsection (2)(a)(i)]~~.

218 (c) Each government agency shall develop a form that:

219 (i) requires the at-risk government employee to ~~[provide evidence of qualifying~~
220 ~~employment; (ii) requires the at-risk government employee to]~~ designate each specific record
221 or part of a record containing the employee's ~~[home address, home telephone number, Social~~
222 ~~Security number, insurance coverage, marital status, or payroll deductions]~~ personal
223 information that the applicant desires to be classified as private; ~~[and]~~

224 ~~[(iii)]~~ (ii) affirmatively requests that the government entity holding those records
225 classify them as private[-];

226 (iii) informs the employee that by submitting a completed form the employee may not
227 receive official announcements affecting the employee's property, including notices about
228 proposed municipal annexations, incorporations, or zoning modifications; and

229 (iv) contains a place for the signature required under Subsection (2)(d).

230 (d) A form submitted by an employee under Subsection (2)(c) shall be signed by the
231 highest ranking elected or appointed official in the employee's chain of command certifying
232 that the employee submitting the form is an at-risk government employee.

233 (3) A county recorder, county treasurer, county auditor, or a county tax assessor may
234 fully satisfy the requirements of this section by:

235 (a) providing a method for the assessment roll and index and the tax roll and index that
236 will block public access to the home address, home telephone number, situs address, and Social
237 Security number; and

238 (b) providing the at-risk government employee requesting the classification with a
239 disclaimer informing the employee that the employee may not receive official announcements
240 affecting the employee's property, including notices about proposed annexations,
241 incorporations, or zoning modifications.

242 (4) A government agency holding records of an at-risk government employee classified
243 as private under this section may release the record or part of the record if:

244 (a) the employee or former employee gives written consent;

245 (b) a court orders release of the records; or

246 (c) the government agency receives a certified death certificate for the employee or
247 former employee.

248 (5) (a) If the government agency holding the private record receives a subpoena for the
249 records, the government agency shall attempt to notify the at-risk government employee or
250 former employee by mailing a copy of the subpoena to the employee's last-known mailing
251 address together with a request that the employee either:

252 (i) authorize release of the record; or

253 (ii) within 10 days of the date that the copy and request are mailed, deliver to the
254 government agency holding the private record a copy of a motion to quash filed with the court
255 who issued the subpoena.

256 (b) The government agency shall comply with the subpoena if the government agency
257 has:

258 (i) received permission from the at-risk government employee or former employee to
259 comply with the subpoena;

260 (ii) not received a copy of a motion to quash within 10 days of the date that the copy of
261 the subpoena was mailed; or

262 (iii) received a court order requiring release of the records.

263 (6) (a) Except as provided in Subsection (6)(b), a form submitted under this section
264 remains in effect until the earlier of:

265 (i) four years after the date the employee signs the form, whether or not the employee's
266 employment terminates before the end of the four-year period; and

267 (ii) one year after the government agency receives official notice of the death of the
268 employee.

269 (b) A form submitted under this section may be rescinded at any time by:

270 (i) the at-risk government employee who submitted the form; or

271 (ii) if the at-risk government employee is deceased, a member of the employee's
272 immediate family.