

**LAW ENFORCEMENT AGENCY AMENDMENTS**

2019 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Curtis S. Bramble**

House Sponsor: Michael K. McKell

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**LONG TITLE**

**General Description:**

This bill modifies provisions relating to law enforcement agencies.

**Highlighted Provisions:**

This bill:

- ▶ modifies the definition of "law enforcement agency" to include a private institution of higher education whose law enforcement entity or division is certified by the Commission of Public Safety and modifies the definition of "law enforcement officer;"
- ▶ includes law enforcement agencies in the definition of governmental entities that are subject to government records provisions;
- ▶ includes law enforcement agencies in the definition of governmental entities that are subject to governmental immunity provisions; and
- ▶ makes technical changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**53-1-102**, as last amended by Laws of Utah 1998, Chapter 282

**53-13-103**, as last amended by Laws of Utah 2015, Chapter 436

**63G-2-103**, as amended by Statewide Initiative -- Proposition 4, Nov. 6, 2018

30 **63G-7-102**, as last amended by Laws of Utah 2018, Chapters 22, 106, and 415



31  
32 *Be it enacted by the Legislature of the state of Utah:*

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

34 **53-1-102. Definitions.**

35 (1) As used in this title:

36 (a) "Commissioner" means the commissioner of public safety appointed under Section  
37 **53-1-107**.

38 (b) "Department" means the Department of Public Safety created in Section **53-1-103**.

39 (c) "Law enforcement agency" means an entity ~~[of]~~ or division of:

40 (i) (A) the federal government, a state, or a political subdivision of a state~~[-including];~~

41 (B) a state institution of higher education~~[-];~~ or

42 (C) a private institution of higher education, if the entity or division has been certified  
43 by the commissioner; and

44 (ii) that exists primarily to prevent and detect crime and enforce criminal laws, statutes,  
45 and ordinances.

46 (d) "Law enforcement officer" ~~[has]~~ means the same ~~[meaning as provided]~~ as that  
47 term is defined in Section 53-13-103.

48 (e) "Motor vehicle" means every self-propelled vehicle and every vehicle propelled by  
49 electric power obtained from overhead trolley wires, but not operated upon rails, except  
50 motorized wheel chairs and vehicles moved solely by human power.

51 (f) "Peace officer" means any officer certified in accordance with Title 53, Chapter 13,  
52 Peace Officer Classifications.

53 (g) "State institution of higher education" ~~[has]~~ means the same ~~[meaning as provided]~~  
54 as that term is defined in Section 53B-3-102.

55 (h) "Vehicle" means every device in, upon, or by which any person or property is or  
56 may be transported or drawn upon a highway, excepting devices used exclusively upon  
57 stationary rails or tracks.

58 (2) The definitions provided in Subsection (1) are to be applied throughout this title in  
59 addition to definitions that are applicable to specific chapters or parts.

60 Section 2. Section **53-13-103** is amended to read:

61 **53-13-103. Law enforcement officer.**

62 (1) (a) "Law enforcement officer" means a sworn and certified peace officer;

63 (i) who is an employee of a law enforcement agency [~~that is part of or administered by~~  
64 ~~the state or any of its political subdivisions, and~~]; and

65 (ii) whose primary and principal duties consist of the prevention and detection of crime  
66 and the enforcement of criminal statutes or ordinances of this state or any of its political  
67 subdivisions.

68 (b) "Law enforcement officer" includes the following:

69 (i) any sheriff or deputy sheriff, chief of police, police officer, or marshal of any  
70 county, city, or town;

71 (ii) the commissioner of public safety and any member of the Department of Public  
72 Safety certified as a peace officer;

73 (iii) all persons specified in Sections [23-20-1.5](#) and [79-4-501](#);

74 (iv) any police officer employed by any college or university;

75 (v) investigators for the Motor Vehicle Enforcement Division;

76 (vi) investigators for the Department of Insurance, Fraud Division;

77 (vii) special agents or investigators employed by the attorney general, district attorneys,  
78 and county attorneys;

79 (viii) employees of the Department of Natural Resources designated as peace officers  
80 by law;

81 (ix) school district police officers as designated by the board of education for the  
82 school district;

83 (x) the executive director of the Department of Corrections and any correctional  
84 enforcement or investigative officer designated by the executive director and approved by the  
85 commissioner of public safety and certified by the division;

86 (xi) correctional enforcement, investigative, or adult probation and parole officers  
87 employed by the Department of Corrections serving on or before July 1, 1993;

88 (xii) members of a law enforcement agency established by a private college or  
89 university provided that the college or university has been certified by the commissioner of  
90 public safety according to rules of the Department of Public Safety;

91 (xiii) airport police officers of any airport owned or operated by the state or any of its  
92 political subdivisions; and

93 (xiv) transit police officers designated under Section 17B-2a-822.

94 (2) Law enforcement officers may serve criminal process and arrest violators of any  
95 law of this state and have the right to require aid in executing their lawful duties.

96 (3) (a) A law enforcement officer has statewide full-spectrum peace officer authority,  
97 but the authority extends to other counties, cities, or towns only when the officer is acting  
98 under Title 77, Chapter 9, Uniform Act on Fresh Pursuit, unless the law enforcement officer is  
99 employed by the state.

100 (b) (i) A local law enforcement agency may limit the jurisdiction in which its law  
101 enforcement officers may exercise their peace officer authority to a certain geographic area.

102 (ii) Notwithstanding Subsection (3)(b)(i), a law enforcement officer may exercise  
103 authority outside of the limited geographic area, pursuant to Title 77, Chapter 9, Uniform Act  
104 on Fresh Pursuit, if the officer is pursuing an offender for an offense that occurred within the  
105 limited geographic area.

106 (c) The authority of law enforcement officers employed by the Department of  
107 Corrections is regulated by Title 64, Chapter 13, Department of Corrections - State Prison.

108 (4) A law enforcement officer shall, prior to exercising peace officer authority:

109 (a) (i) have satisfactorily completed the requirements of Section 53-6-205; or

110 (ii) have met the waiver requirements in Section 53-6-206; and

111 (b) have satisfactorily completed annual certified training of at least 40 hours per year  
112 as directed by the director of the division, with the advice and consent of the council.

113 Section 3. Section 63G-2-103 is amended to read:

114 **63G-2-103. Definitions.**

115 As used in this chapter:

116 (1) "Audit" means:

117 (a) a systematic examination of financial, management, program, and related records  
118 for the purpose of determining the fair presentation of financial statements, adequacy of  
119 internal controls, or compliance with laws and regulations; or

120 (b) a systematic examination of program procedures and operations for the purpose of  
121 determining their effectiveness, economy, efficiency, and compliance with statutes and  
122 regulations.

123 (2) "Chronological logs" mean the regular and customary summary records of law  
124 enforcement agencies and other public safety agencies that show:

125 (a) the time and general nature of police, fire, and paramedic calls made to the agency;  
126 and

127 (b) any arrests or jail bookings made by the agency.

128 (3) "Classification," "classify," and their derivative forms mean determining whether a  
129 record series, record, or information within a record is public, private, controlled, protected, or  
130 exempt from disclosure under Subsection [63G-2-201\(3\)\(b\)](#).

131 (4) (a) "Computer program" means:

132 (i) a series of instructions or statements that permit the functioning of a computer  
133 system in a manner designed to provide storage, retrieval, and manipulation of data from the  
134 computer system; and

135 (ii) any associated documentation and source material that explain how to operate the  
136 computer program.

137 (b) "Computer program" does not mean:

138 (i) the original data, including numbers, text, voice, graphics, and images;

139 (ii) analysis, compilation, and other manipulated forms of the original data produced by  
140 use of the program; or

141 (iii) the mathematical or statistical formulas, excluding the underlying mathematical

142 algorithms contained in the program, that would be used if the manipulated forms of the  
143 original data were to be produced manually.

144 (5) (a) "Contractor" means:

145 (i) any person who contracts with a governmental entity to provide goods or services  
146 directly to a governmental entity; or

147 (ii) any private, nonprofit organization that receives funds from a governmental entity.

148 (b) "Contractor" does not mean a private provider.

149 (6) "Controlled record" means a record containing data on individuals that is controlled  
150 as provided by Section [63G-2-304](#).

151 (7) "Designation," "designate," and their derivative forms mean indicating, based on a  
152 governmental entity's familiarity with a record series or based on a governmental entity's  
153 review of a reasonable sample of a record series, the primary classification that a majority of  
154 records in a record series would be given if classified and the classification that other records  
155 typically present in the record series would be given if classified.

156 (8) "Elected official" means each person elected to a state office, county office,  
157 municipal office, school board or school district office, local district office, or special service  
158 district office, but does not include judges.

159 (9) "Explosive" means a chemical compound, device, or mixture:

160 (a) commonly used or intended for the purpose of producing an explosion; and

161 (b) that contains oxidizing or combustive units or other ingredients in proportions,  
162 quantities, or packing so that:

163 (i) an ignition by fire, friction, concussion, percussion, or detonator of any part of the  
164 compound or mixture may cause a sudden generation of highly heated gases; and

165 (ii) the resultant gaseous pressures are capable of:

166 (A) producing destructive effects on contiguous objects; or

167 (B) causing death or serious bodily injury.

168 (10) "Government audit agency" means any governmental entity that conducts an audit.

169 (11) (a) "Governmental entity" means:

170 (i) executive department agencies of the state, the offices of the governor, lieutenant  
171 governor, state auditor, attorney general, and state treasurer, the Board of Pardons and Parole,  
172 the Board of Examiners, the National Guard, the Career Service Review Office, the State  
173 Board of Education, the State Board of Regents, and the State Archives;

174 (ii) the Office of the Legislative Auditor General, Office of the Legislative Fiscal  
175 Analyst, Office of Legislative Research and General Counsel, the Legislature, and legislative  
176 committees, except any political party, group, caucus, or rules or sifting committee of the  
177 Legislature;

178 (iii) courts, the Judicial Council, the Administrative Office of the Courts, and similar  
179 administrative units in the judicial branch;

180 (iv) any state-funded institution of higher education or public education; or

181 (v) any political subdivision of the state, but, if a political subdivision has adopted an  
182 ordinance or a policy relating to information practices pursuant to Section 63G-2-701, this  
183 chapter shall apply to the political subdivision to the extent specified in Section 63G-2-701 or  
184 as specified in any other section of this chapter that specifically refers to political subdivisions.

185 (b) "Governmental entity" also means:

186 (i) every office, agency, board, bureau, committee, department, advisory board, or  
187 commission of an entity listed in Subsection (11)(a) that is funded or established by the  
188 government to carry out the public's business;

189 (ii) as defined in Section 11-13-103, an interlocal entity or joint or cooperative  
190 undertaking;

191 (iii) as defined in Section 11-13a-102, a governmental nonprofit corporation;

192 (iv) an association as defined in Section 53G-7-1101; [~~and~~]

193 (v) the Utah Independent Redistricting Commission[~~;~~]; and

194 (vi) a law enforcement agency, as defined in Section 53-1-102, that employs one or  
195 more law enforcement officers, as defined in Section 53-13-103.

196 (c) "Governmental entity" does not include the Utah Educational Savings Plan created  
197 in Section 53B-8a-103.

198           (12) "Gross compensation" means every form of remuneration payable for a given  
199 period to an individual for services provided including salaries, commissions, vacation pay,  
200 severance pay, bonuses, and any board, rent, housing, lodging, payments in kind, and any  
201 similar benefit received from the individual's employer.

202           (13) "Individual" means a human being.

203           (14) (a) "Initial contact report" means an initial written or recorded report, however  
204 titled, prepared by peace officers engaged in public patrol or response duties describing official  
205 actions initially taken in response to either a public complaint about or the discovery of an  
206 apparent violation of law, which report may describe:

207           (i) the date, time, location, and nature of the complaint, the incident, or offense;

208           (ii) names of victims;

209           (iii) the nature or general scope of the agency's initial actions taken in response to the  
210 incident;

211           (iv) the general nature of any injuries or estimate of damages sustained in the incident;

212           (v) the name, address, and other identifying information about any person arrested or  
213 charged in connection with the incident; or

214           (vi) the identity of the public safety personnel, except undercover personnel, or  
215 prosecuting attorney involved in responding to the initial incident.

216           (b) Initial contact reports do not include follow-up or investigative reports prepared  
217 after the initial contact report. However, if the information specified in Subsection (14)(a)  
218 appears in follow-up or investigative reports, it may only be treated confidentially if it is  
219 private, controlled, protected, or exempt from disclosure under Subsection [63G-2-201\(3\)\(b\)](#).

220           (15) "Legislative body" means the Legislature.

221           (16) "Notice of compliance" means a statement confirming that a governmental entity  
222 has complied with a records committee order.

223           (17) "Person" means:

224           (a) an individual;

225           (b) a nonprofit or profit corporation;



- 226 (c) a partnership;
- 227 (d) a sole proprietorship;
- 228 (e) other type of business organization; or
- 229 (f) any combination acting in concert with one another.
- 230 (18) "Private provider" means any person who contracts with a governmental entity to
- 231 provide services directly to the public.
- 232 (19) "Private record" means a record containing data on individuals that is private as
- 233 provided by Section [63G-2-302](#).
- 234 (20) "Protected record" means a record that is classified protected as provided by
- 235 Section [63G-2-305](#).
- 236 (21) "Public record" means a record that is not private, controlled, or protected and that
- 237 is not exempt from disclosure as provided in Subsection [63G-2-201\(3\)\(b\)](#).
- 238 (22) (a) "Record" means a book, letter, document, paper, map, plan, photograph, film,
- 239 card, tape, recording, electronic data, or other documentary material regardless of physical form
- 240 or characteristics:
- 241 (i) that is prepared, owned, received, or retained by a governmental entity or political
- 242 subdivision; and
- 243 (ii) where all of the information in the original is reproducible by photocopy or other
- 244 mechanical or electronic means.
- 245 (b) "Record" does not mean:
- 246 (i) a personal note or personal communication prepared or received by an employee or
- 247 officer of a governmental entity:
- 248 (A) in a capacity other than the employee's or officer's governmental capacity; or
- 249 (B) that is unrelated to the conduct of the public's business;
- 250 (ii) a temporary draft or similar material prepared for the originator's personal use or
- 251 prepared by the originator for the personal use of an individual for whom the originator is
- 252 working;
- 253 (iii) material that is legally owned by an individual in the individual's private capacity;

- 254 (iv) material to which access is limited by the laws of copyright or patent unless the  
255 copyright or patent is owned by a governmental entity or political subdivision;
- 256 (v) proprietary software;
- 257 (vi) junk mail or a commercial publication received by a governmental entity or an  
258 official or employee of a governmental entity;
- 259 (vii) a book that is cataloged, indexed, or inventoried and contained in the collections  
260 of a library open to the public;
- 261 (viii) material that is cataloged, indexed, or inventoried and contained in the collections  
262 of a library open to the public, regardless of physical form or characteristics of the material;
- 263 (ix) a daily calendar or other personal note prepared by the originator for the  
264 originator's personal use or for the personal use of an individual for whom the originator is  
265 working;
- 266 (x) a computer program that is developed or purchased by or for any governmental  
267 entity for its own use;
- 268 (xi) a note or internal memorandum prepared as part of the deliberative process by:  
269 (A) a member of the judiciary;  
270 (B) an administrative law judge;  
271 (C) a member of the Board of Pardons and Parole; or  
272 (D) a member of any other body, other than an association or appeals panel as defined  
273 in Section [53G-7-1101](#), charged by law with performing a quasi-judicial function;
- 274 (xii) a telephone number or similar code used to access a mobile communication  
275 device that is used by an employee or officer of a governmental entity, provided that the  
276 employee or officer of the governmental entity has designated at least one business telephone  
277 number that is a public record as provided in Section [63G-2-301](#);
- 278 (xiii) information provided by the Public Employees' Benefit and Insurance Program,  
279 created in Section [49-20-103](#), to a county to enable the county to calculate the amount to be  
280 paid to a health care provider under Subsection [17-50-319\(2\)\(e\)\(ii\)](#);
- 281 (xiv) information that an owner of unimproved property provides to a local entity as

282 provided in Section 11-42-205;

283 (xv) a video or audio recording of an interview, or a transcript of the video or audio  
284 recording, that is conducted at a Children's Justice Center established under Section 67-5b-102;

285 (xvi) child pornography, as defined by Section 76-5b-103; or

286 (xvii) before final disposition of an ethics complaint occurs, a video or audio recording  
287 of the closed portion of a meeting or hearing of:

288 (A) a Senate or House Ethics Committee;

289 (B) the Independent Legislative Ethics Commission;

290 (C) the Independent Executive Branch Ethics Commission, created in Section  
291 63A-14-202; or

292 (D) the Political Subdivisions Ethics Review Commission established in Section  
293 63A-15-201.

294 (23) "Record series" means a group of records that may be treated as a unit for  
295 purposes of designation, description, management, or disposition.

296 (24) "Records committee" means the State Records Committee created in Section  
297 63G-2-501.

298 (25) "Records officer" means the individual appointed by the chief administrative  
299 officer of each governmental entity, or the political subdivision to work with state archives in  
300 the care, maintenance, scheduling, designation, classification, disposal, and preservation of  
301 records.

302 (26) "Schedule," "scheduling," and their derivative forms mean the process of  
303 specifying the length of time each record series should be retained by a governmental entity for  
304 administrative, legal, fiscal, or historical purposes and when each record series should be  
305 transferred to the state archives or destroyed.

306 (27) "Sponsored research" means research, training, and other sponsored activities as  
307 defined by the federal Executive Office of the President, Office of Management and Budget:

308 (a) conducted:

309 (i) by an institution within the state system of higher education defined in Section

310 53B-1-102; and

311 (ii) through an office responsible for sponsored projects or programs; and

312 (b) funded or otherwise supported by an external:

313 (i) person that is not created or controlled by the institution within the state system of  
314 higher education; or

315 (ii) federal, state, or local governmental entity.

316 (28) "State archives" means the Division of Archives and Records Service created in  
317 Section 63A-12-101.

318 (29) "State archivist" means the director of the state archives.

319 (30) "Summary data" means statistical records and compilations that contain data  
320 derived from private, controlled, or protected information but that do not disclose private,  
321 controlled, or protected information.

322 Section 4. Section 63G-7-102 is amended to read:

323 **63G-7-102. Definitions.**

324 As used in this chapter:

325 (1) "Arises out of or in connection with, or results from," when used to describe the  
326 relationship between conduct or a condition and an injury, means that:

327 (a) there is some causal relationship between the conduct or condition and the injury;

328 (b) the causal relationship is more than any causal connection but less than proximate  
329 cause; and

330 (c) the causal relationship is sufficient to conclude that the injury originates with, flows  
331 from, or is incident to the conduct or condition.

332 (2) "Claim" means any asserted demand for or cause of action for money or damages,  
333 whether arising under the common law, under state constitutional provisions, or under state  
334 statutes, against a governmental entity or against an employee in the employee's personal  
335 capacity.

336 (3) (a) "Employee" includes:

337 (i) a governmental entity's officers, employees, servants, trustees, or commissioners;

- 338 (ii) members of a governing body;
- 339 (iii) members of a government entity board;
- 340 (iv) members of a government entity commission;
- 341 (v) members of an advisory body, officers, and employees of a Children's Justice  
342 Center created in accordance with Section [67-5b-102](#);
- 343 (vi) student teachers holding a license issued by the State Board of Education;
- 344 (vii) educational aides;
- 345 (viii) students engaged in internships under Section [53B-16-402](#) or [53G-7-902](#);
- 346 (ix) volunteers as defined by Subsection [67-20-2\(3\)](#); and
- 347 (x) tutors.
- 348 (b) "Employee" includes all of the positions identified in Subsection (3)(a), whether or  
349 not the individual holding that position receives compensation.
- 350 (c) "Employee" does not include an independent contractor.
- 351 (4) "Governmental entity" means:
- 352 (a) the state and its political subdivisions [as both are defined in this section]; and
- 353 (b) a law enforcement agency, as defined in Section [53-1-102](#), that employs one or  
354 more law enforcement officers, as defined in Section [53-13-103](#).
- 355 (5) (a) "Governmental function" means each activity, undertaking, or operation of a  
356 governmental entity.
- 357 (b) "Governmental function" includes each activity, undertaking, or operation  
358 performed by a department, agency, employee, agent, or officer of a governmental entity.
- 359 (c) "Governmental function" includes a governmental entity's failure to act.
- 360 (6) "Injury" means death, injury to a person, damage to or loss of property, or any other  
361 injury that a person may suffer to the person or estate, that would be actionable if inflicted by a  
362 private person or the private person's agent.
- 363 (7) "Personal injury" means an injury of any kind other than property damage.
- 364 (8) "Political subdivision" means any county, city, town, school district, community  
365 reinvestment agency, special improvement or taxing district, local district, special service

366 district, an entity created by an interlocal agreement adopted under Title 11, Chapter 13,  
367 Interlocal Cooperation Act, or other governmental subdivision or public corporation.

368 (9) "Property damage" means injury to, or loss of, any right, title, estate, or interest in  
369 real or personal property.

370 (10) "State" means the state of Utah, and includes each office, department, division,  
371 agency, authority, commission, board, institution, hospital, college, university, Children's  
372 Justice Center, or other instrumentality of the state.

373 (11) "Willful misconduct" means the intentional doing of a wrongful act, or the  
374 wrongful failure to act, without just cause or excuse, where the actor is aware that the actor's  
375 conduct will probably result in injury.