

1 **OFFICER INTERVENTION AND REPORTING AMENDMENTS**

2 2022 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Jani Iwamoto**

5 House Sponsor: Ryan D. Wilcox

7 **LONG TITLE**

8 **General Description:**

9 This bill sets minimum standards for officer intervention and reporting of police
10 misconduct.

11 **Highlighted Provisions:**

12 This bill:

- 13 ▶ defines terms;
- 14 ▶ creates minimum standards for police misconduct;
- 15 ▶ sets standards for intervention and reporting requirements in law enforcement
16 agencies;
- 17 ▶ requires the Peace Officer Standards and Training Council to establish and review
18 minimum standards for reporting police misconduct;
- 19 ▶ prohibits retaliatory action against a law enforcement agency employee who reports
20 police misconduct; and
- 21 ▶ makes technical changes.

22 **Money Appropriated in this Bill:**

23 None

24 **Other Special Clauses:**

25 None

26 **Utah Code Sections Affected:**

27 AMENDS:

28 [53-6-107](#), as last amended by Laws of Utah 2021, Chapter 316

29 ENACTS:

30 **53-6-210.5**, Utah Code Annotated 1953

31

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

33 Section 1. Section **53-6-107** is amended to read:

34 **53-6-107. General duties of council.**

35 (1) The council shall:

36 (a) advise the director regarding:

37 (i) the approval, certification, or revocation of certification of any certified academy
38 established in the state;

39 (ii) minimum courses of study, attendance requirements, and the equipment and
40 facilities to be required at a certified academy;

41 (iii) minimum qualifications for instructors at a certified academy;

42 (iv) the minimum basic training requirements that peace officers shall complete before
43 receiving certification;

44 (v) the minimum basic training requirements that dispatchers shall complete before
45 receiving certification; and

46 (vi) categories or classifications of advanced in-service training programs and
47 minimum courses of study and attendance requirements for the categories or classifications;

48 (b) recommend that studies, surveys, or reports, or all of them be made by the director
49 concerning the implementation of the objectives and purposes of this chapter;

50 (c) make recommendations and reports to the commissioner and governor from time to
51 time;

52 (d) choose from the sanctions to be imposed against certified peace officers as
53 provided in Section **53-6-211**, and dispatchers as provided in Section **53-6-309**;

54 (e) establish and annually review minimum use of force standards for all peace officers
55 in the state [~~and annually review and update the standards based on the most current~~
56 ~~information and best practices~~];

57 (f) establish and annually review minimum standards for officer intervention and the

58 reporting of police misconduct based on Section 53-6-210.5; and

59 [(f)] (g) perform other acts as necessary to carry out the duties of the council in this
60 chapter.

61 (2) The council may approve special function officers for membership in the Public
62 Safety Retirement System in accordance with Sections 49-14-201 and 49-15-201.

63 Section 2. Section 53-6-210.5 is enacted to read:

64 **53-6-210.5. Duty to intervene or report officer misconduct.**

65 (1) As used in this section:

66 (a) "Adverse action" means to discharge, threaten, or discriminate against an employee
67 in a manner that affects the employee's employment, including compensation, terms,
68 conditions, location, rights, immunities, promotions, or privileges.

69 (b) "Law enforcement agency" means an agency that is part of or administered by the
70 state or any of the state's political subdivisions and whose primary and principal role is the
71 prevention and detection of crime and the enforcement of criminal statutes or ordinances of this
72 state or any of the state's political subdivisions.

73 (c) "Officer" means the same as peace officer as defined in Section 53-13-102.

74 (d) "Police misconduct" means conduct by an officer in the course of the officer's
75 official duties that constitutes:

76 (i) force that is clearly excessive in type or duration, clearly beyond what is objectively
77 reasonable under the circumstances, or clearly not subject to legal justification under Title 76,
78 Chapter 2, Part 4, Justification Excluding Criminal Responsibility;

79 (ii) a search or seizure without a warrant where it is clear, under the circumstances, that
80 the search or seizure would not fit within an exception to the warrant requirement; or

81 (iii) conduct that an objectively reasonable person would consider biased or
82 discriminatory conduct against one or more individuals based on race, color, sex, pregnancy,
83 age, religion, national origin, disability, sexual orientation, or gender identity.

84 (e) (i) "Retaliatory action" means any adverse action, formal or informal, taken by a
85 law enforcement agency or any of the law enforcement agency's employees, or by any

86 individual with authority to oversee or direct a law enforcement agency, solely as a result of a
87 law enforcement officer's or law enforcement agency employee's good faith actions in
88 conformance with this section.

89 (ii) "Retaliatory action" does not mean education, training, or administrative discussion
90 requested or required by a law enforcement agency or any of the law enforcement agency's
91 employees, or by any individual with authority to oversee or direct a law enforcement agency,
92 following or in connection with a law enforcement officer's or law enforcement agency
93 employee's good faith actions taken in conformance with this section.

94 (2) (a) Notwithstanding any provisions of law to the contrary, an officer who is present
95 and knowingly observes another officer engage in police misconduct as described in
96 Subsection (1)(d)(i) or (ii) shall, if in a position to do so safely and without unreasonable risk to
97 the safety of the officer or another individual, intervene to prevent the misconduct from
98 continuing to occur.

99 (b) An officer who in good faith intervenes to prevent police misconduct from
100 continuing to occur under Subsection (2)(a) is not liable in any civil or criminal action that
101 might otherwise result due solely to the intervening officer's actions.

102 (c) Notwithstanding Subsection (2)(b), an officer is not immune from otherwise lawful
103 disciplinary action undertaken by the officer's employing agency in connection with the
104 incident so long as the disciplinary action is not undertaken due solely to the officer's good
105 faith decision to intervene.

106 (3) (a) (i) When a law enforcement agency employee is present and knowingly
107 observes an officer engage in police misconduct as described in Subsection (1), the observing
108 employee shall promptly report the misconduct and, if the observing employee is an officer, the
109 observing officer's intervention, if any, to the employee's direct supervisor, the chief executive
110 of the employee's employing law enforcement agency, or the chief executive's designee for
111 internal affairs.

112 (ii) Notwithstanding Subsection (3)(a)(i), if the police misconduct to be reported by the
113 observing employee directly involves the chief executive of the employee's employing law

114 enforcement agency, or the chief executive's designee for internal affairs, the observing
115 employee may report the misconduct to:

116 (A) the city attorney's office, if the observing employee works for a municipal law
117 enforcement agency;

118 (B) the county attorney's office, if the observing employee works for a county law
119 enforcement agency; or

120 (C) the attorney general, if the observing employee works for a state law enforcement
121 agency.

122 (b) If the police misconduct reported under Subsection (3)(a) involves an officer from a
123 law enforcement agency other than the reporting employee's employing agency, the chief
124 executive of the reporting employee's employing agency shall promptly notify and
125 communicate the report to the chief executive of the law enforcement agency whose officer's
126 conduct is the subject of the report.

127 (c) A law enforcement agency employee who in good faith reports police misconduct
128 under Subsection (3)(a) is not liable in any civil or criminal action that might otherwise result
129 due solely to the reporting employee's actions.

130 (d) Notwithstanding Subsection (3)(c), a law enforcement agency employee is not
131 immune from otherwise lawful disciplinary action undertaken by the employee's employing
132 agency in connection with the incident so long as the disciplinary action is not undertaken due
133 solely to the employee's good faith report of police misconduct.

134 (e) A law enforcement agency employee's failure to comply with Subsection (3)(a) may
135 be cause for discipline in accordance with the policies and procedures of the employee's
136 employing agency.

137 (4) (a) A law enforcement agency may not take retaliatory action against a law
138 enforcement agency employee due solely to an employee's good faith action under Subsection
139 (2)(a) or (3)(a) to prevent or report police misconduct.

140 (b) Any retaliatory action by a law enforcement employee against another employee
141 because that employee acted under Subsection (2)(a) or (3)(a) to prevent or report police

142 misconduct shall be cause for discipline in accordance with the policies and procedures of the
143 retaliating employee's employing agency.

144 (c) An employee who complains that retaliatory action has occurred has the burden to
145 prove that retaliatory action or conduct in violation of this section has occurred.

146 (5) (a) Not later than July 1, 2022, each law enforcement agency in the state shall adopt
147 written policies that conform with the minimum standards set forth in this section.

148 (b) The threshold standards in this section do not preclude a law enforcement agency
149 from adopting policies or establishing standards higher than the standards contained in this
150 section.