

PUBLIC LIBRARY BACKGROUND CHECK REQUIREMENTS

2023 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Dan N. Johnson

Senate Sponsor: Chris H. Wilson

LONG TITLE

General Description:

This bill provides for criminal background checks of public library employees.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ prohibits a public library from receiving state funds unless the library implements a policy providing for criminal background checks of prospective employees;
- ▶ provides for the scope, content, and dissemination of a library's criminal background check policy;
- ▶ provides for fiscal assistance to smaller counties and municipalities to conduct criminal background checks;
- ▶ requires the State Library Division to report annually to the Legislature regarding compliance with the criminal background check policy requirements; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

9-7-101, as last amended by Laws of Utah 2019, Chapter 221

9-7-216, as last amended by Laws of Utah 2004, Chapter 193

30 9-7-217, as last amended by Laws of Utah 2014, Chapter 371

31 ENACTS:

32 9-7-218, Utah Code Annotated 1953

33

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

35 Section 1. Section 9-7-101 is amended to read:

36 **9-7-101. Definitions.**

37 As used in this chapter:

38 (1) "Board" means the State Library Board created in Section 9-7-204.

39 (2) "Division" means the State Library Division.

40 (3) "Internet policy" means the public library online access policy required in Section
41 9-7-215.

42 [~~3~~] (4) "Library board" means the library board of directors appointed locally as
43 authorized by Section 9-7-402 or 9-7-502 and which exercises general policy authority for
44 library services within a city or county of the state, regardless of the title by which the board is
45 known locally.

46 [~~4~~] (5) "Physical format" means a transportable medium in which analog or digital
47 information is published, such as print, microform, magnetic disk, or optical disk.

48 [~~5~~] "Policy" means the public library online access policy adopted by a library board
49 to meet the requirements of Section 9-7-215.]

50 (6) "Political subdivision" means a county, city, town, school district, public transit
51 district, redevelopment agency, or special improvement or taxing district.

52 (7) "State agency" means:

53 (a) the state; or

54 (b) an office, department, agency, authority, commission, board, institution, hospital,
55 college, university, or other instrumentality of the state.

56 (8) (a) "State publication" means a book, compilation, directory, document, contract or
57 grant report, hearing memorandum, journal, law, legislative bill, magazine, map, monograph,

58 order, ordinance, pamphlet, periodical, proceeding, public memorandum, resolution, register,
59 rule, report, statute, audiovisual material, electronic publication, micrographic form and tape or
60 disc recording regardless of format or method of reproduction, issued or published by a state
61 agency or political subdivision for distribution.

62 (b) "State publication" does not include correspondence, internal confidential
63 publications, office memoranda, university press publications, or publications of the state
64 historical society.

65 Section 2. Section **9-7-216** is amended to read:

66 **9-7-216. Process and content standards for Internet policy.**

67 (1) (a) Each library's Internet policy shall be developed under the direction of the
68 library board, adopted in an open meeting, and have an effective date.

69 (b) The library board shall review the policy at least every three years ~~[, and a footnote~~
70 ~~shall be added to the policy indicating the effective date of the last review].~~

71 ~~(b)~~ (c) (i) Notice of the availability of the policy shall be posted in a conspicuous
72 place within the library for all patrons to observe.

73 (ii) The library board may issue any other public notice [it] the library board considers
74 appropriate to inform the community about the policy.

75 (2) The Internet policy shall include the following information:

76 (a) ~~[state]~~ a statement indicating:

77 (i) that [it] the library restricts access to Internet or online sites that contain material
78 described in Section **9-7-215**; and

79 (ii) how the library board intends to meet the requirements of Section **9-7-215**;

80 (b) ~~[inform]~~ a statement informing patrons that administrative procedures and
81 guidelines for the staff to follow in enforcing the policy have been adopted and are available
82 for review at the library; ~~[and]~~

83 (c) ~~[inform]~~ a statement informing patrons that procedures for use by patrons and staff
84 to handle complaints about the policy, ~~[its]~~ the policy's enforcement, or about observed patron
85 behavior have been adopted and are available for review at the library~~[-]; and~~

86 (d) a footnote indicating the effective date of the last review of the policy under
87 Subsection (1)(b).

88 Section 3. Section 9-7-217 is amended to read:

89 **9-7-217. Reporting.**

90 The division shall submit a report to the department regarding the compliance of library
91 boards with the provisions of ~~[Section]~~ Sections 9-7-215 and 9-7-218 for inclusion in the
92 annual written report described in Section 9-1-208.

93 Section 4. Section 9-7-218 is enacted to read:

94 **9-7-218. Criminal background check policy required -- Scope and content --**
95 **Dissemination.**

96 (1) As used in this section:

97 (a) "Minor" means an individual who is under 18 years old.

98 (b) "Public library" means a library established under Section 9-7-402 or 9-7-501.

99 (c) "Qualifying position" means any paid or unpaid employment position with a public
100 library, including a volunteer position, that involves significant contact with minors, as
101 determined by the public library's library board.

102 (d) "Qualifying prospective employee" means an individual who:

103 (i) is 18 years old or older; and

104 (ii) applies for a qualifying position with a public library.

105 (2) State funds may not be provided to a public library unless the public library
106 implements a criminal background check policy that:

107 (a) meets the requirements of Subsection (3); and

108 (b) is adopted by:

109 (i) the library board in an open meeting; or

110 (ii) the county or city in which the public library is located.

111 (3) The criminal background check policy shall:

112 (a) identify each qualifying position with the public library;

113 (b) require each qualifying prospective employee to submit to a criminal background

114 check as a condition of employment in a qualifying position;
115 (c) establish procedures for:
116 (i) gathering, submitting, and reviewing criminal background checks for qualifying
117 prospective employees before making any offer of employment;
118 (ii) disqualifying a qualifying prospective employee from employment based on
119 information received as a result of a criminal background check; and
120 (iii) allowing a qualifying prospective employee to respond to information received as
121 a result of a criminal background check;
122 (d) ensure that a qualifying prospective employee who is disqualified from
123 employment because of information obtained through a criminal background check receives:
124 (i) written notice of the reasons for the disqualification; and
125 (ii) an opportunity to respond to the reasons following the procedures established under
126 Subsection (3)(c)(iii); and
127 (e) include an effective date that is stated in the criminal background check policy.
128 (4) (a) The criminal background check policy shall be distributed to qualifying
129 prospective employees and posted in a prominent location in the public library.
130 (b) A criminal background check policy adopted by a library board shall be reviewed
131 by the library board at least every three years.
132 (5) Within appropriations made by the Legislature for this purpose, the State Library
133 Board shall reimburse a county of the fourth, fifth, or sixth class, and a city of the fourth, fifth,
134 or sixth class, for the costs of conducting criminal background checks under this section.
135 **Section 5. Effective date.**
136 This bill takes effect on July 1, 2024.