

Representative Kera Birkeland proposes the following substitute bill:

CRIMINAL INVESTIGATIONS OF SCHOOL EMPLOYEES

2023 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Kera Birkeland

Senate Sponsor: _____

LONG TITLE

General Description:

This bill requires certain administrative leave for school employees who are the subject of a criminal investigation.

Highlighted Provisions:

This bill:

- ▶ requires paid administrative leave at a portion of regular salary for a school employee who is the subject of a criminal investigation;
- ▶ if the criminal investigation substantiates wrongdoing, requires:
 - the local school board to take further employment action; and
 - the employee to pay back all salary compensation that the employee received during the leave period;
- ▶ if the criminal investigation does not substantiate wrongdoing, requires the local education agency to return to work with back pay; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.



26 **Utah Code Sections Affected:**

27 AMENDS:

28 **53G-11-202**, as renumbered and amended by Laws of Utah 2018, Chapter 3

29

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

31 Section 1. Section **53G-11-202** is amended to read:

32 **53G-11-202. Employment of school personnel -- Length of contract --**

33 **Termination for cause -- Individual contract of employment -- Employee**

34 **acknowledgment of liability protection -- Leave pending criminal investigation.**

35 (1) A local school board may enter into a written employment contract for a term not to
36 exceed five years.

37 (2) Nothing in the terms of the contract shall restrict the power of a local school board
38 to terminate the contract for cause at any time.

39 (3) (a) A local school board may not enter into a collective bargaining agreement that
40 prohibits or limits individual contracts of employment.

41 (b) Subsection (3)(a) does not apply to an agreement that was entered into before May
42 5, 2003.

43 (4) Each local school board shall:

44 (a) ensure that each employment contract complies with the requirements of Section
45 **34-32-1.1**;

46 (b) comply with the requirements of Section **34-32-1.1** in employing any personnel,
47 whether by employment contract or otherwise; and

48 (c) ensure that at the time an employee enters into an employment contract, the
49 employee shall sign a separate document acknowledging that the employee:

50 (i) has received:

51 (A) the disclosure required under Subsection **63A-4-204**(4)(d) if the school district
52 participates in the Risk Management Fund; or

53 (B) written disclosure similar to the disclosure required under Section **63A-4-204** if the
54 school district does not participate in the Risk Management Fund; and

55 (ii) understands the legal liability protection provided to the employee and what is not
56 covered, as explained in the disclosure.

57 (5) If a local school board has actual or constructive knowledge that an employee is the
58 subject of an ongoing criminal investigation related to an offense against a minor described in
59 Subsection 30-5a-103(10):

60 (a) the local school board shall place the employee on paid administrative leave at 50%
61 of the employee's salary until the local school board alters the employment circumstances as
62 described in Subsection (5)(b) or (c);

63 (b) the local school board shall:

64 (i) provide the employee the opportunity to return to regular work if the investigation:

65 (A) concludes without leading to criminal charges; and

66 (B) does not substantiate wrongdoing on the part of the employee; and

67 (ii) pay the 50% of the salary that the local school board withheld during the
68 administrative leave period under Subsection (5)(a);

69 (c) if the investigation substantiates wrongdoing on the part of the employee or leads to
70 criminal charges:

71 (i) the local school board shall take further employment action in response to the
72 substantiated wrongdoing or criminal charges, including leave without pay or termination; and

73 (ii) the employee shall pay back all salary compensation that the employee received
74 during the paid administrative leave period described in Subsection (5)(a).

75 **Section 2. Effective date.**

76 If approved by two-thirds of all the members elected to each house, this bill takes effect
77 upon approval by the governor, or the day following the constitutional time limit of Utah
78 Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto,
79 the date of veto override.