

HB0165S01 compared with HB0165

~~{deleted text}~~ shows text that was in HB0165 but was deleted in HB0165S01.

inserted text shows text that was not in HB0165 but was inserted into HB0165S01.

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Representative Trevor Lee proposes the following substitute bill:

FEDERAL LAW ENFORCEMENT AMENDMENTS

2024 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: ~~{}~~Trevor Lee

Senate Sponsor: ~~{}~~_____

LONG TITLE

General Description:

This bill ~~{requires}~~ concerns the release of an alien within the state by a federal officer ~~{to obtain a county sheriff's permission to conduct an arrest, search, or seizure under certain conditions}~~.

Highlighted Provisions:

This bill:

- ▶ defines terms; and
- ▶ requires a federal officer to ~~{obtain the written permission of the county sheriff before the federal officer may conduct an arrest, search, or seizure that:~~

—• ~~is based on or concerns the purchase, transfer, or possession of a firearm;~~

—• ~~is based on a federal offense; and~~

—• ~~is on property in the sheriff's county that is not owned or managed by the federal~~

HB0165S01 compared with HB0165

government;

- provides requirements and exceptions for the written permission requirement;
- provides a criminal penalty for a violation; and
- makes technical and conforming changes; follow certain procedures before releasing an alien within the state.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

{AMENDS:

- ~~53-13-106~~, as last amended by Laws of Utah 2020, Chapter 153
- ~~53-13-106.2~~, as enacted by Laws of Utah 2014, Chapter 317
- ~~53-13-106.9~~, as enacted by Laws of Utah 2014, Chapter 317

{ENACTS:

53-13-106.13, Utah Code Annotated 1953

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

Section 1. Section **53-13-106.13** is ~~amended to read:~~

~~CHAPTER 13. PEACE OFFICER CLASSIFICATIONS AND REQUIREMENTS~~

— ~~53-13-106. Federal~~; enacted to read:

53-13-106.13. Notification requirement for federal officers ~~{-- State law enforcement authority:~~

- (1) (a) "Federal agency" means:
- (i) ~~the United States Bureau of Land Management;~~
- (ii) ~~the United States Forest Service;~~
- (iii) ~~the National Park Service;~~
- (iv) ~~the United States Fish and Wildlife Service;~~
- (v) ~~the United States Bureau of Reclamation;~~
- (vi) ~~the United States Environmental Protection Agency;~~
- (vii) ~~the United States Army Corps of Engineers; and~~

HB0165S01 compared with HB0165

- ~~—— (viii) the Department of Veterans Affairs.~~
- ~~—— (b) "Federal employee" means an employee of a federal agency.~~
- ~~—— (c) "Federal officer" includes:~~
 - ~~—— (i) a special agent of the Federal Bureau of Investigation;~~
 - ~~—— (ii) a special agent of the United States Secret Service;~~
 - ~~—— (iii) a special agent of the United States Department of Homeland Security, excluding a customs inspector or detention removal officer;~~
 - ~~—— (iv) a special agent of the Bureau of Alcohol, Tobacco and Firearms;~~
 - ~~—— (v) a special agent of the Drug Enforcement Administration;~~
 - ~~—— (vi) a United States marshal, deputy marshal, and special deputy United States marshal;~~
 - ~~—— (vii) a U.S. postal inspector of the United States Postal Inspection Service; and~~
 - ~~—— (viii) a police officer of the Department of Veterans Affairs.~~
- ~~—— (d) (i) (A) Federal officers listed in Subsection (1)(c) have statewide law enforcement authority relating to felony offenses under the laws of this state.~~
- ~~—— (B) [This] Subsection (1)(d)(i)(A) takes precedence over Subsection (2).~~
- ~~—— (ii) (A) Federal agencies and federal employees may exercise law enforcement authority related to misdemeanor and felony offenses under Utah law only as established by an agreement as provided in Subsection (1)(d)(iii) and as provided in Section 53-13-106.9 or pursuant to Section 53-13-106.7.~~
- ~~—— (B) [This] Subsection (1)(d)(ii)(A) takes precedence over Subsection (2).~~
- ~~—— (iii) Consistent with Section 53-13-106.9 and Section 53-13-106.13, county sheriffs may enter into agreements with federal agencies that allow concurrent authority to enforce federal laws and state and local laws, provided that:~~
 - ~~—— (A) the agreement is limited to a term of not more than two years; and~~
 - ~~—— (B) the officers granted authority under the agreement have completed a 20-hour training course that is focused on Utah criminal law and procedure and that is approved by the director of the [Peace Officer Standards and Training Division] division.~~
- ~~—— (e) The council may designate other federal peace officers, as necessary, if the officers:~~
 - ~~—— (i) are [persons] individuals employed full-time by the United States government~~

HB0165S01 compared with HB0165

~~as federally recognized law enforcement officers primarily responsible for the investigation and enforcement of the federal laws;~~

~~—— (ii) have successfully completed formal law enforcement training offered by an agency of the federal government consisting of not less than 400 hours; and~~

~~—— (iii) maintain in-service training in accordance with the standards set forth in Section 53-13-103.~~

~~—— (2) Except as otherwise provided under Title 63L, Chapter 1, Federal Jurisdiction, and Title 77, Chapter 9, Uniform Act on Fresh Pursuit, a federal officer may exercise state law enforcement authority only if:~~

~~—— (a) the state law enforcement agencies and county sheriffs with jurisdiction enter into an agreement with the federal agency to be given authority; and~~

~~—— (b) except as provided in Subsection (3), each federal officer employed by the federal agency meets the waiver requirements set forth in Section 53-6-206.~~

~~—— (3) A federal officer working as such in the state on or before July 1, 1995, may exercise state law enforcement authority without meeting the waiver requirement.~~

~~—— (4) At any time, consistent with any contract with a federal agency, a state or local law enforcement authority may withdraw state law enforcement authority from any individual federal officer by sending written notice to the federal agency and to the division.~~

~~—— (5) The authority of a federal officer under this section is limited to the jurisdiction of the authorizing state or local agency, and may be further limited by the state or local agency to enforcing specific statutes, codes, or ordinances.~~

~~—— Section 2. Section 53-13-106.2 is amended to read:~~

~~—— 53-13-106.2. State and local law enforcement officers and federal employees == Exercise of federal law enforcement authority when based on a federal enactment.~~

~~—— [Subject] Except as provided by Section 53-13-106.13 and subject to Sections 53-13-106.6 and 53-13-106.7, and Subsection 53-13-106.9(1):~~

~~—— (1) State and local law enforcement officers may recognize a federal employee's exercise of law enforcement authority, either on or off federally managed land, when the exercise is consistent with the Constitution of the United States and based on:~~

~~—— (a) a federal statute other than the Assimilative Crimes Act, 18 U.S.C. Sec. 13; or~~

HB0165S01 compared with HB0165

~~—— (b) a federal regulation that is authorized by a federal statute other than the Assimilative Crimes Act, 18 U.S.C. Sec. 13.~~

~~—— (2) Notwithstanding Subsection 53-13-106.2(1), state and local law enforcement officers may recognize a federal employee's exercise of law enforcement authority, on federally managed land other than proprietary jurisdiction federally managed land, when the exercise is consistent with the Constitution of the United States and based on:~~

~~—— (a) a federal statute, including the Assimilative Crimes Act, 18 U.S.C. Sec. 13; or~~

~~—— (b) a federal regulation that is authorized by a federal statute including the Assimilative Crimes Act, 18 U.S.C. Sec. 13.~~

~~—— Section 3. Section 53-13-106.9 is amended to read:~~

~~—— 53-13-106.9. State and county sheriff law enforcement officers and federal employees -- Interagency agreements.~~

~~—— [Notwithstanding Section 53-13-106.3:]~~

~~—— (1) [County sheriffs] Notwithstanding Section 53-13-106.3 and in accordance with Section 53-13-106.13, a county sheriff may enter into agreements with federal agencies granting limited authority to specific federal employees to exercise law enforcement powers to enforce federal state and local laws, provided the agreements are limited to a term not to exceed two years and the officers granted authority have completed a 20-hour course focusing on Utah law and process approved by the director of the [Peace Officer Standards and Training Division] division.~~

~~—— (2) State law enforcement agencies may, with the consent of the local county sheriff, enter into agreements as described in Subsection (1), provided that the agreements may not exceed a duration of two years.~~

~~—— (3) Local county sheriffs may enter into agreements with federal agencies requiring fair compensation for assisting a federal agency or federal employee to enforce federal statutes and regulations managed pursuant to 43 U.S.C. Secs. 1701-1736 and 43 U.S.C. Secs. 1737-1782, Federal Land Policy Management Act.~~

~~—— Section 4. Section 53-13-106.13 is enacted to read:~~

~~—— 53-13-106.13. Federal officer required to obtain sheriff's permission for certain federal firearm-related arrests, searches, or seizures on state or private property -- Requirements -- Exceptions -- Penalty for violation } before the release of an alien within~~

HB0165S01 compared with HB0165

the state.

(1) As used in this section:

(a) (i) "Alien" means an individual who is illegally present in the United States.

(ii) "Alien" does not include a permit holder as that term is defined in Section

63G-12-102.

(b) "Custody" means in the physical and legal custody of a federal law enforcement agency.

(c) "Federal law enforcement agency" means an entity or division of the federal government that exists primarily to:

(i) prevent and detect crime and enforce criminal laws, statutes, and ordinances; or

(ii) enforce federal immigration laws.

(~~b~~d) "Federal officer" means an individual:

(i) who works for a federal law enforcement agency; and

(ii) whose duties consist of the investigation and enforcement of federal laws.

(~~c~~) "State-designated federal officer" means a federal officer who:

—— (i) (A) is employed full time by the United States government;

—— (B) has applied for and been designated by the council as having peace officer authority under state law; and

—— (C) maintains in-service training requirements in accordance with the standards set forth in Section 53-13-103; or

—— (ii) is acting as part of an interagency task force that includes law enforcement officers from a state or local law enforcement agency:

—— (2) (a) (i) Except as provided in Subsection (2)(b) or Subsection (3), a ~~2~~ A federal officer may not ~~make~~ release an ~~arrest or conduct a search or seizure if:~~

—— (A) the sought-after arrest, search, or seizure is based on or concerns the purchase, transfer, or possession of a firearm;

—— (B) the offense for which the arrest, search, or seizure is being sought is a federal offense; and

—— (C) the federal officer has not received the written permission of the sheriff or the sheriff's designee of the county in which the arrest, search, or seizure would take place.

—— (ii) The sheriff or sheriff's designee described in Subsection (2)(a)(i)(C) may grant or

HB0165S01 compared with HB0165

~~refuse permission for a federal officer to conduct an arrest, search, or seizure under Subsection (2)(a)(i) for any reason that the sheriff or sheriff's designee determines is sufficient.~~

~~_____ (b) The written permission requirement described in Subsection (2)(a)(i) does not apply unless the county sheriff has provided to the federal law enforcement agency that employs alien from custody within the state unless the federal officer ~~{a}~~ provides written ~~{notification that the county sheriff has elected to require the written permission requirement described under Subsection (2)(a)(i).~~~~

~~_____ (3) A federal officer does not need to obtain the written permission described in Subsection (2)(a) if:~~

~~_____ (a) the sought-after arrest, search, or seizure is on property that is owned or managed by the federal government;~~

~~_____ (b) the federal officer:~~

~~_____ (i) is a state-designated federal officer; or~~

~~_____ (ii) witnesses the commission of the crime that is the subject of the arrest, search, or seizure;~~

~~_____ (c) (i) the subject of the arrest, search, or seizure is:~~

~~_____ (A) the sheriff or an employee of the sheriff's office described in Subsection (2)(a)(i)(C); or~~

~~_____ (B) an individual who the federal officer has probable cause to believe has a close connection with the sheriff or sheriff's designee described in Subsection (2)(a)(i)(C); and~~

~~_____ (ii) the federal officer first obtains the written permission of notice three business days before the release to:~~

~~_____ (a) the attorney general or the attorney general's designee; and~~

~~_____ ~~{d}~~ b the county sheriff ~~{, in}~~ or the county sheriff's ~~{discretion, elects not to require the permission described in Subsection (2)(a) for:~~~~

~~_____ (i) one or more specifically identified federal officers;~~

~~_____ (ii) all federal officers from a specified federal law enforcement agency; or~~

~~_____ (iii) all federal officers from all federal law enforcement agencies;~~

~~_____ (c) the sheriff has entered into an agreement under Section 53-13-106.9 that authorizes the arrest, search, or seizure that the federal officer seeks to undertake; or~~

~~_____ (f) the sheriff has failed to provide the notification required designee of the county in~~

HB0165S01 compared with HB0165

which the release is to take place.

(3) In providing the written notice under Subsection (2)(b) ~~{to}~~, the federal ~~{officer's~~
employing federal law enforcement agency:

~~— (4) A~~ {officer shall also provide:

(a) the specific address or location where the alien will be released;

(b) the date and time at which the alien will be released; and

(c) whether the federal officer ~~{who violates this section is guilty of a class C~~
misdemeanor:

~~— Section 5~~ is aware of any outstanding criminal warrants concerning the alien who will
be released.

Section 2. Effective date.

This bill takes effect on May 1, 2024.