

**DISPATCHER DISCIPLINE AMENDMENTS**

2024 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Ariel Defay**

Senate Sponsor: Todd D. Weiler

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**LONG TITLE**

**General Description:**

This bill concerns disciplinary action against a dispatcher.

**Highlighted Provisions:**

This bill:

▶ removes addiction to alcohol or a controlled substance as a basis for disciplinary action against a dispatcher by the Peace Officer Standards and Training Council;

and

▶ makes technical and conforming changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**53-6-309**, as last amended by Laws of Utah 2020, Chapter 35

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

Section 1. Section **53-6-309** is amended to read:

**53-6-309. Suspension or revocation of certification -- Right to a hearing --**

**Grounds -- Notice to employer -- Reporting.**



28 (1) The council has the authority to issue a Letter of Caution, or suspend or revoke the  
29 certification of a dispatcher, if the dispatcher:

30 (a) willfully falsifies any information to obtain certification;

31 (b) has any physical or mental disability affecting the dispatcher's ability to perform  
32 duties;

33 ~~[(c) is addicted to alcohol or any controlled substance, unless the dispatcher reports the~~  
34 ~~addiction to the employer and to the director as part of a departmental early intervention~~  
35 ~~process;]~~

36 ~~[(d)]~~ (c) engages in conduct constituting a state or federal criminal offense, but not  
37 including a traffic offense that is a class C misdemeanor or infraction;

38 ~~[(e)]~~ (d) refuses to respond, or fails to respond truthfully, to questions after having been  
39 issued a warning based on Garrity v. New Jersey, 385 U.S. 493 (1967); or

40 ~~[(f)]~~ (e) engages in sexual conduct while on duty.

41 (2) The council may not issue a Letter of Caution, or suspend or revoke the  
42 certification of a dispatcher for a violation of the employing agency's policies, general orders,  
43 or guidelines of operation that do not amount to a cause of action under Subsection (1).

44 (3) (a) The division is responsible for investigating dispatchers who are alleged to have  
45 engaged in conduct in violation of Subsection (1).

46 (b) The division shall initiate all adjudicative proceedings under this section by  
47 providing to the dispatcher involved notice and an opportunity for a hearing before an  
48 administrative law judge.

49 (c) All adjudicative proceedings under this section are civil actions, notwithstanding  
50 whether the issue in the adjudicative proceeding is a violation of statute that may be prosecuted  
51 criminally.

52 (d) (i) The burden of proof on the division in an adjudicative proceeding under this  
53 section is by clear and convincing evidence.

54 (ii) If a dispatcher asserts an affirmative defense, the dispatcher has the burden of proof  
55 to establish the affirmative defense by a preponderance of the evidence.

56 (e) If the administrative law judge issues findings of fact and conclusions of law stating  
57 there is sufficient evidence to demonstrate that the dispatcher engaged in conduct that is in  
58 violation of Subsection (1), the division shall present the findings and conclusions issued by

59 the administrative law judge to the council.

60 (f) The division shall notify the agency that employs the involved dispatcher of the  
61 investigation and shall provide any information or comments concerning the dispatcher  
62 received from that agency regarding the dispatcher to the council before a Letter of Caution is  
63 issued, or a dispatcher's certification may be suspended or revoked.

64 (g) If the administrative law judge finds that there is insufficient evidence to  
65 demonstrate that the dispatcher is in violation of Subsection (1), the administrative law judge  
66 shall dismiss the adjudicative proceeding.

67 (4) (a) The council shall:

68 (i) accept the administrative law judge's findings of fact and conclusions of law and the  
69 information concerning the dispatcher provided by the dispatcher's employing agency; and

70 (ii) choose whether to issue a Letter of Caution, or suspend or revoke the dispatcher's  
71 certification.

72 (b) Before making a decision, the council may consider aggravating and mitigating  
73 circumstances.

74 (c) A council member shall recuse himself or herself from consideration of an issue  
75 that is before the council if the council member:

76 (i) has a personal bias for or against the dispatcher;

77 (ii) has a substantial pecuniary interest in the outcome of the proceeding and may gain  
78 or lose some benefit from the outcome; or

79 (iii) employs, supervises, or works for the same agency as the dispatcher whose case is  
80 before the council.

81 (5) (a) Termination of a dispatcher, whether voluntary or involuntary, does not  
82 preclude suspension or revocation of a dispatcher's certification by the council if the dispatcher  
83 was terminated for any of the reasons under Subsection (1).

84 (b) Employment by another agency, or reinstatement of a dispatcher by the original  
85 employing agency after termination by that agency, whether the termination was voluntary or  
86 involuntary, does not preclude suspension or revocation of a dispatcher's certification by the  
87 council if the dispatcher was terminated for any of the reasons under Subsection (1).

88 (6) (a) An agency that is made aware of an allegation against a dispatcher employed by  
89 that agency that involves conduct in violation of Subsection (1) shall investigate the allegation

90 and report to the division if the allegation is found to be true.

91 (b) If a dispatcher who is the subject of an internal or administrative investigation into  
92 allegations that include any of the conditions or circumstances outlined in Subsection (1)  
93 resigns, retires, or otherwise separates from the investigating law enforcement agency before  
94 the conclusion of the investigation, the agency shall report the allegations and any investigation  
95 results to the division.

96 (7) The council's issuance of a Letter of Caution, or suspension or revocation of an  
97 officer's certification under Subsection (4) may be appealed under Title 63G, Chapter 4, Part 4,  
98 Judicial Review.

99 Section 2. **Effective date.**

100 This bill takes effect on May 1, 2024.