

**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: Daniel McCay

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**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 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; 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:



26 **53G-11-202**, as renumbered and amended by Laws of Utah 2018, Chapter 3



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

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

30 **53G-11-202. Employment of school personnel -- Length of contract --**  
31 **Termination for cause -- Individual contract of employment -- Employee**  
32 **acknowledgment of liability protection -- Leave pending criminal investigation.**

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

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

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

39 (b) Subsection (3)(a) does not apply to an agreement that was entered into before May  
40 5, 2003.

41 (4) Each local school board shall:

42 (a) ensure that each employment contract complies with the requirements of Section  
43 **34-32-1.1**;

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

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

48 (i) has received:

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

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

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

55 (5) If a local school board has actual or constructive knowledge that an employee is the  
56 subject of an ongoing criminal investigation of crime related to an offense against a minor

57 described in Subsection 30-5a-103(10):

58 (a) the local school board shall place the employee on paid administrative leave, while  
59 maintaining the confidentiality of the reason for the leave, until the local school board alters the  
60 employment circumstances as described in Subsection (5)(b) or (c);

61 (b) the local school board shall provide the employee the opportunity to return to  
62 regular work if the investigation:

63 (i) concludes without leading to criminal charges; or

64 (ii) does not result in the conviction of the employee; and

65 (c) if the investigation results in the conviction of the employee:

66 (i) the local school board shall take further employment action in response to the  
67 conviction, including leave without pay or termination; and

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

70 (d) (i) Nothing in this section restricts the power of a local school board to take  
71 employment action against the employee beyond the action described in this Subsection (5)  
72 while the employee is under criminal investigation, regardless of whether the employment  
73 action is related to the basis for the criminal investigation, including termination for cause  
74 based on:

75 (A) a violation of work policies;

76 (B) a violation of local school board policies, state board rule, or law;

77 (C) a violation of standards of ethical, moral, or professional conduct; or

78 (D) insubordination.

79 (ii) If the local school board determines that the actions of the employee justify  
80 termination for cause, the local school board may terminate the employee and cease paid leave  
81 upon the termination.

82 **Section 2. Effective date.**

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