

JUDICIARY AMENDMENTS

2012 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Lyle W. Hillyard

House Sponsor: V. Lowry Snow

LONG TITLE

General Description:

This bill makes amendments related to the judiciary.

Highlighted Provisions:

This bill:

- ▶ includes court commissioners in the definition of at-risk government employee; and
- ▶ expands an exemption for mediation from a judge's ruling on the case to allow any judicial action within the scope of the judge's official judicial duties.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63G-2-303, as renumbered and amended by Laws of Utah 2008, Chapter 382

78B-10-103, as renumbered and amended by Laws of Utah 2008, Chapter 3

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

Section 1. Section **63G-2-303** is amended to read:

63G-2-303. Private information concerning certain government employees.

(1) As used in this section:

(a) "At-risk government employee" means a current or former:

(i) peace officer as specified in Section 53-13-102;

- 30 (ii) supreme court justice;
- 31 (iii) judge of an appellate, district, or juvenile court, or a court commissioner;
- 32 (iv) justice court judge;
- 33 (v) judge authorized by Title 39, Chapter 6, Utah Code of Military Justice;
- 34 (vi) federal judge;
- 35 (vii) federal magistrate judge;
- 36 (viii) judge authorized by Armed Forces, Title 10, United States Code;
- 37 (ix) United States Attorney;
- 38 (x) Assistant United States Attorney;
- 39 (xi) a prosecutor appointed pursuant to Armed Forces, Title 10, United States Code;
- 40 (xii) a law enforcement official as defined in Section 53-5-711; or
- 41 (xiii) a prosecutor authorized by Title 39, Chapter 6, Utah Code of Military Justice.

42 (b) "Family member" means the spouse, child, sibling, parent, or grandparent of an
43 at-risk government employee who is living with the employee.

44 (2) (a) Pursuant to Subsection 63G-2-302(1)(g), an at-risk government employee may
45 file a written application that:

46 (i) gives notice of the employee's status to each agency of a government entity holding
47 a record or a part of a record that would disclose the employee's or the employee's family
48 member's home address, home telephone number, Social Security number, insurance coverage,
49 marital status, or payroll deductions; and

50 (ii) requests that the government agency classify those records or parts of records
51 private.

52 (b) An at-risk government employee desiring to file an application under this section
53 may request assistance from the government agency to identify the individual records
54 containing the private information specified in Subsection (2)(a)(i).

55 (c) Each government agency shall develop a form that:

56 (i) requires the at-risk government employee to provide evidence of qualifying
57 employment;

58 (ii) requires the at-risk government employee to designate each specific record or part
59 of a record containing the employee's home address, home telephone number, Social Security
60 number, insurance coverage, marital status, or payroll deductions that the applicant desires to
61 be classified as private; and

62 (iii) affirmatively requests that the government entity holding those records classify
63 them as private.

64 (3) A county recorder, county treasurer, county auditor, or a county tax assessor may
65 fully satisfy the requirements of this section by:

66 (a) providing a method for the assessment roll and index and the tax roll and index that
67 will block public access to the home address, home telephone number, situs address, and Social
68 Security number; and

69 (b) providing the at-risk government employee requesting the classification with a
70 disclaimer informing the employee that the employee may not receive official announcements
71 affecting the employee's property, including notices about proposed annexations,
72 incorporations, or zoning modifications.

73 (4) A government agency holding records of an at-risk government employee classified
74 as private under this section may release the record or part of the record if:

75 (a) the employee or former employee gives written consent;

76 (b) a court orders release of the records; or

77 (c) the government agency receives a certified death certificate for the employee or
78 former employee.

79 (5) (a) If the government agency holding the private record receives a subpoena for the
80 records, the government agency shall attempt to notify the at-risk government employee or
81 former employee by mailing a copy of the subpoena to the employee's last-known mailing
82 address together with a request that the employee either:

83 (i) authorize release of the record; or

84 (ii) within 10 days of the date that the copy and request are mailed, deliver to the
85 government agency holding the private record a copy of a motion to quash filed with the court

86 who issued the subpoena.

87 (b) The government agency shall comply with the subpoena if the government agency
88 has:

89 (i) received permission from the at-risk government employee or former employee to
90 comply with the subpoena;

91 (ii) ~~has~~ not received a copy of a motion to quash within 10 days of the date that the
92 copy of the subpoena was mailed; or

93 (iii) ~~receives~~ received a court order requiring release of the records.

94 Section 2. Section **78B-10-103** is amended to read:

95 **78B-10-103. Scope.**

96 (1) Except as otherwise provided in Subsection (2) or (3), this chapter applies to a
97 mediation in which:

98 (a) the mediation parties are required to mediate by statute, court, or administrative
99 agency rule or referred to mediation by a court, administrative agency, or arbitrator;

100 (b) the mediation parties and the mediator agree to mediate in a record that
101 demonstrates an expectation that mediation communications will be privileged against
102 disclosure; or

103 (c) the mediation parties use as a mediator an individual who holds himself or herself
104 out as a mediator or the mediation is provided by an entity that holds itself out as providing
105 mediation.

106 (2) The chapter does not apply to a mediation:

107 (a) relating to the establishment, negotiation, administration, or termination of a
108 collective bargaining relationship;

109 (b) relating to a dispute that is pending under or is part of the processes established by
110 a collective bargaining agreement, except that the chapter applies to a mediation arising out of
111 a dispute that has been filed with an administrative agency or court;

112 (c) conducted by a judge ~~[who might make a ruling on the case]~~ as a part of the judge's
113 official judicial duties; or

114 (d) conducted under the auspices of:
115 (i) a primary or secondary school if all the parties are students; or
116 (ii) a correctional institution for youths if all the parties are residents of that institution.
117 (3) If the parties agree in advance in a signed record, or a record of proceeding reflects
118 agreement by the parties, that all or part of a mediation is not privileged, the privileges under
119 Sections 78B-10-104 through 78B-10-106 do not apply to the mediation or part agreed upon.
120 However, Sections 78B-10-104 through 78B-10-106 apply to a mediation communication
121 made by a person that has not received actual notice of the agreement before the
122 communication is made.