

LAW ENFORCEMENT STANDARDS

2022 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Luz Escamilla

House Sponsor: _____

LONG TITLE

General Description:

This bill creates standards for law enforcement officer disciplinary actions and requires law enforcement agencies to create an early warning system.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ requires that law enforcement agencies check the National Decertification Index for all new hires;
- ▶ requires law enforcement agencies to create early warning systems; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63G-7-201, as last amended by Laws of Utah 2021, Chapter 352

ENACTS:

53-14-102, Utah Code Annotated 1953

53-14-103, Utah Code Annotated 1953



28 **53-20-101**, Utah Code Annotated 1953

29 REPEALS AND REENACTS:

30 **53-14-101**, as last amended by Laws of Utah 2021, Chapter 311

31

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

33 Section 1. Section **53-14-101** is repealed and reenacted to read:

34 **53-14-101. Definitions.**

35 As used in this chapter:

36 (1) "Director" means the director of a certified law enforcement officer training
37 academy.

38 (2) "Employer" includes a public employer and a private employer and includes the
39 human resource officer for the employer.

40 (3) "Law enforcement agency" means the same as that term is defined in Section
41 53-1-102.

42 (4) "National Decertification Index" means the national registry of police officers
43 whose law enforcement credentials have been revoked due to misconduct.

44 (5) "Peace officer" means the same as that term is defined in Section 53-13-103, and
45 includes those officers in administrative positions.

46 (6) "Training academy" means a peace officer training institution certified in
47 accordance with the standards developed under Section 53-6-105.

48 Section 2. Section **53-14-102** is enacted to read:

49 **53-14-102. Background check for peace officer candidates.**

50 (1) A law enforcement agency may not employ a peace officer unless the agency has
51 completed:

52 (a) a background check in accordance with Section 53-14-103; and

53 (b) a check of the National Decertification Index.

54 (2) A law enforcement agency may not employ a peace officer candidate listed on the
55 National Decertification Index.

56 Section 3. Section **53-14-103** is enacted to read:

57 **53-14-103. Law enforcement and training academy applicants -- Employer**
58 **background information -- Information required upon request.**

59 (1) A current or former employer and the director of any training academy an applicant
60 has attended or graduated from shall provide all available information in accordance with this
61 section regarding an applicant if the request complies with Subsection (2) and is submitted by:

62 (a) a law enforcement agency regarding an applicant for an employment position; or

63 (b) the director of a law enforcement training academy for which the applicant requests
64 admission under Section [53-6-203](#).

65 (2) The request for information pursuant to Subsection (1) shall be:

66 (a) in writing;

67 (b) accompanied by an authorization signed by the applicant and notarized by a notary
68 public, in which the applicant consents to the release of the requested information and releases
69 the employer or training academy providing the information from liability; and

70 (c) addressed to the employer or director and signed by a sworn officer or other
71 authorized representative of the requesting law enforcement agency or the academy.

72 (3) The information that a law enforcement agency or the director of an academy shall
73 request pursuant to Subsection (1) includes:

74 (a) the date on which the applicant's employment commenced and, if applicable, the
75 date on which the applicant's employment was terminated;

76 (b) a list of the compensation that the employer provided to the applicant during the
77 course of the employment;

78 (c) a copy of the application for a position of employment that the applicant submitted
79 to the employer;

80 (d) a written evaluation of the performance of the applicant;

81 (e) a record of the attendance of the applicant;

82 (f) a record of disciplinary action taken against the applicant;

83 (g) a statement regarding whether the employer would rehire the applicant and, if the
84 employer would not rehire the applicant, the reasons why;

85 (h) if applicable, a record setting forth the reason that the employment of the applicant
86 was terminated and whether the termination was voluntary or involuntary;

87 (i) the record of any final action regarding an applicant's peace officer certification that
88 is based on an investigation concerning the applicant's qualification for certification; and

89 (j) notice of any pending or ongoing investigation regarding the applicant's certification

90 as a peace officer.

91 (4) (a) In the absence of fraud or malice, an employer or training academy is not
92 subject to any civil liability for any relevant cause of action by releasing employment
93 information requested under this section.

94 (b) This section does not in any way or manner abrogate or lessen the existing common
95 law or statutory privileges and immunities of an employer.

96 (c) An employer or training academy may not provide information pursuant to
97 Subsection (2) if the disclosure of the information is prohibited pursuant to federal or state law.

98 (5) An employer's refusal to disclose information to a law enforcement agency in
99 accordance with this section constitutes grounds for a civil action by the requesting agency for
100 injunctive relief requiring disclosure on the part of an employer.

101 (6) (a) (i) A law enforcement agency may use the information received pursuant to this
102 section only to determine the suitability of an applicant for employment.

103 (ii) A director may use the information received pursuant to this section only to
104 determine the suitability of an applicant for acceptance at the training academy.

105 (b) Except as otherwise provided in Subsection (6)(c), the recipient law enforcement
106 agency and director shall maintain the confidentiality of information received pursuant to this
107 section.

108 (c) (i) A law enforcement agency shall share information regarding an applicant that it
109 receives pursuant to this section with another law enforcement agency if:

110 (A) the information is requested by the other law enforcement agency in accordance
111 with this section;

112 (B) the applicant is also an applicant for any employment position with the other law
113 enforcement agency; and

114 (C) the confidentiality of the information is otherwise maintained.

115 (ii) A director shall share information regarding an applicant that is received pursuant
116 to this section with another training academy if:

117 (A) the information is requested by the other training academy in accordance with this
118 section;

119 (B) the applicant is an applicant for acceptance at the other training academy; and

120 (C) the confidentiality of the information is otherwise maintained.

121 (iii) A director shall share information regarding an applicant, attendee, or graduate of
122 a training academy that is received pursuant to this section with a law enforcement agency if:

123 (A) the information is requested by the law enforcement agency in accordance with this
124 section;

125 (B) the applicant is applying for a position as a peace officer with the law enforcement
126 agency; and

127 (C) the confidentiality of the information is otherwise maintained.

128 Section 4. Section **53-20-101** is enacted to read:

129 **53-20-101. Early warning system for law enforcement agencies.**

130 (1) As used in this chapter:

131 (a) "Early warning system" means a data-based police management tool designed to
132 identify law enforcement officers whose behavior is problematic and provide a form of
133 intervention to correct the officer's performance.

134 (b) "Law enforcement agency" means the same as that term is defined in Section
135 [53-1-102](#).

136 (2) A law enforcement agency shall create and implement an early warning system.

137 Section 5. Section **63G-7-201** is amended to read:

138 **63G-7-201. Immunity of governmental entities and employees from suit.**

139 (1) Except as otherwise provided in this chapter, each governmental entity and each
140 employee of a governmental entity are immune from suit for any injury that results from the
141 exercise of a governmental function.

142 (2) Notwithstanding the waiver of immunity provisions of Section [63G-7-301](#), a
143 governmental entity, its officers, and its employees are immune from suit:

144 (a) as provided in Section [78B-4-517](#); and

145 (b) for any injury or damage resulting from the implementation of or the failure to
146 implement measures to:

147 (i) control the causes of epidemic and communicable diseases and other conditions
148 significantly affecting the public health or necessary to protect the public health as set out in
149 Title 26A, Chapter 1, Local Health Departments;

150 (ii) investigate and control suspected bioterrorism and disease as set out in Title 26,
151 Chapter 23b, Detection of Public Health Emergencies Act;

152 (iii) respond to a national, state, or local emergency, a public health emergency as
153 defined in Section [26-23b-102](#), or a declaration by the President of the United States or other
154 federal official requesting public health related activities, including the use, provision,
155 operation, and management of:

- 156 (A) an emergency shelter;
- 157 (B) housing;
- 158 (C) a staging place; or
- 159 (D) a medical facility; and

160 (iv) adopt methods or measures, in accordance with Section [26-1-30](#), for health care
161 providers, public health entities, and health care insurers to coordinate among themselves to
162 verify the identity of the individuals they serve.

163 (3) A governmental entity, its officers, and its employees are immune from suit, and
164 immunity is not waived, for any injury if the injury arises out of or in connection with, or
165 results from:

166 (a) a latent dangerous or latent defective condition of:

- 167 (i) any highway, road, street, alley, crosswalk, sidewalk, culvert, tunnel, bridge, or
168 viaduct; or
- 169 (ii) another structure located on any of the items listed in Subsection (3)(a)(i); or
- 170 (b) a latent dangerous or latent defective condition of any public building, structure,
171 dam, reservoir, or other public improvement.

172 (4) A governmental entity, its officers, and its employees are immune from suit, and
173 immunity is not waived, for any injury proximately caused by a negligent act or omission of an
174 employee committed within the scope of employment, if the injury arises out of or in
175 connection with, or results from:

176 (a) the exercise or performance, or the failure to exercise or perform, a discretionary
177 function, whether or not the discretion is abused;

178 (b) except as provided in Subsections [63G-7-301\(2\)\(j\)](#), (3), and (4), assault, battery,
179 false imprisonment, false arrest, malicious prosecution, intentional trespass, abuse of process,
180 libel, slander, deceit, interference with contract rights, infliction of mental anguish, or violation
181 of civil rights;

182 (c) the issuance, denial, suspension, or revocation of, or the failure or refusal to issue,

183 deny, suspend, or revoke, any permit, license, certificate, approval, order, or similar
184 authorization;

185 (d) a failure to make an inspection or making an inadequate or negligent inspection;
186 (e) the institution or prosecution of any judicial or administrative proceeding, even if
187 malicious or without probable cause;

188 (f) a misrepresentation by an employee whether or not the misrepresentation is
189 negligent or intentional;

190 (g) a riot, unlawful assembly, public demonstration, mob violence, or civil disturbance;
191 (h) the collection or assessment of taxes;

192 (i) an activity of the Utah National Guard;

193 (j) the incarceration of a person in a state prison, county or city jail, or other place of
194 legal confinement;

195 (k) a natural condition on publicly owned or controlled land;

196 (l) a condition existing in connection with an abandoned mine or mining operation;

197 (m) an activity authorized by the School and Institutional Trust Lands Administration
198 or the Division of Forestry, Fire, and State Lands;

199 (n) the operation or existence of a pedestrian or equestrian trail that is along a ditch,
200 canal, stream, or river, regardless of ownership or operation of the ditch, canal, stream, or river,
201 if:

202 (i) the trail is designated under a general plan adopted by a municipality under Section
203 [10-9a-401](#) or by a county under Section [17-27a-401](#);

204 (ii) the trail right-of-way or the right-of-way where the trail is located is open to public
205 use as evidenced by a written agreement between:

206 (A) the owner or operator of the trail right-of-way or of the right-of-way where the trail
207 is located; and

208 (B) the municipality or county where the trail is located; and

209 (iii) the written agreement:

210 (A) contains a plan for operation and maintenance of the trail; and

211 (B) provides that an owner or operator of the trail right-of-way or of the right-of-way
212 where the trail is located has, at a minimum, the same level of immunity from suit as the
213 governmental entity in connection with or resulting from the use of the trail;

- 214 (o) research or implementation of cloud management or seeding for the clearing of fog;
- 215 (p) the management of flood waters, earthquakes, or natural disasters;
- 216 (q) the construction, repair, or operation of flood or storm systems;
- 217 (r) the operation of an emergency vehicle, while being driven in accordance with the
- 218 requirements of Section [41-6a-212](#);
- 219 (s) the activity of:
 - 220 (i) providing emergency medical assistance;
 - 221 (ii) fighting fire;
 - 222 (iii) regulating, mitigating, or handling hazardous materials or hazardous wastes;
 - 223 (iv) an emergency evacuation;
 - 224 (v) transporting or removing an injured person to a place where emergency medical
 - 225 assistance can be rendered or where the person can be transported by a licensed ambulance
 - 226 service; or
 - 227 (vi) intervening during a dam emergency;
- 228 (t) the exercise or performance, or the failure to exercise or perform, any function
- 229 pursuant to Title 73, Chapter 10, Board of Water Resources - Division of Water Resources;
- 230 (u) an unauthorized access to government records, data, or electronic information
- 231 systems by any person or entity;
- 232 (v) an activity of wildlife, as defined in Section [23-13-2](#), that arises during the use of a
- 233 public or private road; or
- 234 (w) a communication between employees of one or more law enforcement agencies
- 235 related to the employment, disciplinary history, character, professional competence, or physical
- 236 or mental health of a peace officer, or a former, current, or prospective employee of a law
- 237 enforcement agency, including any communication made in accordance with Section
- 238 [~~53-14-101~~] [53-14-103](#).