

1                   **AT-RISK GOVERNMENT EMPLOYEE INFORMATION**

2                                   **PROTECTION AMENDMENTS**

3   2019 GENERAL SESSION

4   STATE OF UTAH

5                                   **Chief Sponsor: Lee B. Perry**

6                                   Senate Sponsor: Karen Mayne

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8   **LONG TITLE**

9   **General Description:**

10           This bill modifies provisions relating to personal information of certain government  
11 employees.

12   **Highlighted Provisions:**

13           This bill:

14           ▶ modifies the definition of "public information" in the context of provisions relating  
15 to protecting personal information of law enforcement officers;

16           ▶ modifies requirements relating to a form that a law enforcement officer may submit  
17 to protect personal information from being posted on the Internet;

18           ▶ modifies provisions relating to the private classification of personal information of  
19 at-risk government employees; and

20           ▶ enacts language relating to the length of time that a form requesting private  
21 classification of personal information remains in effect and the rescission of the  
22 form.

23   **Money Appropriated in this Bill:**

24           None

25   **Other Special Clauses:**

26           None

27   **Utah Code Sections Affected:**

28   AMENDS:

29           **53-18-102**, as last amended by Laws of Utah 2018, Chapter 311

30 **53-18-103**, as last amended by Laws of Utah 2018, Chapter 311

31 **63G-2-303**, as last amended by Laws of Utah 2013, Chapter 426

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

34 Section 1. Section **53-18-102** is amended to read:

35 **53-18-102. Definitions.**

36 As used in this chapter:

37 (1) "Access software provider" means a provider of software, including client or server  
38 software, or enabling tools that do any one or more of the following:

39 (a) filter, screen, allow, or disallow content;

40 (b) pick, choose, analyze, or digest content; or

41 (c) transmit, receive, display, forward, cache, search, subset, organize, reorganize, or  
42 translate content.

43 (2) "Immediate family member" means a law enforcement officer's spouse, child,  
44 parent, or grandparent who resides with the officer.

45 (3) "Interactive computer service" means the same as that term is defined in Subsection  
46 47 U.S.C. 230(f).

47 (4) "Law enforcement officer" or "officer":

48 (a) means the same as that term is defined in Section **53-13-103**;

49 (b) includes "correctional officers" as defined in Section **53-13-104**; and

50 (c) refers only to officers who are currently employed by, retired from, or were killed in  
51 the line of duty while in the employ of a state or local governmental law enforcement agency.

52 (5) "Personal information":

53 (a) means a law enforcement officer's or law enforcement officer's immediate family  
54 member's home address, home telephone number, personal mobile telephone number, personal  
55 pager number, personal email address, personal photograph, directions to locate the law  
56 enforcement officer's home, or photographs of the law enforcement officer's or the officer's  
57 immediate family member's home or vehicle[-]; and

58 (b) includes a record or a part of a record that:

59 (i) a law enforcement officer requests to be classified as private under Subsection  
60 63G-2-302(1)(h); and

61 (ii) is classified as private under Title 63G, Chapter 2, Government Records Access  
62 and Management Act.

63 (6) "Publicly post" or "publicly display" means to intentionally communicate or  
64 otherwise make available to the general public.

65 Section 2. Section **53-18-103** is amended to read:

66 **53-18-103. Internet posting of personal information of law enforcement officers --**  
67 **Prohibitions.**

68 (1) (a) A state or local governmental agency that has received the form described in  
69 Subsection (1)(b) from a law enforcement officer may not publicly post on the Internet the  
70 personal information of any law enforcement officer employed by the state or any political  
71 subdivision.

72 (b) Each state or local government agency employing law enforcement officers shall:

73 (i) provide a form for an officer to request the removal or concealment of the officer's  
74 personal information from the state or local government agencies' publicly accessible websites  
75 and databases;

76 (ii) inform the officer how to submit a form under this section;

77 (iii) upon request, assist an officer in completing the form; [~~and~~]

78 (iv) include on [~~any~~] the form a disclaimer informing the officer that by submitting a  
79 completed form the officer may not receive official announcements affecting the officer's  
80 property, including notices about proposed annexations, incorporation, or zoning  
81 modifications[~~-~~]; and

82 (v) require a form submitted by a law enforcement officer to be signed by the highest  
83 ranking elected or appointed official in the officer's chain of command certifying that the  
84 individual requesting removal or concealment is a law enforcement officer.

85 (2) A county clerk, upon receipt of the form described in Subsection (1)(b) from a law

86 enforcement officer, completed and submitted under this section, shall:

87 (a) classify the law enforcement officer's voter registration record in the lieutenant  
88 governor's statewide voter registration database developed under Section 20A-2-109 as a  
89 private record; and

90 (b) classify the law enforcement officer's marriage licenses and marriage license  
91 applications, if any, as private records.

92 (3) A county recorder, treasurer, auditor, or tax assessor, upon receipt of the form  
93 described in Subsection (1)(b) from a law enforcement officer, completed and submitted under  
94 this section, shall:

95 (a) provide a method for the assessment roll and index and the tax roll and index that  
96 will block public access to the law enforcement officer's personal information; and

97 (b) provide to the law enforcement officer who submits the form a written disclaimer  
98 informing the officer that the officer may not receive official announcements affecting the  
99 officer's property, including notices about proposed annexations, incorporations, or zoning  
100 modifications.

101 (4) A form submitted under this section remains in effect for the shorter of:

102 (a) four years from the date on which the form was signed by the officer, regardless of  
103 whether the officer's qualifying employment is terminated during the four years; or

104 (b) one year after official notice of the law enforcement officer's death is transmitted by  
105 the officer's immediate family or the officer's employing agency to all state and local  
106 government agencies that are reasonably expected to have records containing personal  
107 information of the deceased officer.

108 (5) Notwithstanding Subsection (4), the law enforcement officer, or the officer's  
109 immediate family if the officer is deceased, may rescind the form at any time.

110 (6) An individual may not, with intent to frighten or harass a law enforcement officer,  
111 publicly post on the Internet the personal information of any law enforcement officer knowing  
112 the person is a law enforcement officer.

113 (a) A violation of this Subsection (6) is a class B misdemeanor.

114 (b) A violation of this Subsection (6) that results in bodily injury to the officer, or a  
115 member of the officer's immediate family, is a class A misdemeanor.

116 (c) Each act against a separate individual in violation of this Subsection (6) is a  
117 separate offense. The defendant may also be charged separately with the commission of any  
118 other criminal conduct related to the commission of an offense under this Subsection (6).

119 (7) (a) A business or association may not publicly post or publicly display on the  
120 Internet the personal information of any law enforcement officer if that officer has, either  
121 directly or through an agent designated under Subsection (7)(c), provided to that business or  
122 association a written demand to not disclose the officer's personal information.

123 (b) A written demand made under this Subsection (7) by a law enforcement officer is  
124 effective for four years beginning on the day the demand is delivered, regardless of whether or  
125 not the law enforcement officer's employment as an officer has terminated during the four  
126 years.

127 (c) A law enforcement officer may designate in writing the officer's employer or a  
128 representative of any voluntary professional association of law enforcement officers to act on  
129 behalf of the officer and as the officer's agent to make a written demand pursuant to this  
130 chapter.

131 (d) (i) A business or association that receives a written demand from a law enforcement  
132 officer under Subsection (7)(a) shall remove the officer's personal information from public  
133 display on the Internet, including the removal of information provided to cellular telephone  
134 applications, within 24 hours of the delivery of the written demand, and shall ensure that the  
135 information is not posted again on the same Internet website or any other Internet website the  
136 recipient of the written demand maintains or exercises control over.

137 (ii) After receiving the law enforcement officer's written demand, the person, business,  
138 or association may not publicly post or publicly display on the Internet, the personal  
139 information of the law enforcement officer.

140 (iii) This Subsection (7)(d) does not prohibit a telephone corporation, as defined in  
141 Section 54-2-1, or its affiliate or other voice service provider, including providers of

142 interconnected voice over Internet protocol service as defined in 47 C.F.R. 9.3, from  
143 transferring the law enforcement officer's personal information to any person, business, or  
144 association, if the transfer is authorized by federal or state law, regulation, order, terms of  
145 service, or tariff, or is necessary in the event of an emergency, or to collect a debt owed by the  
146 officer to the telephone corporation or its affiliate.

147 (iv) This Subsection (7)(d) does not apply to a telephone corporation or other voice  
148 service provider, including providers of interconnected voice over Internet protocol service,  
149 with respect to directories or directories listings to the extent the entity offers a nonpublished  
150 listing option.

151 (8) (a) A law enforcement officer whose personal information is made public as a  
152 result of a violation of Subsection (7) may bring an action seeking injunctive or declarative  
153 relief in any court of competent jurisdiction.

154 (b) If a court finds that a violation has occurred, it may grant injunctive or declarative  
155 relief and shall award the law enforcement officer court costs and reasonable attorney fees.

156 (c) If the defendant fails to comply with an order of the court issued under this  
157 Subsection (8), the court may impose a civil penalty of not more than \$1,000 for the  
158 defendant's failure to comply with the court's order.

159 (9) (a) A person, business, or association may not solicit, sell, or trade on the Internet  
160 the personal information of a law enforcement officer, if the dissemination of the personal  
161 information poses an imminent and serious threat to the law enforcement officer's safety or the  
162 safety of the law enforcement officer's immediate family and the person making the  
163 information available on the Internet knows or reasonably should know of the imminent and  
164 serious threat.

165 (b) A law enforcement officer whose personal information is knowingly publicly  
166 posted or publicly displayed on the Internet may bring an action in any court of competent  
167 jurisdiction. If a jury or court finds that a defendant has committed a violation of Subsection  
168 (9)(a), the jury or court shall award damages to the officer in the amount of triple the cost of  
169 actual damages or \$4,000, whichever is greater.

170 (10) An interactive computer service or access software is not liable under Subsections  
 171 (7)(d)(i) and (9) for information or content provided by another information content provider.

172 (11) Unless a state or local government agency receives a completed form directly from  
 173 the law enforcement officer in accordance with Subsection (1), a state or local government  
 174 official who makes information available for public inspection in accordance with state law is  
 175 not in violation of this chapter.

176 Section 3. Section **63G-2-303** is amended to read:

177 **63G-2-303. Private information concerning certain government employees.**

178 (1) As used in this section:

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

180 (i) peace officer as specified in Section [53-13-102](#);

181 [~~(ii) supreme court justice;~~]

182 [~~(iii)~~] (ii) state or federal judge of an appellate, district, justice, or juvenile court, or [a]  
 183 court commissioner;

184 [~~(iv) justice court judge;~~]

185 [~~(v)~~] (iii) judge authorized by Title 39, Chapter 6, Utah Code of Military Justice;

186 [~~(vi) federal judge;~~]

187 [~~(vii) federal magistrate judge;~~]

188 [~~(viii)~~] (iv) judge authorized by Armed Forces, Title 10, United States Code;

189 [~~(ix) United States Attorney;~~]

190 [~~(x) Assistant United States Attorney;~~]

191 (v) federal prosecutor;

192 [~~(xi)~~] (vi) [a] prosecutor appointed pursuant to Armed Forces, Title 10, United States  
 193 Code;

194 [~~(xii)~~] (vii) [a] law enforcement official as defined in Section [53-5-711](#); [or]

195 [~~(xiii)~~] (viii) [a] prosecutor authorized by Title 39, Chapter 6, Utah Code of Military  
 196 Justice[-]; or

197 (ix) state or local government employee who, because of the unique nature of the

198 employee's regular work assignments or because of one or more recent credible threats directed  
199 to or against the employee, would be at immediate and substantial risk of physical harm if the  
200 employee's personal information is disclosed.

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

203 (c) "Personal information" means the employee's or the employee's family member's  
204 home address, home telephone number, personal mobile telephone number, personal pager  
205 number, personal email address, social security number, insurance coverage, marital status, or  
206 payroll deductions.

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

209 (i) gives notice of the employee's status as an at-risk government employee to each  
210 agency of a government entity holding a record or a part of a record that would disclose the  
211 employee's [~~or the employee's family member's home address, home telephone number, Social~~  
212 ~~Security number, insurance coverage, marital status, or payroll deductions]~~ personal  
213 information; and

214 (ii) requests that the government agency classify those records or parts of records as  
215 private.

216 (b) An at-risk government employee desiring to file an application under this section  
217 may request assistance from the government agency to identify the individual records  
218 containing [~~the private]~~ personal information [~~specified in Subsection (2)(a)(i)].~~

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

220 (i) requires the at-risk government employee to [~~provide evidence of qualifying~~  
221 ~~employment; (ii) requires the at-risk government employee to]~~ designate each specific record  
222 or part of a record containing the employee's [~~home address, home telephone number, Social~~  
223 ~~Security number, insurance coverage, marital status, or payroll deductions]~~ personal  
224 information that the applicant desires to be classified as private; [~~and]~~

225 [(iii)] (ii) affirmatively requests that the government entity holding those records



226 classify them as private[-];

227 (iii) informs the employee that by submitting a completed form the employee may not  
228 receive official announcements affecting the employee's property, including notices about  
229 proposed municipal annexations, incorporations, or zoning modifications; and

230 (iv) contains a place for the signature required under Subsection (2)(d).

231 (d) A form submitted by an employee under Subsection (2)(c) shall be signed by the  
232 highest ranking elected or appointed official in the employee's chain of command certifying  
233 that the employee submitting the form is an at-risk government employee.

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

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

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

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

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

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

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

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

253 (i) authorize release of the record; or

254 (ii) within 10 days of the date that the copy and request are mailed, deliver to the  
255 government agency holding the private record a copy of a motion to quash filed with the court  
256 who issued the subpoena.

257 (b) The government agency shall comply with the subpoena if the government agency  
258 has:

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

261 (ii) not received a copy of a motion to quash within 10 days of the date that the copy of  
262 the subpoena was mailed; or

263 (iii) received a court order requiring release of the records.

264 (6) (a) Except as provided in Subsection (6)(b), a form submitted under this section  
265 remains in effect until the earlier of:

266 (i) four years after the date the employee signs the form, whether or not the employee's  
267 employment terminates before the end of the four-year period; and

268 (ii) one year after the government agency receives official notice of the death of the  
269 employee.

270 (b) A form submitted under this section may be rescinded at any time by:

271 (i) the at-risk government employee who submitted the form; or

272 (ii) if the at-risk government employee is deceased, a member of the employee's  
273 immediate family.