

1     **GOVERNMENT EMPLOYEE CONSCIENCE PROTECTION AMENDMENTS**  
2024 GENERAL SESSION  
STATE OF UTAH  
**Chief Sponsor: Michael J. Petersen**  
Senate Sponsor: Todd D. Weiler

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3     **LONG TITLE**

4     **General Description:**

5         This bill addresses required reasonable accommodations for government employees in  
6     certain circumstances.

7     **Highlighted Provisions:**

8         This bill:

- 9         ▸ defines terms;
- 10        ▸ requires a governmental entity to grant an employee's request to be relieved from  
11     performing a certain task if granting the request would not place an undue hardship on the  
12     governmental entity;
- 13        ▸ creates protections for employees who request to be relieved from a certain task; and
- 14        ▸ creates a cause of action for a government employee whose request to be relieved from  
15     performing a certain task was denied.

16     **Money Appropriated in this Bill:**

17         None

18     **Other Special Clauses:**

19         None

20     **Utah Code Sections Affected:**

21     AMENDS:

22         **63G-2-302**, as last amended by Laws of Utah 2023, Chapters 329, 471

23     ENACTS:

24         **67-27-105**, Utah Code Annotated 1953

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

27         Section 1. Section **63G-2-302** is amended to read:

28           **63G-2-302 . Private records.**

29       (1) The following records are private:

30           (a) records concerning an individual's eligibility for unemployment insurance benefits,  
31               social services, welfare benefits, or the determination of benefit levels;32           (b) records containing data on individuals describing medical history, diagnosis,  
33               condition, treatment, evaluation, or similar medical data;34           (c) records of publicly funded libraries that when examined alone or with other records  
35               identify a patron;

36           (d) records received by or generated by or for:

37               (i) the Independent Legislative Ethics Commission, except for:

38                   (A) the commission's summary data report that is required under legislative rule;  
39                       and

40                   (B) any other document that is classified as public under legislative rule; or

41               (ii) a Senate or House Ethics Committee in relation to the review of ethics  
42               complaints, unless the record is classified as public under legislative rule;43           (e) records received by, or generated by or for, the Independent Executive Branch Ethics  
44               Commission, except as otherwise expressly provided in Title 63A, Chapter 14,  
45               Review of Executive Branch Ethics Complaints;46           (f) records received or generated for a Senate confirmation committee concerning  
47               character, professional competence, or physical or mental health of an individual:48               (i) if, prior to the meeting, the chair of the committee determines release of the  
49               records:50                   (A) reasonably could be expected to interfere with the investigation undertaken by  
51                       the committee; or52                   (B) would create a danger of depriving a person of a right to a fair proceeding or  
53                       impartial hearing; and

54               (ii) after the meeting, if the meeting was closed to the public;

55           (g) employment records concerning a current or former employee of, or applicant for  
56               employment with, a governmental entity that would disclose that individual's home  
57               address, home telephone number, social security number, insurance coverage, marital  
58               status, or payroll deductions;59           (h) records or parts of records under Section 63G-2-303 that a current or former  
60               employee identifies as private according to the requirements of that section;

61           (i) that part of a record indicating a person's social security number or federal employer

- 62 identification number if provided under Section 31A-23a-104, 31A-25-202,  
63 31A-26-202, 58-1-301, 58-55-302, 61-1-4, or 61-2f-203;
- 64 (j) that part of a voter registration record identifying a voter's:  
65 (i) driver license or identification card number;  
66 (ii) social security number, or last four digits of the social security number;  
67 (iii) email address;  
68 (iv) date of birth; or  
69 (v) phone number;
- 70 (k) a voter registration record that is classified as a private record by the lieutenant  
71 governor or a county clerk under Subsection 20A-2-101.1(5)(a), 20A-2-104(4)(h), or  
72 20A-2-204(4)(b);
- 73 (l) a voter registration record that is withheld under Subsection 20A-2-104(7);
- 74 (m) a withholding request form described in Subsections 20A-2-104(7) and (8) and any  
75 verification submitted in support of the form;
- 76 (n) a record that:  
77 (i) contains information about an individual;  
78 (ii) is voluntarily provided by the individual; and  
79 (iii) goes into an electronic database that:  
80 (A) is designated by and administered under the authority of the Chief Information  
81 Officer; and  
82 (B) acts as a repository of information about the individual that can be  
83 electronically retrieved and used to facilitate the individual's online interaction  
84 with a state agency;
- 85 (o) information provided to the Commissioner of Insurance under:  
86 (i) Subsection 31A-23a-115(3)(a);  
87 (ii) Subsection 31A-23a-302(4); or  
88 (iii) Subsection 31A-26-210(4);
- 89 (p) information obtained through a criminal background check under Title 11, Chapter  
90 40, Criminal Background Checks by Political Subdivisions Operating Water Systems;
- 91 (q) information provided by an offender that is:  
92 (i) required by the registration requirements of Title 77, Chapter 41, Sex and Kidnap  
93 Offender Registry or Title 77, Chapter 43, Child Abuse Offender Registry; and  
94 (ii) not required to be made available to the public under Subsection 77-41-110(4) or  
95 77-43-108(4);

- 96 (r) a statement and any supporting documentation filed with the attorney general in  
97 accordance with Section 34-45-107, if the federal law or action supporting the filing  
98 involves homeland security;
- 99 (s) electronic toll collection customer account information received or collected under  
100 Section 72-6-118 and customer information described in Section 17B-2a-815  
101 received or collected by a public transit district, including contact and payment  
102 information and customer travel data;
- 103 (t) an email address provided by a military or overseas voter under Section 20A-16-501;
- 104 (u) a completed military-overseas ballot that is electronically transmitted under Title  
105 20A, Chapter 16, Uniform Military and Overseas Voters Act;
- 106 (v) records received by or generated by or for the Political Subdivisions Ethics Review  
107 Commission established in Section 63A-15-201, except for:  
108 (i) the commission's summary data report that is required in Section 63A-15-202; and  
109 (ii) any other document that is classified as public in accordance with Title 63A,  
110 Chapter 15, Political Subdivisions Ethics Review Commission;
- 111 (w) a record described in Section 53G-9-604 that verifies that a parent was notified of an  
112 incident or threat;
- 113 (x) a criminal background check or credit history report conducted in accordance with  
114 Section 63A-3-201;
- 115 (y) a record described in Subsection 53-5a-104(7);
- 116 (z) on a record maintained by a county for the purpose of administering property taxes,  
117 an individual's:  
118 (i) email address;  
119 (ii) phone number; or  
120 (iii) personal financial information related to a person's payment method;
- 121 (aa) a record submitted by a taxpayer to establish the taxpayer's eligibility for an  
122 exemption, deferral, abatement, or relief under:  
123 (i) Title 59, Chapter 2, Part 11, Exemptions;  
124 (ii) Title 59, Chapter 2, Part 12, Property Tax Relief;  
125 (iii) Title 59, Chapter 2, Part 18, Tax Deferral and Tax Abatement; or  
126 (iv) Title 59, Chapter 2, Part 19, Armed Forces Exemptions;
- 127 (bb) a record provided by the State Tax Commission in response to a request under  
128 Subsection 59-1-403(4)(y)(iii);
- 129 (cc) a record of the Child Welfare Legislative Oversight Panel regarding an individual

- 130 child welfare case, as described in Subsection 36-33-103(3);~~and~~
- 131 (dd) a record relating to drug or alcohol testing of a state employee under Section  
132 63A-17-1004~~[-]~~ ; and
- 133 (ee) a record including confidential information as that term is defined in Section  
134 67-27-105.
- 135 (2) The following records are private if properly classified by a governmental entity:
- 136 (a) records concerning a current or former employee of, or applicant for employment  
137 with a governmental entity, including performance evaluations and personal status  
138 information such as race, religion, or disabilities, but not including records that are  
139 public under Subsection 63G-2-301(2)(b) or 63G-2-301(3)(o) or private under  
140 Subsection (1)(b);
- 141 (b) records describing an individual's finances, except that the following are public:
- 142 (i) records described in Subsection 63G-2-301(2);
- 143 (ii) information provided to the governmental entity for the purpose of complying  
144 with a financial assurance requirement; or
- 145 (iii) records that must be disclosed in accordance with another statute;
- 146 (c) records of independent state agencies if the disclosure of those records would  
147 conflict with the fiduciary obligations of the agency;
- 148 (d) other records containing data on individuals the disclosure of which constitutes a  
149 clearly unwarranted invasion of personal privacy;
- 150 (e) records provided by the United States or by a government entity outside the state that  
151 are given with the requirement that the records be managed as private records, if the  
152 providing entity states in writing that the record would not be subject to public  
153 disclosure if retained by it;
- 154 (f) any portion of a record in the custody of the Division of Aging and Adult Services,  
155 created in Section 26B-6-102, that may disclose, or lead to the discovery of, the  
156 identity of a person who made a report of alleged abuse, neglect, or exploitation of a  
157 vulnerable adult; and
- 158 (g) audio and video recordings created by a body-worn camera, as defined in Section  
159 77-7a-103, that record sound or images inside a home or residence except for  
160 recordings that:
- 161 (i) depict the commission of an alleged crime;
- 162 (ii) record any encounter between a law enforcement officer and a person that results  
163 in death or bodily injury, or includes an instance when an officer fires a weapon;

- 164 (iii) record any encounter that is the subject of a complaint or a legal proceeding  
 165 against a law enforcement officer or law enforcement agency;
- 166 (iv) contain an officer involved critical incident as defined in Subsection 76-2-408  
 167 (1)(f); or
- 168 (v) have been requested for reclassification as a public record by a subject or  
 169 authorized agent of a subject featured in the recording.
- 170 (3) (a) As used in this Subsection (3), "medical records" means medical reports, records,  
 171 statements, history, diagnosis, condition, treatment, and evaluation.
- 172 (b) Medical records in the possession of the University of Utah Hospital, its clinics,  
 173 doctors, or affiliated entities are not private records or controlled records under  
 174 Section 63G-2-304 when the records are sought:
- 175 (i) in connection with any legal or administrative proceeding in which the patient's  
 176 physical, mental, or emotional condition is an element of any claim or defense; or  
 177 (ii) after a patient's death, in any legal or administrative proceeding in which any  
 178 party relies upon the condition as an element of the claim or defense.
- 179 (c) Medical records are subject to production in a legal or administrative proceeding  
 180 according to state or federal statutes or rules of procedure and evidence as if the  
 181 medical records were in the possession of a nongovernmental medical care provider.

182 Section 2. Section **67-27-105** is enacted to read:

183 **67-27-105 . Reasonable accommodations for government employees.**

- 184 (1) As used in this section:
- 185 (a) "Confidential information" means any:
- 186 (i) information related to an employee's request under Subsection (2); or  
 187 (ii) record created under Subsection (3) or (4).
- 188 (b) "Conscience" means a sincerely held belief as to the rightness or wrongness of an  
 189 action or inaction.
- 190 (c) (i) "Employee" means an individual employed by a governmental entity.  
 191 (ii) "Employee" does not include:
- 192 (A) an elected official;  
 193 (B) an individual employed by the Legislature; or  
 194 (C) an individual who is appointed or employed to be on an elected official's  
 195 personal staff to assist the elected official in fulfilling the elected official's  
 196 duties.
- 197 (d) "First responder" means:

- 198 (i) a law enforcement officer, as that term is defined in Section 53-13-103;  
199 (ii) an emergency medical technician, as that term is defined in Section 53-2e-101;  
200 (iii) an advanced emergency medical technician, as that term is defined in Section  
201 53-2e-101;  
202 (iv) a paramedic, as that term is defined in Section 53-2e-101;  
203 (v) a firefighter, as that term is defined in Section 53B-8c-102; or  
204 (vi) a dispatcher, as that term is defined in Section 53-6-102.
- 205 (e) "Governmental entity" means:
- 206 (i) the state;  
207 (ii) a political subdivision of the state, including a county, city, town, school district,  
208 special district, institution of higher education, or special service district; or  
209 (iii) an entity created by the state, including an agency, board, bureau, commission,  
210 committee, department, division, institution, instrumentality, or office.
- 211 (f) "Retaliatory action" means any of the following actions taken by a governmental  
212 entity against an employee as a result of the employee filing a request under  
213 Subsection (2):
- 214 (i) a dismissal;  
215 (ii) a reduction of compensation;  
216 (iii) a failure to increase compensation by an amount that the employee is otherwise  
217 entitled to or was promised;  
218 (iv) a failure to promote if the employee would otherwise be promoted; or  
219 (v) a threat to take an action described in Subsections (1)(f)(i) through (iv).
- 220 (g) "Task" means a specific job, duty, or function.
- 221 (h) "Undue hardship" means a substantial burden, privation, or adversity on a  
222 governmental entity that would result from granting an employee's request to be  
223 relieved from performing a certain task when considering all relevant factors,  
224 including:
- 225 (i) the practical impact on the governmental entity in light of the nature, size, and  
226 operating cost of the governmental entity;  
227 (ii) the disruption of the governmental entity's operations;  
228 (iii) the nature of the employee's duties;  
229 (iv) the number of employees the governmental entity will be required to grant a  
230 request to if the governmental entity grants the employee's request;  
231 (v) the type of workplace; and

- 232           (vi) the number of requests by the employee in the preceding 12 months from the day  
233           on which the employee submitted the request.
- 234 (2) (a) Except as provided in Subsection (2)(b), a governmental entity may not deny an  
235 employee's reasonable request to be relieved from performing a certain task if:
- 236           (i) performing the task would conflict with the employee's sincerely held religious  
237           beliefs or conscience;
- 238           (ii) the employee has complied with the requirements of Subsection (3); and  
239           (iii) relieving the employee from the task would not impose an undue hardship on the  
240           governmental entity.
- 241 (b) A governmental entity is not required to grant an employee's request under  
242 Subsection (2)(a) if:
- 243           (i) the request is to be relieved from performing a task that is part of training or safety  
244           instructions directly related to the employee's employment;
- 245           (ii) granting the request would result in a deficit in the amount of work for which the  
246           employee is compensated;
- 247           (iii) granting the request would create a conflict with an existing legal obligation and  
248           the governmental entity cannot avoid the conflict if the governmental entity grants  
249           the employee's request under Subsection (3);
- 250           (iv) the employee is a first responder and the request by the employee under  
251           Subsection (2)(a) is to be relieved from performing a task that involves protecting  
252           the safety of the public; or
- 253           (v) the employee's asserted religious beliefs or conscience described in Subsection  
254           (2)(a)(i) is being asserted for an improper purpose.
- 255 (3) Except as provided in Subsection (3)(b), an employee seeking to be relieved from  
256 performing a certain task under Subsection (2) shall:
- 257           (a) (i) as soon as practicable but not more than two days after the day on which the  
258           employee received the assignment to perform the task, submit a written request to  
259           the employee's supervisor providing an explanation as to why the task would  
260           conflict with the employee's sincerely held religious beliefs or conscience; or  
261           (ii) if the employee receives the assignment to perform the task within two days after  
262           the day on which the employee received the assignment, orally or in writing  
263           immediately request to be relieved from performing the task; and
- 264           (b) provide the governmental entity with a reasonable opportunity to grant the  
265           employee's request or otherwise address the employee's concerns.



- 266 (4) (a) Except as provided in Subsection (4)(c), a governmental entity that receives a  
267 request under Subsection (3) shall respond to the request as soon as practicable but at  
268 least five days before the day on which the certain task is required to be performed.
- 269 (b) If a governmental entity denies an employee's request submitted as described in  
270 Subsection (3), the governmental entity shall include in the response required under  
271 Subsection (4)(a):
- 272 (i) an explanation of the governmental entity's decision and why:
- 273 (A) granting the request would impose an undue hardship on the governmental  
274 entity; or
- 275 (B) the governmental entity is not required to grant the employee's request for a  
276 reason described in Subsection (2)(b); and
- 277 (ii) that the employee may seek redress in a court as described in Subsection (6) if the  
278 employee has exhausted the internal process allowing the governmental entity to  
279 address the employee's concerns under Subsection (3)(b).
- 280 (c) An employee and governmental entity may agree in writing to waive or extend the  
281 time limit described in Subsection (4)(a).
- 282 (5) (a) A governmental entity may adopt a policy detailing the requirements of this  
283 section.
- 284 (b) A policy adopted under Subsection (5)(a) shall:
- 285 (i) provide the governmental entity's employees a process for making a request under  
286 this section;
- 287 (ii) designate an individual to receive an employee request described in Subsection  
288 (3);
- 289 (iii) outline the information an employee is required to provide to the governmental  
290 entity in a request described in Subsection (3);
- 291 (iv) describe the process the employee is required to undertake to allow the  
292 governmental entity a reasonable opportunity to grant the employee's request or  
293 otherwise address the employee's concerns under Subsection (3)(b); and
- 294 (v) outline the process the governmental entity will use to evaluate a request received  
295 under Subsection (3) in determining if the request will impose an undue hardship  
296 on the governmental entity.
- 297 (c) A governmental entity establishing a policy under this Subsection (5) shall ensure  
298 that:
- 299 (i) the governmental entity's employees receive notice of the policy and access to a

- 300 copy of the policy when the policy is adopted or when an employee begins  
301 working for the governmental entity, whichever occurs first; and  
302 (ii) if the governmental agency receives a request under Subsection (3), the  
303 governmental entity includes a reference to the governmental entity's policy in the  
304 governmental entity's response.
- 305 (6) (a) An employee has a right of action against the governmental entity that employs  
306 the employee if:
- 307 (i) the employee has complied with Subsection (3) in good faith;  
308 (ii) the employee has complied with any policy created under Subsection (5) after  
309 receiving notice and a reference of the policy as described in Subsection (5)(c);  
310 (iii) the employee's asserted religious beliefs or conscience described in Subsection  
311 (2)(a)(i) is not asserted for an improper purpose; and  
312 (iv) (A) granting the request would not have imposed an undue hardship on the  
313 governmental entity; or  
314 (B) the governmental entity cannot meet an exception described in Subsection  
315 (2)(b).
- 316 (b) An employee seeking to assert a right of action under this section shall bring the  
317 action in a court within 180 calendar days after the day on which the employee  
318 received the governmental entity's response described in Subsection (4).
- 319 (c) If an employee establishes, by a preponderance of the evidence, that the employee  
320 meets the requirements described in Subsection (6)(a), the court:
- 321 (i) shall grant the employee relief by:
- 322 (A) issuing an injunction ordering the governmental entity to relieve the employee  
323 from the specific task if the task is still to be performed; or  
324 (B) ordering the governmental entity to reinstate or rehire the employee, with an  
325 award of back pay, if the employee was constructively discharged, demoted, or  
326 terminated as a direct result of the governmental entity's violation of  
327 Subsection (2); and
- 328 (ii) may award to the employee reasonable attorney fees, and court costs.
- 329 (7) The classification of an employee's confidential information is governed by Title 63G,  
330 Chapter 2, Government Records Access and Management Act.
- 331 (8) A governmental entity may not take retaliatory action against an employee for  
332 submitting a meritorious request under Subsection (3).
- 333 (9) Nothing in this section:

334 (a) limits the employee's right to bring any other claim the employee may have against  
335 the governmental entity; or

336 (b) prevents a governmental entity from implementing a policy required by state or  
337 federal law.

338 Section 3. **Effective date.**

339 This bill takes effect on May 1, 2024.