

Protected Person Amendments

2025 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Don L. Ipson

House Sponsor:

LONG TITLE**General Description:**

This bill enacts provisions relating to the construction of a security improvement to real property belonging to an individual who is certified to be at risk of harm.

Highlighted Provisions:

This bill:

- defines terms;
- establishes a process for an individual at risk of harm to apply to the commissioner of public safety for certification to construct a security improvement on the individual's property;
- requires a land use authority to approve an individual's land use application to construct a certified security improvement on the individual's real property if the application complies with the state's construction and fire codes;
- exempts an individual's certified security improvement from county or municipal land use regulations;
- describes remedies available to an individual if a municipality or county unlawfully conditions, delays, or denies the individual's building permit for a certified security improvement; and
- provides for the confidentiality of records relating to certification of a security improvement or security improvement construction.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63G-2-302, as last amended by Laws of Utah 2024, Chapter 234

ENACTS:

31 53-29-101, Utah Code Annotated 1953

32 53-29-201, Utah Code Annotated 1953

33 53-29-301, Utah Code Annotated 1953

34
35 *Be it enacted by the Legislature of the state of Utah:*

36 Section 1. Section 53-29-101 is enacted to read:

37 **CHAPTER 29. SECURITY IMPROVEMENTS ACT**

38 **Part 1. General Provisions**

39 **53-29-101 . Definitions.**

40 As used in this chapter:

41 (1) "Applicant" means an individual who submits an application for certification.

42 (2) "Application for certification" means an application described in Subsection
43 53-29-201(1).

44 (3)(a) "Certified improvement" means an improvement that:

45 (i) is intended to provide protection for a protected person or a member of the
46 protected person's immediate family from the risk of death of serious bodily injury
47 caused by an individual who made a credible threat or caused physical harm to the
48 protected person;

49 (ii) is constructed within or leading to the boundaries of protected property; and

50 (iii) does not interfere with a property right of another property owner.

51 (b) "Certified improvement" includes an improvement described in Subsection (3)(a)
52 that provides safe egress from, or safety within, the protected property, including an
53 underground improvement or an improvement that runs below an easement or other
54 non-estate interest in land if the improvement does not interfere with the purpose of
55 the easement or other non-estate interest in land.

56 (4) "Certifying officer" means the commissioner or an individual designated by the
57 commissioner to certify an application for certification.

58 (5) "Credible threat" means a threat to cause death or serious bodily injury that a state or
59 federal law enforcement agency has confirmed to be authentic.

60 (6) "Improvement" means the same as that term is defined in Section 78B-2-225.

61 (7) "Land use authority" means:

62 (a) with respect to protected property located within a municipality, the same as that
63 term is defined in Section 10-9a-103; or

(b) with respect to protected property located within an unincorporated area of a county, the same as that term is defined in Section 17-27a-103.

(8) "Protected person" means an individual who:

(a) within the five years preceding the day on which the individual submits an application for certification:

(i) received a credible threat; or

(ii) was physically harmed; and

(b) is at risk of serious bodily injury or death caused by:

(i) the individual who made the credible threat described in Subsection (8)(a)(i) or caused the physical harm described in Subsection (8)(a)(ii); or

(ii) an individual affiliated with the individual who made the credible threat described in Subsection (8)(a)(i) or caused the physical harm described in Subsection (8)(a)(ii).

(9) "Protected property" means real property that is owned or occupied by a protected person.

(10) "Protection certificate" means a written determination described in Subsection 53-29-201(4).

Section 2. Section 53-29-201 is enacted to read:

Part 2. Certification

53-29-201 . Certification process.

(1)(a) In accordance with the provisions of this section, an individual may submit an application to a certifying officer for a written determination that each improvement the applicant identifies in the application is a certified improvement.

(b) An applicant shall include in an application for certification:

(i) the applicant's name; and

(ii) evidence supporting the applicant's assertion that the applicant is a protected person and that each proposed improvement is a certified improvement, including:

(A) a legal description of the real property that the applicant asserts is protected property;

(B) building plans for each proposed improvement; and

(C) any other information the department requires.

(2) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department shall make rules establishing:

(a) a process for receiving and evaluating applications for certification; and

(b) the required contents of an application for certification.

(3) Within 45 days after the day on which a certifying officer receives an application for certification, the certifying officer shall approve or deny the application for certification.

(4) If the certifying officer approves the application for certification, the certifying officer shall provide the applicant with a protection certificate that identifies the protected person, the protected property, and each certified improvement.

Section 3. Section 53-29-301 is enacted to read:

Part 3. Security Improvements

53-29-301 . Improvements -- Legal remedies.

(1) No later than three years after the day on which a certifying officer issues a protection certificate, the protected person may submit to the applicable land use authority a copy of the protection certificate, together with a building permit application, for the construction of one or more certified improvements identified in the protection certificate.

(2) Upon receipt of a building permit application for the construction of a certified improvement, the land use authority shall:

(a) review the building permit application for the sole purpose of determining compliance with Title 15A, State Construction and Fire Codes Act; and

(b) issue a building permit authorizing the construction if the application complies with Title 15A, State Construction and Fire Codes Act.

(3) A certified improvement is not subject to county or municipal land use regulations.

(4)(a) If a municipality or county unlawfully conditions, delays, or denies a building permit for a certified improvement, the protected person may challenge the municipality's or county's action in court.

(b) If the protected person prevails in an action filed under this Subsection (4), the court shall:

(i) award reasonable attorney fees and court costs to the protected person; and

(ii) require the municipality or county to pay the protected person damages of \$250 per day, beginning on the day on which the unlawful condition, delay, or denial occurs, and ending the day on which the municipality or county allows construction of the certified improvement to begin or proceed.

(c) In an action under this Subsection (4), the court shall allow a party to file documents under seal to preserve the confidentiality of the certified improvement.

Section 4. Section 63G-2-302 is amended to read:

63G-2-302 . Private records.

- (1) The following records are private:
- (a) records concerning an individual's eligibility for unemployment insurance benefits, social services, welfare benefits, or the determination of benefit levels;
 - (b) records containing data on individuals describing medical history, diagnosis, condition, treatment, evaluation, or similar medical data;
 - (c) records of publicly funded libraries that when examined alone or with other records identify a patron;
 - (d) records received by or generated by or for:
 - (i) the Independent Legislative Ethics Commission, except for:
 - (A) the commission's summary data report that is required under legislative rule; and
 - (B) any other document that is classified as public under legislative rule; or
 - (ii) a Senate or House Ethics Committee in relation to the review of ethics complaints, unless the record is classified as public under legislative rule;
 - (e) records received by, or generated by or for, the Independent Executive Branch Ethics Commission, except as otherwise expressly provided in Title 63A, Chapter 14, Review of Executive Branch Ethics Complaints;
 - (f) records received or generated for a Senate confirmation committee concerning character, professional competence, or physical or mental health of an individual:
 - (i) if, prior to the meeting, the chair of the committee determines release of the records:
 - (A) reasonably could be expected to interfere with the investigation undertaken by the committee; or
 - (B) would create a danger of depriving a person of a right to a fair proceeding or impartial hearing; and
 - (ii) after the meeting, if the meeting was closed to the public;
 - (g) employment records concerning a current or former employee of, or applicant for employment with, a governmental entity that would disclose that individual's home address, home telephone number, social security number, insurance coverage, marital status, or payroll deductions;
 - (h) records or parts of records under Section 63G-2-303 that a current or former employee identifies as private according to the requirements of that section;
 - (i) that part of a record indicating a person's social security number or federal employer

- 166 identification number if provided under Section 31A-23a-104, 31A-25-202,
167 31A-26-202, 58-1-301, 58-55-302, 61-1-4, or 61-2f-203;
- 168 (j) that part of a voter registration record identifying a voter's:
- 169 (i) driver license or identification card number;
- 170 (ii) social security number, or last four digits of the social security number;
- 171 (iii) email address;
- 172 (iv) date of birth; or
- 173 (v) phone number;
- 174 (k) a voter registration record that is classified as a private record by the lieutenant
175 governor or a county clerk under Subsection 20A-2-101.1(5)(a), 20A-2-104(4)(h), or
176 20A-2-204(4)(b);
- 177 (l) a voter registration record that is withheld under Subsection 20A-2-104(7);
- 178 (m) a withholding request form described in Subsections 20A-2-104(7) and (8) and any
179 verification submitted in support of the form;
- 180 (n) a record that:
- 181 (i) contains information about an individual;
- 182 (ii) is voluntarily provided by the individual; and
- 183 (iii) goes into an electronic database that:
- 184 (A) is designated by and administered under the authority of the Chief Information
185 Officer; and
- 186 (B) acts as a repository of information about the individual that can be
187 electronically retrieved and used to facilitate the individual's online interaction
188 with a state agency;
- 189 (o) information provided to the Commissioner of Insurance under:
- 190 (i) Subsection 31A-23a-115(3)(a);
- 191 (ii) Subsection 31A-23a-302(4); or
- 192 (iii) Subsection 31A-26-210(4);
- 193 (p) information obtained through a criminal background check under Title 11, Chapter
194 40, Criminal Background Checks by Political Subdivisions Operating Water Systems;
- 195 (q) information provided by an offender that is:
- 196 (i) required by the registration requirements of Title 77, Chapter 41, Sex, Kidnap, and
197 Child Abuse Offender Registry; and
- 198 (ii) not required to be made available to the public under Subsection 77-41-110(4);
- 199 (r) a statement and any supporting documentation filed with the attorney general in

- 200 accordance with Section 34-45-107, if the federal law or action supporting the filing
201 involves homeland security;
- 202 (s) electronic toll collection customer account information received or collected under
203 Section 72-6-118 and customer information described in Section 17B-2a-815
204 received or collected by a public transit district, including contact and payment
205 information and customer travel data;
- 206 (t) an email address provided by a military or overseas voter under Section 20A-16-501;
- 207 (u) a completed military-overseas ballot that is electronically transmitted under Title
208 20A, Chapter 16, Uniform Military and Overseas Voters Act;
- 209 (v) records received by or generated by or for the Political Subdivisions Ethics Review
210 Commission established in Section 63A-15-201, except for:
- 211 (i) the commission's summary data report that is required in Section 63A-15-202; and
212 (ii) any other document that is classified as public in accordance with Title 63A,
213 Chapter 15, Political Subdivisions Ethics Review Commission;
- 214 (w) a record described in Section 53G-9-604 that verifies that a parent was notified of an
215 incident or threat;
- 216 (x) a criminal background check or credit history report conducted in accordance with
217 Section 63A-3-201;
- 218 (y) a record described in Subsection 53-5a-104(7);
- 219 (z) on a record maintained by a county for the purpose of administering property taxes,
220 an individual's:
- 221 (i) email address;
- 222 (ii) phone number; or
- 223 (iii) personal financial information related to a person's payment method;
- 224 (aa) a record submitted by a taxpayer to establish the taxpayer's eligibility for an
225 exemption, deferral, abatement, or relief under:
- 226 (i) Title 59, Chapter 2, Part 11, Exemptions;
- 227 (ii) Title 59, Chapter 2, Part 12, Property Tax Relief;
- 228 (iii) Title 59, Chapter 2, Part 18, Tax Deferral and Tax Abatement; or
- 229 (iv) Title 59, Chapter 2, Part 19, Armed Forces Exemptions;
- 230 (bb) a record provided by the State Tax Commission in response to a request under
231 Subsection 59-1-403(4)(y)(iii);
- 232 (cc) a record of the Child Welfare Legislative Oversight Panel regarding an individual
233 child welfare case, as described in Subsection 36-33-103(3);~~[-and]~~

- (dd) a record relating to drug or alcohol testing of a state employee under Section 63A-17-1004;
- (ee) a record relating to a request by a state elected official or state employee who has been threatened to the Division of Technology Services to remove personal identifying information from the open web under Section 63A-16-109;[~~and~~]
- (ff) a record including confidential information as that term is defined in Section [~~67-27-105.~~] 67-27-106; and
- (gg) a record received or generated under Title 53, Chapter 29, Security Improvements Act, relating to:
- (i) an application for certification described in Section 53-29-201; or
- (ii) a certified improvement, including a building permit application or building permit for a certified improvement, described in Section 53-29-301.
- (2) The following records are private if properly classified by a governmental entity:
- (a) records concerning a current or former employee of, or applicant for employment with a governmental entity, including performance evaluations and personal status information such as race, religion, or disabilities, but not including records that are public under Subsection 63G-2-301(2)(b) or 63G-2-301(3)(o) or private under Subsection (1)(b);
- (b) records describing an individual's finances, except that the following are public:
- (i) records described in Subsection 63G-2-301(2);
- (ii) information provided to the governmental entity for the purpose of complying with a financial assurance requirement; or
- (iii) records that must be disclosed in accordance with another statute;
- (c) records of independent state agencies if the disclosure of those records would conflict with the fiduciary obligations of the agency;
- (d) other records containing data on individuals the disclosure of which constitutes a clearly unwarranted invasion of personal privacy;
- (e) records provided by the United States or by a government entity outside the state that are given with the requirement that the records be managed as private records, if the providing entity states in writing that the record would not be subject to public disclosure if retained by it;
- (f) any portion of a record in the custody of the Division of Aging and Adult Services, created in Section 26B-6-102, that may disclose, or lead to the discovery of, the identity of a person who made a report of alleged abuse, neglect, or exploitation of a

vulnerable adult; and

(g) audio and video recordings created by a body-worn camera, as defined in Section 77-7a-103, that record sound or images inside a home or residence except for recordings that:

(i) depict the commission of an alleged crime;

(ii) record any encounter between a law enforcement officer and a person that results in death or bodily injury, or includes an instance when an officer fires a weapon;

(iii) record any encounter that is the subject of a complaint or a legal proceeding against a law enforcement officer or law enforcement agency;

(iv) contain an officer[-] involved critical incident as defined in Subsection 76-2-408 (1)(f); or

(v) have been requested for reclassification as a public record by a subject or authorized agent of a subject featured in the recording.

(3)(a) As used in this Subsection (3), "medical records" means medical reports, records, statements, history, diagnosis, condition, treatment, and evaluation.

(b) Medical records in the possession of the University of Utah Hospital, its clinics, doctors, or affiliated entities are not private records or controlled records under Section 63G-2-304 when the records are sought:

(i) in connection with any legal or administrative proceeding in which the patient's physical, mental, or emotional condition is an element of any claim or defense; or

(ii) after a patient's death, in any legal or administrative proceeding in which any party relies upon the condition as an element of the claim or defense.

(c) Medical records are subject to production in a legal or administrative proceeding according to state or federal statutes or rules of procedure and evidence as if the medical records were in the possession of a nongovernmental medical care provider.

Section 5. **Effective Date.**

This bill takes effect on May 7, 2025.