

Tyler Clancy proposes the following substitute bill:

Protected Person Amendments

2025 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Don L. Ipson

House Sponsor: Tyler Clancy

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:

29 **63G-2-302**, as last amended by Laws of Utah 2024, Chapter 234

30 **63G-7-301**, as last amended by Laws of Utah 2024, Chapter 234

31 ENACTS:

32 **53-29-101**, Utah Code Annotated 1953

33 **53-29-201**, Utah Code Annotated 1953

34 **53-29-301**, Utah Code Annotated 1953

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

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

38 **CHAPTER 29. SECURITY IMPROVEMENTS ACT**

39 **Part 1. General Provisions**

40 **53-29-101 . Definitions.**

41 As used in this chapter:

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

43 (2) "Application for certification" means an application described in Subsection
44 53-29-201(1).

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

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

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

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

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

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

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

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

(7) "Land use authority" means:

(a) with respect to protected property located within a municipality, the same as that 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:
- (a) establishing:
- (i) a process for receiving and evaluating applications for certification; and
- (ii) the required contents of an application for certification; and
- (b) requiring confidential consultation with a mayor or county executive about potential mitigation of material adverse effects when:
- (i) a certified improvement would be visible to an individual located outside the protected property; and
- (ii) the certified improvement would be located within 500 feet of the protected property.
- (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)(a) Upon receipt of a building permit application for the construction of a certified improvement, the land use authority shall:
- (i) review the building permit application for the sole purpose of determining compliance with Title 15A, State Construction and Fire Codes Act; and
- (ii) issue a building permit authorizing the construction if the application complies with Title 15A, State Construction and Fire Codes Act.
- (b) If a building permit application for the construction of a certified improvement complies with Title 15A, State Construction and Fire Codes Act, the land use authority shall authorize construction.
- (3) A certified improvement is not subject to county or municipal land use regulations,

except for regulations regarding the exterior of a building that are imposed under Subsection 53-29-201(2)(b).

(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) 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

- 164 (ii) after the meeting, if the meeting was closed to the public;
- 165 (g) employment records concerning a current or former employee of, or applicant for
- 166 employment with, a governmental entity that would disclose that individual's home
- 167 address, home telephone number, social security number, insurance coverage, marital
- 168 status, or payroll deductions;
- 169 (h) records or parts of records under Section 63G-2-303 that a current or former
- 170 employee identifies as private according to the requirements of that section;
- 171 (i) that part of a record indicating a person's social security number or federal employer
- 172 identification number if provided under Section 31A-23a-104, 31A-25-202,
- 173 31A-26-202, 58-1-301, 58-55-302, 61-1-4, or 61-2f-203;
- 174 (j) that part of a voter registration record identifying a voter's:
- 175 (i) driver license or identification card number;
- 176 (ii) social security number, or last four digits of the social security number;
- 177 (iii) email address;
- 178 (iv) date of birth; or
- 179 (v) phone number;
- 180 (k) a voter registration record that is classified as a private record by the lieutenant
- 181 governor or a county clerk under Subsection 20A-2-101.1(5)(a), 20A-2-104(4)(h), or
- 182 20A-2-204(4)(b);
- 183 (l) a voter registration record that is withheld under Subsection 20A-2-104(7);
- 184 (m) a withholding request form described in Subsections 20A-2-104(7) and (8) and any
- 185 verification submitted in support of the form;
- 186 (n) a record that:
- 187 (i) contains information about an individual;
- 188 (ii) is voluntarily provided by the individual; and
- 189 (iii) goes into an electronic database that:
- 190 (A) is designated by and administered under the authority of the Chief Information
- 191 Officer; and
- 192 (B) acts as a repository of information about the individual that can be
- 193 electronically retrieved and used to facilitate the individual's online interaction
- 194 with a state agency;
- 195 (o) information provided to the Commissioner of Insurance under:
- 196 (i) Subsection 31A-23a-115(3)(a);
- 197 (ii) Subsection 31A-23a-302(4); or

- (iii) Subsection 31A-26-210(4);
- (p) information obtained through a criminal background check under Title 11, Chapter 40, Criminal Background Checks by Political Subdivisions Operating Water Systems;
- (q) information provided by an offender that is:
- (i) required by the registration requirements of Title 77, Chapter 41, Sex, Kidnap, and Child Abuse Offender Registry; and
- (ii) not required to be made available to the public under Subsection 77-41-110(4);
- (r) a statement and any supporting documentation filed with the attorney general in accordance with Section 34-45-107, if the federal law or action supporting the filing involves homeland security;
- (s) electronic toll collection customer account information received or collected under Section 72-6-118 and customer information described in Section 17B-2a-815 received or collected by a public transit district, including contact and payment information and customer travel data;
- (t) an email address provided by a military or overseas voter under Section 20A-16-501;
- (u) a completed military-overseas ballot that is electronically transmitted under Title 20A, Chapter 16, Uniform Military and Overseas Voters Act;
- (v) records received by or generated by or for the Political Subdivisions Ethics Review Commission established in Section 63A-15-201, except for:
- (i) the commission's summary data report that is required in Section 63A-15-202; and
- (ii) any other document that is classified as public in accordance with Title 63A, Chapter 15, Political Subdivisions Ethics Review Commission;
- (w) a record described in Section 53G-9-604 that verifies that a parent was notified of an incident or threat;
- (x) a criminal background check or credit history report conducted in accordance with Section 63A-3-201;
- (y) a record described in Subsection 53-5a-104(7);
- (z) on a record maintained by a county for the purpose of administering property taxes, an individual's:
- (i) email address;
- (ii) phone number; or
- (iii) personal financial information related to a person's payment method;
- (aa) a record submitted by a taxpayer to establish the taxpayer's eligibility for an exemption, deferral, abatement, or relief under:

- 232 (i) Title 59, Chapter 2, Part 11, Exemptions;
233 (ii) Title 59, Chapter 2, Part 12, Property Tax Relief;
234 (iii) Title 59, Chapter 2, Part 18, Tax Deferral and Tax Abatement; or
235 (iv) Title 59, Chapter 2, Part 19, Armed Forces Exemptions;
- 236 (bb) a record provided by the State Tax Commission in response to a request under
237 Subsection 59-1-403(4)(y)(iii);
- 238 (cc) a record of the Child Welfare Legislative Oversight Panel regarding an individual
239 child welfare case, as described in Subsection 36-33-103(3);~~and~~
- 240 (dd) a record relating to drug or alcohol testing of a state employee under Section
241 63A-17-1004;
- 242 (ee) a record relating to a request by a state elected official or state employee who has
243 been threatened to the Division of Technology Services to remove personal
244 identifying information from the open web under Section 63A-16-109;~~and~~
- 245 (ff) a record including confidential information as that term is defined in Section [
246 67-27-105.] 67-27-106; and
- 247 (gg) a record received or generated under Title 53, Chapter 29, Security Improvements
248 Act, relating to:
- 249 (i) an application for certification described in Section 53-29-201; or
250 (ii) a certified improvement, including a building permit application or building
251 permit for a certified improvement, described in Section 53-29-301.
- 252 (2) The following records are private if properly classified by a governmental entity:
- 253 (a) records concerning a current or former employee of, or applicant for employment
254 with a governmental entity, including performance evaluations and personal status
255 information such as race, religion, or disabilities, but not including records that are
256 public under Subsection 63G-2-301(2)(b) or 63G-2-301(3)(o) or private under
257 Subsection (1)(b);
- 258 (b) records describing an individual's finances, except that the following are public:
- 259 (i) records described in Subsection 63G-2-301(2);
- 260 (ii) information provided to the governmental entity for the purpose of complying
261 with a financial assurance requirement; or
- 262 (iii) records that must be disclosed in accordance with another statute;
- 263 (c) records of independent state agencies if the disclosure of those records would
264 conflict with the fiduciary obligations of the agency;
- 265 (d) other records containing data on individuals the disclosure of which constitutes a

- 266 clearly unwarranted invasion of personal privacy;
- 267 (e) records provided by the United States or by a government entity outside the state that
- 268 are given with the requirement that the records be managed as private records, if the
- 269 providing entity states in writing that the record would not be subject to public
- 270 disclosure if retained by it;
- 271 (f) any portion of a record in the custody of the Division of Aging and Adult Services,
- 272 created in Section 26B-6-102, that may disclose, or lead to the discovery of, the
- 273 identity of a person who made a report of alleged abuse, neglect, or exploitation of a
- 274 vulnerable adult; and
- 275 (g) audio and video recordings created by a body-worn camera, as defined in Section
- 276 77-7a-103, that record sound or images inside a home or residence except for
- 277 recordings that:
- 278 (i) depict the commission of an alleged crime;
- 279 (ii) record any encounter between a law enforcement officer and a person that results
- 280 in death or bodily injury, or includes an instance when an officer fires a weapon;
- 281 (iii) record any encounter that is the subject of a complaint or a legal proceeding
- 282 against a law enforcement officer or law enforcement agency;
- 283 (iv) contain an officer[-] involved critical incident as defined in Subsection 76-2-408
- 284 (1)(f); or
- 285 (v) have been requested for reclassification as a public record by a subject or
- 286 authorized agent of a subject featured in the recording.
- 287 (3)(a) As used in this Subsection (3), "medical records" means medical reports, records,
- 288 statements, history, diagnosis, condition, treatment, and evaluation.
- 289 (b) Medical records in the possession of the University of Utah Hospital, its clinics,
- 290 doctors, or affiliated entities are not private records or controlled records under
- 291 Section 63G-2-304 when the records are sought:
- 292 (i) in connection with any legal or administrative proceeding in which the patient's
- 293 physical, mental, or emotional condition is an element of any claim or defense; or
- 294 (ii) after a patient's death, in any legal or administrative proceeding in which any
- 295 party relies upon the condition as an element of the claim or defense.
- 296 (c) Medical records are subject to production in a legal or administrative proceeding
- 297 according to state or federal statutes or rules of procedure and evidence as if the
- 298 medical records were in the possession of a nongovernmental medical care provider.
- 299 Section 5. Section **63G-7-301** is amended to read:

63G-7-301 . Waivers of immunity.

- (1)(a) Immunity from suit of each governmental entity is waived as to any contractual obligation.
- (b) Actions arising out of contractual rights or obligations are not subject to the requirements of Section 63G-7-401, 63G-7-402, 63G-7-403, or 63G-7-601.
- (c) The Division of Water Resources is not liable for failure to deliver water from a reservoir or associated facility authorized by Title 73, Chapter 26, Bear River Development Act, if the failure to deliver the contractual amount of water is due to drought, other natural condition, or safety condition that causes a deficiency in the amount of available water.
- (2) Immunity from suit of each governmental entity is waived:
- (a) as to any action brought to recover, obtain possession of, or quiet title to real or personal property;
- (b) as to any action brought to foreclose mortgages or other liens on real or personal property, to determine any adverse claim on real or personal property, or to obtain an adjudication about any mortgage or other lien that the governmental entity may have or claim on real or personal property;
- (c) as to any action based on the negligent destruction, damage, or loss of goods, merchandise, or other property while it is in the possession of any governmental entity or employee, if the property was seized for the purpose of forfeiture under any provision of state law;
- (d) subject to Section 63G-7-302, as to any action brought under the authority of Utah Constitution, Article I, Section 22, for the recovery of compensation from the governmental entity when the governmental entity has taken or damaged private property for public uses without just compensation;
- (e) as to any claim for attorney fees or costs under Section 63G-2-209, 63G-2-405, or 63G-2-802;
- (f) for actual damages under Title 67, Chapter 21, Utah Protection of Public Employees Act;
- (g) as to any action brought to obtain relief from a land use regulation that imposes a substantial burden on the free exercise of religion under Title 63L, Chapter 5, Utah Religious Land Use Act;
- (h) except as provided in Subsection 63G-7-201(3), as to any injury caused by:
- (i) a defective, unsafe, or dangerous condition of any highway, road, street, alley,

- 334 crosswalk, sidewalk, culvert, tunnel, bridge, viaduct, or other structure located on
335 them; or
- 336 (ii) any defective or dangerous condition of a public building, structure, dam,
337 reservoir, or other public improvement;
- 338 (i) subject to Subsections 63G-7-101(4) and 63G-7-201(4), as to any injury proximately
339 caused by a negligent act or omission of an employee committed within the scope of
340 employment;
- 341 (j) notwithstanding Subsection 63G-7-101(4), as to a claim for an injury resulting from a
342 sexual battery, as provided in Section 76-9-702.1, committed:
- 343 (i) against a student of a public elementary or secondary school, including a charter
344 school; and
- 345 (ii) by an employee of a public elementary or secondary school or charter school who:
- 346 (A) at the time of the sexual battery, held a position of special trust, as defined in
347 Section 76-5-404.1, with respect to the student;
- 348 (B) is criminally charged in connection with the sexual battery; and
- 349 (C) the public elementary or secondary school or charter school knew or in the
350 exercise of reasonable care should have known, at the time of the employee's
351 hiring, to be a sex offender, kidnap offender, or child abuse offender as defined
352 in Section 77-41-102, required to register under Title 77, Chapter 41, Sex,
353 Kidnap, and Child Abuse Offender Registry, whose status as a sex offender,
354 kidnap offender, or child abuse offender would have been revealed in a
355 background check under Section 53G-11-402;
- 356 (k) as to any action brought under Section 78B-6-2303~~[-and]~~
- 357 (l) as to any action brought to obtain relief under Title 53B, Chapter 27, Part 6, Student
358 Legal Representation~~[-]~~ ; and
- 359 (m) as to any action brought under Section 53-29-301.
- 360 (3)(a) As used in this Subsection (3):
- 361 (i) "Code of conduct" means a code of conduct that:
- 362 (A) is not less stringent than a model code of conduct, created by the State Board
363 of Education, establishing a professional standard of care for preventing the
364 conduct described in Subsection (3)(a)(i)(D);
- 365 (B) is adopted by the applicable local education governing body;
- 366 (C) regulates behavior of a school employee toward a student; and
- 367 (D) includes a prohibition against any sexual conduct between an employee and a

- 368 student and against the employee and student sharing any sexually explicit or
369 lewd communication, image, or photograph.
- 370 (ii) "Local education agency" means:
- 371 (A) a school district;
- 372 (B) a charter school; or
- 373 (C) the Utah Schools for the Deaf and the Blind.
- 374 (iii) "Local education governing board" means:
- 375 (A) for a school district, the local school board;
- 376 (B) for a charter school, the charter school governing board; or
- 377 (C) for the Utah Schools for the Deaf and the Blind, the state board.
- 378 (iv) "Public school" means a public elementary or secondary school.
- 379 (v) "Sexual abuse" means the offense described in Subsection 76-5-404.1(2).
- 380 (vi) "Sexual battery" means the offense described in Section 76-9-702.1, considering
381 the term "child" in that section to include an individual under [~~age 18~~] 18 years old.
- 382 (b) Notwithstanding Subsection 63G-7-101(4), immunity from suit is waived as to a
383 claim against a local education agency for an injury resulting from a sexual battery or
384 sexual abuse committed against a student of a public school by a paid employee of
385 the public school who is criminally charged in connection with the sexual battery or
386 sexual abuse, unless:
- 387 (i) at the time of the sexual battery or sexual abuse, the public school was subject to a
388 code of conduct; and
- 389 (ii) before the sexual battery or sexual abuse occurred, the public school had:
- 390 (A) provided training on the code of conduct to the employee; and
- 391 (B) required the employee to sign a statement acknowledging that the employee
392 has read and understands the code of conduct.
- 393 (4)(a) As used in this Subsection (4):
- 394 (i) "Higher education institution" means an institution included within the state
395 system of higher education under Section 53B-1-102.
- 396 (ii) "Policy governing behavior" means a policy adopted by a higher education
397 institution or the Utah Board of Higher Education that:
- 398 (A) establishes a professional standard of care for preventing the conduct
399 described in Subsections (4)(a)(ii)(C) and (D);
- 400 (B) regulates behavior of a special trust employee toward a subordinate student;
- 401 (C) includes a prohibition against any sexual conduct between a special trust

- 402 employee and a subordinate student; and
- 403 (D) includes a prohibition against a special trust employee and subordinate student
- 404 sharing any sexually explicit or lewd communication, image, or photograph.
- 405 (iii) "Sexual battery" means the offense described in Section 76-9-702.1.
- 406 (iv) "Special trust employee" means an employee of a higher education institution
- 407 who is in a position of special trust, as defined in Section 76-5-404.1, with a
- 408 higher education student.
- 409 (v) "Subordinate student" means a student:
- 410 (A) of a higher education institution; and
- 411 (B) whose educational opportunities could be adversely impacted by a special
- 412 trust employee.
- 413 (b) Notwithstanding Subsection 63G-7-101(4), immunity from suit is waived as to a
- 414 claim for an injury resulting from a sexual battery committed against a subordinate
- 415 student by a special trust employee, unless:
- 416 (i) the institution proves that the special trust employee's behavior that otherwise
- 417 would constitute a sexual battery was:
- 418 (A) with a subordinate student who was at least 18 years old at the time of the
- 419 behavior; and
- 420 (B) with the student's consent; or
- 421 (ii)(A) at the time of the sexual battery, the higher education institution was
- 422 subject to a policy governing behavior; and
- 423 (B) before the sexual battery occurred, the higher education institution had taken
- 424 steps to implement and enforce the policy governing behavior.

425 **Section 6. Effective Date.**

426 This bill takes effect on May 7, 2025.