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**DISPATCHER DISCIPLINE AMENDMENTS**

2024 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Ariel Defay**

Senate Sponsor: Todd D. Weiler

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**LONG TITLE**

**General Description:**

This bill concerns disciplinary action against a dispatcher.

**Highlighted Provisions:**

This bill:

- removes addiction to alcohol or a controlled substance as a basis for disciplinary action against a dispatcher by the Peace Officer Standards and Training Council; and
- makes technical and conforming changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**53-6-309**, as last amended by Laws of Utah 2020, Chapter 35

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

Section 1. Section **53-6-309** is amended to read:

**53-6-309 . Suspension or revocation of certification -- Right to a hearing --**

**Grounds -- Notice to employer -- Reporting.**

(1) The council has the authority to issue a Letter of Caution, or suspend or revoke the certification of a dispatcher, if the dispatcher:

- (a) willfully falsifies any information to obtain certification;
- (b) has any physical or mental disability affecting the dispatcher's ability to perform duties;

~~[(e) is addicted to alcohol or any controlled substance, unless the dispatcher reports the~~

- 29           addiction to the employer and to the director as part of a departmental early  
30           intervention process;]
- 31           ~~[(d)]~~ (c) engages in conduct constituting a state or federal criminal offense, but not  
32           including a traffic offense that is a class C misdemeanor or infraction;
- 33           ~~[(e)]~~ (d) refuses to respond, or fails to respond truthfully, to questions after having been  
34           issued a warning based on Garrity v. New Jersey, 385 U.S. 493 (1967); or
- 35           ~~[(f)]~~ (e) engages in sexual conduct while on duty.
- 36 (2) The council may not issue a Letter of Caution, or suspend or revoke the certification of  
37           a dispatcher for a violation of the employing agency's policies, general orders, or  
38           guidelines of operation that do not amount to a cause of action under Subsection (1).
- 39 (3) (a) The division is responsible for investigating dispatchers who are alleged to have  
40           engaged in conduct in violation of Subsection (1).
- 41           (b) The division shall initiate all adjudicative proceedings under this section by  
42           providing to the dispatcher involved notice and an opportunity for a hearing before an  
43           administrative law judge.
- 44           (c) All adjudicative proceedings under this section are civil actions, notwithstanding  
45           whether the issue in the adjudicative proceeding is a violation of statute that may be  
46           prosecuted criminally.
- 47           (d) (i) The burden of proof on the division in an adjudicative proceeding under this  
48           section is by clear and convincing evidence.
- 49                 (ii) If a dispatcher asserts an affirmative defense, the dispatcher has the burden of  
50                 proof to establish the affirmative defense by a preponderance of the evidence.
- 51           (e) If the administrative law judge issues findings of fact and conclusions of law stating  
52           there is sufficient evidence to demonstrate that the dispatcher engaged in conduct that  
53           is in violation of Subsection (1), the division shall present the findings and  
54           conclusions issued by the administrative law judge to the council.
- 55           (f) The division shall notify the agency that employs the involved dispatcher of the  
56           investigation and shall provide any information or comments concerning the  
57           dispatcher received from that agency regarding the dispatcher to the council before a  
58           Letter of Caution is issued, or a dispatcher's certification may be suspended or  
59           revoked.
- 60           (g) If the administrative law judge finds that there is insufficient evidence to  
61           demonstrate that the dispatcher is in violation of Subsection (1), the administrative  
62           law judge shall dismiss the adjudicative proceeding.

- 63 (4) (a) The council shall:
- 64 (i) accept the administrative law judge's findings of fact and conclusions of law and
- 65 the information concerning the dispatcher provided by the dispatcher's employing
- 66 agency; and
- 67 (ii) choose whether to issue a Letter of Caution, or suspend or revoke the dispatcher's
- 68 certification.
- 69 (b) Before making a decision, the council may consider aggravating and mitigating
- 70 circumstances.
- 71 (c) A council member shall recuse himself or herself from consideration of an issue that
- 72 is before the council if the council member:
- 73 (i) has a personal bias for or against the dispatcher;
- 74 (ii) has a substantial pecuniary interest in the outcome of the proceeding and may
- 75 gain or lose some benefit from the outcome; or
- 76 (iii) employs, supervises, or works for the same agency as the dispatcher whose case
- 77 is before the council.
- 78 (5) (a) Termination of a dispatcher, whether voluntary or involuntary, does not preclude
- 79 suspension or revocation of a dispatcher's certification by the council if the dispatcher
- 80 was terminated for any of the reasons under Subsection (1).
- 81 (b) Employment by another agency, or reinstatement of a dispatcher by the original
- 82 employing agency after termination by that agency, whether the termination was
- 83 voluntary or involuntary, does not preclude suspension or revocation of a dispatcher's
- 84 certification by the council if the dispatcher was terminated for any of the reasons
- 85 under Subsection (1).
- 86 (6) (a) An agency that is made aware of an allegation against a dispatcher employed by
- 87 that agency that involves conduct in violation of Subsection (1) shall investigate the
- 88 allegation and report to the division if the allegation is found to be true.
- 89 (b) If a dispatcher who is the subject of an internal or administrative investigation into
- 90 allegations that include any of the conditions or circumstances outlined in Subsection
- 91 (1) resigns, retires, or otherwise separates from the investigating law enforcement
- 92 agency before the conclusion of the investigation, the agency shall report the
- 93 allegations and any investigation results to the division.
- 94 (7) The council's issuance of a Letter of Caution, or suspension or revocation of an officer's
- 95 certification under Subsection (4) may be appealed under Title 63G, Chapter 4, Part 4,
- 96 Judicial Review.

97 Section 2. **Effective date.**

98 This bill takes effect on May 1, 2024.