

1 **GOVERNMENT RECORDS ACCESS AND**
2 **MANAGEMENT ACT REVISIONS**

3 2006 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Craig A. Frank**

6 Senate Sponsor: David L. Thomas

8 **LONG TITLE**

9 **General Description:**

10 This bill modifies the definition of a record and amends the duties of each chief
11 administrative officer of a governmental entity under the Government Records Access
12 and Management Act.

13 **Highlighted Provisions:**

14 This bill:

- 15 ▶ provides that certain mobile telephone numbers or similar codes are not records
16 required to be produced in response to a GRAMA request if the governmental entity
17 provides another telephone number in response to the request;
- 18 ▶ requires the chief administrative officer of a governmental entity to ensure that all
19 officers and employees that receive or process records requests under the act receive
20 training on the procedures and requirements of the act; and
- 21 ▶ makes technical changes.

22 **Monies Appropriated in this Bill:**

23 None

24 **Other Special Clauses:**

25 None

26 **Utah Code Sections Affected:**

27 AMENDS:

28 **63-2-103**, as last amended by Chapter 2, Laws of Utah 2006

29 **63-2-903**, as last amended by Chapter 40, Laws of Utah 2005

30

31 *Be it enacted by the Legislature of the state of Utah:*32 Section 1. Section **63-2-103** is amended to read:33 **63-2-103. Definitions.**

34 As used in this chapter:

35 (1) "Audit" means:

36 (a) a systematic examination of financial, management, program, and related records

37 for the purpose of determining the fair presentation of financial statements, adequacy of

38 internal controls, or compliance with laws and regulations; or

39 (b) a systematic examination of program procedures and operations for the purpose of

40 determining their effectiveness, economy, efficiency, and compliance with statutes and

41 regulations.

42 (2) "Chronological logs" mean the regular and customary summary records of law

43 enforcement agencies and other public safety agencies that show:

44 (a) the time and general nature of police, fire, and paramedic calls made to the agency;

45 (b) and any arrests or jail bookings made by the agency.

46 (3) "Classification," "classify," and their derivative forms mean determining whether a

47 record series, record, or information within a record is public, private, controlled, protected, or

48 exempt from disclosure under Subsection 63-2-201(3)(b).

49 (4) (a) "Computer program" means:

50 (i) a series of instructions or statements that permit the functioning of a computer

51 system in a manner designed to provide storage, retrieval, and manipulation of data from the

52 computer system; and

53 (ii) any associated documentation and source material that explain how to operate the

54 computer program.

55 (b) "Computer program" does not mean:

56 (i) the original data, including numbers, text, voice, graphics, and images;

57 (ii) analysis, compilation, and other manipulated forms of the original data produced by

58 use of the program; or

59 (iii) the mathematical or statistical formulas, excluding the underlying mathematical
60 algorithms contained in the program, that would be used if the manipulated forms of the
61 original data were to be produced manually.

62 (5) (a) "Contractor" means:

63 (i) any person who contracts with a governmental entity to provide goods or services
64 directly to a governmental entity; or

65 (ii) any private, nonprofit organization that receives funds from a governmental entity.

66 (b) "Contractor" does not mean a private provider.

67 (6) "Controlled record" means a record containing data on individuals that is controlled
68 as provided by Section 63-2-303.

69 (7) "Designation," "designate," and their derivative forms mean indicating, based on a
70 governmental entity's familiarity with a record series or based on a governmental entity's
71 review of a reasonable sample of a record series, the primary classification that a majority of
72 records in a record series would be given if classified and the classification that other records
73 typically present in the record series would be given if classified.

74 (8) "Explosive" means a chemical compound, device, or mixture:

75 (a) commonly used or intended for the purpose of producing an explosion; and

76 (b) that contains oxidizing or combustive units or other ingredients in proportions,
77 quantities, or packing so that:

78 (i) an ignition by fire, friction, concussion, percussion, or detonator of any part of the
79 compound or mixture may cause a sudden generation of highly heated gases; and

80 (ii) the resultant gaseous pressures are capable of:

81 (A) producing destructive effects on contiguous objects; or

82 (B) causing death or serious bodily injury.

83 (9) "Government audit agency" means any governmental entity that conducts an audit.

84 (10) (a) "Governmental entity" means:

85 (i) executive department agencies of the state, the offices of the governor, lieutenant

86 governor, state auditor, attorney general, and state treasurer, the Board of Pardons and Parole,
87 the Board of Examiners, the National Guard, the Career Service Review Board, the State Board
88 of Education, the State Board of Regents, and the State Archives;

89 (ii) the Office of the Legislative Auditor General, Office of the Legislative Fiscal
90 Analyst, Office of Legislative Research and General Counsel, the Legislature, and legislative
91 committees, except any political party, group, caucus, or rules or sifting committee of the
92 Legislature;

93 (iii) courts, the Judicial Council, the Office of the Court Administrator, and similar
94 administrative units in the judicial branch;

95 (iv) any state-funded institution of higher education or public education; or

96 (v) any political subdivision of the state, but, if a political subdivision has adopted an
97 ordinance or a policy relating to information practices pursuant to Section 63-2-701, this
98 chapter shall apply to the political subdivision to the extent specified in Section 63-2-701 or as
99 specified in any other section of this chapter that specifically refers to political subdivisions.

100 (b) "Governmental entity" also means every office, agency, board, bureau, committee,
101 department, advisory board, or commission of an entity listed in Subsection (10)(a) that is
102 funded or established by the government to carry out the public's business.

103 (11) "Gross compensation" means every form of remuneration payable for a given
104 period to an individual for services provided including salaries, commissions, vacation pay,
105 severance pay, bonuses, and any board, rent, housing, lodging, payments in kind, and any
106 similar benefit received from the individual's employer.

107 (12) "Individual" means a human being.

108 (13) (a) "Initial contact report" means an initial written or recorded report, however
109 titled, prepared by peace officers engaged in public patrol or response duties describing official
110 actions initially taken in response to either a public complaint about or the discovery of an
111 apparent violation of law, which report may describe:

112 (i) the date, time, location, and nature of the complaint, the incident, or offense;

113 (ii) names of victims;

114 (iii) the nature or general scope of the agency's initial actions taken in response to the
115 incident;

116 (iv) the general nature of any injuries or estimate of damages sustained in the incident;

117 (v) the name, address, and other identifying information about any person arrested or
118 charged in connection with the incident; or

119 (vi) the identity of the public safety personnel, except undercover personnel, or
120 prosecuting attorney involved in responding to the initial incident.

121 (b) Initial contact reports do not include follow-up or investigative reports prepared
122 after the initial contact report. However, if the information specified in Subsection (13)(a)
123 appears in follow-up or investigative reports, it may only be treated confidentially if it is
124 private, controlled, protected, or exempt from disclosure under Subsection 63-2-201(3)(b).

125 (14) "Notice of compliance" means a statement confirming that a governmental entity
126 has complied with a records committee order.

127 (15) "Person" means:

128 (a) an individual;

129 (b) a nonprofit or profit corporation;

130 (c) a partnership;

131 (d) a sole proprietorship;

132 (e) other type of business organization; or

133 (f) any combination acting in concert with one another.

134 (16) "Private provider" means any person who contracts with a governmental entity to
135 provide services directly to the public.

136 (17) "Private record" means a record containing data on individuals that is private as
137 provided by Section 63-2-302.

138 (18) "Protected record" means a record that is classified protected as provided by
139 Section 63-2-304.

140 (19) "Public record" means a record that is not private, controlled, or protected and that
141 is not exempt from disclosure as provided in Subsection 63-2-201(3)(b).

142 (20) (a) "Record" means a book, letter, document, paper, map, plan, photograph, film,
143 card, tape, recording, electronic data, or other documentary material regardless of physical form
144 or characteristics:

145 (i) that is prepared, owned, received, or retained by a governmental entity or political
146 subdivision; and

147 (ii) where all of the information in the original is reproducible by photocopy or other
148 mechanical or electronic means.

149 (b) "Record" does not mean:

150 (i) a temporary draft or similar material prepared for the originator's personal use or
151 prepared by the originator for the personal use of an individual for whom the originator is
152 working;

153 (ii) material that is legally owned by an individual in the individual's private capacity;

154 (iii) material to which access is limited by the laws of copyright or patent unless the
155 copyright or patent is owned by a governmental entity or political subdivision;

156 (iv) proprietary software;

157 (v) junk mail or a commercial publication received by a governmental entity or an
158 official or employee of a governmental entity;

159 (vi) a book that is cataloged, indexed, or inventoried and contained in the collections of
160 a library open to the public;

161 (vii) material that is cataloged, indexed, or inventoried and contained in the collections
162 of a library open to the public, regardless of physical form or characteristics of the material;

163 (viii) a daily calendar or other personal note prepared by the originator for the
164 originator's personal use or for the personal use of an individual for whom the originator is
165 working;

166 (ix) a computer program that is developed or purchased by or for any governmental
167 entity for its own use;

168 (x) a note or internal memorandum prepared as part of the deliberative process by:

169 (A) a member of the judiciary;

- 170 (B) an administrative law judge;
- 171 (C) a member of the Board of Pardons and Parole; or
- 172 (D) a member of any other body charged by law with performing a quasi-judicial
- 173 function; or
- 174 (xi) a telephone number or similar code used to access a mobile communication device
- 175 that is used by an employee or officer of a governmental entity, provided that the employee or
- 176 officer of the governmental entity has designated at least one business telephone number that is
- 177 a public record as provided in Section 63-2-301.
- 178 (21) "Record series" means a group of records that may be treated as a unit for
- 179 purposes of designation, description, management, or disposition.
- 180 (22) "Records committee" means the State Records Committee created in Section
- 181 63-2-501.
- 182 (23) "Records officer" means the individual appointed by the chief administrative
- 183 officer of each governmental entity, or the political subdivision to work with state archives in
- 184 the care, maintenance, scheduling, designation, classification, disposal, and preservation of
- 185 records.
- 186 (24) "Schedule," "scheduling," and their derivative forms mean the process of
- 187 specifying the length of time each record series should be retained by a governmental entity for
- 188 administrative, legal, fiscal, or historical purposes and when each record series should be
- 189 transferred to the state archives or destroyed.
- 190 (25) "Sponsored research" means research, training, and other sponsored activities as
- 191 defined by the federal Executive Office of the President, Office of Management and Budget:
- 192 (a) conducted:
- 193 (i) by an institution within the state system of higher education defined in Section
- 194 53B-1-102; and
- 195 (ii) through an office responsible for sponsored projects or programs; and
- 196 (b) funded or otherwise supported by an external:
- 197 (i) person that is not created or controlled by the institution within the state system of

198 higher education; or

199 (ii) federal, state, or local governmental entity.

200 (26) "State archives" means the Division of Archives and Records Service created in
201 Section 63-2-901.

202 (27) "State archivist" means the director of the state archives.

203 (28) "Summary data" means statistical records and compilations that contain data
204 derived from private, controlled, or protected information but that do not disclose private,
205 controlled, or protected information.

206 Section 2. Section **63-2-903** is amended to read:

207 **63-2-903. Duties of governmental entities.**

208 The chief administrative officer of each governmental entity shall:

209 (1) establish and maintain an active, continuing program for the economical and
210 efficient management of the governmental entity's records as provided by this chapter;

211 (2) appoint one or more records officers who will be trained to work with the state
212 archives in the care, maintenance, scheduling, disposal, classification, designation, access, and
213 preservation of records;

214 (3) ensure that officers and employees of the governmental entity that receive or
215 process records requests receive required training on the procedures and requirements of this
216 chapter;

217 [~~3~~] (4) make and maintain adequate and proper documentation of the organization,
218 functions, policies, decisions, procedures, and essential transactions of the governmental entity
219 designed to furnish information to protect the legal and financial rights of persons directly
220 affected by the entity's activities;

221 [~~4~~] (5) submit to the state archivist proposed schedules of records for final approval
222 by the records committee;

223 [~~5~~] (6) cooperate with the state archivist in conducting surveys made by the state
224 archivist;

225 [~~6~~] (7) comply with rules issued by the Department of Administrative Services as

226 provided by Section 63-2-904;

227 [~~(7)~~] (8) report to the state archives the designation of record series that it maintains;

228 [~~(8)~~] (9) report to the state archives the classification of each record series that is

229 classified; and

230 [~~(9)~~] (10) establish and report to the state archives retention schedules for objects that

231 the governmental entity determines are not defined as a record under Section 63-2-103, but that

232 have historical or evidentiary value.