

1 **PRIVACY OF RECORDS RELATED TO**
2 **MINORS**

3 2006 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Eric K. Hutchings**

6 Senate Sponsor: _____

8 **LONG TITLE**

9 **General Description:**

10 This bill modifies the Government Records Access and Management Act by amending
11 private records provisions.

12 **Highlighted Provisions:**

13 This bill:

14 ▶ classifies that portion of a record that indicates a minor's name, age, home address,
15 home telephone number, mobile phone number, or Social Security number as
16 private unless the record is a court record; and

17 ▶ makes technical changes.

18 **Monies Appropriated in this Bill:**

19 None

20 **Other Special Clauses:**

21 None

22 **Utah Code Sections Affected:**

23 AMENDS:

24 **63-2-302**, as last amended by Chapters 90 and 173, Laws of Utah 2004

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

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



28 **63-2-302. 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 or generated for a Senate or House Ethics Committee concerning
37 any alleged violation of the rules on legislative ethics, prior to the meeting, and after the
38 meeting, if the ethics committee meeting was closed to the public;

39 (e) records received or generated for a Senate confirmation committee concerning
40 character, professional competence, or physical or mental health of an individual:

41 (i) if prior to the meeting, the chair of the committee determines release of the records:

42 (A) reasonably could be expected to interfere with the investigation undertaken by the
43 committee; or

44 (B) would create a danger of depriving a person of a right to a fair proceeding or
45 impartial hearing; and

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

47 (f) employment records concerning a current or former employee of, or applicant for
48 employment with, a governmental entity that would disclose that individual's home address,
49 home telephone number, Social Security number, insurance coverage, marital status, or payroll
50 deductions;

51 (g) records or parts of records under Section 63-2-302.5 that a current or former
52 employee identifies as private according to the requirements of that section;

53 (h) that part of a record indicating a person's Social Security number or federal
54 employer identification number if provided under Section 31A-23a-104, 31A-25-202,
55 31A-26-202, 58-1-301, 61-1-4, or 61-2-6;

56 (i) that part of a voter registration record identifying a voter's driver license or
57 identification card number, Social Security number, or last four digits of the Social Security
58 number;

- 59 (j) a record that:
- 60 (i) contains information about an individual;
- 61 (ii) is voluntarily provided by the individual; and
- 62 (iii) goes into an electronic database that:
- 63 (A) is designated by and administered under the authority of the Chief Information
- 64 Officer; and
- 65 (B) acts as a repository of information about the individual that can be electronically
- 66 retrieved and used to facilitate the individual's online interaction with a state agency;
- 67 (k) information provided to the Commissioner of Insurance under:
- 68 (i) Subsection 31A-23a-115(2)(a); or
- 69 (ii) Subsection 31A-23a-302(3); and
- 70 (l) information obtained through a criminal background check under Title 11, Chapter
- 71 40, Criminal Background Checks by Political Subdivisions Operating Water Systems.
- 72 (2) The following records are private if properly classified by a governmental entity:
- 73 (a) records concerning a current or former employee of, or applicant for employment
- 74 with a governmental entity, including performance evaluations and personal status information
- 75 such as race, religion, or disabilities, but not including records that are public under Subsection
- 76 63-2-301(1)(b) or 63-2-301(2)(o), or private under Subsection (1)(b);
- 77 (b) records describing an individual's finances, except that the following are public:
- 78 (i) records described in Subsection 63-2-301(1);
- 79 (ii) information provided to the governmental entity for the purpose of complying with
- 80 a financial assurance requirement; or
- 81 (iii) records that must be disclosed in accordance with another statute;
- 82 (c) records of independent state agencies if the disclosure of those records would
- 83 conflict with the fiduciary obligations of the agency;
- 84 (d) other records containing data on individuals the disclosure of which constitutes a
- 85 clearly unwarranted invasion of personal privacy; ~~and~~
- 86 (e) records provided by the United States or by a government entity outside the state
- 87 that are given with the requirement that the records be managed as private records, if the
- 88 providing entity states in writing that the record would not be subject to public disclosure if
- 89 retained by it[-]; and

90 (f) that part of a record of an individual under 18 years of age indicating the
91 individual's name, age, home address, home telephone number, mobile phone number, or
92 Social Security number, unless the record is a court record.

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

95 (b) Medical records in the possession of the University of Utah Hospital, its clinics,
96 doctors, or affiliated entities are not private records or controlled records under Section
97 63-2-303 when the records are sought:

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

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

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

Legislative Review Note
as of 12-19-05 3:09 PM

Based on a limited legal review, this legislation has not been determined to have a high probability of being held unconstitutional.

Office of Legislative Research and General Counsel

Fiscal Note
Bill Number HB0281

Privacy of Records Related to Minors

20-Jan-06

11:57 AM

State Impact

No fiscal impact.

Individual and Business Impact

No fiscal impact.

Office of the Legislative Fiscal Analyst