

1 **RELEASE OF COURT DOCUMENTS AND**
2 **CHILD INTERVIEWS**
3 2010 GENERAL SESSION
4 STATE OF UTAH

5 **Chief Sponsor: Lorie D. Fowlke**

6 Senate Sponsor: Curtis S. Bramble

7 Cosponsor: Jackie Biskupski

8
9 **LONG TITLE**

10 **General Description:**

11 This bill limits the release of court documents and child interviews.

12 **Highlighted Provisions:**

13 This bill:

- 14 ▶ limits who can receive and view interviews with child victims;
- 15 ▶ creates a new provision in the Judiciary and Judicial Administration code;
- 16 ▶ provides that documents received by pro se litigants are confidential;
- 17 ▶ requires the court to advise pro se litigants of the confidentiality of documents received
- 18 during litigation;
- 19 ▶ requires the court to specify who may receive child interviews; and
- 20 ▶ provides that violations by pro se litigants may be punished by contempt or a class B
- 21 misdemeanor.

22 **Monies Appropriated in this Bill:**

23 None

24 **Other Special Clauses:**

25 None

26 **Utah Code Sections Affected:**

27 AMENDS:

28 **63G-2-305**, as last amended by Laws of Utah 2009, Chapters 64 and 121

29 **77-37-4**, as enacted by Laws of Utah 1987, Chapter 194

30 **78A-6-317**, as last amended by Laws of Utah 2009, Chapter 161

31 ENACTS:

32 **78A-2-229**, Utah Code Annotated 1953



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

35 Section 1. Section **63G-2-305** is amended to read:

36 **63G-2-305. Protected records.**

37 The following records are protected if properly classified by a governmental entity:

38 (1) trade secrets as defined in Section 13-24-2 if the person submitting the trade secret has
39 provided the governmental entity with the information specified in Section 63G-2-309;

40 (2) commercial information or nonindividual financial information obtained from a person if:

41 (a) disclosure of the information could reasonably be expected to result in unfair competitive
42 injury to the person submitting the information or would impair the ability of the governmental entity
to

43 obtain necessary information in the future;

44 (b) the person submitting the information has a greater interest in prohibiting access than the
45 public in obtaining access; and

46 (c) the person submitting the information has provided the governmental entity with the
47 information specified in Section 63G-2-309;

48 (3) commercial or financial information acquired or prepared by a governmental entity to the
49 extent that disclosure would lead to financial speculations in currencies, securities, or commodities
50 that will interfere with a planned transaction by the governmental entity or cause substantial financial
51 injury to the governmental entity or state economy;

52 (4) records the disclosure of which could cause commercial injury to, or confer a competitive
53 advantage upon a potential or actual competitor of, a commercial project entity as defined in

54 Subsection 11-13-103(4);

55 (5) test questions and answers to be used in future license, certification, registration,
56 employment, or academic examinations;

57 (6) records the disclosure of which would impair governmental procurement proceedings or
58 give an unfair advantage to any person proposing to enter into a contract or agreement with a
59 governmental entity, except, subject to Subsections (1) and (2), that this Subsection (6) does not
60 restrict the right of a person to have access to, once the contract or grant has been awarded, a bid,
61 proposal, or application submitted to or by a governmental entity in response to:

62 (a) a request for bids;

63 (b) a request for proposals;

64 (c) a grant; or

65 (d) other similar document;

66 (7) records that would identify real property or the appraisal or estimated value of real or
67 personal property, including intellectual property, under consideration for public acquisition before
68 any rights to the property are acquired unless:

69 (a) public interest in obtaining access to the information outweighs the governmental entity's
70 need to acquire the property on the best terms possible;

71 (b) the information has already been disclosed to persons not employed by or under a duty
72 of confidentiality to the entity;

73 (c) in the case of records that would identify property, potential sellers of the described
74 property have already learned of the governmental entity's plans to acquire the property;

75 (d) in the case of records that would identify the appraisal or estimated value of property, the
76 potential sellers have already learned of the governmental entity's estimated value of the property; or

77 (e) the property under consideration for public acquisition is a single family residence and the
78 governmental entity seeking to acquire the property has initiated negotiations to acquire the property
79 as required under Section 78B-6-505;

80 (8) records prepared in contemplation of sale, exchange, lease, rental, or other compensated
81 transaction of real or personal property including intellectual property, which, if disclosed prior to
82 completion of the transaction, would reveal the appraisal or estimated value of the subject property,
83 unless:

84 (a) the public interest in access outweighs the interests in restricting access, including the
85 governmental entity's interest in maximizing the financial benefit of the transaction; or

86 (b) when prepared by or on behalf of a governmental entity, appraisals or estimates of the
87 value of the subject property have already been disclosed to persons not employed by or under a
88 duty of confidentiality to the entity;

89 (9) records created or maintained for civil, criminal, or administrative enforcement purposes
90 or audit purposes, or for discipline, licensing, certification, or registration purposes, if release of the
91 records:

92 (a) reasonably could be expected to interfere with investigations undertaken for enforcement,
93 discipline, licensing, certification, or registration purposes;

94 (b) reasonably could be expected to interfere with audits, disciplinary, or enforcement
95 proceedings;

96 (c) would create a danger of depriving a person of a right to a fair trial or impartial hearing;

97 (d) reasonably could be expected to disclose the identity of a source who is not generally
98 known outside of government and, in the case of a record compiled in the course of an investigation,
99 disclose information furnished by a source not generally known outside of government if disclosure
100 would compromise the source; or

101 (e) reasonably could be expected to disclose investigative or audit techniques, procedures,
102 policies, or orders not generally known outside of government if disclosure would interfere with
103 enforcement or audit efforts;

104 (10) records the disclosure of which would jeopardize the life or safety of an individual;

105 (11) records the disclosure of which would jeopardize the security of governmental property,

106 governmental programs, or governmental recordkeeping systems from damage, theft, or other
107 appropriation or use contrary to law or public policy;

108 (12) records that, if disclosed, would jeopardize the security or safety of a correctional
109 facility, or records relating to incarceration, treatment, probation, or parole, that would interfere with
110 the control and supervision of an offender's incarceration, treatment, probation, or parole;

111 (13) records that, if disclosed, would reveal recommendations made to the Board of
112 Pardons and Parole by an employee of or contractor for the Department of Corrections, the Board
113 of Pardons and Parole, or the Department of Human Services that are based on the employee's or
114 contractor's supervision, diagnosis, or treatment of any person within the board's jurisdiction;

115 (14) records and audit workpapers that identify audit, collection, and operational procedures
116 and methods used by the State Tax Commission, if disclosure would interfere with audits or
117 collections;

118 (15) records of a governmental audit agency relating to an ongoing or planned audit until the
119 final audit is released;

120 (16) records prepared by or on behalf of a governmental entity solely in anticipation of
121 litigation that are not available under the rules of discovery;

122 (17) records disclosing an attorney's work product, including the mental impressions or legal
123 theories of an attorney or other representative of a governmental entity concerning litigation;

124 (18) records of communications between a governmental entity and an attorney representing,
125 retained, or employed by the governmental entity if the communications would be privileged as
126 provided in Section 78B-1-137;

127 (19) (a) (i) personal files of a state legislator, including personal correspondence to or from a
128 member of the Legislature; and

129 (ii) notwithstanding Subsection (19)(a)(i), correspondence that gives notice of legislative
130 action or policy may not be classified as protected under this section; and

131 (b) (i) an internal communication that is part of the deliberative process in connection with the

132 preparation of legislation between:

133 (A) members of a legislative body;

134 (B) a member of a legislative body and a member of the legislative body's staff; or

135 (C) members of a legislative body's staff; and

136 (ii) notwithstanding Subsection (19)(b)(i), a communication that gives notice of legislative
137 action or policy may not be classified as protected under this section;

138 (20) (a) records in the custody or control of the Office of Legislative Research and General
139 Counsel, that, if disclosed, would reveal a particular legislator's contemplated legislation or
140 contemplated course of action before the legislator has elected to support the legislation or course of
141 action, or made the legislation or course of action public; and

142 (b) notwithstanding Subsection (20)(a), the form to request legislation submitted to the Office
143 of Legislative Research and General Counsel is a public document unless a legislator asks that the
144 records requesting the legislation be maintained as protected records until such time as the legislator
145 elects to make the legislation or course of action public;

146 (21) research requests from legislators to the Office of Legislative Research and General
147 Counsel or the Office of the Legislative Fiscal Analyst and research findings prepared in response to
148 these requests;

149 (22) drafts, unless otherwise classified as public;

150 (23) records concerning a governmental entity's strategy about collective bargaining or
151 pending litigation;

152 (24) records of investigations of loss occurrences and analyses of loss occurrences that may
153 be covered by the Risk Management Fund, the Employers' Reinsurance Fund, the Uninsured
154 Employers' Fund, or similar divisions in other governmental entities;

155 (25) records, other than personnel evaluations, that contain a personal recommendation
156 concerning an individual if disclosure would constitute a clearly unwarranted invasion of personal
157 privacy, or disclosure is not in the public interest;

158 (26) records that reveal the location of historic, prehistoric, paleontological, or biological
159 resources that if known would jeopardize the security of those resources or of valuable historic,
160 scientific, educational, or cultural information;

161 (27) records of independent state agencies if the disclosure of the records would conflict
162 with the fiduciary obligations of the agency;

163 (28) records of an institution within the state system of higher education defined in Section
164 53B-1-102 regarding tenure evaluations, appointments, applications for admissions, retention
165 decisions, and promotions, which could be properly discussed in a meeting closed in accordance with
166 Title 52, Chapter 4, Open and Public Meetings Act, provided that records of the final decisions
167 about tenure, appointments, retention, promotions, or those students admitted, may not be classified
168 as protected under this section;

169 (29) records of the governor's office, including budget recommendations, legislative
170 proposals, and policy statements, that if disclosed would reveal the governor's contemplated policies
171 or contemplated courses of action before the governor has implemented or rejected those policies or
172 courses of action or made them public;

173 (30) records of the Office of the Legislative Fiscal Analyst relating to budget analysis,
174 revenue estimates, and fiscal notes of proposed legislation before issuance of the final
175 recommendations in these areas;

176 (31) records provided by the United States or by a government entity outside the state that
177 are given to the governmental entity with a requirement that they be managed as protected records if
178 the providing entity certifies that the record would not be subject to public disclosure if retained by it;

179 (32) transcripts, minutes, or reports of the closed portion of a meeting of a public body
180 except as provided in Section 52-4-206;

181 (33) records that would reveal the contents of settlement negotiations but not including final
182 settlements or empirical data to the extent that they are not otherwise exempt from disclosure;

183 (34) memoranda prepared by staff and used in the decision-making process by an

184 administrative law judge, a member of the Board of Pardons and Parole, or a member of any other
185 body charged by law with performing a quasi-judicial function;

186 (35) records that would reveal negotiations regarding assistance or incentives offered by or
187 requested from a governmental entity for the purpose of encouraging a person to expand or locate a
188 business in Utah, but only if disclosure would result in actual economic harm to the person or place
189 the governmental entity at a competitive disadvantage, but this section may not be used to restrict
190 access to a record evidencing a final contract;

191 (36) materials to which access must be limited for purposes of securing or maintaining the
192 governmental entity's proprietary protection of intellectual property rights including patents,
193 copyrights, and trade secrets;

194 (37) the name of a donor or a prospective donor to a governmental entity, including an
195 institution within the state system of higher education defined in Section 53B-1-102, and other
196 information concerning the donation that could reasonably be expected to reveal the identity of the
197 donor, provided that:

198 (a) the donor requests anonymity in writing;

199 (b) any terms, conditions, restrictions, or privileges relating to the donation may not be
200 classified protected by the governmental entity under this Subsection (37); and

201 (c) except for an institution within the state system of higher education defined in Section
202 53B-1-102, the governmental unit to which the donation is made is primarily engaged in educational,
203 charitable, or artistic endeavors, and has no regulatory or legislative authority over the donor, a
204 member of the donor's immediate family, or any entity owned or controlled by the donor or the
205 donor's immediate family;

206 (38) accident reports, except as provided in Sections 41-6a-404, 41-12a-202, and
207 73-18-13;

208 (39) a notification of workers' compensation insurance coverage described in Section
209 34A-2-205;

210 (40) (a) the following records of an institution within the state system of higher education
211 defined in Section 53B-1-102, which have been developed, discovered, disclosed to, or received by
212 or on behalf of faculty, staff, employees, or students of the institution:

213 (i) unpublished lecture notes;

214 (ii) unpublished notes, data, and information:

215 (A) relating to research; and

216 (B) of:

217 (I) the institution within the state system of higher education defined in Section 53B-1-102;

218 or

219 (II) a sponsor of sponsored research;

220 (iii) unpublished manuscripts;

221 (iv) creative works in process;

222 (v) scholarly correspondence; and

223 (vi) confidential information contained in research proposals;

224 (b) Subsection (40)(a) may not be construed to prohibit disclosure of public information
225 required pursuant to Subsection 53B-16-302(2)(a) or (b); and

226 (c) Subsection (40)(a) may not be construed to affect the ownership of a record;

227 (41) (a) records in the custody or control of the Office of Legislative Auditor General that
228 would reveal the name of a particular legislator who requests a legislative audit prior to the date that
229 audit is completed and made public; and

230 (b) notwithstanding Subsection (41)(a), a request for a legislative audit submitted to the
231 Office of the Legislative Auditor General is a public document unless the legislator asks that the
232 records in the custody or control of the Office of Legislative Auditor General that would reveal the
233 name of a particular legislator who requests a legislative audit be maintained as protected records until
234 the audit is completed and made public;

235 (42) records that provide detail as to the location of an explosive, including a map or other

236 document that indicates the location of:
237 (a) a production facility; or
238 (b) a magazine;
239 (43) information:
240 (a) contained in the statewide database of the Division of Aging and Adult Services created
241 by Section 62A-3-311.1; or
242 (b) received or maintained in relation to the Identity Theft Reporting Information System
243 (IRIS) established under Section 67-5-22;
244 (44) information contained in the Management Information System and Licensing Information
245 System described in Title 62A, Chapter 4a, Child and Family Services;
246 (45) information regarding National Guard operations or activities in support of the National
247 Guard's federal mission;
248 (46) records provided by any pawn or secondhand business to a law enforcement agency or
249 to the central database in compliance with Title 13, Chapter 32a, Pawnshop and Secondhand
250 Merchandise Transaction Information Act;
251 (47) information regarding food security, risk, and vulnerability assessments performed by
252 the Department of Agriculture and Food;
253 (48) except to the extent that the record is exempt from this chapter pursuant to Section
254 63G-2-106, records related to an emergency plan or program prepared or maintained by the
255 Division of Homeland Security the disclosure of which would jeopardize:
256 (a) the safety of the general public; or
257 (b) the security of:
258 (i) governmental property;
259 (ii) governmental programs; or
260 (iii) the property of a private person who provides the Division of Homeland Security
261 information;

262 (49) records of the Department of Agriculture and Food relating to the National Animal
263 Identification System or any other program that provides for the identification, tracing, or control of
264 livestock diseases, including any program established under Title 4, Chapter 24, Utah Livestock
265 Brand and Anti-theft Act or Title 4, Chapter 31, Livestock Inspection and Quarantine;

266 (50) as provided in Section 26-39-501:

267 (a) information or records held by the Department of Health related to a complaint regarding
268 a child care program or residential child care which the department is unable to substantiate; and

269 (b) information or records related to a complaint received by the Department of Health from
270 an anonymous complainant regarding a child care program or residential child care;

271 (51) unless otherwise classified as public under Section 63G-2-301 and except as provided
272 under Section 41-1a-116, an individual's home address, home telephone number, or personal mobile
273 phone number, if:

274 (a) the individual is required to provide the information in order to comply with a law,
275 ordinance, rule, or order of a government entity; and

276 (b) the subject of the record has a reasonable expectation that this information will be kept
277 confidential due to:

278 (i) the nature of the law, ordinance, rule, or order; and

279 (ii) the individual complying with the law, ordinance, rule, or order;

280 (52) the name, home address, work addresses, and telephone numbers of an individual that
281 is engaged in, or that provides goods or services for, medical or scientific research that is:

282 (a) conducted within the state system of higher education, as defined in Section 53B-1-102;

283 and

284 (b) conducted using animals;

285 (53) an initial proposal under Title 63M, Chapter 1, Part 26, Government Procurement
286 Private Proposal Program, to the extent not made public by rules made under that chapter;

287 (54) information collected and a report prepared by the Judicial Performance Evaluation

288 Commission concerning a judge, unless Section 20A-7-702 or Title 78A, Chapter 12, Judicial
289 Performance Evaluation Commission Act, requires disclosure of, or makes public, the information or
290 report;

291 (55) (a) records of the Utah Educational Savings Plan Trust created under Section
292 53B-8a-103 if the disclosure of the records would conflict with its fiduciary obligations;

293 (b) proposals submitted to the Utah Educational Savings Plan Trust; and

294 (c) contracts entered into by the Utah Educational Savings Plan Trust and the related
295 payments;

296 (56) records contained in the Management Information System created in Section
297 62A-4a-1003;

298 (57) records provided or received by the Public Lands Policy Coordinating Office in
299 furtherance of any contract or other agreement made in accordance with Section 63J-4-603; ~~and~~

300 (58) information requested by and provided to the Utah State 911 Committee under Section
301 53-10-602[-]; and

302 (59) recorded Children's Justice Center investigative interviews, both video and audio, the
303 release of which are governed by Section 77-37-4.

304 Section 2. Section **77-37-4** is amended to read:

305 **77-37-4. Additional rights -- Children.**

306 In addition to all rights afforded to victims and witnesses under this chapter, child victims and
307 witnesses shall be afforded these rights:

308 (1) Children have the right to protection from physical and emotional abuse during their
309 involvement with the criminal justice process.

310 (2) Children are not responsible for inappropriate behavior adults commit against them and
311 have the right not to be questioned, in any manner, nor to have allegations made, implying this
312 responsibility. Those who interview children have the responsibility to consider the interests of the
313 child in this regard.

314 (3) Child victims and witnesses have the right to have interviews relating to a criminal
315 prosecution kept to a minimum. All agencies shall coordinate interviews and ensure that they are
316 conducted by persons sensitive to the needs of children.

317 (4) Child victims have the right to be informed of available community resources that might
318 assist them and how to gain access to those resources. Law enforcement and prosecutors have the
319 duty to ensure that child victims are informed of community resources, including counseling prior to
320 the court proceeding, and have those services available throughout the criminal justice process.

321 (5) Child victims have the right, once an investigation has been initiated by law enforcement
322 or the Division of Child and Family Services, to have their investigative interviews that are conducted
323 at a Children's Justice Center, including both video and audio recordings, protected. Except as
324 provided in Subsection (5)(b) and (c), interviews may not be distributed, released, or displayed to
325 anyone without a court order.

326 (a) The court order:

327 (i) shall describe with particularity to whom the interview may be released and prohibit
328 further distribution or viewing by anyone not named in the order; and

329 (ii) may impose restrictions on access to the materials considered reasonable to protect the
330 privacy of the child victim.

331 (b) Following the conclusion of any legal proceedings in which the recordings or transcripts
332 are used, the court shall order the recordings and transcripts in the court's file sealed and preserved.

333 (c) (i) The Division of Child and Family Services or law enforcement may distribute a copy
334 of the interview:

335 (A) to the prosecutor's office;

336 (B) the Attorney General's child protection division;

337 (C) to another law enforcement agency; and

338 (D) to the attorney for the child who is the subject of the interview.

339 (ii) Any further distribution, release, or display is subject to this Subsection (5).

340 (d) In a criminal case, the prosecutor may distribute a copy of the interview to the attorney
341 for the defendant or a pro se defendant pursuant to a valid request for discovery. The attorney for
342 the defendant in a criminal case may permit the defendant to view the interview, but may not distribute
343 or release the interview to their client. Any further distribution, release, or display is subject to this
344 Subsection (5).

345 (e) Pro se defendants shall be advised by the court that an interview received as part of
346 discovery is confidential and may not be distributed, released, or displayed without prior authorization
347 from the court. A court's failure to give this notice may not be used as a defense to prosecution for a
348 violation of the disclosure rule.

349 (f) Multidisciplinary teams or other state agencies that provide services to children and
350 families may view interviews of children, and families for whom they are providing services, but may
351 not receive copies.

352 (g) Violation of this section is:

353 (i) punishable by contempt if distribution, release, or display occurs before the resolution of
354 the case and the court still has jurisdiction over the defendant; or

355 (ii) a class B misdemeanor if the case has been resolved and the court no longer has
356 jurisdiction over the defendant.

357 Section 3. Section **78A-2-229** is enacted to read:

358 **78A-2-229. Documents provided to pro se litigants.**

359 (1) Documents classified as private, protected, or sealed by court rule and are provided to a
360 pro se litigant in the course of an action or in accordance with Subsection 63G-2-202(7) may not be
361 distributed, released, or displayed to any other person except the court, the other party and their
362 counsel, or any other person who may be authorized by the court to inspect the documents.

363 (2) Pro se litigants shall be advised by the court that private, protected, or sealed documents
364 received by the party that the party would not have received but for the litigation and pro se
365 representation are confidential and may not be distributed outside the parties or the court without

366 prior authorization by the court. A court's failure to give this notice may not be used as a defense to
367 prosecution for a violation of the disclosure rule.

368 (3) Violation of this section is:

369 (a) punishable by contempt if distribution or release occurs before a final determination is
370 made by the court and the court still has jurisdiction over the parties; or

371 (b) a class B misdemeanor if the litigation has been concluded and the court no longer has
372 jurisdiction over the parties.

373 Section 4. Section **78A-6-317** is amended to read:

374 **78A-6-317. All proceedings -- Persons entitled to be present.**

375 (1) A child who is the subject of a juvenile court hearing, any person entitled to notice
376 pursuant to Section 78A-6-306 or 78A-6-310, preadoptive parents, foster parents, and any relative
377 providing care for the child, are:

378 (a) entitled to notice of, and to be present at, each hearing and proceeding held under this
379 part, including administrative reviews; and

380 (b) have a right to be heard at each hearing and proceeding described in Subsection (1)(a).

381 (2) A child shall be represented at each hearing by the guardian ad litem appointed to the
382 child's case by the court. The child has a right to be present at each hearing, subject to the discretion
383 of the guardian ad litem or the court regarding any possible detriment to the child.

384 (3) (a) The parent or guardian of a child who is the subject of a petition under this part has
385 the right to be represented by counsel, and to present evidence, at each hearing.

386 (b) When it appears to the court that a parent or guardian of the child desires counsel but is
387 financially unable to afford and cannot for that reason employ counsel, and the child has been placed
388 in out-of-home care, or the petitioner is recommending that the child be placed in out-of-home care,
389 the court shall appoint counsel.

390 (4) In every abuse, neglect, or dependency proceeding under this chapter, the court shall
391 order that the child be represented by a guardian ad litem, in accordance with Section 78A-6-902.

392 The guardian ad litem shall represent the best interest of the child, in accordance with the
393 requirements of that section, at the shelter hearing and at all subsequent court and administrative
394 proceedings, including any proceeding for termination of parental rights in accordance with Part 5,
395 Termination of Parental Rights Act.

396 (5) (a) Except as provided in Subsection (5)(b), and notwithstanding any other provision of
397 law:

398 (i) counsel for all parties to the action shall be given access to all records, maintained by the
399 division or any other state or local public agency, that are relevant to the abuse, neglect, or
400 dependency proceeding under this chapter; and

401 (ii) if the natural parent of a child is not represented by counsel, the natural parent shall have
402 access to the records described in Subsection (5)(a)(i).

403 (b) The disclosures described in Subsection (5)(a) are not required in the following
404 circumstances:

405 (i) subject to Subsection (5)(c), the division or other state or local public agency did not
406 originally create the record being requested;

407 (ii) disclosure of the record would jeopardize the life or physical safety of a child who has
408 been a victim of abuse or neglect, or any person who provided substitute care for the child;

409 (iii) disclosure of the record would jeopardize the anonymity of the person or persons
410 making the initial report of abuse or neglect or any others involved in the subsequent investigation;

411 (iv) disclosure of the record would jeopardize the life or physical safety of a person who has
412 been a victim of domestic violence; ~~or~~

413 (v) the record is a report maintained in the Management Information System, for which a
414 finding of unsubstantiated, unsupported, or without merit has been made, unless the person requesting
415 the information is the alleged perpetrator in the report or counsel for the alleged perpetrator in the
416 report~~[-]; or~~

417 (vi) the record is a Children's Justice Center investigative interview, video or audio, the

418 release of which is governed by Section 77-37-4.

419 (c) If a disclosure is denied under Subsection (5)(b)(i), the division shall inform the person
420 making the request of the following:

421 (i) the existence of all records in the possession of the division or any other state or local
422 public agency;

423 (ii) the name and address of the person or agency that originally created the record; and

424 (iii) that the person must seek access to the record from the person or agency that originally
425 created the record.