

HB0304S01 compared with HB0304

~~{deleted text}~~ shows text that was in HB0304 but was deleted in HB0304S01.

inserted text shows text that was not in HB0304 but was inserted into HB0304S01.

DISCLAIMER: This document is provided to assist you in your comparison of the two bills. Sometimes this automated comparison will not be completely accurate. Therefore, you need to read the actual bill. This automatically generated document could experience abnormalities caused by: limitations of the compare program; bad input data; the timing of the compare; and other potential causes.

Representative Rebecca P. Edwards proposes the following substitute bill:

ACCESS TO VOTER DATE OF BIRTH RECORDS

2012 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Rebecca P. Edwards

Senate Sponsor: _____

LONG TITLE

General Description:

This bill amends provisions relating to the birth date ~~{on}~~provided by a voter~~{~~registration record}.

Highlighted Provisions:

This bill:

- ▶ amends the requirement of the lieutenant governor and county clerks to make certain records available for public inspection;
- ▶ ~~{classifies the month and day}~~authorizes the classification of a birth date ~~{on}~~as a private record;
- ▶ amends a voter registration form, provisional ballot envelope, a voter registration notice, and the electronic system for voter registration to allow a voter to request that the voter's birth date be classified as private record;

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- ▶ authorizes a registered voter to request that the voter's birth date be classified as private record by filing a signed form with the county clerk;
- ▶ requires a county clerk to update a voter registration record ~~as a private record;~~
- ▶ ~~classifies the year of a birth date on a voter registration record as a public record;~~ to show that the birth date is classified as private; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

20A-2-104, as last amended by Laws of Utah 2010, Chapter 197

20A-2-108, as last amended by Laws of Utah 2004, Chapter 219

20A-2-206, as last amended by Laws of Utah 2011, Chapter 17

20A-2-304.5, as enacted by Laws of Utah 2010, Chapter 304

20A-2-306, as last amended by Laws of Utah 2011, Chapter 297

20A-2-308, as enacted by Laws of Utah 1994, Chapter 311

~~63G-2-301~~ 20A-6-105, as last amended by Laws of Utah ~~2011~~ 2007, ~~Chapters 45 and 46~~ Chapter 285

63G-2-302, as last amended by Laws of Utah 2011, Chapters 85, 327, and 413

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

Section 1. Section 20A-2-104 is amended to read:

20A-2-104. Voter registration form -- Registered voter lists -- Fees for copies.

(1) Every person applying to be registered shall complete a registration form printed in substantially the following form:

UTAH ELECTION REGISTRATION FORM

Are you a citizen of the United States of America?	Yes	No
Will you be 18 years old on or before election day?	Yes	No

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If you checked "no" to either of the above two questions, do not complete this form.

Name of Voter

First Middle Last

Utah Driver License or Utah Identification Card Number _____

†

†Date of Birth _____

Street Address of Principal Place of Residence

City County State Zip Code

Telephone Number (optional) _____

Last four digits of Social Security Number _____

Last former address at which I was registered to vote (if known) _____

City County State Zip Code

Political Party

(a listing of each registered political party, as defined in Section 20A-8-101 and maintained by the lieutenant governor under Section 67-1a-2, with each party's name preceded by a checkbox)

Unaffiliated (no political party preference) Other (Please specify) _____

I do swear (or affirm), subject to penalty of law for false statements, that the information contained in this form is true, and that I am a citizen of the United States and a resident of the state of Utah, residing at the above address. I will be at least 18 years old and will have resided in Utah for 30 days immediately before the next election. I am not a convicted felon currently incarcerated for commission of a felony.

Signed and sworn

Voter's Signature

_____ (month/day/year).

CITIZENSHIP AFFIDAVIT

Name:

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Name at birth, if different:

Place of birth:

Date of birth:

Date and place of naturalization (if applicable):

I hereby swear and affirm, under penalties for voting fraud set forth below, that I am a citizen and that to the best of my knowledge and belief the information above is true and correct.

Signature of Applicant

In accordance with Section 20A-2-401, the penalty for willfully causing, procuring, or allowing yourself to be registered to vote if you know you are not entitled to register to vote is up to one year in jail and a fine of up to \$2,500.

Do you want your birth date classified as a private record? Yes No

NOTICE: IN ORDER TO BE ALLOWED TO VOTE, YOU MUST PRESENT VALID VOTER IDENTIFICATION TO THE POLL WORKER BEFORE VOTING, WHICH MUST BE A VALID FORM OF PHOTO IDENTIFICATION THAT SHOWS YOUR NAME AND PHOTOGRAPH; OR

TWO DIFFERENT FORMS OF IDENTIFICATION THAT SHOW YOUR NAME AND CURRENT ADDRESS.

FOR OFFICIAL USE ONLY

Type of I.D. _____

Voting Precinct _____

Voting I.D. Number _____

(2) (a) Except as provided under Subsection (2)(b), the county clerk shall retain a copy of each voter registration form in a permanent countywide alphabetical file, which may be electronic or some other recognized system.

(b) The county clerk may transfer a superceded voter registration form to the Division of Archives and Records Service created under Section 63A-12-101.

(3) (a) Each county clerk shall retain lists of currently registered voters.

(b) The lieutenant governor shall maintain a list of registered voters in electronic form.

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(c) If there are any discrepancies between the two lists, the county clerk's list is the official list.

(d) The lieutenant governor and the county clerks may charge the fees established under the authority of Subsection 63G-2-203(10) to individuals who wish to obtain a copy of the list of registered voters.

(4) When political parties not listed on the voter registration form qualify as registered political parties under Title 20A, Chapter 8, Political Party Formation and Procedures, the lieutenant governor shall inform the county clerks about the name of the new political party and direct the county clerks to ensure that the voter registration form is modified to include that political party.

(5) Upon receipt of a voter registration form from an applicant, the county clerk or the clerk's designee shall:

(a) review each voter registration form for completeness and accuracy; and

(b) if the county clerk believes, based upon a review of the form, that a person may be seeking to register to vote who is not legally entitled to register to vote, refer the form to the county attorney for investigation and possible prosecution.

Section 2. Section 20A-2-108 is amended to read:

20A-2-108. Driver license registration form -- Transmittal of information.

(1) The lieutenant governor and the Driver License Division shall design the driver license application and renewal forms to include the question "if you are not registered to vote where you live now, would you like to register to vote today?"

(2) (a) The lieutenant governor and the Driver License Division shall design a motor voter registration form to be used in conjunction with driver license application and renewal forms.

(b) Each driver license application and renewal form shall contain:

(i) a place for the applicant to decline to register to vote;

(ii) an eligibility statement in substantially the following form:

"I do swear (or affirm), subject to penalty of law for false statements, that the information contained in this form is true, and that I am a citizen of the United States and a resident of the state of Utah, residing at the above address. I will be at least 18 years old and will have resided in Utah for 30 days immediately before the next election.

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Signed and sworn

Voter's Signature

_____ (month\day\year)";

(iii) a citizenship affidavit in substantially the following form:

"CITIZENSHIP AFFIDAVIT

Name:

Name at birth, if different:

Place of birth:

Date of birth:

Date and place of naturalization (if applicable):

I hereby swear and affirm, under penalties for voting fraud set forth below, that I am a citizen and that to the best of my knowledge and belief the information above is true and correct.

Signature of Applicant

In accordance with Section 20A-2-401, the penalty for willfully causing, procuring, or allowing yourself to be registered to vote if you know you are not entitled to register to vote is up to one year in jail and a fine of up to \$2,500^[u];

Do you want your birth date classified as a private record? Yes No;

(iv) a statement that if an applicant declines to register to vote, the fact that the applicant has declined to register will remain confidential and will be used only for voter registration purposes; and

(v) a statement that if an applicant does register to vote, the office at which the applicant submits a voter registration application will remain confidential and will be used only for voter registration purposes.

(3) Upon receipt of a voter registration form from an applicant, the county clerk or the clerk's designee shall:

(a) review the voter registration form for completeness and accuracy; and

(b) if the county clerk believes, based upon a review of the form, that a person may be seeking to register to vote who is not legally entitled to register to vote, refer the form to the

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county attorney for investigation and possible prosecution.

Section 3. Section 20A-2-206 is amended to read:

20A-2-206. Electronic registration -- Requests for absentee ballot application.

- (1) The lieutenant governor may create and maintain an electronic system for voter registration and requesting an absentee ballot that is publicly available on the Internet.
- (2) An electronic system for voter registration shall require:
 - (a) that an applicant have a valid driver license or identification card, issued under Title 53, Chapter 3, Uniform Driver License Act, that reflects the person's current principal place of residence;
 - (b) that the applicant provide the information required by Section 20A-2-104, except that the applicant's signature may be obtained in the manner described in Subsections (2)(d) and (4);
 - (c) that the applicant attest to the truth of the information provided; and
 - (d) that the applicant authorize the lieutenant governor's and county clerk's use of the applicant's driver license or identification card signature, obtained under Title 53, Chapter 3, Uniform Driver License Act, for voter registration purposes.
- (3) Notwithstanding Section 20A-2-104, an applicant using the electronic system for voter registration created under this section is not required to complete a printed registration form.
- (4) A system created and maintained under this section shall:
 - (a) provide the notices concerning a voter's presentation of identification contained in Subsection 20A-2-104(1)~~[-]; and~~
 - (b) allow a voter to request that the voter's birth date be classified as a private record under Section 63G-2-302.
- (5) The lieutenant governor shall obtain a digital copy of the applicant's driver license or identification card signature from the Driver License Division.
- (6) Upon receiving all information from an applicant and the Driver License Division, the lieutenant governor shall send the information to the county clerk for the county in which the applicant's principal place of residence is found for further action as required by Section 20A-2-304.
- (7) The lieutenant governor may use additional security measures to ensure the

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accuracy and integrity of an electronically submitted voter registration.

(8) (a) If an individual applies to register under this section during the period beginning on the date after the voter registration deadline and ending on the date that is 15 calendar days before the date of an election, the county clerk shall:

(i) accept the application for registration if the individual, on the date of the election, will be legally qualified and entitled to vote in a voting precinct in the state; and

(ii) inform the individual that:

(A) the individual is registered to vote in the pending election; and

(B) for the pending election, the individual must vote on the day of the election and is not eligible to vote using early voting under Chapter 3, Part 6, Early Voting, because the individual registered too late.

(b) If an individual applies to register under this section during the 14 calendar days before an election, the county clerk shall:

(i) accept the application for registration if the individual, on the date of the election, will be legally qualified and entitled to vote in a voting precinct in the state; and

(ii) inform the individual that the individual is registered to vote but may not vote in the pending election because the individual registered too late.

(9) (a) A registered voter may file an application for an absentee ballot in accordance with Section 20A-3-304 on the electronic system for voter registration established under this section.

(b) The lieutenant governor shall provide a means by which a registered voter shall sign the application form as provided in Section 20A-3-304.

Section 4. Section 20A-2-304.5 is amended to read:

**20A-2-304.5. County clerk's responsibilities -- Updating voter registration --
Classification of birth date.**

(1) A county clerk who receives notification from the lieutenant governor, as provided in Subsection 20A-2-109(1), of a change in a registered voter's principal place of residence or name may verify the change with the registered voter.

(2) Unless the county clerk verifies that a change described in Subsection (1) is incorrect, the county clerk shall:

(a) change the voter registration record to show the registered voter's current name and

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address; and

(b) notify the registered voter of the change to the voter registration record.

(3) (a) The birth date of a registered voter is a public record under Section 63G-2-301 unless the voter requests that the voter's birth date be classified as a private record under Section 63G-2-302.

(b) A registered voter may request that the voter's birth date be classified as a private record:

(i) by filing a signed form with the county clerk;

(ii) on the voter registration form as provided in Section 20A-2-104, 20A-2-108, or 20A-6-105;

(iii) in response to a voter registration notice as provided in Section 20A-2-306; or

(iv) on the electronic system for voter registration as provided in Section 20A-2-206.

(c) The county clerk shall change a voter registration record to show that the birth date is classified as private in accordance with this section.

Section 5. Section 20A-2-306 is amended to read:

20A-2-306. Removing names from the official register -- Determining and confirming change of residence.

(1) A county clerk may not remove a voter's name from the official register on the grounds that the voter has changed residence unless the voter:

(a) confirms in writing that the voter has changed residence to a place outside the county; or

(b) (i) has not voted in an election during the period beginning on the date of the notice required by Subsection (3), and ending on the day after the date of the second regular general election occurring after the date of the notice; and

(ii) has failed to respond to the notice required by Subsection (3).

(2) (a) When a county clerk obtains information that a voter's address has changed and it appears that the voter still resides within the same county, the county clerk shall:

(i) change the official register to show the voter's new address; and

(ii) send to the voter, by forwardable mail, the notice required by Subsection (3) printed on a postage prepaid, preaddressed return form.

(b) When a county clerk obtains information that a voter's address has changed and it

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appears that the voter now resides in a different county, the county clerk shall verify the changed residence by sending to the voter, by forwardable mail, the notice required by Subsection (3) printed on a postage prepaid, preaddressed return form.

(3) Each county clerk shall use substantially the following form to notify voters whose addresses have changed:

"VOTER REGISTRATION NOTICE

We have been notified that your residence has changed. Please read, complete, and return this form so that we can update our voter registration records. What is your current street address?

Street	City	County	State	Zip
--------	------	--------	-------	-----

If you have not changed your residence or have moved but stayed within the same county, you must complete and return this form to the county clerk so that it is received by the county clerk no later than 30 days before the date of the election. If you fail to return this form within that time:

- you may be required to show evidence of your address to the poll worker before being allowed to vote in either of the next two regular general elections; or

- if you fail to vote at least once from the date this notice was mailed until the passing of two regular general elections, you will no longer be registered to vote. If you have changed your residence and have moved to a different county in Utah, you may register to vote by contacting the county clerk in your county.

Do you want your birth date on your voter registration record classified as a private record? Yes No

Signature of Voter"

(4) (a) Except as provided in Subsection (4)(b), the county clerk may not remove the names of any voters from the official register during the 90 days before a regular primary election and the 90 days before a regular general election.

(b) The county clerk may remove the names of voters from the official register during the 90 days before a regular primary election and the 90 days before a regular general election if:

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(i) the voter requests, in writing, that the voter's name be removed; or

(ii) the voter has died.

(c) (i) After a county clerk mails a notice as required in this section, the clerk may list that voter as inactive.

(ii) An inactive voter shall be allowed to vote, sign petitions, and have all other privileges of a registered voter.

(iii) A county is not required to send routine mailings to inactive voters and is not required to count inactive voters when dividing precincts and preparing supplies.

Section ~~11~~6. Section **20A-2-308** is amended to read:

20A-2-308. Lieutenant governor and county clerks to preserve records.

(1) As used in this section:

(a) "Voter registration records" means all records concerning the implementation of programs and activities conducted for the purpose of ensuring that the official register is accurate and current.

(b) "Voter registration records" does not mean records that:

(i) relate to a person's decision to decline to register to vote; and

(ii) identify the particular public assistance agency, discretionary voter registration agency, or Driver License Division through which a particular voter registered to vote.

(2) The lieutenant governor and each county clerk shall:

(a) preserve for at least two years all records relating to voter registration, including:

(i) the official register; and

(ii) the names and addresses of all persons to whom the notice required by Section 20A-2-306 was sent and a notation as to whether or not the person responded to the notice;

(b) make the records, except for the part of the voter registration record classified as private under Section 63G-2-302, available for public inspection; and

(c) allow the records described in Subsection (2)(b) to be photocopied for a reasonable cost.

Section 7. Section 20A-6-105 is amended to read:

20A-6-105. Provisional ballot envelopes.

(1) Each election officer shall ensure that provisional ballot envelopes are printed in substantially the following form:

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"AFFIRMATION

Are you a citizen of the United States of America? Yes No

Will you be 18 years old on or before election day? Yes No

If you checked "no" in response to either of the two above questions, do not complete this form.

Name of Voter _____

First Middle Last

Driver License or Identification Card Number _____

State of Issuance of Driver License or Identification Card Number _____

Date of Birth _____

Street Address of Principal Place of Residence

City County State Zip Code

Telephone Number (optional) _____

Last four digits of Social Security Number _____

Last former address at which I was registered to vote (if known)

City County State Zip Code

Voting Precinct (if known)

I, (please print your full name) _____ do solemnly swear or affirm:

That I am currently registered to vote in the state of Utah and am eligible to vote in this election; that I have not voted in this election in any other precinct; that I am eligible to vote in this precinct; and that I request that I be permitted to vote in this precinct; and

Subject to penalty of law for false statements, that the information contained in this form is true, and that I am a citizen of the United States and a resident of Utah, residing at the above address; and that I am at least 18 years old and have resided in Utah for the 30 days immediately before this election.

Signed _____

Dated _____

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In accordance with Section 20A-3-506, wilfully providing false information above is a class B misdemeanor under Utah law and is punishable by imprisonment and by fine".

"CITIZENSHIP AFFIDAVIT

Name:

Name at birth, if different:

Place of birth:

Date of birth:

Date and place of naturalization (if applicable):

I hereby swear and affirm, under penalties for voting fraud set forth below, that I am a citizen and that to the best of my knowledge and belief the information above is true and correct.

Signature of Applicant

In accordance with Section 20A-2-401, the penalty for willfully causing, procuring, or allowing yourself to be registered to vote if you know you are not entitled to register to vote is up to one year in jail and a fine of up to \$2,500.^[1]

Do you want your birth date classified as a private record? Yes No

(2) The provisional ballot envelope shall include:

(a) a unique number;

(b) a detachable part that includes the unique number; and

(c) a telephone number, internet address, or other indicator of a means, in accordance with Section 20A-6-105.5, where the voter can find out if the provisional ballot was counted.

Section ~~{2}~~8. Section ~~{63G-2-301}~~63G-2-302 is amended to read:

~~{~~ **63G-2-301. Records that must be disclosed.**

~~_____~~ (1) ~~As used in this section:~~

~~_____~~ (a) ~~"Business address" means a single address of a governmental agency designated for the public to contact an employee or officer of the governmental agency.~~

~~_____~~ (b) ~~"Business email address" means a single email address of a governmental agency designated for the public to contact an employee or officer of the governmental agency.~~

~~_____~~ (c) ~~"Business telephone number" means a single telephone number of a governmental agency designated for the public to contact an employee or officer of the governmental agency.~~

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~~—— (2) The following records are public except to the extent they contain information expressly permitted to be treated confidentially under the provisions of Subsections 63G-2-201(3)(b) and (6)(a):~~

~~—— (a) laws;~~

~~—— (b) the name, gender, gross compensation, job title, job description, business address, business email address, business telephone number, number of hours worked per pay period, dates of employment, and relevant education, previous employment, and similar job qualifications of a current or former employee or officer of the governmental entity, excluding:~~

~~—— (i) undercover law enforcement personnel; and~~

~~—— (ii) investigative personnel if disclosure could reasonably be expected to impair the effectiveness of investigations or endanger any individual's safety;~~

~~—— (c) final opinions, including concurring and dissenting opinions, and orders that are made by a governmental entity in an administrative, adjudicative, or judicial proceeding except that if the proceedings were properly closed to the public, the opinion and order may be withheld to the extent that they contain information that is private, controlled, or protected;~~

~~—— (d) final interpretations of statutes or rules by a governmental entity unless classified as protected as provided in Subsections 63G-2-305(16), (17), and (18);~~

~~—— (e) information contained in or compiled from a transcript, minutes, or report of the open portions of a meeting of a governmental entity as provided by Title 52, Chapter 4, Open and Public Meetings Act, including the records of all votes of each member of the governmental entity;~~

~~—— (f) judicial records unless a court orders the records to be restricted under the rules of civil or criminal procedure or unless the records are private under this chapter;~~

~~—— (g) unless otherwise classified as private under Section 63G-2-303, records or parts of records filed with or maintained by county recorders, clerks, treasurers, surveyors, zoning commissions, the Division of Forestry, Fire, and State Lands, the School and Institutional Trust Lands Administration, the Division of Oil, Gas, and Mining, the Division of Water Rights, or other governmental entities that give public notice of:~~

~~—— (i) titles or encumbrances to real property;~~

~~—— (ii) restrictions on the use of real property;~~

~~—— (iii) the capacity of persons to take or convey title to real property; or~~

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- ~~—— (iv) tax status for real and personal property;~~
- ~~—— (h) records of the Department of Commerce that evidence incorporations, mergers, name changes, and uniform commercial code filings;~~
- ~~—— (i) data on individuals that would otherwise be private under this chapter if the individual who is the subject of the record has given the governmental entity written permission to make the records available to the public;~~
- ~~—— (j) documentation of the compensation that a governmental entity pays to a contractor or private provider;~~
- ~~—— (k) summary data;~~
- ~~—— (l) voter registration records, including an individual's voting history and the year of the individual's birth date, except for those parts of the record that are classified as private in Subsection 63G-2-302(1)(i);~~
- ~~—— (m) for an elected official, as defined in Section 11-47-102, a telephone number, if available, and email address, if available, where that elected official may be reached as required in Title 11, Chapter 47, Access to Elected Officials;~~
- ~~—— (n) for a school community council member, a telephone number, if available, and email address, if available, where that elected official may be reached directly as required in Section 53A-1a-108; and~~
- ~~—— (o) annual audited financial statements of the Utah Educational Savings Plan described in Section 53B-8a-111.~~
- ~~—— (3) The following records are normally public, but to the extent that a record is expressly exempt from disclosure, access may be restricted under Subsection 63G-2-201(3)(b), Section 63G-2-302, 63G-2-304, or 63G-2-305:~~
 - ~~—— (a) administrative staff manuals, instructions to staff, and statements of policy;~~
 - ~~—— (b) records documenting a contractor's or private provider's compliance with the terms of a contract with a governmental entity;~~
 - ~~—— (c) records documenting the services provided by a contractor or a private provider to the extent the records would be public if prepared by the governmental entity;~~
 - ~~—— (d) contracts entered into by a governmental entity;~~
 - ~~—— (e) any account, voucher, or contract that deals with the receipt or expenditure of funds by a governmental entity;~~

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- ~~—— (f) records relating to government assistance or incentives publicly disclosed, contracted for, or given by a governmental entity, encouraging a person to expand or relocate a business in Utah, except as provided in Subsection 63G-2-305(35);~~
- ~~—— (g) chronological logs and initial contact reports;~~
- ~~—— (h) correspondence by and with a governmental entity in which the governmental entity determines or states an opinion upon the rights of the state, a political subdivision, the public, or any person;~~
- ~~—— (i) empirical data contained in drafts if:~~
 - ~~—— (i) the empirical data is not reasonably available to the requester elsewhere in similar form; and~~
 - ~~—— (ii) the governmental entity is given a reasonable opportunity to correct any errors or make nonsubstantive changes before release;~~
- ~~—— (j) drafts that are circulated to anyone other than:~~
 - ~~—— (i) a governmental entity;~~
 - ~~—— (ii) a political subdivision;~~
 - ~~—— (iii) a federal agency if the governmental entity and the federal agency are jointly responsible for implementation of a program or project that has been legislatively approved;~~
 - ~~—— (iv) a government-managed corporation; or~~
 - ~~—— (v) a contractor or private provider;~~
- ~~—— (k) drafts that have never been finalized but were relied upon by the governmental entity in carrying out action or policy;~~
- ~~—— (l) original data in a computer program if the governmental entity chooses not to disclose the program;~~
- ~~—— (m) arrest warrants after issuance, except that, for good cause, a court may order restricted access to arrest warrants prior to service;~~
- ~~—— (n) search warrants after execution and filing of the return, except that a court, for good cause, may order restricted access to search warrants prior to trial;~~
- ~~—— (o) records that would disclose information relating to formal charges or disciplinary actions against a past or present governmental entity employee if:~~
 - ~~—— (i) the disciplinary action has been completed and all time periods for administrative appeal have expired; and~~

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- ~~—— (ii) the charges on which the disciplinary action was based were sustained;~~
- ~~—— (p) records maintained by the Division of Forestry, Fire, and State Lands, the School and Institutional Trust Lands Administration, or the Division of Oil, Gas, and Mining that evidence mineral production on government lands;~~
- ~~—— (q) final audit reports;~~
- ~~—— (r) occupational and professional licenses;~~
- ~~—— (s) business licenses; and~~
- ~~—— (t) a notice of violation, a notice of agency action under Section 63G-4-201, or similar records used to initiate proceedings for discipline or sanctions against persons regulated by a governmental entity, but not including records that initiate employee discipline.~~
- ~~—— (4) The list of public records in this section is not exhaustive and should not be used to limit access to records.~~
- ~~—— Section 3. 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 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

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committee; or

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

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

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

(g) records or parts of records under Section 63G-2-303 that a current or former employee identifies as private according to the requirements of that section;

(h) that part of a record indicating a person's Social Security number or federal employer identification number if provided under Section 31A-23a-104, 31A-25-202, 31A-26-202, 58-1-301, 58-55-302, 61-1-4, or 61-2f-203;

(i) that part of a voter registration record or official register identifying a voter's:

(i) ~~{a voter's }~~ driver license or identification card number[;];

(ii) Social Security number, or last four digits of the Social Security number; or

(iii) ~~{the month and day of a voter's birth date}~~ birth date, if the voter requests the birth date be classified as private in accordance with Title 20A, Election Code;

(j) a record that:

(i) contains information about an individual;

(ii) is voluntarily provided by the individual; and

(iii) goes into an electronic database that:

(A) is designated by and administered under the authority of the Chief Information Officer; and

(B) acts as a repository of information about the individual that can be electronically retrieved and used to facilitate the individual's online interaction with a state agency;

(k) information provided to the Commissioner of Insurance under:

(i) Subsection 31A-23a-115(2)(a);

(ii) Subsection 31A-23a-302(3); or

(iii) Subsection 31A-26-210(3);

(l) information obtained through a criminal background check under Title 11, Chapter

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40, Criminal Background Checks by Political Subdivisions Operating Water Systems;

(m) information provided by an offender that is:

(i) required by the registration requirements of Section 77-27-21.5; and

(ii) not required to be made available to the public under Subsection 77-27-21.5(27);

(n) 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;

(o) electronic toll collection customer account information received or collected under Section 72-6-118, including contact and payment information and customer travel data[-];

(p) an email address provided by a military or overseas voter under Section 20A-16-501; and

(q) a completed military-overseas ballot that is electronically transmitted under Title 20A, Chapter 16, Uniform Military and Overseas Voters Act.

(2) The following records are private if properly classified by a governmental entity:

(a) records concerning a current or former employee of, or applicant for employment with a governmental entity, including performance evaluations and personal status information such as race, religion, or disabilities, but not including records that are public under Subsection 63G-2-301(2)(b) or 63G-2-301(3)(o), or private under Subsection (1)(b);

(b) records describing an individual's finances, except that the following are public:

(i) records described in Subsection 63G-2-301(2);

(ii) information provided to the governmental entity for the purpose of complying with a financial assurance requirement; or

(iii) records that must be disclosed in accordance with another statute;

(c) records of independent state agencies if the disclosure of those records would conflict with the fiduciary obligations of the agency;

(d) other records containing data on individuals the disclosure of which constitutes a clearly unwarranted invasion of personal privacy;

(e) records provided by the United States or by a government entity outside the state that are given with the requirement that the records be managed as private records, if the providing entity states in writing that the record would not be subject to public disclosure if retained by it; and

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(f) any portion of a record in the custody of the Division of Aging and Adult Services, created in Section 62A-3-102, that may disclose, or lead to the discovery of, the identity of a person who made a report of alleged abuse, neglect, or exploitation of a vulnerable adult.

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

(b) Medical records in the possession of the University of Utah Hospital, its clinics, doctors, or affiliated entities are not private records or controlled records under Section 63G-2-304 when the records are sought:

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

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

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

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Legislative Review Note

~~as of 1-18-12 10:08 AM~~

~~Office of Legislative Research and General Counsel}~~