

**Representative Jefferson Moss** proposes the following substitute bill:

**GOVERNMENT RECORDS MODIFICATIONS**

2023 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Jefferson Moss**

Senate Sponsor: Kirk A. Cullimore

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**LONG TITLE**

**General Description:**

This bill amends provisions relating to government records, including provisions relating to the Division of Archives and Records Service, the Government Records Access and Management Act, and a chief privacy officer.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ permits the Division of Archives and Records Service to require a background check of employees and volunteers who have direct access to vulnerable records;
- ▶ modifies the duties of a records officer;
- ▶ grants rulemaking authority to the state archivist, the executive director of the Department of Government Operations, and other departments, in relation to government records and the provisions of this bill;
- ▶ requires executive branch agencies to:
  - make and maintain an inventory of records that contain personal identifying information; and
  - prepare and maintain a privacy annotation for each record series collected, maintained, or used by the executive branch agency that discloses whether the



26 record series contains personal identifying information, describes the type of personal  
27 identifying information contained in the record series, and provides other information regarding  
28 the personal identifying information contained in the record series;

29       ▶ requires the executive director of the Department of Government Operations to  
30 make rules for identifying personal identifying information, inventorying the  
31 information, and reporting regarding the information;

32       ▶ modifies individual rights with respect to records that may be classified as private or  
33 controlled or that may contain personal identifying information;

34       ▶ changes the title of the "government operations privacy officer" to the "chief privacy  
35 officer"; and

36       ▶ makes technical and conforming changes.

37 **Money Appropriated in this Bill:**

38       None

39 **Other Special Clauses:**

40       None

41 **Utah Code Sections Affected:**

42 AMENDS:

43       63A-12-100.5, as last amended by Laws of Utah 2015, Chapter 322

44       63A-12-101, as last amended by Laws of Utah 2022, Chapter 169

45       63A-12-108, as renumbered and amended by Laws of Utah 2008, Chapter 382

46       63C-24-202, as enacted by Laws of Utah 2021, Chapter 155

47       63G-2-103, as last amended by Laws of Utah 2021, Chapters 211, 283

48       63G-2-107, as last amended by Laws of Utah 2016, Chapter 380

49       63G-2-201, as last amended by Laws of Utah 2019, Chapter 334

50       63G-2-204, as last amended by Laws of Utah 2021, Chapter 64

51       63G-2-307, as renumbered and amended by Laws of Utah 2008, Chapter 382

52       63G-2-601, as renumbered and amended by Laws of Utah 2008, Chapter 382

53       63G-2-604, as last amended by Laws of Utah 2019, Chapter 254

54       67-1-17, as enacted by Laws of Utah 2021, Chapter 155

55       67-3-13, as enacted by Laws of Utah 2021, Chapter 155

56       77-27-5, as last amended by Laws of Utah 2021, Chapters 21, 246 and 260 and last

57 amended by Coordination Clause, Laws of Utah 2021, Chapter 260

58 ENACTS:

59 [63A-12-115](#), Utah Code Annotated 1953

60 [63A-12-116](#), Utah Code Annotated 1953

61 REPEALS AND REENACTS:

62 [63A-12-104](#), as last amended by Laws of Utah 2022, Chapter 169

63 REPEALS:

64 [63A-12-100](#), as last amended by Laws of Utah 2021, Chapter 84



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

67 Section 1. Section [63A-12-100.5](#) is amended to read:

68 **CHAPTER 12. DIVISION OF ARCHIVES AND RECORDS SERVICE AND**  
69 **MANAGEMENT OF GOVERNMENT RECORDS**

70 **[63A-12-100.5](#). Definitions.**

71 (1) Except as provided under Subsection (2), the definitions in Section [63G-2-103](#)  
72 apply to this chapter.

73 (2) As used in this chapter:

74 (a) [~~"division" or "state archives"~~] "Division" means the Division of Archives and  
75 Records Service[~~; and~~].

76 (b) (i) "Executive branch agency" means the same as that term is defined in Section  
77 [63A-16-102](#).

78 (ii) "Executive Branch agency" includes a state agency, as defined in Subsection  
79 [67-1-17\(1\)\(d\)](#).

80 (c) (i) "Personal identifying information" means information about an individual that:

81 (A) identifies, or can be used to identify, an individual;

82 (B) distinguishes an individual from one or more other individuals; or

83 (C) is, or can be, logically associated with other information or data, through  
84 technology or otherwise, to identify an individual or distinguish an individual from one or more  
85 other individuals.

86 (ii) "Personal identifying information" includes information identified as personal  
87 identifying information in accordance with the rules described in Section [63A-12-104](#).

88 (d) "Privacy annotation" means a summary, described in Subsection 63A-12-115(2)  
89 and rules made by the executive director under Subsection 63A-12-104(2), that, for each record  
90 series that an executive branch agency collects, maintains, or uses:

91 (i) discloses whether the record series contains personal identifying information; and

92 (ii) if the record series contains personal identifying information, includes the  
93 information described in Subsection 63A-12-115(2)(b).

94 ~~(b)~~ (e) ["record"] Record means:

95 (i) the same as that term is defined in Section 63G-2-103; or

96 (ii) a video or audio recording of an interview, or a transcript of the video or audio  
97 recording, that is conducted at a Children's Justice Center established under Section 67-5b-102,  
98 the release of which is governed by Section 77-37-4.

99 (f) "State archives" means the Division of Archives and Records Service.

100 (g) "Vulnerable adult" means the same as that term is defined in Section 62A-3-301.

101 (h) "Vulnerable record" means a record or data relating to:

102 (i) national security interests;

103 (ii) the care, custody, or control of a child;

104 (iii) a fiduciary trust over money;

105 (iv) health care of a child; or

106 (v) the following, in relation to a vulnerable adult:

107 (A) protection, health care, or other care; or

108 (B) the provision of food, shelter, clothing, assistance with an activity of daily living,  
109 or assistance with financial resource management.

110 Section 2. Section 63A-12-101 is amended to read:

111 **63A-12-101. Division of Archives and Records Service created -- Duties.**

112 (1) There is created the Division of Archives and Records Service within the  
113 department.

114 (2) The state archives shall:

115 (a) administer the state's archives and records management programs, including storage  
116 of records, central reformatting programs, and quality control;

117 (b) apply fair, efficient, and economical management methods to the collection,  
118 creation, use, maintenance, retention, preservation, disclosure, and disposal of records and

119 documents;

120 (c) establish standards, procedures, and techniques for the effective management and  
121 physical care of records;

122 (d) conduct surveys of office operations and recommend improvements in current  
123 records management practices, including the use of space, equipment, automation, and supplies  
124 used in creating, maintaining, storing, and servicing records;

125 (e) establish standards for the preparation of schedules providing for the retention of  
126 records of continuing value and for the prompt and orderly disposal of state records no longer  
127 possessing sufficient administrative, historical, legal, or fiscal value to warrant further  
128 retention;

129 (f) establish, maintain, and operate centralized reformatting lab facilities and quality  
130 control for the state;

131 (g) provide staff and support services to the Records Management Committee created  
132 in Section 63A-12-112 and the State Records Committee created in Section 63G-2-501;

133 (h) develop training programs to assist records officers and other interested officers and  
134 employees of governmental entities to administer this chapter and Title 63G, Chapter 2,  
135 Government Records Access and Management Act;

136 (i) provide access to public records deposited in the archives;

137 (j) administer and maintain the Utah Public Notice Website established under Section  
138 63A-16-601;

139 (k) provide assistance to any governmental entity in administering this chapter and  
140 Title 63G, Chapter 2, Government Records Access and Management Act;

141 (l) prepare forms for use by all governmental entities for a person requesting access to  
142 a record; and

143 (m) if the department operates the Division of Archives and Records Service as an  
144 internal service fund agency in accordance with Section 63A-1-109.5, submit to the Rate  
145 Committee established in Section 63A-1-114:

146 (i) the proposed rate schedule as required by Section 63A-1-114; and

147 (ii) other information or analysis requested by the Rate Committee.

148 (3) The state archives may:

149 (a) establish a report and directives management program; [~~and~~]

150 (b) establish a forms management program[-]; and  
151 (c) in accordance with Section [63A-12-101](#), require that an individual undergo a  
152 background check if the individual:

153 (i) applies to be, or currently is, an employee or volunteer of the division; and  
154 (ii) will have direct access to a vulnerable record in the capacity described in  
155 Subsection (3)(c)(i).

156 (4) The executive director may direct the state archives to administer other functions or  
157 services consistent with this chapter and Title 63G, Chapter 2, Government Records Access  
158 and Management Act.

159 Section 3. Section [63A-12-104](#) is repealed and reenacted to read:

160 **63A-12-104. Rulemaking authority.**

161 (1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

162 (a) the state archivist may, for an executive branch agency, make rules establishing  
163 procedures for the collection, storage, designation, classification, access, mediation for records  
164 access, and management of records under this chapter and Title 63G, Chapter 2, Government  
165 Records Access and Management Act; and

166 (b) a department may make rules specifying at which level within the department the  
167 requirements described in this chapter will be undertaken.

168 (2) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
169 executive director shall, in consultation with the state archivist and the chief privacy officer,  
170 make rules for an executive branch agency that establish:

171 (a) requirements for making an inventory of each record series that contains personal  
172 identifying information, including:

173 (i) information collected as part of the inventory;  
174 (ii) regularly reviewing, updating, and maintaining the inventory; and  
175 (iii) reporting the inventory to the chief privacy officer;

176 (b) a list of information, categories of information, or types of information expressly  
177 designated as personal identifying information, in accordance with the criteria described in  
178 Subsections [63A-12-100.5\(2\)\(c\)\(i\)](#) through (iii)

179 (c) criteria, variables, and principles for determining whether information in a record  
180 series, not expressly designated under Subsection (2)(b), is personal identifying information;

181 (d) a list and description of categories or types of personal identifying information that  
182 are collected, maintained, or used by executive branch agencies; and

183 (e) requirements for the form, content, format, review, and update of a privacy  
184 annotation.

185 (3) The rules described in Subsection (2)(b) may incorporate, by reference, a data  
186 dictionary that a records officer appointed under Subsection 63A-12-103(2)(a) shall use in  
187 making the determination described in Subsection (2)(c).

188 Section 4. Section 63A-12-108 is amended to read:

189 **63A-12-108. Inspection and summary of record series -- Data dictionary.**

190 (1) [~~The state~~] State archives shall provide for public inspection of:

191 (a) the title and a summary description of each record series[-]; and

192 (b) for an executive branch agency, the privacy annotation of each record series.

193 (2) The department shall:

194 (a) post the data dictionary described in Subsection 63A-12-104(3) on the department's  
195 website; and

196 (b) maintain and update the data dictionary on a regular basis.

197 Section 5. Section 63A-12-115 is enacted to read:

198 **63A-12-115. Privacy annotation for records series -- Requirements -- Content.**

199 (1) (a) Before January 1, 2026, an executive branch agency shall, for each record series  
200 that the executive branch agency collects, maintains, or uses, evaluate the record series and  
201 make a privacy annotation that completely and accurately complies with Subsection (2) and the  
202 rules described in Subsection 63A-12-104(2)(e).

203 (b) Beginning on January 1, 2026, an executive branch agency may not collect,  
204 maintain, or use personal identifying information unless the record series for which the  
205 personal identifying information is collected, maintained, or used includes a privacy annotation  
206 that completely and accurately complies with Subsection (2) and the rules described in  
207 Subsection 63A-12-104(2)(e).

208 (2) A privacy annotation shall include the following:

209 (a) if the record series does not include personal identifying information, a statement  
210 indicating that the record series does not include personal identifying information;

211 (b) if the record series includes personal identifying information:

212 (i) an inventory of the personal identifying information included in the record series;  
213 and

214 (ii) for the personal identifying information described in Subsection (2)(b)(i):

215 (A) the purpose for which the executive branch agency collects, keeps, or uses the  
216 personal identifying information;

217 (B) a citation to the executive branch agency's legal authority for collecting, keeping, or  
218 using the personal identifying information; and

219 (C) any other information required by state archives by rule under Subsection  
220 63A-12-104(2)(e).

221 Section 6. Section **63A-12-116** is enacted to read:

222 **63A-12-116. Background check for individuals with direct access to a vulnerable**  
223 **record.**

224 (1) If, under Subsection 63A-12-101(3)(c), state archives requires an individual to  
225 undergo a background check:

226 (a) the individual shall:

227 (i) submit to state archives, in a form designated by state archives, a fingerprint card  
228 and other information required by state archives for the background check; and

229 (ii) consent to a criminal background check by the Federal Bureau of Investigation, the  
230 Bureau of Criminal Identification, or any other state entity that performs criminal background  
231 checks; and

232 (b) state archives shall:

233 (i) submit the fingerprint card and information described in Subsection (1)(a)(i) to the  
234 Utah Bureau of Criminal Identification; and

235 (ii) pay all fees required to conduct the background check, including fees described in  
236 Subsection 53-10-108(15)(a) and fees required by the Federal Bureau of Investigation.

237 (2) The Bureau of Criminal Identification shall provide all results of a criminal  
238 background check described in this section to state archives, including results from state,  
239 regional, and nationwide background checks.

240 (3) State archives may make rules, in accordance with Title 63G, Chapter 3, Utah  
241 Administrative Rulemaking Act, to:

242 (a) establish procedures for requiring and conducting a background check under this



243 section; and

244 (b) specify requirements for the information and fingerprint card required for a  
245 background check under this section.

246 Section 7. Section **63C-24-202** is amended to read:

247 **63C-24-202. Commission duties.**

248 (1) The commission shall:

249 (a) develop guiding standards and best practices with respect to government privacy  
250 practices;

251 (b) develop educational and training materials that include information about:

252 (i) the privacy implications and civil liberties concerns of the privacy practices of  
253 government entities;

254 (ii) best practices for government collection and retention policies regarding personal  
255 data; and

256 (iii) best practices for government personal data security standards; and

257 (c) review the privacy implications and civil liberties concerns of government privacy  
258 practices.

259 (2) The commission may:

260 (a) review specific government privacy practices as referred to the commission by the  
261 [~~government operations~~] chief privacy officer described in Section **67-1-17** or the state privacy  
262 officer described in Section **67-3-13**; and

263 (b) develop recommendations for legislation regarding the guiding standards and best  
264 practices the commission has developed in accordance with Subsection (1)(a).

265 (3) Annually, on or before October 1, the commission shall report to the Judiciary  
266 Interim Committee:

267 (a) the results of any reviews the commission has conducted;

268 (b) the guiding standards and best practices described in Subsection (1)(a); and

269 (c) any recommendations for legislation the commission has developed in accordance  
270 with Subsection (2)(b).

271 Section 8. Section **63G-2-103** is amended to read:

272 **63G-2-103. Definitions.**

273 As used in this chapter:

274 (1) "Audit" means:

275 (a) a systematic examination of financial, management, program, and related records  
276 for the purpose of determining the fair presentation of financial statements, adequacy of  
277 internal controls, or compliance with laws and regulations; or

278 (b) a systematic examination of program procedures and operations for the purpose of  
279 determining their effectiveness, economy, efficiency, and compliance with statutes and  
280 regulations.

281 (2) "Chronological logs" mean the regular and customary summary records of law  
282 enforcement agencies and other public safety agencies that show:

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

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

286 (3) "Classification," "classify," and their derivative forms mean determining whether a  
287 record series, record, or information within a record is public, private, controlled, protected, or  
288 exempt from disclosure under Subsection [63G-2-201\(3\)\(b\)](#).

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

290 (i) a series of instructions or statements that permit the functioning of a computer  
291 system in a manner designed to provide storage, retrieval, and manipulation of data from the  
292 computer system; and

293 (ii) any associated documentation and source material that explain how to operate the  
294 computer program.

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

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

297 (ii) analysis, compilation, and other manipulated forms of the original data produced by  
298 use of the program; or

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

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

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

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

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

307 (6) "Controlled record" means a record containing data on individuals that is controlled  
308 as provided by Section [63G-2-304](#).

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

314 (8) "Elected official" means each person elected to a state office, county office,  
315 municipal office, school board or school district office, local district office, or special service  
316 district office, but does not include judges.

317 (9) "Explosive" means a chemical compound, device, or mixture:

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

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

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

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

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

325 (B) causing death or serious bodily injury.

326 (10) "Government audit agency" means any governmental entity that conducts an audit.

327 (11) (a) "Governmental entity" means:

328 (i) executive department agencies of the state, the offices of the governor, lieutenant  
329 governor, state auditor, attorney general, and state treasurer, the Board of Pardons and Parole,  
330 the Board of Examiners, the National Guard, the Career Service Review Office, the State  
331 Board of Education, the Utah Board of Higher Education, and the State Archives;

332 (ii) the Office of the Legislative Auditor General, Office of the Legislative Fiscal  
333 Analyst, Office of Legislative Research and General Counsel, the Legislature, and legislative  
334 committees, except any political party, group, caucus, or rules or sifting committee of the  
335 Legislature;

336 (iii) courts, the Judicial Council, the Administrative Office of the Courts, and similar  
337 administrative units in the judicial branch;

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

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

343 (b) "Governmental entity" also means:

344 (i) every office, agency, board, bureau, committee, department, advisory board, or  
345 commission of an entity listed in Subsection (11)(a) that is funded or established by the  
346 government to carry out the public's business;

347 (ii) as defined in Section 11-13-103, an interlocal entity or joint or cooperative  
348 undertaking;

349 (iii) as defined in Section 11-13a-102, a governmental nonprofit corporation;

350 (iv) an association as defined in Section 53G-7-1101;

351 (v) the Utah Independent Redistricting Commission; and

352 (vi) a law enforcement agency, as defined in Section 53-1-102, that employs one or  
353 more law enforcement officers, as defined in Section 53-13-103.

354 (c) "Governmental entity" does not include the Utah Educational Savings Plan created  
355 in Section 53B-8a-103.

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

360 (13) "Individual" means a human being.

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

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

366 (ii) names of victims;

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

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

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

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

374 (b) Initial contact reports do not include follow-up or investigative reports prepared  
375 after the initial contact report. However, if the information specified in Subsection (14)(a)  
376 appears in follow-up or investigative reports, it may only be treated confidentially if it is  
377 private, controlled, protected, or exempt from disclosure under Subsection [63G-2-201\(3\)\(b\)](#).

378 (c) Initial contact reports do not include accident reports, as that term is described in  
379 Title 41, Chapter 6a, Part 4, Accident Responsibilities.

380 (15) "Legislative body" means the Legislature.

381 (16) "Notice of compliance" means a statement confirming that a governmental entity  
382 has complied with an order of the State Records Committee.

383 (17) "Person" means:

384 (a) an individual;

385 (b) a nonprofit or profit corporation;

386 (c) a partnership;

387 (d) a sole proprietorship;

388 (e) other type of business organization; or

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

390 (18) "Personal identifying information" means the same as that term is defined in  
391 Section [63A-12-100.5](#).

392 (19) "Privacy annotation" means the same as that term is defined in Section  
393 [63A-12-100.5](#).

394 [~~(18)~~] (20) "Private provider" means any person who contracts with a governmental  
395 entity to provide services directly to the public.

396 [~~(19)~~] (21) "Private record" means a record containing data on individuals that is  
397 private as provided by Section [63G-2-302](#).

398            [~~(20)~~] (22) "Protected record" means a record that is classified protected as provided by  
399 Section 63G-2-305.

400            [~~(21)~~] (23) "Public record" means a record that is not private, controlled, or protected  
401 and that is not exempt from disclosure as provided in Subsection 63G-2-201(3)(b).

402            [~~(22)~~] (24) (a) "Record" means a book, letter, document, paper, map, plan, photograph,  
403 film, card, tape, recording, electronic data, or other documentary material regardless of physical  
404 form or characteristics:

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

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

409            (b) "Record" does not mean:

410            (i) a personal note or personal communication prepared or received by an employee or  
411 officer of a governmental entity:

412            (A) in a capacity other than the employee's or officer's governmental capacity; or

413            (B) that is unrelated to the conduct of the public's business;

414            (ii) a temporary draft or similar material prepared for the originator's personal use or  
415 prepared by the originator for the personal use of an individual for whom the originator is  
416 working;

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

418            (iv) material to which access is limited by the laws of copyright or patent unless the  
419 copyright or patent is owned by a governmental entity or political subdivision;

420            (v) proprietary software;

421            (vi) junk mail or a commercial publication received by a governmental entity or an  
422 official or employee of a governmental entity;

423            (vii) a book that is cataloged, indexed, or inventoried and contained in the collections  
424 of a library open to the public;

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

427            (ix) a daily calendar or other personal note prepared by the originator for the  
428 originator's personal use or for the personal use of an individual for whom the originator is

429 working;

430 (x) a computer program that is developed or purchased by or for any governmental  
431 entity for its own use;

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

433 (A) a member of the judiciary;

434 (B) an administrative law judge;

435 (C) a member of the Board of Pardons and Parole; or

436 (D) a member of any other body, other than an association or appeals panel as defined  
437 in Section 53G-7-1101, charged by law with performing a quasi-judicial function;

438 (xii) a telephone number or similar code used to access a mobile communication  
439 device that is used by an employee or officer of a governmental entity, provided that the  
440 employee or officer of the governmental entity has designated at least one business telephone  
441 number that is a public record as provided in Section 63G-2-301;

442 (xiii) information provided by the Public Employees' Benefit and Insurance Program,  
443 created in Section 49-20-103, to a county to enable the county to calculate the amount to be  
444 paid to a health care provider under Subsection 17-50-319(2)(e)(ii);

445 (xiv) information that an owner of unimproved property provides to a local entity as  
446 provided in Section 11-42-205;

447 (xv) a video or audio recording of an interview, or a transcript of the video or audio  
448 recording, that is conducted at a Children's Justice Center established under Section 67-5b-102;

449 (xvi) child pornography, as defined by Section 76-5b-103;

450 (xvii) before final disposition of an ethics complaint occurs, a video or audio recording  
451 of the closed portion of a meeting or hearing of:

452 (A) a Senate or House Ethics Committee;

453 (B) the Independent Legislative Ethics Commission;

454 (C) the Independent Executive Branch Ethics Commission, created in Section  
455 63A-14-202; or

456 (D) the Political Subdivisions Ethics Review Commission established in Section  
457 63A-15-201; or

458 (xviii) confidential communication described in Section 58-60-102, 58-61-102, or  
459 58-61-702.

460            [~~(23)~~] (25) "Record series" means a group of records that may be treated as a unit for  
461 purposes of designation, description, management, or disposition.

462            [~~(24)~~] (26) "Records officer" means the individual appointed by the chief  
463 administrative officer of each governmental entity, or the political subdivision to work with  
464 state archives in the care, maintenance, scheduling, designation, classification, disposal, and  
465 preservation of records.

466            [~~(25)~~] (27) "Schedule," "scheduling," and their derivative forms mean the process of  
467 specifying the length of time each record series should be retained by a governmental entity for  
468 administrative, legal, fiscal, or historical purposes and when each record series should be  
469 transferred to the state archives or destroyed.

470            [~~(26)~~] (28) "Sponsored research" means research, training, and other sponsored  
471 activities as defined by the federal Executive Office of the President, Office of Management  
472 and Budget:

473            (a) conducted:

474            (i) by an institution within the state system of higher education defined in Section  
475 [53B-1-102](#); and

476            (ii) through an office responsible for sponsored projects or programs; and

477            (b) funded or otherwise supported by an external:

478            (i) person that is not created or controlled by the institution within the state system of  
479 higher education; or

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

481            [~~(27)~~] (29) "State archives" means the Division of Archives and Records Service  
482 created in Section [63A-12-101](#).

483            [~~(28)~~] (30) "State archivist" means the director of the state archives.

484            [~~(29)~~] (31) "State Records Committee" means the State Records Committee created in  
485 Section [63G-2-501](#).

486            [~~(30)~~] (32) "Summary data" means statistical records and compilations that contain  
487 data derived from private, controlled, or protected information but that do not disclose private,  
488 controlled, or protected information.

489            Section 9. Section **63G-2-107** is amended to read:

490            **63G-2-107. Disclosure of records subject to federal law or other provisions of**



491 **state law.**

492 (1) (a) The disclosure of a record to which access is governed or limited pursuant to  
 493 court rule, another state statute, federal statute, or federal regulation, including a record for  
 494 which access is governed or limited as a condition of participation in a state or federal program  
 495 or for receiving state or federal funds, is governed by the specific provisions of that statute,  
 496 rule, or regulation.

497 (b) Except as provided in Subsection (2) this chapter applies to records described in  
 498 Subsection (1)(a) to the extent that this chapter is not inconsistent with the statute, rule, or  
 499 regulation.

500 ~~[(1)]~~ (2) [Notwithstanding Subsection 63G-2-201(6), this] Except as provided in  
 501 Subsection (3), this chapter does not apply to a record containing protected health information  
 502 as defined in 45 C.F.R., Part 164, Standards for Privacy of Individually Identifiable Health  
 503 Information, if the record is:

504 (a) controlled or maintained by a governmental entity; and

505 (b) governed by 45 C.F.R., Parts 160 and 164, Standards for Privacy of Individually  
 506 Identifiable Health Information.

507 ~~[(2)]~~ (c) The disclosure of an education record as defined in the Family Educational  
 508 Rights and Privacy Act, 34 C.F.R. Part 99, that is controlled or maintained by a governmental  
 509 entity shall be governed by the Family Educational Rights and Privacy Act, 34 C.F.R. Part 99.

510 (3) This section does not exempt any record or record series from the provisions of  
 511 Subsection 63G-2-601(1)

512 Section 10. Section **63G-2-201** is amended to read:

513 **63G-2-201. Provisions relating to records -- Public records -- Private, controlled,**  
 514 **protected, and other restricted records -- Disclosure and nondisclosure of records --**  
 515 **Certified copy of record -- Limits on obligation to respond to record request.**

516 (1) (a) Except as provided in Subsection (1)(b), a person has the right to inspect a  
 517 public record free of charge, and the right to take a copy of a public record during normal  
 518 working hours, subject to Sections 63G-2-203 and 63G-2-204.

519 (b) A right under Subsection (1)(a) does not apply with respect to a record:

520 (i) a copy of which the governmental entity has already provided to the person;

521 (ii) that is the subject of a records request that the governmental entity is not required

522 to fill under Subsection ~~[(8)(e)]~~ (7)(e); or

523 (iii) (A) that is accessible only by a computer or other electronic device owned or  
524 controlled by the governmental entity;

525 (B) that is part of an electronic file that also contains a record that is private,  
526 controlled, or protected; and

527 (C) that the governmental entity cannot readily segregate from the part of the electronic  
528 file that contains a private, controlled, or protected record.

529 (2) A record is public unless otherwise expressly provided by statute.

530 (3) The following records are not public:

531 (a) a record that is private, controlled, or protected under Sections [63G-2-302](#),  
532 [63G-2-303](#), [63G-2-304](#), and [63G-2-305](#); and

533 (b) a record to which access is restricted pursuant to court rule, another state statute,  
534 federal statute, or federal regulation, including records for which access is governed or  
535 restricted as a condition of participation in a state or federal program or for receiving state or  
536 federal funds.

537 (4) Only a record specified in Section [63G-2-302](#), [63G-2-303](#), [63G-2-304](#), or  
538 [63G-2-305](#) may be classified private, controlled, or protected.

539 (5) (a) A governmental entity may not disclose a record that is private, controlled, or  
540 protected to any person except as provided in Subsection (5)(b), Subsection (5)(c), Section  
541 [63G-2-202](#), [63G-2-206](#), or [63G-2-303](#).

542 (b) A governmental entity may disclose a record that is private under Subsection  
543 [63G-2-302](#)(2) or protected under Section [63G-2-305](#) to persons other than those specified in  
544 Section [63G-2-202](#) or [63G-2-206](#) if the head of a governmental entity, or a designee,  
545 determines that:

546 (i) there is no interest in restricting access to the record; or

547 (ii) the interests favoring access are greater than or equal to the interest favoring  
548 restriction of access.

549 (c) In addition to the disclosure under Subsection (5)(b), a governmental entity may  
550 disclose a record that is protected under Subsection [63G-2-305](#)(51) if:

551 (i) the head of the governmental entity, or a designee, determines that the disclosure:

552 (A) is mutually beneficial to:

- 553 (I) the subject of the record;
- 554 (II) the governmental entity; and
- 555 (III) the public; and
- 556 (B) serves a public purpose related to:
  - 557 (I) public safety; or
  - 558 (II) consumer protection; and
  - 559 (ii) the person who receives the record from the governmental entity agrees not to use
  - 560 or allow the use of the record for advertising or solicitation purposes.

561 ~~[(6)(a) The disclosure of a record to which access is governed or limited pursuant to~~  
 562 ~~court rule, another state statute, federal statute, or federal regulation, including a record for~~  
 563 ~~which access is governed or limited as a condition of participation in a state or federal program~~  
 564 ~~or for receiving state or federal funds, is governed by the specific provisions of that statute,~~  
 565 ~~rule, or regulation.]~~

566 ~~[(b) This chapter applies to records described in Subsection (6)(a) insofar as this~~  
 567 ~~chapter is not inconsistent with the statute, rule, or regulation.]~~

568 ~~[(7)]~~ (6) A governmental entity shall provide a person with a certified copy of a record  
 569 if:

- 570 (a) the person requesting the record has a right to inspect it;
- 571 (b) the person identifies the record with reasonable specificity; and
- 572 (c) the person pays the lawful fees.

573 ~~[(8)]~~ (7) In response to a request, a governmental entity is not required to:

- 574 (a) create a record;
- 575 (b) compile, format, manipulate, package, summarize, or tailor information;
- 576 (c) provide a record in a particular format, medium, or program not currently
- 577 maintained by the governmental entity;
- 578 (d) fulfill a person's records request if the request unreasonably duplicates prior records
- 579 requests from that person; or
- 580 (e) fill a person's records request if:
  - 581 (i) the record requested is:
    - 582 (A) publicly accessible online; or
    - 583 (B) included in a public publication or product produced by the governmental entity

584 receiving the request; and

585 (ii) the governmental entity:

586 (A) specifies to the person requesting the record where the record is accessible online;

587 or

588 (B) provides the person requesting the record with the public publication or product  
589 and specifies where the record can be found in the public publication or product.

590 ~~[(9)]~~ (8) (a) Although not required to do so, a governmental entity may, upon request  
591 from the person who submitted the records request, compile, format, manipulate, package,  
592 summarize, or tailor information or provide a record in a format, medium, or program not  
593 currently maintained by the governmental entity.

594 (b) In determining whether to fulfill a request described in Subsection ~~[(9)(a)]~~ (8)(a), a  
595 governmental entity may consider whether the governmental entity is able to fulfill the request  
596 without unreasonably interfering with the governmental entity's duties and responsibilities.

597 (c) A governmental entity may require a person who makes a request under Subsection  
598 ~~[(9)(a)]~~ (8)(a) to pay the governmental entity, in accordance with Section [63G-2-203](#), for  
599 providing the information or record as requested.

600 ~~[(10)]~~ (9) (a) Notwithstanding any other provision of this chapter, and subject to  
601 Subsection ~~[(10)(b)]~~ (9)(b), a governmental entity is not required to respond to, or provide a  
602 record in response to, a record request if the request is submitted by or in behalf of an  
603 individual who is confined in a jail or other correctional facility following the individual's  
604 conviction.

605 (b) Subsection ~~[(10)(a)]~~ (9)(a) does not apply to:

606 (i) the first five record requests submitted to the governmental entity by or in behalf of  
607 an individual described in Subsection ~~[(10)(a)]~~ (9)(a) during any calendar year requesting only  
608 a record that contains a specific reference to the individual; or

609 (ii) a record request that is submitted by an attorney of an individual described in  
610 Subsection ~~[(10)(a)]~~ (9)(a).

611 ~~[(11)]~~ (10) (a) A governmental entity may allow a person requesting more than 50  
612 pages of records to copy the records if:

613 (i) the records are contained in files that do not contain records that are exempt from  
614 disclosure, or the records may be segregated to remove private, protected, or controlled

615 information from disclosure; and

616 (ii) the governmental entity provides reasonable safeguards to protect the public from  
617 the potential for loss of a public record.

618 (b) If the requirements of Subsection [~~(11)~~(a)] (10)(a) are met, the governmental entity  
619 may:

620 (i) provide the requester with the facilities for copying the requested records and  
621 require that the requester make the copies; or

622 (ii) allow the requester to provide the requester's own copying facilities and personnel  
623 to make the copies at the governmental entity's offices and waive the fees for copying the  
624 records.

625 [~~(12)~~] (11) (a) A governmental entity that owns an intellectual property right and that  
626 offers the intellectual property right for sale or license may control by ordinance or policy the  
627 duplication and distribution of the material based on terms the governmental entity considers to  
628 be in the public interest.

629 (b) Nothing in this chapter shall be construed to limit or impair the rights or protections  
630 granted to the governmental entity under federal copyright or patent law as a result of its  
631 ownership of the intellectual property right.

632 [~~(13)~~] (12) A governmental entity may not use the physical form, electronic or  
633 otherwise, in which a record is stored to deny, or unreasonably hinder the rights of a person to  
634 inspect and receive a copy of a record under this chapter.

635 [~~(14)~~] (13) Subject to the requirements of Subsection [~~(8)~~] (7), a governmental entity  
636 shall provide access to an electronic copy of a record in lieu of providing access to its paper  
637 equivalent if:

638 (a) the person making the request requests or states a preference for an electronic copy;

639 (b) the governmental entity currently maintains the record in an electronic format that  
640 is reproducible and may be provided without reformatting or conversion; and

641 (c) the electronic copy of the record:

642 (i) does not disclose other records that are exempt from disclosure; or

643 (ii) may be segregated to protect private, protected, or controlled information from  
644 disclosure without the undue expenditure of public resources or funds.

645 [~~(15)~~] (14) In determining whether a record is properly classified as private under

646 Subsection 63G-2-302(2)(d), the governmental entity, State Records Committee, local appeals  
647 board, or court shall consider and weigh:

648 (a) any personal privacy interests, including those in images, that would be affected by  
649 disclosure of the records in question; and

650 (b) any public interests served by disclosure.

651 Section 11. Section 63G-2-204 is amended to read:

652 **63G-2-204. Record request -- Response -- Time for responding.**

653 (1) (a) A person making a request for a record shall submit to the governmental entity  
654 that retains the record a written request containing:

655 (i) the person's:

656 (A) name;

657 (B) mailing address;

658 (C) email address, if the person has an email address and is willing to accept  
659 communications by email relating to the person's records request; and

660 (D) daytime telephone number; and

661 (ii) a description of the record requested that identifies the record with reasonable  
662 specificity.

663 (b) (i) A single record request may not be submitted to multiple governmental entities.

664 (ii) Subsection (1)(b)(i) may not be construed to prevent a person from submitting a  
665 separate record request to each of multiple governmental entities, even if each of the separate  
666 requests seeks access to the same record.

667 (2) (a) In response to a request for a record, a governmental entity may not provide a  
668 record that it has received under Section 63G-2-206 as a shared record.

669 (b) If a governmental entity is prohibited from providing a record under Subsection  
670 (2)(a), the governmental entity shall:

671 (i) deny the records request; and

672 (ii) inform the person making the request of the identity of the governmental entity  
673 from which the shared record was received.

674 (3) A governmental entity may make rules in accordance with Title 63G, Chapter 3,  
675 Utah Administrative Rulemaking Act, specifying where and to whom requests for access shall  
676 be directed.

677 (4) After receiving a request for a record, a governmental entity shall:

678 (a) review each request that seeks an expedited response and notify, within five  
679 business days after receiving the request, each requester that has not demonstrated that their  
680 record request benefits the public rather than the person that their response will not be  
681 expedited; and

682 (b) as soon as reasonably possible, but no later than 10 business days after receiving a  
683 written request, or five business days after receiving a written request if the requester  
684 demonstrates that expedited response to the record request benefits the public rather than the  
685 person:

686 (i) approve the request and provide a copy of the record;

687 (ii) deny the request in accordance with the procedures and requirements of Section  
688 [63G-2-205](#);

689 (iii) notify the requester that it does not maintain the record requested and provide, if  
690 known, the name and address of the governmental entity that does maintain the record; or

691 (iv) notify the requester that because of one of the extraordinary circumstances listed in  
692 Subsection (6), it cannot immediately approve or deny the request, and include with the notice:

693 (A) a description of the circumstances that constitute the extraordinary circumstances;  
694 and

695 (B) the date when the records will be available, consistent with the requirements of  
696 Subsection (7).

697 (5) Any person who requests a record to obtain information for a story or report for  
698 publication or broadcast to the general public is presumed to be acting to benefit the public  
699 rather than a person.

700 (6) The following circumstances constitute "extraordinary circumstances" that allow a  
701 governmental entity to delay approval or denial by an additional period of time as specified in  
702 Subsection (7) if the governmental entity determines that due to the extraordinary  
703 circumstances it cannot respond within the time limits provided in Subsection (4):

704 (a) another governmental entity is using the record, in which case the originating  
705 governmental entity shall promptly request that the governmental entity currently in possession  
706 return the record;

707 (b) another governmental entity is using the record as part of an audit, and returning the

708 record before the completion of the audit would impair the conduct of the audit;

709 (c) (i) the request is for a voluminous quantity of records or a record series containing a  
710 substantial number of records; or

711 (ii) the requester seeks a substantial number of records or records series in requests  
712 filed within five working days of each other;

713 (d) the governmental entity is currently processing a large number of records requests;

714 (e) the request requires the governmental entity to review a large number of records to  
715 locate the records requested;

716 (f) the decision to release a record involves legal issues that require the governmental  
717 entity to seek legal counsel for the analysis of statutes, rules, ordinances, regulations, or case  
718 law;

719 (g) segregating information that the requester is entitled to inspect from information  
720 that the requester is not entitled to inspect requires extensive editing; or

721 (h) segregating information that the requester is entitled to inspect from information  
722 that the requester is not entitled to inspect requires computer programming.

723 (7) If one of the extraordinary circumstances listed in Subsection (6) precludes  
724 approval or denial within the time specified in Subsection (4), the following time limits apply  
725 to the extraordinary circumstances:

726 (a) for claims under Subsection (6)(a), the governmental entity currently in possession  
727 of the record shall return the record to the originating entity within five business days of the  
728 request for the return unless returning the record would impair the holder's work;

729 (b) for claims under Subsection (6)(b), the originating governmental entity shall notify  
730 the requester when the record is available for inspection and copying;

731 (c) for claims under Subsections (6)(c), (d), and (e), the governmental entity shall:

732 (i) disclose the records that it has located which the requester is entitled to inspect;

733 (ii) provide the requester with an estimate of the amount of time it will take to finish  
734 the work required to respond to the request;

735 (iii) complete the work and disclose those records that the requester is entitled to  
736 inspect as soon as reasonably possible; and

737 (iv) for any person that does not establish a right to an expedited response as  
738 authorized by Subsection (4), a governmental entity may choose to:



739 (A) require the person to provide for copying of the records as provided in Subsection  
740 [~~63G-2-201(11)~~] 63G-2-201(10); or

741 (B) treat a request for multiple records as separate record requests, and respond  
742 sequentially to each request;

743 (d) for claims under Subsection (6)(f), the governmental entity shall either approve or  
744 deny the request within five business days after the response time specified for the original  
745 request has expired;

746 (e) for claims under Subsection (6)(g), the governmental entity shall fulfill the request  
747 within 15 business days from the date of the original request; or

748 (f) for claims under Subsection (6)(h), the governmental entity shall complete its  
749 programming and disclose the requested records as soon as reasonably possible.

750 (8) (a) If a request for access is submitted to an office of a governmental entity other  
751 than that specified by rule in accordance with Subsection (3), the office shall promptly forward  
752 the request to the appropriate office.

753 (b) If the request is forwarded promptly, the time limit for response begins when the  
754 request is received by the office specified by rule.

755 (9) If the governmental entity fails to provide the requested records or issue a denial  
756 within the specified time period, that failure is considered the equivalent of a determination  
757 denying access to the record.

758 Section 12. Section **63G-2-307** is amended to read:

759 **63G-2-307. Duty to evaluate records and make designations, classifications, and**  
760 **annotations.**

761 (1) A governmental entity shall, for each record series that the governmental entity  
762 keeps, uses, or creates:

763 (a) evaluate all record series [~~that it uses or creates~~];

764 (b) designate [~~those~~] each record series as provided by this chapter and Title 63A,  
765 Chapter 12, Division of Archives and Records Service; and

766 (c) report [~~the designations of its record series~~] to the state archives;

767 (i) the designation described in Subsection (1)(b); and

768 (ii) if the governmental entity is an executive branch agency, as defined in Section  
769 63A-12-100.5, the privacy annotation.

770 (2) A governmental entity may classify a particular record, record series, or  
771 information within a record at any time, but is not required to classify a particular record,  
772 record series, or information until access to the record is requested.

773 (3) A governmental entity may redesignate a record series or reclassify a record or  
774 record series, or information within a record at any time.

775 Section 13. Section **63G-2-601** is amended to read:

776 **63G-2-601. Rights of individuals on whom data is maintained -- Classification**  
777 **and personal identifying information statement -- Notice to provider of information.**

778 (1) (a) Each governmental entity shall file with the state archivist a statement  
779 explaining, for each record series collected, maintained, or used by the governmental entity, the  
780 purposes for which ~~[a record series that is designated as private or controlled is collected and]~~  
781 each private or controlled record in the record series is collected, maintained, or used by that  
782 governmental entity.

783 (b) Each executive branch agency, as defined in Section 63A-12-100.5, shall file with  
784 the state archivist a statement explaining, for each record series collected, maintained, or used  
785 by the executive branch agency, the purposes for which the personal identifying information in  
786 the record series is collected, maintained, or used by the executive branch agency.

787 ~~[(b)]~~ (c) The statement filed under Subsection (1)(a) or (b):

788 (i) shall, for each purpose described in Subsection (1)(a) or (b), identify the authority  
789 under which the governmental entity or executive branch agency collects the records or  
790 information included in the statement described in Subsection (1)(a) or (b); and

791 (ii) is a public record.

792 (2) (a) A governmental entity shall provide ~~[notice of the following]~~ the notice  
793 described in this Subsection (2) to a person that is asked to furnish information that could be  
794 classified as a private or controlled record[?].

795 (b) An executive branch agency, as defined in Section 63A-12-100.5, shall provide the  
796 notice described in this Subsection (2) to a person that is asked to furnish personal identifying  
797 information.

798 (c) The notice required under Subsection (2)(a) or (b) shall:

799 (i) identify the record series that includes the information described in Subsection  
800 (2)(a) or (b);

801           ~~[(i)]~~ (ii) state the reasons the person is asked to furnish the information;  
 802           ~~[(ii)]~~ (iii) state the intended uses of the information;  
 803           ~~[(iii)]~~ (iv) state the consequences for refusing to provide the information; and  
 804           ~~[(iv)]~~ (v) disclose the classes of persons and the governmental entities that currently:  
 805           (A) share the information with the governmental entity; or  
 806           (B) receive the information from the governmental entity on a regular or contractual  
 807 basis.

808           ~~[(b)]~~ (d) The [notice shall be] governmental entity shall:

809           (i) ~~[posted]~~ post the notice required under this Subsection (2) in a prominent place at  
 810 all locations where the governmental entity collects the information; or

811           (ii) ~~[included]~~ include the notice required under this Subsection (2) as part of the  
 812 documents or forms that are used by the governmental entity to collect the information.

813           (3) Upon request, each governmental entity shall, in relation to the information  
 814 described in Subsection (2)(a) or (b), as applicable, explain to a person:

815           (a) the reasons the person is asked to furnish information ~~[that could be classified as a~~  
 816 ~~private or controlled record]~~;

817           (b) the intended uses of the information ~~[referred to in Subsection (3)(a)]~~;

818           (c) the consequences for refusing to provide the information ~~[referred to in Subsection~~  
 819 ~~(3)(a)]~~; and

820           (d) the reasons and circumstances under which the information ~~[referred to in~~  
 821 ~~Subsection (3)(a)]~~ may be shared with<sub>2</sub> or provided to<sub>2</sub> other persons or governmental entities.

822           (4) A governmental entity may use ~~[private or controlled records]~~ the information that  
 823 the governmental entity is required to disclose under Subsection (2)(a) or (b) only for those  
 824 purposes:

825           (a) given in the statement filed with the state archivist under Subsection (1); or

826           (b) for which another governmental entity may use the record under Section

827 [63G-2-206](#).

828           Section 14. Section **63G-2-604** is amended to read:

829           **63G-2-604. Retention and disposition of records.**

830           (1) (a) Except for a governmental entity that is permitted to maintain the governmental  
 831 entity's own retention schedules under Part 7, Applicability to Political Subdivisions, the

832 Judiciary, and the Legislature, each governmental entity shall file with the Records  
833 Management Committee created in Section 63A-12-112 a proposed schedule for the retention  
834 and disposition of each type of material that is defined as a record under this chapter.

835 (b) After a retention schedule is reviewed and approved by the Records Management  
836 Committee under Subsection 63A-12-113(1)(b), the governmental entity shall maintain and  
837 destroy records in accordance with the retention schedule.

838 (c) If a governmental entity subject to the provisions of this section has not received an  
839 approved retention schedule from the Records Management Committee for a specific type of  
840 material that is [~~classified~~] defined as a record under this chapter, the [~~model~~] general retention  
841 schedule maintained by the state archivist shall govern the retention and destruction of that type  
842 of material.

843 (2) A retention schedule that is filed with or approved by the Records Management  
844 Committee under the requirements of this section is a public record.

845 Section 15. Section 67-1-17 is amended to read:

846 **67-1-17. Chief privacy officer.**

847 (1) As used in this section:

848 (a) "Independent entity" means the same as that term is defined in Section 63E-1-102.

849 (b) (i) "Personal data" means any information relating to an identified or identifiable  
850 individual.

851 (ii) "Personal data" includes personally identifying information.

852 (c) (i) "Privacy practice" means the acquisition, use, storage, or disposal of personal  
853 data.

854 (ii) "Privacy practice" includes:

855 (A) a technology use related to personal data; and

856 (B) policies related to the protection, storage, sharing, and retention of personal data.

857 (d) (i) "State agency" means the following entities that are under the direct supervision  
858 and control of the governor or the lieutenant governor:

859 (A) a department;

860 (B) a commission;

861 (C) a board;

862 (D) a council;

- 863 (E) an institution;
- 864 (F) an officer;
- 865 (G) a corporation;
- 866 (H) a fund;
- 867 (I) a division;
- 868 (J) an office;
- 869 (K) a committee;
- 870 (L) an authority;
- 871 (M) a laboratory;
- 872 (N) a library;
- 873 (O) a bureau;
- 874 (P) a panel;
- 875 (Q) another administrative unit of the state; or
- 876 (R) an agent of an entity described in Subsections (A) through (Q).
- 877 (ii) "State agency" does not include:
- 878 (A) the legislative branch;
- 879 (B) the judicial branch;
- 880 (C) an executive branch agency within the Office of the Attorney General, the state
- 881 auditor, the state treasurer, or the State Board of Education; or
- 882 (D) an independent entity.
- 883 (2) The governor [~~may~~] shall, with the advice and consent of the Senate, appoint a
- 884 [~~government operations~~] chief privacy officer.
- 885 (3) The [~~government operations~~] chief privacy officer shall:
- 886 (a) compile information about the privacy practices of state agencies;
- 887 (b) make public and maintain information about the privacy practices of state agencies
- 888 on the governor's website;
- 889 (c) provide state agencies with educational and training materials developed by the
- 890 Personal Privacy Oversight Commission established in Section [63C-24-201](#) that include the
- 891 information described in Subsection [63C-24-202\(1\)\(b\)](#);
- 892 (d) implement a process to analyze and respond to requests from individuals for the
- 893 [~~government operations~~] chief privacy officer to review a state agency's privacy practice;

- 894 (e) identify annually which state agencies' privacy practices pose the greatest risk to  
895 individual privacy and prioritize those privacy practices for review;
- 896 (f) review each year, in as timely a manner as possible, the privacy practices that the  
897 [~~government operations~~] chief privacy officer identifies under Subsection (3)(d) or (e) as  
898 posing the greatest risk to individuals' privacy;
- 899 (g) when reviewing a state agency's privacy practice under Subsection (3)(f), analyze:
- 900 (i) details about the privacy practice;
- 901 (ii) information about the type of data being used;
- 902 (iii) information about how the data is obtained, shared, secured, stored, and disposed;
- 903 (iv) information about with which persons the state agency shares the information;
- 904 (v) information about whether an individual can or should be able to opt out of the  
905 retention and sharing of the individual's data;
- 906 (vi) information about how the state agency de-identifies or anonymizes data;
- 907 (vii) a determination about the existence of alternative technology or improved  
908 practices to protect privacy; and
- 909 (viii) a finding of whether the state agency's current privacy practice adequately  
910 protects individual privacy; and
- 911 (h) after completing a review described in Subsections (3)(f) and (g), determine:
- 912 (i) each state agency's use of personal data, including the state agency's practices  
913 regarding data:
- 914 (A) acquisition;
- 915 (B) storage;
- 916 (C) disposal;
- 917 (D) protection; and
- 918 (E) sharing;
- 919 (ii) the adequacy of the state agency's practices in each of the areas described in  
920 Subsection (3)(h)(i); and
- 921 (iii) for each of the areas described in Subsection (3)(h)(i) that the [~~government~~  
922 ~~operations~~] chief privacy officer determines require reform, provide recommendations to the  
923 state agency for reform.
- 924 (4) The [~~government operations~~] chief privacy officer shall:

- 925 (a) quarterly report, to the Personal Privacy Oversight Commission:
- 926 (i) recommendations for privacy practices for the commission to review; and
- 927 (ii) the information described in Subsection (3)(h); and
- 928 (b) annually, on or before October 1, report to the Judiciary Interim Committee:
- 929 (i) the results of any reviews described in Subsection (3)(g), if any reviews have been
- 930 completed;
- 931 (ii) reforms, to the extent that the [~~government operations~~] chief privacy officer is
- 932 aware of any reforms, that the state agency made in response to any reviews described in
- 933 Subsection (3)(g);
- 934 (iii) the information described in Subsection (3)(h); and
- 935 (iv) recommendations for legislation based on the results of any reviews described in
- 936 Subsection (3)(g).

937 (5) The chief privacy officer may make rules, in accordance with Title 63G, Chapter 3,

938 Utah Administrative Rulemaking Act, that establish requirements and standards for

939 determining whether a state agency's privacy practice, in relation to the areas described in

940 Subsection (3)(h)(i), is adequate or requires reform.

941 Section 16. Section **67-3-13** is amended to read:

942 **67-3-13. State privacy officer.**

943 (1) As used in this section:

944 (a) "Designated government entity" means a government entity that is not a state

945 agency.

946 (b) "Independent entity" means the same as that term is defined in Section [63E-1-102](#).

947 (c) (i) "Government entity" means the state, a county, a municipality, a higher

948 education institution, a local district, a special service district, a school district, an independent

949 entity, or any other political subdivision of the state or an administrative subunit of any

950 political subdivision, including a law enforcement entity.

951 (ii) "Government entity" includes an agent of an entity described in Subsection

952 (1)(c)(i).

953 (d) (i) "Personal data" means any information relating to an identified or identifiable

954 individual.

955 (ii) "Personal data" includes personally identifying information.

956 (e) (i) "Privacy practice" means the acquisition, use, storage, or disposal of personal  
957 data.

958 (ii) "Privacy practice" includes:

959 (A) a technology use related to personal data; and

960 (B) policies related to the protection, storage, sharing, and retention of personal data.

961 (f) (i) "State agency" means the following entities that are under the direct supervision  
962 and control of the governor or the lieutenant governor:

963 (A) a department;

964 (B) a commission;

965 (C) a board;

966 (D) a council;

967 (E) an institution;

968 (F) an officer;

969 (G) a corporation;

970 (H) a fund;

971 (I) a division;

972 (J) an office;

973 (K) a committee;

974 (L) an authority;

975 (M) a laboratory;

976 (N) a library;

977 (O) a bureau;

978 (P) a panel;

979 (Q) another administrative unit of the state; or

980 (R) an agent of an entity described in Subsections (A) through (Q).

981 (ii) "State agency" does not include:

982 (A) the legislative branch;

983 (B) the judicial branch;

984 (C) an executive branch agency within the Office of the Attorney General, the state  
985 auditor, the state treasurer, or the State Board of Education; or

986 (D) an independent entity.



987 (2) The state privacy officer shall:

988 (a) when completing the duties of this Subsection (2), focus on the privacy practices of  
989 designated government entities;

990 (b) compile information about government privacy practices of designated government  
991 entities;

992 (c) make public and maintain information about government privacy practices on the  
993 state auditor's website;

994 (d) provide designated government entities with educational and training materials  
995 developed by the Personal Privacy Oversight Commission established in Section 63C-24-201  
996 that include the information described in Subsection 63C-24-202(1)(b);

997 (e) implement a process to analyze and respond to requests from individuals for the  
998 state privacy officer to review a designated government entity's privacy practice;

999 (f) identify annually which designated government entities' privacy practices pose the  
1000 greatest risk to individual privacy and prioritize those privacy practices for review;

1001 (g) review each year, in as timely a manner as possible, the privacy practices that the  
1002 privacy officer identifies under Subsection (2)(e) or (2)(f) as posing the greatest risk to  
1003 individuals' privacy;

1004 (h) when reviewing a designated government entity's privacy practice under Subsection  
1005 (2)(g), analyze:

1006 (i) details about the technology or the policy and the technology's or the policy's  
1007 application;

1008 (ii) information about the type of data being used;

1009 (iii) information about how the data is obtained, stored, shared, secured, and disposed;

1010 (iv) information about with which persons the designated government entity shares the  
1011 information;

1012 (v) information about whether an individual can or should be able to opt out of the  
1013 retention and sharing of the individual's data;

1014 (vi) information about how the designated government entity de-identifies or  
1015 anonymizes data;

1016 (vii) a determination about the existence of alternative technology or improved  
1017 practices to protect privacy; and

1018 (viii) a finding of whether the designated government entity's current privacy practice  
1019 adequately protects individual privacy; and

1020 (i) after completing a review described in Subsections (2)(g) and (h), determine:

1021 (i) each designated government entity's use of personal data, including the designated  
1022 government entity's practices regarding data:

1023 (A) acquisition;

1024 (B) storage;

1025 (C) disposal;

1026 (D) protection; and

1027 (E) sharing;

1028 (ii) the adequacy of the designated government entity's practices in each of the areas  
1029 described in Subsection (2)(i)(i); and

1030 (iii) for each of the areas described in Subsection (2)(i)(i) that the state privacy officer  
1031 determines to require reform, provide recommendations for reform to the designated  
1032 government entity and the legislative body charged with regulating the designated government  
1033 entity.

1034 (3) (a) The legislative body charged with regulating a designated government entity  
1035 that receives a recommendation described in Subsection (2)(i)(iii) shall hold a public hearing  
1036 on the proposed reforms:

1037 (i) with a quorum of the legislative body present; and

1038 (ii) within 90 days after the day on which the legislative body receives the  
1039 recommendation.

1040 (b) (i) The legislative body shall provide notice of the hearing described in Subsection  
1041 (3)(a).

1042 (ii) Notice of the public hearing and the recommendations to be discussed shall be  
1043 posted on:

1044 (A) the Utah Public Notice Website created in Section [63A-16-601](#) for 30 days before  
1045 the day on which the legislative body will hold the public hearing; and

1046 (B) the website of the designated government entity that received a recommendation, if  
1047 the designated government entity has a website, for 30 days before the day on which the  
1048 legislative body will hold the public hearing.

- 1049 (iii) Each notice required under Subsection (3)(b)(i) shall:
- 1050 (A) identify the recommendations to be discussed; and
- 1051 (B) state the date, time, and location of the public hearing.
- 1052 (c) During the hearing described in Subsection (3)(a), the legislative body shall:
- 1053 (i) provide the public the opportunity to ask questions and obtain further information
- 1054 about the recommendations; and
- 1055 (ii) provide any interested person an opportunity to address the legislative body with
- 1056 concerns about the recommendations.
- 1057 (d) At the conclusion of the hearing, the legislative body shall determine whether the
- 1058 legislative body shall adopt reforms to address the recommendations and any concerns raised
- 1059 during the public hearing.
- 1060 (4) (a) Except as provided in Subsection (4)(b), if the [~~government operations~~] chief
- 1061 privacy officer described in Section 67-1-17 is not conducting reviews of the privacy practices
- 1062 of state agencies, the state privacy officer may review the privacy practices of a state agency in
- 1063 accordance with the processes described in this section.
- 1064 (b) Subsection (3) does not apply to a state agency.
- 1065 (5) The state privacy officer shall:
- 1066 (a) quarterly report, to the Personal Privacy Oversight Commission:
- 1067 (i) recommendations for privacy practices for the commission to review; and
- 1068 (ii) the information provided in Subsection (2)(i); and
- 1069 (b) annually, on or before October 1, report to the Judiciary Interim Committee:
- 1070 (i) the results of any reviews described in Subsection (2)(g), if any reviews have been
- 1071 completed;
- 1072 (ii) reforms, to the extent that the state privacy officer is aware of any reforms, that the
- 1073 designated government entity made in response to any reviews described in Subsection (2)(g);
- 1074 (iii) the information described in Subsection (2)(i); and
- 1075 (iv) recommendations for legislation based on any results of a review described in
- 1076 Subsection (2)(g).
- 1077 Section 17. Section 77-27-5 is amended to read:
- 1078 **77-27-5. Board of Pardons and Parole authority.**
- 1079 (1) (a) Subject to this chapter and other laws of the state, and except for a conviction

1080 for treason or impeachment, the board shall determine by majority decision when and under  
1081 what conditions an offender's conviction may be pardoned or commuted.

1082 (b) The Board of Pardons and Parole shall determine by majority decision when and  
1083 under what conditions an offender committed to serve a sentence at a penal or correctional  
1084 facility, which is under the jurisdiction of the department, may:

1085 (i) be released upon parole;

1086 (ii) have a fine or forfeiture remitted;

1087 (iii) have the offender's criminal accounts receivable remitted in accordance with

1088 Section [77-32b-105](#) or [77-32b-106](#);

1089 (iv) have the offender's payment schedule modified in accordance with Section

1090 [77-32b-103](#); or

1091 (v) have the offender's sentence terminated.

1092 (c) (i) The board may sit together or in panels to conduct hearings.

1093 (ii) The chair shall appoint members to the panels in any combination and in

1094 accordance with rules made in accordance with Title 63G, Chapter 3, Utah Administrative  
1095 Rulemaking Act, by the board.

1096 (iii) The chair may participate on any panel and when doing so is chair of the panel.

1097 (iv) The chair of the board may designate the chair for any other panel.

1098 (d) (i) Except after a hearing before the board, or the board's appointed examiner, in an  
1099 open session, the board may not:

1100 (A) remit a fine or forfeiture for an offender or the offender's criminal accounts  
1101 receivable;

1102 (B) release the offender on parole; or

1103 (C) commute, pardon, or terminate an offender's sentence.

1104 (ii) An action taken under this Subsection (1) other than by a majority of the board  
1105 shall be affirmed by a majority of the board.

1106 (e) A commutation or pardon may be granted only after a full hearing before the board.

1107 (2) (a) In the case of any hearings, timely prior notice of the time and location of the  
1108 hearing shall be given to the offender.

1109 (b) The county or district attorney's office responsible for prosecution of the case, the  
1110 sentencing court, and law enforcement officials responsible for the defendant's arrest and

1111 conviction shall be notified of any board hearings through the board's website.

1112 (c) Whenever possible, the victim or the victim's representative, if designated, shall be  
1113 notified of original hearings and any hearing after that if notification is requested and current  
1114 contact information has been provided to the board.

1115 (d) (i) Notice to the victim or the victim's representative shall include information  
1116 provided in Section [77-27-9.5](#), and any related rules made by the board under that section.

1117 (ii) The information under Subsection (2)(d)(i) shall be provided in terms that are  
1118 reasonable for the lay person to understand.

1119 (3) (a) A decision by the board is final and not subject for judicial review if the  
1120 decision is regarding:

- 1121 (i) a pardon, parole, commutation, or termination of an offender's sentence;
- 1122 (ii) the modification of an offender's payment schedule for restitution; or
- 1123 (iii) the remission of an offender's criminal accounts receivable or a fine or forfeiture.

1124 (b) Deliberative processes are not public and the board is exempt from Title 52,  
1125 Chapter 4, Open and Public Meetings Act, when the board is engaged in the board's  
1126 deliberative process.

1127 (c) Pursuant to Subsection [~~63G-2-103(22)(b)(xi)~~] [63G-2-103\(24\)\(b\)\(xi\)](#), records of  
1128 the deliberative process are exempt from Title 63G, Chapter 2, Government Records Access  
1129 and Management Act.

1130 (d) Unless it will interfere with a constitutional right, deliberative processes are not  
1131 subject to disclosure, including discovery.

1132 (e) Nothing in this section prevents the obtaining or enforcement of a civil judgment.

1133 (4) (a) This chapter may not be construed as a denial of or limitation of the governor's  
1134 power to grant respite or reprieves in all cases of convictions for offenses against the state,  
1135 except treason or conviction on impeachment.

1136 (b) Notwithstanding Subsection (4)(a), respites or reprieves may not extend beyond the  
1137 next session of the Board of Pardons and Parole.

1138 (c) At the next session of the board, the board:

- 1139 (i) shall continue or terminate the respite or reprieve; or
- 1140 (ii) may commute the punishment or pardon the offense as provided.

1141 (d) In the case of conviction for treason, the governor may suspend execution of the

1142 sentence until the case is reported to the Legislature at the Legislature's next session.

1143 (e) The Legislature shall pardon or commute the sentence or direct the sentence's  
1144 execution.

1145 (5) (a) In determining when, where, and under what conditions an offender serving a  
1146 sentence may be paroled or pardoned, have a fine or forfeiture remitted, have the offender's  
1147 criminal accounts receivable remitted, or have the offender's sentence commuted or terminated,  
1148 the board shall:

1149 (i) consider whether the offender has made restitution ordered by the court under  
1150 Section 77-38b-205, or is prepared to pay restitution as a condition of any parole, pardon,  
1151 remission of a criminal accounts receivable or a fine or forfeiture, or a commutation or  
1152 termination of the offender's sentence;

1153 (ii) except as provided in Subsection (5)(b), develop and use a list of criteria for  
1154 making determinations under this Subsection (5);

1155 (iii) consider information provided by the Department of Corrections regarding an  
1156 offender's individual case action plan; and

1157 (iv) review an offender's status within 60 days after the day on which the board  
1158 receives notice from the Department of Corrections that the offender has completed all of the  
1159 offender's case action plan components that relate to activities that can be accomplished while  
1160 the offender is imprisoned.

1161 (b) The board shall determine whether to remit an offender's criminal accounts  
1162 receivable under this Subsection (5) in accordance with Section 77-32b-105 or 77-32b-106.

1163 (6) In determining whether parole may be terminated, the board shall consider:

1164 (a) the offense committed by the parolee; and

1165 (b) the parole period under Section 76-3-202, and in accordance with Section  
1166 77-27-13.

1167 (7) For an offender placed on parole after December 31, 2018, the board shall  
1168 terminate parole in accordance with the supervision length guidelines established by the Utah  
1169 Sentencing Commission under Section 63M-7-404, to the extent the guidelines are consistent  
1170 with the requirements of the law.

1171 Section 18. **Repealer.**

1172 This bill repeals:

1173

Section [63A-12-100](#), Title.