

VOTING HISTORY AMENDMENTS

2022 GENERAL SESSION

STATE OF UTAH

LONG TITLE**General Description:**

This bill amends provisions relating to voting history.

Highlighted Provisions:

This bill:

- ▶ requires an election officer to, for each election:
 - randomly assign an anonymous number to each voter whose voter registration record is classified as a private record; and
 - use the randomly assigned number to report the voting history of a voter described in the preceding paragraph in an anonymous manner; and
- ▶ classifies the randomly-assigned number and the number's connection with an identifiable individual as a private record.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

20A-5-410, as renumbered and amended by Laws of Utah 2020, Chapter 31

63G-2-202, as last amended by Laws of Utah 2021, Chapter 231

63G-2-302, as last amended by Laws of Utah 2021, Chapters 100, 143 and 367

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

Section 1. Section **20A-5-410** is amended to read:

20A-5-410. Election officer to provide voting history information and status.

(1) As used in this section, "voting history record" means the information about the existence and status of absentee ballot requests required by this section.

(2) (a) Each election officer shall maintain, in the election officer's office, a voting

33 history record of those voters registered to vote in the election officer's jurisdiction.

34 (b) Except as it relates to a voter whose voter registration record is classified as private
35 under Subsection 63G-2-302(1)(k), the voting history record is a public record under Title 63G,
36 Chapter 2, Government Records Access and Management Act.

37 (3) Each election, when the election officer mails ballots to voters, the election officer
38 shall:

39 (a) randomly assign an anonymous number to each voter whose voter registration is
40 classified as private under Subsection 20A-2-104(4)(h), that:

41 (i) does not bear any resemblance to the voter's voter identification number;

42 (ii) cannot be used by itself, or in conjunction with any other public information, to
43 identify the voter to whom the number is assigned;

44 (iii) does not bear any resemblance to a number assigned to the voter for a previous
45 election; and

46 (iv) cannot be used by itself, or in conjunction with any other public information, to
47 determine whether any number assigned in one election and any number assigned in another
48 election pertain to the same voter;

49 (b) use the randomly assigned anonymous number, when reporting voting history for a
50 specific election, for each voter whose voter registration is classified as private under
51 Subsection 20A-2-104(4)(h), in a manner that:

52 (i) for each number, for that election only, indicates:

53 (A) for voting by mail, the information described in Subsection (4)(a);

54 (B) for early voting, the date the individual voted; and

55 (C) for voting on election day, the date the individual voted;

56 (ii) does not disclose, by itself, or in conjunction with any other public information, the
57 identity or any other personal identifying information of the voter; and

58 (iii) does not violate the provisions of Subsection (3)(a).

59 ~~(3)~~ (4) The election officer shall ensure that the voting history record for each voting
60 precinct contains:

61 (a) for voting by mail:

62 (i) the date that the manual ballot was mailed to the voter; and

63 (ii) the date that the voted manual ballot was received by the election officer;

- 64 (b) for early voting:
- 65 (i) the name and address of each individual who participated in early voting; and
- 66 (ii) the date the individual voted; and
- 67 (c) for voting on election day, the name and address of each individual who voted on
- 68 election day.

69 [~~(4)~~] (5) (a) Notwithstanding the time limits for response to a request for records under
 70 Section 63G-2-204 or the time limits for a request for records established in any ordinance, the
 71 election officer shall ensure that the information required by this section is recorded and made
 72 available to the public no later than one business day after its receipt in the election officer's
 73 office.

74 (b) Notwithstanding the fee requirements of Section 63G-2-203 or the fee requirements
 75 established in any ordinance, the election officer shall make copies of the voting history record
 76 available to the public for the actual cost of production or copying.

77 Section 2. Section **63G-2-202** is amended to read:

78 **63G-2-202. Access to private, controlled, and protected documents.**

79 (1) Except as provided in Subsection (11)(a), a governmental entity:

- 80 (a) shall, upon request, disclose a private record to:
 - 81 (i) the subject of the record;
 - 82 (ii) the parent or legal guardian of an unemancipated minor who is the subject of the
 - 83 record;

- 84 (iii) the legal guardian of a legally incapacitated individual who is the subject of the
- 85 record;

- 86 (iv) any other individual who:

- 87 (A) has a power of attorney from the subject of the record;
- 88 (B) submits a notarized release from the subject of the record or the individual's legal
- 89 representative dated no more than 90 days before the date the request is made; or

- 90 (C) if the record is a medical record described in Subsection 63G-2-302(1)(b), is a
- 91 health care provider, as defined in Section 26-33a-102, if releasing the record or information in
- 92 the record is consistent with normal professional practice and medical ethics; or

- 93 (v) any person to whom the record must be provided pursuant to:

- 94 (A) court order as provided in Subsection (7); or

95 (B) a legislative subpoena as provided in Title 36, Chapter 14, Legislative Subpoena
96 Powers; and

97 (b) may disclose a private record described in Subsections 63G-2-302(1)(j) through
98 (m), without complying with Section 63G-2-206, to another governmental entity for a purpose
99 related to:

100 (i) voter registration; or

101 (ii) the administration of an election.

102 (2) (a) Upon request, a governmental entity shall disclose a controlled record to:

103 (i) a physician, physician assistant, psychologist, certified social worker, insurance
104 provider or producer, or a government public health agency upon submission of:

105 (A) a release from the subject of the record that is dated no more than 90 days prior to
106 the date the request is made; and

107 (B) a signed acknowledgment of the terms of disclosure of controlled information as
108 provided by Subsection (2)(b); and

109 (ii) any person to whom the record must be disclosed pursuant to:

110 (A) a court order as provided in Subsection (7); or

111 (B) a legislative subpoena as provided in Title 36, Chapter 14, Legislative Subpoena
112 Powers.

113 (b) A person who receives a record from a governmental entity in accordance with
114 Subsection (2)(a)(i) may not disclose controlled information from that record to any person,
115 including the subject of the record.

116 (3) If there is more than one subject of a private or controlled record, the portion of the
117 record that pertains to another subject shall be segregated from the portion that the requester is
118 entitled to inspect.

119 (4) Upon request, and except as provided in Subsection (11)(b), a governmental entity
120 shall disclose a protected record to:

121 (a) the person that submitted the record;

122 (b) any other individual who:

123 (i) has a power of attorney from all persons, governmental entities, or political
124 subdivisions whose interests were sought to be protected by the protected classification; or

125 (ii) submits a notarized release from all persons, governmental entities, or political

126 subdivisions whose interests were sought to be protected by the protected classification or from
127 their legal representatives dated no more than 90 days prior to the date the request is made;

128 (c) any person to whom the record must be provided pursuant to:

129 (i) a court order as provided in Subsection (7); or

130 (ii) a legislative subpoena as provided in Title 36, Chapter 14, Legislative Subpoena
131 Powers; or

132 (d) the owner of a mobile home park, subject to the conditions of Subsection
133 41-1a-116(5).

134 (5) Except as provided in Subsection (1)(b), a governmental entity may disclose a
135 private, controlled, or protected record to another governmental entity, political subdivision,
136 state, the United States, or a foreign government only as provided by Section 63G-2-206.

137 (6) Before releasing a private, controlled, or protected record, the governmental entity
138 shall obtain evidence of the requester's identity.

139 (7) A governmental entity shall disclose a record pursuant to the terms of a court order
140 signed by a judge from a court of competent jurisdiction, provided that:

141 (a) the record deals with a matter in controversy over which the court has jurisdiction;

142 (b) the court has considered the merits of the request for access to the record;

143 (c) the court has considered and, where appropriate, limited the requester's use and
144 further disclosure of the record in order to protect:

145 (i) privacy interests in the case of private or controlled records;

146 (ii) business confidentiality interests in the case of records protected under Subsection
147 63G-2-305(1), (2), (40)(a)(ii), or (40)(a)(vi); and

148 (iii) privacy interests or the public interest in the case of other protected records;

149 (d) to the extent the record is properly classified private, controlled, or protected, the
150 interests favoring access, considering limitations thereon, are greater than or equal to the
151 interests favoring restriction of access; and

152 (e) where access is restricted by a rule, statute, or regulation referred to in Subsection
153 63G-2-201(3)(b), the court has authority independent of this chapter to order disclosure.

154 (8) (a) Except as provided in Subsection (8)(d), a governmental entity may disclose or
155 authorize disclosure of private or controlled records for research purposes if the governmental
156 entity:

- 157 (i) determines that the research purpose cannot reasonably be accomplished without
158 use or disclosure of the information to the researcher in individually identifiable form;
- 159 (ii) determines that:
- 160 (A) the proposed research is bona fide; and
- 161 (B) the value of the research is greater than or equal to the infringement upon personal
162 privacy;
- 163 (iii) (A) requires the researcher to assure the integrity, confidentiality, and security of
164 the records; and
- 165 (B) requires the removal or destruction of the individual identifiers associated with the
166 records as soon as the purpose of the research project has been accomplished;
- 167 (iv) prohibits the researcher from:
- 168 (A) disclosing the record in individually identifiable form, except as provided in
169 Subsection (8)(b); or
- 170 (B) using the record for purposes other than the research approved by the governmental
171 entity; and
- 172 (v) secures from the researcher a written statement of the researcher's understanding of
173 and agreement to the conditions of this Subsection (8) and the researcher's understanding that
174 violation of the terms of this Subsection (8) may subject the researcher to criminal prosecution
175 under Section 63G-2-801.
- 176 (b) A researcher may disclose a record in individually identifiable form if the record is
177 disclosed for the purpose of auditing or evaluating the research program and no subsequent use
178 or disclosure of the record in individually identifiable form will be made by the auditor or
179 evaluator except as provided by this section.
- 180 (c) A governmental entity may require indemnification as a condition of permitting
181 research under this Subsection (8).
- 182 (d) A governmental entity may not disclose or authorize disclosure of a private record
183 for research purposes as described in this Subsection (8) if the private record is a record
184 described in Subsection 63G-2-302(1)[~~(w)~~](x).
- 185 (9) (a) Under Subsections 63G-2-201(5)(b) and 63G-2-401(6), a governmental entity
186 may disclose to persons other than those specified in this section records that are:
- 187 (i) private under Section 63G-2-302; or

188 (ii) protected under Section 63G-2-305, subject to Section 63G-2-309 if a claim for
189 business confidentiality has been made under Section 63G-2-309.

190 (b) Under Subsection 63G-2-403(11)(b), the State Records Committee may require the
191 disclosure to persons other than those specified in this section of records that are:

192 (i) private under Section 63G-2-302;

193 (ii) controlled under Section 63G-2-304; or

194 (iii) protected under Section 63G-2-305, subject to Section 63G-2-309 if a claim for
195 business confidentiality has been made under Section 63G-2-309.

196 (c) Under Subsection 63G-2-404(7), the court may require the disclosure of records
197 that are private under Section 63G-2-302, controlled under Section 63G-2-304, or protected
198 under Section 63G-2-305 to persons other than those specified in this section.

199 (10) (a) A private record described in Subsection 63G-2-302(2)(f) may only be
200 disclosed as provided in Subsection (1)(a)(v).

201 (b) A protected record described in Subsection 63G-2-305(43) may only be disclosed
202 as provided in Subsection (4)(c) or Section 62A-3-312.

203 (11) (a) A private, protected, or controlled record described in Section 62A-16-301
204 shall be disclosed as required under:

205 (i) Subsections 62A-16-301(1)(b), (2), and (4)(c); and

206 (ii) Subsections 62A-16-302(1) and (6).

207 (b) A record disclosed under Subsection (11)(a) shall retain its character as private,
208 protected, or controlled.

209 Section 3. Section **63G-2-302** is amended to read:

210 **63G-2-302. Private records.**

211 (1) The following records are private:

212 (a) records concerning an individual's eligibility for unemployment insurance benefits,
213 social services, welfare benefits, or the determination of benefit levels;

214 (b) records containing data on individuals describing medical history, diagnosis,
215 condition, treatment, evaluation, or similar medical data;

216 (c) records of publicly funded libraries that when examined alone or with other records
217 identify a patron;

218 (d) records received by or generated by or for:

- 219 (i) the Independent Legislative Ethics Commission, except for:
- 220 (A) the commission's summary data report that is required under legislative rule; and
- 221 (B) any other document that is classified as public under legislative rule; or
- 222 (ii) a Senate or House Ethics Committee in relation to the review of ethics complaints,
- 223 unless the record is classified as public under legislative rule;
- 224 (e) records received by, or generated by or for, the Independent Executive Branch
- 225 Ethics Commission, except as otherwise expressly provided in Title 63A, Chapter 14, Review
- 226 of Executive Branch Ethics Complaints;
- 227 (f) records received or generated for a Senate confirmation committee concerning
- 228 character, professional competence, or physical or mental health of an individual:
- 229 (i) if, prior to the meeting, the chair of the committee determines release of the records:
- 230 (A) reasonably could be expected to interfere with the investigation undertaken by the
- 231 committee; or
- 232 (B) would create a danger of depriving a person of a right to a fair proceeding or
- 233 impartial hearing; and
- 234 (ii) after the meeting, if the meeting was closed to the public;
- 235 (g) employment records concerning a current or former employee of, or applicant for
- 236 employment with, a governmental entity that would disclose that individual's home address,
- 237 home telephone number, social security number, insurance coverage, marital status, or payroll
- 238 deductions;
- 239 (h) records or parts of records under Section 63G-2-303 that a current or former
- 240 employee identifies as private according to the requirements of that section;
- 241 (i) that part of a record indicating a person's social security number or federal employer
- 242 identification number if provided under Section 31A-23a-104, 31A-25-202, 31A-26-202,
- 243 58-1-301, 58-55-302, 61-1-4, or 61-2f-203;
- 244 (j) that part of a voter registration record identifying a voter's:
- 245 (i) driver license or identification card number;
- 246 (ii) social security number, or last four digits of the social security number;
- 247 (iii) email address;
- 248 (iv) date of birth; or
- 249 (v) phone number;

250 (k) a voter registration record that is classified as a private record by the lieutenant
251 governor or a county clerk under Subsection 20A-2-101.1(5)(a), 20A-2-104(4)(h), or
252 20A-2-204(4)(b);

253 (l) a voter registration record that is withheld under Subsection 20A-2-104(7);

254 (m) a withholding request form described in Subsections 20A-2-104(7) and (8) and any
255 verification submitted in support of the form;

256 (n) an anonymous number described in Subsection 20A-5-410(3) and any information
257 that would identify a connection between the number and an identifiable individual;

258 ~~(n)~~ (o) a record that:

259 (i) contains information about an individual;

260 (ii) is voluntarily provided by the individual; and

261 (iii) goes into an electronic database that:

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

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

266 ~~(o)~~ (p) information provided to the Commissioner of Insurance under:

267 (i) Subsection 31A-23a-115(3)(a);

268 (ii) Subsection 31A-23a-302(4); or

269 (iii) Subsection 31A-26-210(4);

270 ~~(p)~~ (q) information obtained through a criminal background check under Title 11,
271 Chapter 40, Criminal Background Checks by Political Subdivisions Operating Water Systems;

272 ~~(q)~~ (r) information provided by an offender that is:

273 (i) required by the registration requirements of Title 77, Chapter 41, Sex and Kidnap
274 Offender Registry or Title 77, Chapter 43, Child Abuse Offender Registry; and

275 (ii) not required to be made available to the public under Subsection 77-41-110(4) or
276 77-43-108(4);

277 ~~(r)~~ (s) a statement and any supporting documentation filed with the attorney general
278 in accordance with Section 34-45-107, if the federal law or action supporting the filing
279 involves homeland security;

280 ~~(s)~~ (t) electronic toll collection customer account information received or collected

281 under Section 72-6-118 and customer information described in Section 17B-2a-815 received or
282 collected by a public transit district, including contact and payment information and customer
283 travel data;

284 ~~[(t)]~~ (u) an email address provided by a military or overseas voter under Section
285 20A-16-501;

286 ~~[(t)]~~ (v) a completed military-overseas ballot that is electronically transmitted under
287 Title 20A, Chapter 16, Uniform Military and Overseas Voters Act;

288 ~~[(v)]~~ (w) records received by or generated by or for the Political Subdivisions Ethics
289 Review Commission established in Section 63A-15-201, except for:

290 (i) the commission's summary data report that is required in Section 63A-15-202; and

291 (ii) any other document that is classified as public in accordance with Title 63A,
292 Chapter 15, Political Subdivisions Ethics Review Commission;

293 ~~[(w)]~~ (x) a record described in Section 53G-9-604 that verifies that a parent was
294 notified of an incident or threat;

295 ~~[(x)]~~ (y) a criminal background check or credit history report conducted in accordance
296 with Section 63A-3-201;

297 ~~[(y)]~~ (z) a record described in Subsection 53-5a-104(7);

298 ~~[(z)]~~ (aa) on a record maintained by a county for the purpose of administering property
299 taxes, an individual's:

300 (i) email address;

301 (ii) phone number; or

302 (iii) personal financial information related to a person's payment method;

303 ~~[(aa)]~~ (bb) a record submitted by a taxpayer to establish the taxpayer's eligibility for an
304 exemption, deferral, abatement, or relief under:

305 (i) Title 59, Chapter 2, Part 11, Exemptions, Deferrals, and Abatements;

306 (ii) Title 59, Chapter 2, Part 12, Property Tax Relief;

307 (iii) Title 59, Chapter 2, Part 18, Tax Deferral and Tax Abatement; or

308 (iv) Title 59, Chapter 2, Part 19, Armed Forces Exemptions; and

309 ~~[(bb)]~~ (cc) a record provided by the State Tax Commission in response to a request
310 under Subsection 59-1-403(4)(y)(iii).

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

- 312 (a) records concerning a current or former employee of, or applicant for employment
313 with a governmental entity, including performance evaluations and personal status information
314 such as race, religion, or disabilities, but not including records that are public under Subsection
315 63G-2-301(2)(b) or 63G-2-301(3)(o) or private under Subsection (1)(b);
- 316 (b) records describing an individual's finances, except that the following are public:
- 317 (i) records described in Subsection 63G-2-301(2);
- 318 (ii) information provided to the governmental entity for the purpose of complying with
319 a financial assurance requirement; or
- 320 (iii) records that must be disclosed in accordance with another statute;
- 321 (c) records of independent state agencies if the disclosure of those records would
322 conflict with the fiduciary obligations of the agency;
- 323 (d) other records containing data on individuals the disclosure of which constitutes a
324 clearly unwarranted invasion of personal privacy;
- 325 (e) records provided by the United States or by a government entity outside the state
326 that are given with the requirement that the records be managed as private records, if the
327 providing entity states in writing that the record would not be subject to public disclosure if
328 retained by it;
- 329 (f) any portion of a record in the custody of the Division of Aging and Adult Services,
330 created in Section 62A-3-102, that may disclose, or lead to the discovery of, the identity of a
331 person who made a report of alleged abuse, neglect, or exploitation of a vulnerable adult; and
- 332 (g) audio and video recordings created by a body-worn camera, as defined in Section
333 77-7a-103, that record sound or images inside a home or residence except for recordings that:
- 334 (i) depict the commission of an alleged crime;
- 335 (ii) record any encounter between a law enforcement officer and a person that results in
336 death or bodily injury, or includes an instance when an officer fires a weapon;
- 337 (iii) record any encounter that is the subject of a complaint or a legal proceeding
338 against a law enforcement officer or law enforcement agency;
- 339 (iv) contain an officer involved critical incident as defined in Subsection
340 76-2-408(1)(f); or
- 341 (v) have been requested for reclassification as a public record by a subject or
342 authorized agent of a subject featured in the recording.

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

345 (b) Medical records in the possession of the University of Utah Hospital, its clinics,
346 doctors, or affiliated entities are not private records or controlled records under Section
347 63G-2-304 when the records are sought:

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

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

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