

Calvin R. Musselman proposes the following substitute bill:

Government Records and Information Amendments

2025 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Stephanie Gricius

Senate Sponsor: Calvin R. Musselman

LONG TITLE

General Description:

This bill amends provisions relating to government records and information.

Highlighted Provisions:

This bill:

- defines terms;
- amends provisions regarding the disclosure of voter history information;
- classifies as private a record or information regarding whether a voter returned a ballot with postage attached;
- prohibits a government officer from accessing or using government records or information in a manner that is not related to a duty of the government officer;
- prohibits a government officer from accessing or using government records or information for a primarily personal purpose, unless the government officer gains access to the records or information in the same manner as a member of the public;
- makes it a crime to intentionally violate the provisions described in the preceding paragraph;
- modifies provisions relating to the award of attorney fees; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

20A-5-410, as last amended by Laws of Utah 2022, Chapter 248

63G-2-202, as last amended by Laws of Utah 2024, Chapter 288

- 29 **63G-2-209**, as enacted by Laws of Utah 2023, Chapter 516
 30 **63G-2-301**, as last amended by Laws of Utah 2020, Chapters 255, 399
 31 **63G-2-302**, as last amended by Laws of Utah 2024, Chapter 234
 32 **63G-2-405**, as last amended by Laws of Utah 2022, Chapter 388
 33 **63G-2-801**, as last amended by Laws of Utah 2019, Chapter 254
 34 **63G-2-802**, as last amended by Laws of Utah 2024, Chapter 18

35 ENACTS:

36 **63G-2-210**, Utah Code Annotated 1953

37

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

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

40 **20A-5-410 . Election officer to provide voting history information and status --**
 41 **Restrictions.**

42 (1) As used in this section, "voting history record" means the following information [~~about~~
 43 ~~the existence and status of absentee ballot requests required by this section.~~] relating to a
 44 registered voter:

45 (a) the information in the voter's voter registration record, other than the information
 46 classified as private under Subsection 63G-2-302(1)(j);

47 (b) the voter's privacy status;

48 (c) the voter's status as active or inactive;

49 (d) the voter's voter identification number;

50 (e) the voter's federal information processing system code;

51 (f) the voter's precinct;

52 (g) each political district in which the voter is a resident;

53 (h) a list of elections in which the voter voted;

54 (i) whether the voter voted in person on election day;

55 (j) whether the voter voted in person before election day;

56 (k) whether the voter returned a mailed ballot;

57 (l) whether the voter's ballot was mailed to an alternate address; and

58 (m) the date on which the voter voted or on which the voter returned a mailed ballot.

59 (2)(a) Each election officer shall maintain, in the election officer's office, a voting
 60 history record of those voters registered to vote in the election officer's jurisdiction.

61 (b) [~~Except as it relates to a voter whose voter registration record is classified as private~~
 62 ~~under Subsection 63G-2-302(1)(k), the] The voting history record is a public record~~

63 under Title 63G, Chapter 2, Government Records Access and Management Act[-] ,
 64 except:

65 (i) as it relates to a voter whose voter registration record is classified as private under

66 Subsection 63G-2-302(1)(k) or (l); or

67 (ii) a record or information described in Subsection 63G-2-302(1)(n).

68 (3)(a) When an election officer reports voting history for an election, the election officer
 69 shall, for each voter whose voter registration is classified as private under Subsection
 70 20A-2-104(4)(h), report the following, for that election only, without disclosing the
 71 identity of the voter:

72 (i) for voting by mail, the information described in Subsection (4)(a);

73 (ii) for early voting, the date the individual voted; and

74 (iii) for voting on election day, the date the individual voted.

75 (b) In relation to the information of a voter whose voter registration is classified as
 76 private under Subsection 20A-2-104(4)(h), a report described in Subsection (3)(a)
 77 may not disclose, by itself or in conjunction with any other public information, the
 78 identity or any other personal identifying information of the voter.

79 (4) ~~[The]~~ Subject to Subsection (5), the election officer shall ensure that the voting history
 80 record kept by the election officer for each voting precinct contains:

81 (a) for voting by mail:

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

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

84 (b) for early voting:

85 (i) the name and address of each individual who participated in early voting; and

86 (ii) the date the individual voted; and

87 (c) for voting on election day, the name and address of each individual who voted on
 88 election day.

89 (5) Subsection (4) does not authorize the disclosure of the information described in
 90 Subsection (4) beyond the extent expressly provided in Subsections (2) and (3).

91 ~~[(5)]~~ (6)(a) Notwithstanding the time limits for response to a request for records under
 92 Section 63G-2-204 or the time limits for a request for records established in any
 93 ordinance, the election officer shall ensure that the information required [by] to be
 94 disclosed under this section is recorded and made available to the public no later than
 95 one business day after [its receipt in the election officer's office] the day on which the
 96 election officer receives the information.

97 (b) Notwithstanding the fee requirements of Section 63G-2-203 or the fee requirements
 98 established in any ordinance, the election officer shall make copies of the voting
 99 history record available to the public, in accordance with this section, for the actual
 100 cost of production or copying.

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

102 **63G-2-202 . Access to private, controlled, and protected documents.**

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

104 (a) shall, upon request, disclose a private record to:

105 (i) the subject of the record;

106 (ii) the parent or legal guardian of an unemancipated minor who is the subject of the
 107 record;

108 (iii) the legal guardian of a legally incapacitated individual who is the subject of the
 109 record;

110 (iv) any other individual who:

111 (A) has a power of attorney from the subject of the record;

112 (B) submits a notarized release from the subject of the record or the individual's
 113 legal representative dated no more than 90 days before the date the request is
 114 made; or

115 (C) if the record is a medical record described in Subsection 63G-2-302(1)(b), is a
 116 health care provider, as defined in Section 26B-8-501, if releasing the record or
 117 information in the record is consistent with normal professional practice and
 118 medical ethics; or

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

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

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

123 (b) may disclose a private record described in Subsections 63G-2-302(1)(j) through [~~(m)~~]
 124 (n), without complying with Section 63G-2-206, to another governmental entity for a
 125 purpose related to:

126 (i) voter registration; or

127 (ii) the administration of an election.

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

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

- 131 (A) a release from the subject of the record that is dated no more than 90 days
132 prior to the date the request is made; and
- 133 (B) a signed acknowledgment of the terms of disclosure of controlled information
134 as provided by Subsection (2)(b); and
- 135 (ii) any person to whom the record must be disclosed pursuant to:
136 (A) a court order as provided in Subsection (7); or
137 (B) a legislative subpoena as provided in Title 36, Chapter 14, Legislative
138 Subpoena Powers.
- 139 (b) A person who receives a record from a governmental entity in accordance with
140 Subsection (2)(a)(i) may not disclose controlled information from that record to any
141 person, including the subject of the record.
- 142 (3) If there is more than one subject of a private or controlled record, the portion of the
143 record that pertains to another subject shall be segregated from the portion that the
144 requester is entitled to inspect.
- 145 (4) Upon request, and except as provided in Subsection (11)(b), a governmental entity shall
146 disclose a protected record to:
147 (a) the person that submitted the record;
148 (b) any other individual who:
149 (i) has a power of attorney from all persons, governmental entities, or political
150 subdivisions whose interests were sought to be protected by the protected
151 classification; or
152 (ii) submits a notarized release from all persons, governmental entities, or political
153 subdivisions whose interests were sought to be protected by the protected
154 classification or from their legal representatives dated no more than 90 days prior
155 to the date the request is made;
- 156 (c) any person to whom the record must be provided pursuant to:
157 (i) a court order as provided in Subsection (7); or
158 (ii) a legislative subpoena as provided in Title 36, Chapter 14, Legislative Subpoena
159 Powers; or
- 160 (d) the owner of a mobile home park, subject to the conditions of Subsection 41-1a-116
161 (5).
- 162 (5) Except as provided in Subsection (1)(b), a governmental entity may disclose a private,
163 controlled, or protected record to another governmental entity, political subdivision,
164 state, the United States, or a foreign government only as provided by Section 63G-2-206.

- 165 (6) Before releasing a private, controlled, or protected record, the governmental entity shall
166 obtain evidence of the requester's identity.
- 167 (7) A governmental entity shall disclose a record pursuant to the terms of a court order
168 signed by a judge from a court of competent jurisdiction, provided that:
- 169 (a) the record deals with a matter in controversy over which the court has jurisdiction;
170 (b) the court has considered the merits of the request for access to the record;
171 (c) the court has considered and, where appropriate, limited the requester's use and
172 further disclosure of the record in order to protect:
- 173 (i) privacy interests in the case of private or controlled records;
174 (ii) business confidentiality interests in the case of records protected under
175 Subsection 63G-2-305(1), (2), (40)(a)(ii), or (40)(a)(vi); and
176 (iii) privacy interests or the public interest in the case of other protected records;
177 (d) to the extent the record is properly classified private, controlled, or protected, the
178 interests favoring access, considering limitations thereon, are greater than or equal to
179 the interests favoring restriction of access; and
180 (e) where access is restricted by a rule, statute, or regulation referred to in Subsection
181 63G-2-201(3)(b), the court has authority independent of this chapter to order
182 disclosure.
- 183 (8)(a) Except as provided in Subsection (8)(d), a governmental entity may disclose or
184 authorize disclosure of private or controlled records for research purposes if the
185 governmental entity:
- 186 (i) determines that the research purpose cannot reasonably be accomplished without
187 use or disclosure of the information to the researcher in individually identifiable
188 form;
189 (ii) determines that:
- 190 (A) the proposed research is bona fide; and
191 (B) the value of the research is greater than or equal to the infringement upon
192 personal privacy;
193 (iii)(A) requires the researcher to assure the integrity, confidentiality, and security
194 of the records; and
195 (B) requires the removal or destruction of the individual identifiers associated
196 with the records as soon as the purpose of the research project has been
197 accomplished;
198 (iv) prohibits the researcher from:

- 199 (A) disclosing the record in individually identifiable form, except as provided in
200 Subsection (8)(b); or
- 201 (B) using the record for purposes other than the research approved by the
202 governmental entity; and
- 203 (v) secures from the researcher a written statement of the researcher's understanding
204 of and agreement to the conditions of this Subsection (8) and the researcher's
205 understanding that violation of the terms of this Subsection (8) may subject the
206 researcher to criminal prosecution under Section 63G-2-801.
- 207 (b) A researcher may disclose a record in individually identifiable form if the record is
208 disclosed for the purpose of auditing or evaluating the research program and no
209 subsequent use or disclosure of the record in individually identifiable form will be
210 made by the auditor or evaluator except as provided by this section.
- 211 (c) A governmental entity may require indemnification as a condition of permitting
212 research under this Subsection (8).
- 213 (d) A governmental entity may not disclose or authorize disclosure of a private record
214 for research purposes as described in this Subsection (8) if the private record is a
215 record described in Subsection [~~63G-2-302(1)(w)~~] 63G-2-302(1)(x).
- 216 (9)(a) Under Subsections 63G-2-201(5)(b) and 63G-2-401(6), a governmental entity
217 may disclose to persons other than those specified in this section records that are:
- 218 (i) private under Section 63G-2-302; or
219 (ii) protected under Section 63G-2-305, subject to Section 63G-2-309 if a claim for
220 business confidentiality has been made under Section 63G-2-309.
- 221 (b) Under Subsection 63G-2-403(11)(b), the State Records Committee may require the
222 disclosure to persons other than those specified in this section of records that are:
- 223 (i) private under Section 63G-2-302;
224 (ii) controlled under Section 63G-2-304; or
225 (iii) protected under Section 63G-2-305, subject to Section 63G-2-309 if a claim for
226 business confidentiality has been made under Section 63G-2-309.
- 227 (c) Under Subsection 63G-2-404(7), the court may require the disclosure of records that
228 are private under Section 63G-2-302, controlled under Section 63G-2-304, or
229 protected under Section 63G-2-305 to persons other than those specified in this
230 section.
- 231 (10)(a) A private record described in Subsection 63G-2-302(2)(f) may only be disclosed
232 as provided in Subsection (1)(a)(v).

233 (b) A protected record described in Subsection 63G-2-305(43) may only be disclosed as
234 provided in Subsection (4)(c) or Section 26B-6-212.

235 (11)(a) A private, protected, or controlled record described in Section 26B-1-506 shall
236 be disclosed as required under:

237 (i) Subsections 26B-1-506(1)(b) and (2); and

238 (ii) Subsections 26B-1-507(1) and (6).

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

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

242 **63G-2-209 . Vexatious requester.**

243 (1) As used in this section:

244 (a) "Committee" means the State Records Committee created in Section 63G-2-501.

245 (b) "Executive secretary" means an individual appointed as executive secretary under
246 Subsection 63G-2-502(3).

247 (c) "Respondent" means a person that a governmental entity claims is a vexatious
248 requester under this section.

249 (2)(a) A governmental entity may file a petition with the committee to request relief
250 from a person that the governmental entity claims is a vexatious requester.

251 (b) A petition under Subsection (2)(a) shall:

252 (i) be filed with the committee by submitting the petition to the executive secretary;
253 and

254 (ii) contain:

255 (A) the name, phone number, mailing address, and email address that the
256 respondent submitted to the governmental entity;

257 (B) a description of the conduct that the governmental entity claims demonstrates
258 that the respondent is a vexatious requester;

259 (C) a statement of the relief the governmental entity seeks; and

260 (D) a sworn declaration or an unsworn declaration, as those terms are defined in
261 Section 78B-18a-102.

262 (c) On the day the governmental entity files a petition under Subsection (2)(a), the
263 governmental entity shall send a copy of the petition to the respondent.

264 (3)(a) Except as provided in Subsection (3)(c), no later than seven business days after
265 receiving the petition the executive secretary shall schedule a hearing for the
266 committee to consider the petition, to be held:

- 267 (i)(A) at the next regularly scheduled committee meeting falling at least 16
268 calendar days after the date the petition is filed but no later than 64 calendar
269 days after the date the petition is filed; or
- 270 (B) at a regularly scheduled committee meeting that is later than the period
271 described in Subsection (3)(a)(i)(A) if the later committee meeting is the first
272 regularly scheduled committee meeting at which there are fewer than 10
273 appeals scheduled to be heard; or
- 274 (ii) at a date sooner than a period described in Subsection (3)(a)(i) if the
275 governmental entity:
- 276 (A) requests an expedited hearing; and
277 (B) shows good cause for the expedited hearing.
- 278 (b) If the executive secretary schedules a hearing under Subsection (3)(a), the executive
279 secretary shall:
- 280 (i) send a copy of the petition to each member of the committee;
281 (ii) send a copy of the notice of hearing to the governmental entity, the respondent,
282 and each member of the committee; and
283 (iii) if applicable, send a copy of the respondent's statement under Subsection
284 (3)(c)(ii) to the governmental entity and each member of the committee.
- 285 (c)(i) The executive secretary may decline to schedule a hearing if:
- 286 (A) the executive secretary recommends that the committee deny the petition
287 without a hearing because the petition does not warrant a hearing;
288 (B) the executive secretary consults with the chair of the committee and at least
289 one other member of the committee; and
290 (C) the chair of the committee and all committee members with whom the
291 executive secretary consults under this Subsection (3)(c)(i) agree with the
292 executive secretary's recommendation to deny the petition without a hearing.
- 293 (ii) The executive secretary may, in making the determination described in
294 Subsection (3)(c)(i)(A), request that the respondent submit a written response to
295 the petition.
- 296 (d) If the executive secretary declines to schedule a hearing in accordance with
297 Subsection (3)(c):
- 298 (i) the executive secretary shall send a notice to the governmental entity and the
299 respondent indicating that the request for a hearing has been denied and the
300 reasons for the denial; and

- 301 (ii) the committee shall:
- 302 (A) vote at the committee's next regular meeting to accept or reject the
- 303 recommendation to deny the petition without a hearing;
- 304 (B) issue an order that includes the reasons for the committee's decision to accept
- 305 or reject the recommendation; and
- 306 (C) if the committee rejects the recommendation to deny the petition without a
- 307 hearing, direct the executive secretary to schedule a hearing as provided in
- 308 Subsection (3)(a).
- 309 (4)(a) No later than five business days before the hearing, the respondent may submit to
- 310 the executive secretary and the governmental entity a written statement in response to
- 311 the governmental entity's petition.
- 312 (b) The written statement described in Subsection (4)(a) may be the same document as
- 313 the respondent's written response described in Subsection (3)(c)(ii).
- 314 (5) No later than 10 business days before a hearing under this section, a person whose legal
- 315 interests may be substantially affected by the proceeding may file a request for
- 316 intervention with the committee as provided in Subsection 63G-2-403(6).
- 317 (6) If a respondent fails to submit a written statement under Subsection (4) or fails to appear
- 318 at the hearing, the committee shall:
- 319 (a) cancel the hearing; or
- 320 (b) hold the hearing in accordance with Subsection (7).
- 321 (7)(a) If the committee holds a hearing scheduled under Subsection (3), the committee
- 322 shall:
- 323 (i) allow the governmental entity to testify, present evidence, and comment on the
- 324 issues; and
- 325 (ii) allow the respondent to testify, present evidence, and comment on the issues if
- 326 the respondent appears at the hearing.
- 327 (b) At the hearing, the committee may allow another interested person to comment on
- 328 the issues.
- 329 (c)(i) Discovery is prohibited, but the committee may issue subpoenas or other orders
- 330 to compel production of necessary testimony or evidence.
- 331 (ii) If the subject of a committee subpoena disobeys or fails to comply with the
- 332 subpoena, the committee may file a motion with the district court for an order to
- 333 compel obedience to the subpoena.
- 334 (8)(a) No later than seven business days after a hearing is held as scheduled under

- 335 Subsection (3) or the date on which a hearing cancelled under Subsection (6) was
336 scheduled to be held, the committee shall:
- 337 (i) determine, in accordance with Subsection (9), whether the governmental entity has
338 demonstrated that the respondent is a vexatious requester; and
- 339 (ii) issue a signed order that grants or denies the petition in whole or in part.
- 340 (b) Upon granting the petition in whole or in part, the committee may order that the
341 governmental entity is not required to fulfill requests from the respondent or a person
342 that submits a request on the respondent's behalf for a period of time that may not
343 exceed one year.
- 344 (c) The committee's order shall contain:
- 345 (i) a statement of the reasons for the committee's decision;
- 346 (ii) if the petition is granted in whole or in part, a specific description of the conduct
347 the committee determines demonstrates that the respondent is a vexatious
348 requester, including any conduct the committee finds to constitute an abuse of the
349 right of access to information under this chapter or a substantial interference with
350 the operations of the governmental entity;
- 351 (iii) a statement that the respondent or governmental entity may seek judicial review
352 of the committee's decision in district court as provided in Section 63G-2-404; and
- 353 (iv) a brief summary of the judicial review process, the time limits for seeking
354 judicial review, and a notice that, in order to protect applicable rights in
355 connection with the judicial review, the person seeking judicial review of the
356 committee's decision may wish to seek advice from an attorney.
- 357 (9) In determining whether a governmental entity has demonstrated that the respondent is a
358 vexatious requester, the committee shall consider:
- 359 (a) the interests described in Section 63G-2-102;
- 360 (b) as applicable:
- 361 (i) the number of requests the respondent has submitted to the governmental entity,
362 including the number of pending record requests;
- 363 (ii) the scope, nature, content, language, and subject matter of record requests the
364 respondent has submitted to the governmental entity;
- 365 (iii) the nature, content, language, and subject matter of any communications to the
366 governmental entity related to a record request of the respondent; and
- 367 (iv) any pattern of conduct that the committee determines to constitute:
- 368 (A) an abuse of the right of access to information under this chapter; or

- 369 (B) substantial interference with the operations of the governmental entity; and
370 (c) any other factor the committee considers relevant.
- 371 (10)(a) A governmental entity or respondent aggrieved by the committee's decision
372 under this section may seek judicial review of the decision as provided in Section
373 63G-2-404.
- 374 (b) In a judicial review under Subsection (10)(a), the court may award reasonable
375 attorney fees to a respondent if:
- 376 (i) the respondent substantially prevails; and
377 (ii) the court determines that:
- 378 (A) the petition filed by the governmental entity under Subsection (2) is without
379 merit;~~and]~~
- 380 (B) the governmental entity's actions in filing the petition lack a reasonable basis
381 in fact or law[-] ; and
- 382 (C) the governmental entity filed the petition in bad faith.
- 383 (c) Except for the waiver of immunity in Subsection 63G-7-301(2)(e), a claim for
384 attorney fees under this Subsection (10) is not subject to Chapter 7, Governmental
385 Immunity Act of Utah.
- 386 (11) Notwithstanding any other provision of this chapter, a records request that a
387 governmental entity is not required to fulfill in accordance with an order issued under
388 this section may not be the subject of an appeal under Part 4, Appeals.
- 389 (12) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
390 committee shall make rules to implement this section.
- 391 Section 4. Section **63G-2-210** is enacted to read:
- 392 **63G-2-210 . Access to and use of voter or election information by a government**
393 **officer.**
- 394 (1) As used in this section, "government officer" means:
- 395 (a) an elected official; or
396 (b) an officer, employee, volunteer, or agent of a governmental entity.
- 397 (2) A government officer may not:
- 398 (a) disclose, or attempt to discover, any information from a ballot cast by an identifiable
399 voter;
- 400 (b) except as provided in Subsection (3), disclose in relation to an identifiable voter:
- 401 (i) the method by which the voter voted or returned a ballot;
402 (ii) when or where the voter voted;

- 403 (iii) how or when the voter's ballot was received;
 404 (iv) whether a ballot was mailed to the voter;
 405 (v) whether the voter placed postage on a return envelope; or
 406 (vi) any information from the return envelope of a voter.
- 407 (3) Subsection (2) does not prohibit the disclosure, in mass, of the information included in a
 408 voting history record, in accordance with Section 20A-5-410.
- 409 (4) Except as provided in Subsection (5), a government officer who, due to the government
 410 officer's position as a government officer, has access to election records, may not access,
 411 use, copy, or release the information except to the extent that the access, use, copying, or
 412 release:
- 413 (a) is reasonably related to a duty of the government officer;
 414 (b) is in accordance with the requirements of law; and
 415 (c) is not done for a primarily personal purpose, including:
- 416 (i) a political purpose;
 417 (ii) furthering the government officer's personal agenda; or
 418 (iii) a purpose relating to the government officer's private business, hobbies, or
 419 personal interests.
- 420 (5) Subsection (4) does not prevent a government officer from accessing, using, copying, or
 421 releasing government information in the same manner available to a member of the
 422 general public, including by filing a record request under Section 63G-2-204.

423 Section 5. Section **63G-2-301** is amended to read:

424 **63G-2-301 . Public records.**

- 425 (1) As used in this section:
- 426 (a) "Business address" means a single address of a governmental agency designated for
 427 the public to contact an employee or officer of the governmental agency.
- 428 (b) "Business email address" means a single email address of a governmental agency
 429 designated for the public to contact an employee or officer of the governmental
 430 agency.
- 431 (c) "Business telephone number" means a single telephone number of a governmental
 432 agency designated for the public to contact an employee or officer of the
 433 governmental agency.
- 434 (d) "Correctional facility" means the same as that term is defined in Section 77-16b-102.
- 435 (2) The following records are public except to the extent they contain information expressly
 436 permitted to be treated confidentially under the provisions of Subsections

- 437 63G-2-201(3)(b) and (6)(a):
- 438 (a) laws;
- 439 (b) the name, gender, gross compensation, job title, job description, business address,
440 business email address, business telephone number, number of hours worked per pay
441 period, dates of employment, and relevant education, previous employment, and
442 similar job qualifications of a current or former employee or officer of the
443 governmental entity, excluding:
- 444 (i) undercover law enforcement personnel; and
- 445 (ii) investigative personnel if disclosure could reasonably be expected to impair the
446 effectiveness of investigations or endanger any individual's safety;
- 447 (c) final opinions, including concurring and dissenting opinions, and orders that are
448 made by a governmental entity in an administrative, adjudicative, or judicial
449 proceeding except that if the proceedings were properly closed to the public, the
450 opinion and order may be withheld to the extent that they contain information that is
451 private, controlled, or protected;
- 452 (d) final interpretations of statutes or rules by a governmental entity unless classified as
453 protected as provided in Subsection 63G-2-305(17) or (18);
- 454 (e) information contained in or compiled from a transcript, minutes, or report of the open
455 portions of a meeting of a governmental entity as provided by Title 52, Chapter 4,
456 Open and Public Meetings Act, including the records of all votes of each member of
457 the governmental entity;
- 458 (f) judicial records unless a court orders the records to be restricted under the rules of
459 civil or criminal procedure or unless the records are private under this chapter;
- 460 (g) unless otherwise classified as private under Section 63G-2-303, records or parts of
461 records filed with or maintained by county recorders, clerks, treasurers, surveyors,
462 zoning commissions, the Division of Forestry, Fire, and State Lands, the School and
463 Institutional Trust Lands Administration, the Division of Oil, Gas, and Mining, the
464 Division of Water Rights, or other governmental entities that give public notice of:
- 465 (i) titles or encumbrances to real property;
- 466 (ii) restrictions on the use of real property;
- 467 (iii) the capacity of persons to take or convey title to real property; or
- 468 (iv) tax status for real and personal property;
- 469 (h) records of the Department of Commerce that evidence incorporations, mergers, name
470 changes, and uniform commercial code filings;

- 471 (i) data on individuals that would otherwise be private under this chapter if the
472 individual who is the subject of the record has given the governmental entity written
473 permission to make the records available to the public;
- 474 (j) documentation of the compensation that a governmental entity pays to a contractor or
475 private provider;
- 476 (k) summary data;
- 477 (l) voter registration records, including an individual's voting history, except for a voter
478 registration record or those parts of a voter registration record that are classified as
479 private under Subsections 63G-2-302(1)(j) through [~~m~~] n or withheld under
480 Subsection 20A-2-104(7);
- 481 (m) for an elected official, as defined in Section 11-47-102, a telephone number, if
482 available, and email address, if available, where that elected official may be reached
483 as required in Title 11, Chapter 47, Access to Elected Officials;
- 484 (n) for a school community council member, a telephone number, if available, and email
485 address, if available, where that elected official may be reached directly as required
486 in Section 53G-7-1203;
- 487 (o) annual audited financial statements of the Utah Educational Savings Plan described
488 in Section 53B-8a-111; and
- 489 (p) an initiative packet, as defined in Section 20A-7-101, and a referendum packet, as
490 defined in Section 20A-7-101, after the packet is submitted to a county clerk.
- 491 (3) The following records are normally public, but to the extent that a record is expressly
492 exempt from disclosure, access may be restricted under Subsection 63G-2-201(3)(b),
493 Section 63G-2-302, 63G-2-304, or 63G-2-305:
- 494 (a) administrative staff manuals, instructions to staff, and statements of policy;
- 495 (b) records documenting a contractor's or private provider's compliance with the terms
496 of a contract with a governmental entity;
- 497 (c) records documenting the services provided by a contractor or a private provider to
498 the extent the records would be public if prepared by the governmental entity;
- 499 (d) contracts entered into by a governmental entity;
- 500 (e) any account, voucher, or contract that deals with the receipt or expenditure of funds
501 by a governmental entity;
- 502 (f) records relating to government assistance or incentives publicly disclosed, contracted
503 for, or given by a governmental entity, encouraging a person to expand or relocate a
504 business in Utah, except as provided in Subsection 63G-2-305(35);

- 505 (g) chronological logs and initial contact reports;
- 506 (h) correspondence by and with a governmental entity in which the governmental entity
507 determines or states an opinion upon the rights of the state, a political subdivision,
508 the public, or any person;
- 509 (i) empirical data contained in drafts if:
- 510 (i) the empirical data is not reasonably available to the requester elsewhere in similar
511 form; and
- 512 (ii) the governmental entity is given a reasonable opportunity to correct any errors or
513 make nonsubstantive changes before release;
- 514 (j) drafts that are circulated to anyone other than:
- 515 (i) a governmental entity;
- 516 (ii) a political subdivision;
- 517 (iii) a federal agency if the governmental entity and the federal agency are jointly
518 responsible for implementation of a program or project that has been legislatively
519 approved;
- 520 (iv) a government-managed corporation; or
- 521 (v) a contractor or private provider;
- 522 (k) drafts that have never been finalized but were relied upon by the governmental entity
523 in carrying out action or policy;
- 524 (l) original data in a computer program if the governmental entity chooses not to
525 disclose the program;
- 526 (m) arrest warrants after issuance, except that, for good cause, a court may order
527 restricted access to arrest warrants prior to service;
- 528 (n) search warrants after execution and filing of the return, except that a court, for good
529 cause, may order restricted access to search warrants prior to trial;
- 530 (o) records that would disclose information relating to formal charges or disciplinary
531 actions against a past or present governmental entity employee if:
- 532 (i) the disciplinary action has been completed and all time periods for administrative
533 appeal have expired; and
- 534 (ii) the charges on which the disciplinary action was based were sustained;
- 535 (p) records maintained by the Division of Forestry, Fire, and State Lands, the School and
536 Institutional Trust Lands Administration, or the Division of Oil, Gas, and Mining that
537 evidence mineral production on government lands;
- 538 (q) final audit reports;

- 539 (r) occupational and professional licenses;
- 540 (s) business licenses;
- 541 (t) a notice of violation, a notice of agency action under Section 63G-4-201, or similar
- 542 records used to initiate proceedings for discipline or sanctions against persons
- 543 regulated by a governmental entity, but not including records that initiate employee
- 544 discipline; and
- 545 (u)(i) records that disclose a standard, regulation, policy, guideline, or rule regarding
- 546 the operation of a correctional facility or the care and control of inmates
- 547 committed to the custody of a correctional facility; and
- 548 (ii) records that disclose the results of an audit or other inspection assessing a
- 549 correctional facility's compliance with a standard, regulation, policy, guideline, or
- 550 rule described in Subsection (3)(u)(i).
- 551 (4) The list of public records in this section is not exhaustive and should not be used to limit
- 552 access to records.

553 Section 6. Section **63G-2-302** is amended to read:

554 **63G-2-302 . Private records.**

- 555 (1) The following records are private:
- 556 (a) records concerning an individual's eligibility for unemployment insurance benefits,
- 557 social services, welfare benefits, or the determination of benefit levels;
- 558 (b) records containing data on individuals describing medical history, diagnosis,
- 559 condition, treatment, evaluation, or similar medical data;
- 560 (c) records of publicly funded libraries that when examined alone or with other records
- 561 identify a patron;
- 562 (d) records received by or generated by or for:
- 563 (i) the Independent Legislative Ethics Commission, except for:
- 564 (A) the commission's summary data report that is required under legislative rule;
- 565 and
- 566 (B) any other document that is classified as public under legislative rule; or
- 567 (ii) a Senate or House Ethics Committee in relation to the review of ethics
- 568 complaints, unless the record is classified as public under legislative rule;
- 569 (e) records received by, or generated by or for, the Independent Executive Branch Ethics
- 570 Commission, except as otherwise expressly provided in Title 63A, Chapter 14,
- 571 Review of Executive Branch Ethics Complaints;
- 572 (f) records received or generated for a Senate confirmation committee concerning

- 573 character, professional competence, or physical or mental health of an individual:
- 574 (i) if, prior to the meeting, the chair of the committee determines release of the
- 575 records:
- 576 (A) reasonably could be expected to interfere with the investigation undertaken by
- 577 the committee; or
- 578 (B) would create a danger of depriving a person of a right to a fair proceeding or
- 579 impartial hearing; and
- 580 (ii) after the meeting, if the meeting was closed to the public;
- 581 (g) employment records concerning a current or former employee of, or applicant for
- 582 employment with, a governmental entity that would disclose that individual's home
- 583 address, home telephone number, social security number, insurance coverage, marital
- 584 status, or payroll deductions;
- 585 (h) records or parts of records under Section 63G-2-303 that a current or former
- 586 employee identifies as private according to the requirements of that section;
- 587 (i) that part of a record indicating a person's social security number or federal employer
- 588 identification number if provided under Section 31A-23a-104, 31A-25-202,
- 589 31A-26-202, 58-1-301, 58-55-302, 61-1-4, or 61-2f-203;
- 590 (j) that part of a voter registration record identifying a voter's:
- 591 (i) driver license or identification card number;
- 592 (ii) social security number, or last four digits of the social security number;
- 593 (iii) email address;
- 594 (iv) date of birth; or
- 595 (v) phone number;
- 596 (k) a voter registration record that is classified as a private record by the lieutenant
- 597 governor or a county clerk under Subsection 20A-2-101.1(5)(a), 20A-2-104(4)(h), or
- 598 20A-2-204(4)(b);
- 599 (l) a voter registration record that is withheld under Subsection 20A-2-104(7);
- 600 (m) a withholding request form described in Subsections 20A-2-104(7) and (8) and any
- 601 verification submitted in support of the form;
- 602 (n) a record or information regarding whether a voter returned a ballot with postage
- 603 attached;
- 604 [~~n~~] (o) a record that:
- 605 (i) contains information about an individual;
- 606 (ii) is voluntarily provided by the individual; and

- 607 (iii) goes into an electronic database that:
- 608 (A) is designated by and administered under the authority of the Chief Information
609 Officer; and
- 610 (B) acts as a repository of information about the individual that can be
611 electronically retrieved and used to facilitate the individual's online interaction
612 with a state agency;
- 613 ~~[(p)]~~ (p) information provided to the Commissioner of Insurance under:
- 614 (i) Subsection 31A-23a-115(3)(a);
- 615 (ii) Subsection 31A-23a-302(4); or
- 616 (iii) Subsection 31A-26-210(4);
- 617 ~~[(q)]~~ (q) information obtained through a criminal background check under Title 11,
618 Chapter 40, Criminal Background Checks by Political Subdivisions Operating Water
619 Systems;
- 620 ~~[(r)]~~ (r) information provided by an offender that is:
- 621 (i) required by the registration requirements of Title 77, Chapter 41, Sex, Kidnap, and
622 Child Abuse Offender Registry; and
- 623 (ii) not required to be made available to the public under Subsection 77-41-110(4);
- 624 ~~[(s)]~~ (s) a statement and any supporting documentation filed with the attorney general in
625 accordance with Section 34-45-107, if the federal law or action supporting the filing
626 involves homeland security;
- 627 ~~[(t)]~~ (t) electronic toll collection customer account information received or collected
628 under Section 72-6-118 and customer information described in Section 17B-2a-815
629 received or collected by a public transit district, including contact and payment
630 information and customer travel data;
- 631 ~~[(u)]~~ (u) an email address provided by a military or overseas voter under Section
632 20A-16-501;
- 633 ~~[(v)]~~ (v) a completed military-overseas ballot that is electronically transmitted under Title
634 20A, Chapter 16, Uniform Military and Overseas Voters Act;
- 635 ~~[(w)]~~ (w) records received by or generated by or for the Political Subdivisions Ethics
636 Review Commission established in Section 63A-15-201, except for:
- 637 (i) the commission's summary data report that is required in Section 63A-15-202; and
- 638 (ii) any other document that is classified as public in accordance with Title 63A,
639 Chapter 15, Political Subdivisions Ethics Review Commission;
- 640 ~~[(x)]~~ (x) a record described in Section 53G-9-604 that verifies that a parent was notified

- 641 of an incident or threat;
- 642 ~~[(x)]~~ (y) a criminal background check or credit history report conducted in accordance
- 643 with Section 63A-3-201;
- 644 ~~[(y)]~~ (z) a record described in Subsection 53-5a-104(7);
- 645 ~~[(z)]~~ (aa) on a record maintained by a county for the purpose of administering property
- 646 taxes, an individual's:
- 647 (i) email address;
- 648 (ii) phone number; or
- 649 (iii) personal financial information related to a person's payment method;
- 650 ~~[(aa)]~~ (bb) a record submitted by a taxpayer to establish the taxpayer's eligibility for an
- 651 exemption, deferral, abatement, or relief under:
- 652 (i) Title 59, Chapter 2, Part 11, Exemptions;
- 653 (ii) Title 59, Chapter 2, Part 12, Property Tax Relief;
- 654 (iii) Title 59, Chapter 2, Part 18, Tax Deferral and Tax Abatement; or
- 655 (iv) Title 59, Chapter 2, Part 19, Armed Forces Exemptions;
- 656 ~~[(bb)]~~ (cc) a record provided by the State Tax Commission in response to a request under
- 657 Subsection 59-1-403(4)(y)(iii);
- 658 ~~[(cc)]~~ (dd) a record of the Child Welfare Legislative Oversight Panel regarding an
- 659 individual child welfare case, as described in Subsection 36-33-103(3);~~[-and]~~
- 660 ~~[(dd)]~~ (ee) a record relating to drug or alcohol testing of a state employee under Section
- 661 63A-17-1004;
- 662 ~~[(ee)]~~ (ff) a record relating to a request by a state elected official or state employee who
- 663 has been threatened to the Division of Technology Services to remove personal
- 664 identifying information from the open web under Section 63A-16-109; and
- 665 ~~[(ff)]~~ (gg) a record including confidential information as that term is defined in Section
- 666 67-27-105.
- 667 (2) The following records are private if properly classified by a governmental entity:
- 668 (a) records concerning a current or former employee of, or applicant for employment
- 669 with a governmental entity, including performance evaluations and personal status
- 670 information such as race, religion, or disabilities, but not including records that are
- 671 public under Subsection 63G-2-301(2)(b) or 63G-2-301(3)(o) or private under
- 672 Subsection (1)(b);
- 673 (b) records describing an individual's finances, except that the following are public:
- 674 (i) records described in Subsection 63G-2-301(2);

- 675 (ii) information provided to the governmental entity for the purpose of complying
676 with a financial assurance requirement; or
- 677 (iii) records that must be disclosed in accordance with another statute;
- 678 (c) records of independent state agencies if the disclosure of those records would
679 conflict with the fiduciary obligations of the agency;
- 680 (d) other records containing data on individuals the disclosure of which constitutes a
681 clearly unwarranted invasion of personal privacy;
- 682 (e) records provided by the United States or by a government entity outside the state that
683 are given with the requirement that the records be managed as private records, if the
684 providing entity states in writing that the record would not be subject to public
685 disclosure if retained by it;
- 686 (f) any portion of a record in the custody of the Division of Aging and Adult Services,
687 created in Section 26B-6-102, that may disclose, or lead to the discovery of, the
688 identity of a person who made a report of alleged abuse, neglect, or exploitation of a
689 vulnerable adult; and
- 690 (g) audio and video recordings created by a body-worn camera, as defined in Section
691 77-7a-103, that record sound or images inside a home or residence except for
692 recordings that:
- 693 (i) depict the commission of an alleged crime;
- 694 (ii) record any encounter between a law enforcement officer and a person that results
695 in death or bodily injury, or includes an instance when an officer fires a weapon;
- 696 (iii) record any encounter that is the subject of a complaint or a legal proceeding
697 against a law enforcement officer or law enforcement agency;
- 698 (iv) contain an officer involved critical incident as defined in Subsection 76-2-408
699 (1)(f); or
- 700 (v) have been requested for reclassification as a public record by a subject or
701 authorized agent of a subject featured in the recording.
- 702 (3)(a) As used in this Subsection (3), "medical records" means medical reports, records,
703 statements, history, diagnosis, condition, treatment, and evaluation.
- 704 (b) Medical records in the possession of the University of Utah Hospital, its clinics,
705 doctors, or affiliated entities are not private records or controlled records under
706 Section 63G-2-304 when the records are sought:
- 707 (i) in connection with any legal or administrative proceeding in which the patient's
708 physical, mental, or emotional condition is an element of any claim or defense; or

- 709 (ii) after a patient's death, in any legal or administrative proceeding in which any
710 party relies upon the condition as an element of the claim or defense.
- 711 (c) Medical records are subject to production in a legal or administrative proceeding
712 according to state or federal statutes or rules of procedure and evidence as if the
713 medical records were in the possession of a nongovernmental medical care provider.

714 Section 7. Section **63G-2-405** is amended to read:

715 **63G-2-405 . Confidential treatment of records for which no exemption applies.**

- 716 (1) A court may, on appeal or in a declaratory or other action, order the confidential
717 treatment of records for which no exemption from disclosure applies if:
- 718 (a) there are compelling interests favoring restriction of access to the record; and
719 (b) the interests favoring restriction of access clearly are greater than or equal to the
720 interests favoring access.
- 721 (2) If a governmental entity requests a court to restrict access to a record under this section,
722 the court shall require the governmental entity to pay the reasonable attorney fees and
723 costs incurred by the lead party in opposing the governmental entity's request, if:
- 724 (a) the court finds that no statutory or constitutional exemption from disclosure could
725 reasonably apply to the record in question;~~and~~
726 (b) the court denies confidential treatment under this section[-] ; and
727 (c) the court finds that the governmental entity made the request in bad faith.
- 728 (3) This section does not apply to records that are specifically required to be public under
729 statutory provisions outside of this chapter or under Section 63G-2-301, except as
730 provided in Subsection (4).
- 731 (4)(a) Access to drafts and empirical data in drafts may be limited under this section, but
732 the court may consider, in its evaluation of interests favoring restriction of access,
733 only those interests that relate to the underlying information, and not to the
734 deliberative nature of the record.
- 735 (b) Access to original data in a computer program may be limited under this section, but
736 the court may consider, in its evaluation of interests favoring restriction of access,
737 only those interests that relate to the underlying information, and not to the status of
738 that data as part of a computer program.
- 739 (5) Except for the waiver of immunity in Subsection 63G-7-301(2)(e), a claim for attorney
740 fees or costs under this section is not subject to Chapter 7, Governmental Immunity Act
741 of Utah.

742 Section 8. Section **63G-2-801** is amended to read:

743 **63G-2-801 . Criminal penalties.**

- 744 (1)(a) A public employee or other person who has lawful access to any private,
745 controlled, or protected record under this chapter, and who intentionally discloses,
746 provides a copy of, or improperly uses a private, controlled, or protected record
747 knowing that the disclosure or use is prohibited under this chapter, is, except as
748 provided in Subsection 53-5-708(1)(c), guilty of a class B misdemeanor.
- 749 (b) It is a defense to prosecution under Subsection (1)(a) that the actor used or released
750 private, controlled, or protected information in the reasonable belief that the use or
751 disclosure of the information was necessary to expose a violation of law involving
752 government corruption, abuse of office, or misappropriation of public funds or
753 property.
- 754 (c) It is a defense to prosecution under Subsection (1)(a) that the record could have
755 lawfully been released to the recipient if it had been properly classified.
- 756 (d) It is a defense to prosecution under Subsection (1)(a) that the public employee or
757 other person disclosed, provided, or used the record based on a good faith belief that
758 the disclosure, provision, or use was in accordance with the law.
- 759 (2)(a) A person who by false pretenses, bribery, or theft, gains access to or obtains a
760 copy of any private, controlled, or protected record to which the person is not legally
761 entitled is guilty of a class B misdemeanor.
- 762 (b) No person shall be guilty under Subsection (2)(a) who receives the record,
763 information, or copy after the fact and without prior knowledge of or participation in
764 the false pretenses, bribery, or theft.
- 765 (3)(a) A public employee who intentionally refuses to release a record, the disclosure of
766 which the employee knows is required by law, is guilty of a class B misdemeanor.
- 767 (b) It is a defense to prosecution under Subsection (3)(a) that the public employee's
768 failure to release the record was based on a good faith belief that the public employee
769 was acting in accordance with the requirements of law.
- 770 (c) A public employee who intentionally refuses to release a record, the disclosure of
771 which the employee knows is required by a final unappealed order from a
772 government entity, the State Records Committee, or a court is guilty of a class B
773 misdemeanor.
- 774 (4) A person who intentionally violates Section 63G-2-210 is guilty of a class B
775 misdemeanor.
- 776 Section 9. Section **63G-2-802** is amended to read:

777 **63G-2-802 . Injunction -- Attorney fees and costs.**

778 (1) As used in this section, "defending party" means:

779 (a) a governmental entity or political subdivision:

780 (i) whose access denial is the subject of a petition for judicial review under Section

781 63G-2-404; and

782 (ii) that defends the access denial in an action for judicial review under Section

783 63G-2-404; or

784 (b) a person, other than the governmental entity or political subdivision described in

785 Subsection (1)(a), that is party to the action for judicial review in opposition to

786 disclosure of the record that is the subject of judicial review.

787 (2) A district court in this state may enjoin any governmental entity or political subdivision

788 that violates or proposes to violate the provisions of this chapter.

789 (3)(a) ~~[A]~~ Subject to Subsection (6), a district court may assess against a defending party

790 reasonable attorney fees and costs reasonably incurred in connection with a judicial

791 appeal to determine whether a requester is entitled ~~[to]~~ access to records under a

792 records request, if[-] :

793 (i) the requester substantially prevails[-] ; and794 (ii) the court finds that the defending party acted in bad faith.795 (b) ~~[H]~~ Subject to Subsection (6), in determining whether to award attorney fees or costs796 to a requester under this section, the court shall consider:

797 (i) the public benefit derived from the case;

798 (ii) the nature of the requester's interest in the records; and

799 (iii) whether the defending party's actions had a reasonable basis.

800 (c) ~~[Attorney fees and costs shall not ordinarily be awarded]~~ A court may not award801 attorney fees or costs to a requester under this section if the purpose of the litigation

802 is primarily to benefit the requester's financial or commercial interest.

803 (4) Neither attorney fees nor costs may be awarded for fees or costs incurred during

804 administrative proceedings.

805 (5) A district court may assess against a requester reasonable attorney fees and costs806 reasonably incurred in connection with a judicial appeal to determine whether the807 requester is entitled to access to records under a records request, if:808 (a) the defending party substantially prevails; and809 (b) the court finds that the requester acted in bad faith.810 ~~[(5)]~~ (6) ~~[Notwithstanding Subsection (3), a]~~ A court may award to a requester attorney fees

811 and costs incurred in connection with appeals to district courts under Subsection
812 63G-2-404(2) only if the attorney fees and costs were incurred 20 or more days after the
813 day on which the requester provided[;] to the governmental entity, political subdivision,
814 or other person against which the requester seeks an award of attorney fees and costs,
815 [(a)] _an adequate explanation in writing of the basis for the requester's position,
816 regardless of whether the explanation is a part of or outside an administrative or court
817 proceeding[;and] .
818 [(b) to the governmental entity, political subdivision, or other person against which the
819 requester seeks an award of attorney fees and costs.]
820 [(6)] (7) Except for the waiver of immunity in Subsection 63G-7-301(2)(e), a claim for
821 attorney fees or costs as provided in this section is not subject to Chapter 7,
822 Governmental Immunity Act of Utah.
823 Section 10. **Effective Date.**
824 This bill takes effect on May 7, 2025.