

Stephanie Pitcher proposes the following substitute bill:

Employment Investigation Records Amendments

2025 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Stephanie Pitcher

House Sponsor: Stephanie Gricius

LONG TITLE

General Description:

This bill amends provisions relating to certain employment records of alleged misconduct.

Highlighted Provisions:

This bill:

- defines terms;
- makes a record of alleged employment or workplace misconduct (investigation record) a private record;
- prohibits the disclosure of an investigation record while an investigation is proceeding;
- describes the circumstances under which an investigation record must be released;
- identifies the information that must be redacted from an investigation record when the record is disclosed;
- places limitations on the length of time an investigation may proceed without an investigation record being subject to release; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63G-2-301, as last amended by Laws of Utah 2020, Chapters 255, 399

63G-2-302, as last amended by Laws of Utah 2024, Chapter 234

ENACTS:

63G-2-302.5, Utah Code Annotated 1953

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

30 Section 1. Section **63G-2-301** is amended to read:

31 **63G-2-301 . Public records.**

32 (1) As used in this section:

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

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

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

41 (d) "Correctional facility" means the same as that term is defined in Section 77-16b-102.

42 (2) The following records are public except to the extent they contain information expressly
43 permitted to be treated confidentially under the provisions of Subsections
44 63G-2-201(3)(b) and (6)(a):

45 (a) laws;

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

51 (i) undercover law enforcement personnel; and

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

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

59 (d) final interpretations of statutes or rules by a governmental entity unless classified as
60 protected as provided in Subsection 63G-2-305(17) or (18);

61 (e) information contained in or compiled from a transcript, minutes, or report of the open
62 portions of a meeting of a governmental entity as provided by Title 52, Chapter 4,

- 63 Open and Public Meetings Act, including the records of all votes of each member of
64 the governmental entity;
- 65 (f) judicial records unless a court orders the records to be restricted under the rules of
66 civil or criminal procedure or unless the records are private under this chapter;
- 67 (g) unless otherwise classified as private under Section 63G-2-303, records or parts of
68 records filed with or maintained by county recorders, clerks, treasurers, surveyors,
69 zoning commissions, the Division of Forestry, Fire, and State Lands, the School and
70 Institutional Trust Lands Administration, the Division of Oil, Gas, and Mining, the
71 Division of Water Rights, or other governmental entities that give public notice of:
- 72 (i) titles or encumbrances to real property;
- 73 (ii) restrictions on the use of real property;
- 74 (iii) the capacity of persons to take or convey title to real property; or
- 75 (iv) tax status for real and personal property;
- 76 (h) records of the Department of Commerce that evidence incorporations, mergers, name
77 changes, and uniform commercial code filings;
- 78 (i) data on individuals that would otherwise be private under this chapter if the
79 individual who is the subject of the record has given the governmental entity written
80 permission to make the records available to the public;
- 81 (j) documentation of the compensation that a governmental entity pays to a contractor or
82 private provider;
- 83 (k) summary data;
- 84 (l) voter registration records, including an individual's voting history, except for a voter
85 registration record or those parts of a voter registration record that are classified as
86 private under Subsections 63G-2-302(1)(j) through (m) or withheld under Subsection
87 20A-2-104(7);
- 88 (m) for an elected official, as defined in Section 11-47-102, a telephone number, if
89 available, and email address, if available, where that elected official may be reached
90 as required in Title 11, Chapter 47, Access to Elected Officials;
- 91 (n) for a school community council member, a telephone number, if available, and email
92 address, if available, where that elected official may be reached directly as required
93 in Section 53G-7-1203;
- 94 (o) annual audited financial statements of the Utah Educational Savings Plan described
95 in Section 53B-8a-111; and
- 96 (p) an initiative packet, as defined in Section 20A-7-101, and a referendum packet, as

defined in Section 20A-7-101, after the packet is submitted to a county clerk.

(3) The following records are normally public, but to the extent that a record is expressly exempt from disclosure, access may be restricted under Subsection 63G-2-201(3)(b), Section 63G-2-302, 63G-2-304, or 63G-2-305:

- (a) administrative staff manuals, instructions to staff, and statements of policy;
- (b) records documenting a contractor's or private provider's compliance with the terms of a contract with a governmental entity;
- (c) records documenting the services provided by a contractor or a private provider to the extent the records would be public if prepared by the governmental entity;
- (d) contracts entered into by a governmental entity;
- (e) any account, voucher, or contract that deals with the receipt or expenditure of funds by a governmental entity;
- (f) records relating to government assistance or incentives publicly disclosed, contracted for, or given by a governmental entity, encouraging a person to expand or relocate a business in Utah, except as provided in Subsection 63G-2-305(35);
- (g) chronological logs and initial contact reports;
- (h) correspondence by and with a governmental entity in which the governmental entity determines or states an opinion upon the rights of the state, a political subdivision, the public, or any person;
- (i) empirical data contained in drafts if:
 - (i) the empirical data is not reasonably available to the requester elsewhere in similar form; and
 - (ii) the governmental entity is given a reasonable opportunity to correct any errors or make nonsubstantive changes before release;
- (j) drafts that are circulated to anyone other than:
 - (i) a governmental entity;
 - (ii) a political subdivision;
 - (iii) a federal agency if the governmental entity and the federal agency are jointly responsible for implementation of a program or project that has been legislatively approved;
 - (iv) a government-managed corporation; or
 - (v) a contractor or private provider;
- (k) drafts that have never been finalized but were relied upon by the governmental entity in carrying out action or policy;

- (l) original data in a computer program if the governmental entity chooses not to disclose the program;
- (m) arrest warrants after issuance, except that, for good cause, a court may order restricted access to arrest warrants prior to service;
- (n) search warrants after execution and filing of the return, except that a court, for good cause, may order restricted access to search warrants prior to trial;
- (o) records, other than a record of alleged employment or workplace misconduct, as defined in Subsection 63G-2-302.5(1), that would disclose information relating to formal charges or disciplinary actions against a past or present governmental entity employee if:
 - (i) the disciplinary action has been completed and all time periods for administrative appeal have expired; and
 - (ii) the charges on which the disciplinary action was based were sustained;
- (p) records maintained by the Division of Forestry, Fire, and State Lands, the School and Institutional Trust Lands Administration, or the Division of Oil, Gas, and Mining that evidence mineral production on government lands;
- (q) final audit reports;
- (r) occupational and professional licenses;
- (s) business licenses;
- (t) a notice of violation, a notice of agency action under Section 63G-4-201, or similar records used to initiate proceedings for discipline or sanctions against persons regulated by a governmental entity, but not including records that initiate employee discipline; and
- (u)(i) records that disclose a standard, regulation, policy, guideline, or rule regarding the operation of a correctional facility or the care and control of inmates committed to the custody of a correctional facility; and
- (ii) records that disclose the results of an audit or other inspection assessing a correctional facility's compliance with a standard, regulation, policy, guideline, or rule described in Subsection (3)(u)(i).

- (4) The list of public records in this section is not exhaustive and should not be used to limit access to records.

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

63G-2-302 . Private records.

- (1) The following records are private:

- 165 (a) records concerning an individual's eligibility for unemployment insurance benefits,
166 social services, welfare benefits, or the determination of benefit levels;
- 167 (b) records containing data on individuals describing medical history, diagnosis,
168 condition, treatment, evaluation, or similar medical data;
- 169 (c) records of publicly funded libraries that when examined alone or with other records
170 identify a patron;
- 171 (d) records received by or generated by or for:
- 172 (i) the Independent Legislative Ethics Commission, except for:
- 173 (A) the commission's summary data report that is required under legislative rule;
174 and
- 175 (B) any other document that is classified as public under legislative rule; or
- 176 (ii) a Senate or House Ethics Committee in relation to the review of ethics
177 complaints, unless the record is classified as public under legislative rule;
- 178 (e) records received by, or generated by or for, the Independent Executive Branch Ethics
179 Commission, except as otherwise expressly provided in Title 63A, Chapter 14,
180 Review of Executive Branch Ethics Complaints;
- 181 (f) records received or generated for a Senate confirmation committee concerning
182 character, professional competence, or physical or mental health of an individual:
- 183 (i) if, prior to the meeting, the chair of the committee determines release of the
184 records:
- 185 (A) reasonably could be expected to interfere with the investigation undertaken by
186 the committee; or
- 187 (B) would create a danger of depriving a person of a right to a fair proceeding or
188 impartial hearing; and
- 189 (ii) after the meeting, if the meeting was closed to the public;
- 190 (g) employment records concerning a current or former employee of, or applicant for
191 employment with, a governmental entity that would disclose that individual's home
192 address, home telephone number, social security number, insurance coverage, marital
193 status, or payroll deductions;
- 194 (h) records or parts of records under Section 63G-2-303 that a current or former
195 employee identifies as private according to the requirements of that section;
- 196 (i) that part of a record indicating a person's social security number or federal employer
197 identification number if provided under Section 31A-23a-104, 31A-25-202,
198 31A-26-202, 58-1-301, 58-55-302, 61-1-4, or 61-2f-203;

- (j) that part of a voter registration record identifying a voter's:
- (i) driver license or identification card number;
 - (ii) social security number, or last four digits of the social security number;
 - (iii) email address;
 - (iv) date of birth; or
 - (v) phone number;
- (k) a voter registration record that is classified as a private record by the lieutenant governor or a county clerk under Subsection 20A-2-101.1(5)(a), 20A-2-104(4)(h), or 20A-2-204(4)(b);
- (l) a voter registration record that is withheld under Subsection 20A-2-104(7);
- (m) a withholding request form described in Subsections 20A-2-104(7) and (8) and any verification submitted in support of the form;
- (n) a record that:
- (i) contains information about an individual;
 - (ii) is voluntarily provided by the individual; and
 - (iii) goes into an electronic database that:
 - (A) is designated by and administered under the authority of the Chief Information Officer; and
 - (B) acts as a repository of information about the individual that can be electronically retrieved and used to facilitate the individual's online interaction with a state agency;
- (o) information provided to the Commissioner of Insurance under:
- (i) Subsection 31A-23a-115(3)(a);
 - (ii) Subsection 31A-23a-302(4); or
 - (iii) Subsection 31A-26-210(4);
- (p) information obtained through a criminal background check under Title 11, Chapter 40, Criminal Background Checks by Political Subdivisions Operating Water Systems;
- (q) information provided by an offender that is:
- (i) required by the registration requirements of Title 77, Chapter 41, Sex, Kidnap, and Child Abuse Offender Registry; and
 - (ii) not required to be made available to the public under Subsection 77-41-110(4);
- (r) a statement and any supporting documentation filed with the attorney general in accordance with Section 34-45-107, if the federal law or action supporting the filing involves homeland security;

- (s) electronic toll collection customer account information received or collected under Section 72-6-118 and customer information described in Section 17B-2a-815 received or collected by a public transit district, including contact and payment information and customer travel data;
- (t) an email address provided by a military or overseas voter under Section 20A-16-501;
- (u) a completed military-overseas ballot that is electronically transmitted under Title 20A, Chapter 16, Uniform Military and Overseas Voters Act;
- (v) records received by or generated by or for the Political Subdivisions Ethics Review Commission established in Section 63A-15-201, except for:
 - (i) the commission's summary data report that is required in Section 63A-15-202; and
 - (ii) any other document that is classified as public in accordance with Title 63A, Chapter 15, Political Subdivisions Ethics Review Commission;
- (w) a record described in Section 53G-9-604 that verifies that a parent was notified of an incident or threat;
- (x) a criminal background check or credit history report conducted in accordance with Section 63A-3-201;
- (y) a record described in Subsection 53-5a-104(7);
- (z) on a record maintained by a county for the purpose of administering property taxes, an individual's:
 - (i) email address;
 - (ii) phone number; or
 - (iii) personal financial information related to a person's payment method;
- (aa) a record submitted by a taxpayer to establish the taxpayer's eligibility for an exemption, deferral, abatement, or relief under:
 - (i) Title 59, Chapter 2, Part 11, Exemptions;
 - (ii) Title 59, Chapter 2, Part 12, Property Tax Relief;
 - (iii) Title 59, Chapter 2, Part 18, Tax Deferral and Tax Abatement; or
 - (iv) Title 59, Chapter 2, Part 19, Armed Forces Exemptions;
- (bb) a record provided by the State Tax Commission in response to a request under Subsection 59-1-403(4)(y)(iii);
- (cc) a record of the Child Welfare Legislative Oversight Panel regarding an individual child welfare case, as described in Subsection 36-33-103(3);~~[-and]~~
- (dd) a record relating to drug or alcohol testing of a state employee under Section 63A-17-1004;

(ee) a record relating to a request by a state elected official or state employee who has been threatened to the Division of Technology Services to remove personal identifying information from the open web under Section 63A-16-109; and

(ff) a record including confidential information as that term is defined in Section [~~67-27-105;~~] 67-27-106; and

(gg) a record of alleged employment or workplace misconduct, as defined in Section 63G-3-302.5.

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

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

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

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

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

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

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

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

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

(f) any portion of a record in the custody of the Division of Aging and Adult Services, created in Section 26B-6-102, that may disclose, or lead to the discovery of, the identity of a person who made a report of alleged abuse, neglect, or exploitation of a vulnerable adult; and

(g) audio and video recordings created by a body-worn camera, as defined in Section 77-7a-103, that record sound or images inside a home or residence except for recordings that:

(i) depict the commission of an alleged crime;

- (ii) record any encounter between a law enforcement officer and a person that results in death or bodily injury, or includes an instance when an officer fires a weapon;
- (iii) record any encounter that is the subject of a complaint or a legal proceeding against a law enforcement officer or law enforcement agency;
- (iv) contain an officer involved critical incident as defined in Subsection 76-2-408 (1)(f); or
- (v) have been requested for reclassification as a public record by a subject or authorized agent of a subject featured in the recording.

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

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

- (i) in connection with any legal or administrative proceeding in which the patient's physical, mental, or emotional condition is an element of any claim or defense; or
- (ii) after a patient's death, in any legal or administrative proceeding in which any party relies upon the condition as an element of the claim or defense.

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

Section 3. Section **63G-2-302.5** is enacted to read:

63G-2-302.5 . Record of alleged employment or workplace misconduct -- When disclosure is required -- Redaction.

(1) As used in this section:

(a) "Final written decision on a matter of alleged employment or workplace misconduct" means a final written administrative decision, following an investigation, that pertains to a matter of alleged unlawful harassment, unlawful discriminatory conduct, or related retaliation.

(b) "Identifying information" means:

(i) an individual's name;

(ii) an individual's contact information, including:

(A) the individual's residential address, mailing address, work address; or

(B) any phone number or email address relating to the individual; or

(iii) other information that could, under the circumstances, lead to the discovery of

- the individual's identity.
- (c)(i) "Record of alleged employment or workplace misconduct" means a record that relates in any way to information, a report, an inquiry, an assertion, an allegation, a rumor, or a complaint that:
- (A) an elected official or other government employee, agent, or volunteer is a perpetrator of, a witness of, or a victim of unlawful harassment, unlawful discriminatory conduct, or related retaliation; or
 - (B) an incident of unlawful harassment, other unlawful discriminatory conduct, or related retaliation occurred at the workplace of an elected official or other government employee, agent, or volunteer.
- (ii) "Record of alleged employment or workplace misconduct" includes:
- (A) an investigatory record;
 - (B) evidence;
 - (C) notes;
 - (D) written or recorded statements;
 - (E) testimony;
 - (F) a formal or informal report or complaint; or
 - (G) a record that would reveal anything regarding a matter described in Subsection (1)(a) or the investigation, findings, or resolution of a matter described in Subsection (1)(a).
- (2)(a) To encourage an individual who is a victim of unlawful discrimination, including unlawful harassment, to report the unlawful discrimination or unlawful harassment, except as provided in Subsection (2)(b), the following provisions do not apply to a private record described in Subsection (1)(gg), and may not be used as a basis for disclosing the private record or information in the private record:
- (i) Subsection 63G-2-102(3);
 - (ii) Subsections 63G-2-201(5) and (14);
 - (iii) Subsections 63G-2-202(7)(c)(iii) and (d);
 - (iv) Subsection 63G-2-401(6);
 - (v) Subsection 63G-2-403(11)(b); and
 - (vi) Subsection 63G-2-404(7).
- (b) The provisions described in Subsection (2)(a)(i) through (vi) apply to:
- (i) under the circumstances described in Subsection (3), the information described in Subsections (3)(c) and (d);

- (ii) under the circumstances described in Subsection (5)(a), the information described in Subsections (5)(a)(iii) and (iv);
- (iii) under the circumstances described in Subsection (5)(b), the information described in Subsections (5)(b)(iii) and (iv); or
- (iv) under the circumstances described in Subsection (6)(b), the information described in Subsections (6)(b)(iii) and (iv).
- (3) A record of alleged employment or workplace misconduct that relates to alleged misconduct that is not, and never has been, under active investigation is subject to disclosure, with the following information redacted:
- (a) identifying information of a victim or witness, other than the alleged perpetrator;
- (b) if a victim's or witness's identity is publicly known, information that would be embarrassing or demeaning to the victim or witness;
- (c) information that is otherwise classified as private, protected, or controlled; or
- (d) information described in Subsection 63G-2-201(3)(b) to which access is restricted.
- (4) Except as provided in Subsection (6), a record of alleged employment or workplace misconduct may not be released:
- (a) while the alleged misconduct to which the record relates is under active investigation; or
- (b) before the earlier of:
- (i) 30 days after the day on which the investigation is completed or closed; or
- (ii) the day on which a final written decision on a matter of alleged employment or workplace misconduct is publicly released.
- (5) A record of alleged employment or workplace misconduct that relates to alleged misconduct that was under active investigation, but is no longer under active investigation, is subject to disclosure in response to a records request as follows:
- (a) if the investigation results in a determination that misconduct occurred, the following information shall be redacted:
- (i) identifying information of a victim or witness;
- (ii) if a victim's or witness's identity is publicly known, information that would be embarrassing or demeaning to the victim or witness;
- (iii) information that is otherwise classified as private, protected, or controlled; or
- (iv) information described in Subsection 63G-2-201(3)(b) to which access is restricted; or
- (b) if the investigation results in a determination that no alleged misconduct occurred or

that a determination is inconclusive, the record is subject to disclosure in response to a records request, except that the following information shall be redacted:

- (i) identifying information of an alleged victim, alleged witness, or alleged perpetrator;
- (ii) if an alleged victim's, alleged witness's or alleged perpetrator's identity is publicly known, information that is not already public knowledge and that would be embarrassing or demeaning to the alleged victim, alleged witness, or alleged perpetrator;
- (iii) information that is otherwise classified as private, protected, or controlled; and
- (iv) information described in Subsection 63G-2-201(3)(b) to which access is restricted.

(6)(a) The prohibition on release of a record of alleged employment or workplace misconduct described in Subsection (4) does not apply if more than 180 days have passed after the day on which the allegation of misconduct is made to the employer.

(b) If an investigation described in Subsection (4) is not completed or closed within 180 days after the day on which the allegation of misconduct is made to the employer, a record of employment or workplace misconduct relating to the matter under investigation is subject to disclosure in response to a records request, with the following information redacted:

- (i) identifying information of a victim or witness, other than the alleged perpetrator;
- (ii) if a victim's or witness's identity is publicly known, information that would be embarrassing or demeaning to the victim or witness;
- (iii) information that is otherwise classified as private, protected, or controlled; or
- (iv) information described in Subsection 63G-2-201(3)(b) to which access is restricted.

Section 4. **Effective Date.**

This bill takes effect on May 7, 2025.