

## Part 8 Remedies

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

- (1)
  - (a) A public employee or other person who has lawful access to any private, controlled, or protected record under this chapter, and who intentionally discloses, provides a copy of, or improperly uses a private, controlled, or protected record knowing that the disclosure or use is prohibited under this chapter, is, except as provided in Subsection 53-5a-310(1)(c), guilty of a class B misdemeanor.
  - (b) It is a defense to prosecution under Subsection (1)(a) that the actor used or released private, controlled, or protected information in the reasonable belief that the use or disclosure of the information was necessary to expose a violation of law involving government corruption, abuse of office, or misappropriation of public funds or property.
  - (c) It is a defense to prosecution under Subsection (1)(a) that the record could have lawfully been released to the recipient if it had been properly classified.
  - (d) It is a defense to prosecution under Subsection (1)(a) that the public employee or other person disclosed, provided, or used the record based on a good faith belief that the disclosure, provision, or use was in accordance with the law.
- (2)
  - (a) A person who by false pretenses, bribery, or theft, gains access to or obtains a copy of any private, controlled, or protected record to which the person is not legally entitled is guilty of a class B misdemeanor.
  - (b) No person shall be guilty under Subsection (2)(a) who receives the record, information, or copy after the fact and without prior knowledge of or participation in the false pretenses, bribery, or theft.
- (3)
  - (a) A public employee who intentionally refuses to release a record, the disclosure of which the employee knows is required by law, is guilty of a class B misdemeanor.
  - (b) It is a defense to prosecution under Subsection (3)(a) that the public employee's failure to release the record was based on a good faith belief that the public employee was acting in accordance with the requirements of law.
  - (c) A public employee who intentionally refuses to release a record, the disclosure of which the employee knows is required by a final unappealed order from a government entity, the director of the Government Records Office, or a court is guilty of a class B misdemeanor.
- (4) A person who intentionally violates Section 63G-2-210 is guilty of a class B misdemeanor.

Amended by Chapter 188, 2025 General Session

Amended by Chapter 208, 2025 General Session

Amended by Chapter 476, 2025 General Session

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

- (1) As used in this section, "defending party" means:
  - (a) a governmental entity or political subdivision:
    - (i) whose access denial is the subject of a petition for judicial review under Section 63G-2-404; and
    - (ii) that defends the access denial in an action for judicial review under Section 63G-2-404; or

- (b) a person, other than the governmental entity or political subdivision described in Subsection (1)(a), that is party to the action for judicial review in opposition to disclosure of the record that is the subject of judicial review.
- (2)
  - (a) If a protected record is shared as described in Subsection 63G-2-206(4) and the protected record is intentionally disclosed, or about to be intentionally disclosed, the person who requested the record be protected under Section 63G-2-309 may bring an action against the governmental entity that intentionally disclosed, or is about to intentionally disclose, as described in this section.
  - (b) A person described in Subsection (2)(a) may seek and obtain:
    - (i) injunctive relief to stop the improper disclosure of the protected record; and
    - (ii) damages for an improper disclosure, subject to the limits set by rule in accordance with Subsection 63G-7-605(5).
- (3) A district court in this state may enjoin any governmental entity or political subdivision that violates or proposes to violate the provisions of this chapter.
- (4)
  - (a) Subject to Subsection (7), a district court may assess against a defending party reasonable attorney fees and costs reasonably incurred in connection with a judicial appeal to determine whether a requester is entitled access to records under a records request, if:
    - (i) the requester substantially prevails; and
    - (ii) the court finds that the defending party acted in bad faith.
  - (b) Subject to Subsection (7), in determining whether to award attorney fees or costs to a requester under this section, the court shall consider:
    - (i) the public benefit derived from the case;
    - (ii) the nature of the requester's interest in the records; and
    - (iii) whether the defending party's actions had a reasonable basis.
  - (c) A court may not award attorney fees or costs to a requester under this section if the purpose of the litigation is primarily to benefit the requester's financial or commercial interest.
- (5) Neither attorney fees nor costs may be awarded for fees or costs incurred during administrative proceedings.
- (6) A district court may assess against a requester reasonable attorney fees and costs reasonably incurred in connection with a judicial appeal to determine whether the requester is entitled to access to records under a records request, if:
  - (a) the defending party substantially prevails; and
  - (b) the court finds that the requester acted in bad faith.
- (7) A court may award to a requester attorney fees and costs incurred in connection with appeals to district courts under Subsection 63G-2-404(3) only if the attorney fees and costs were incurred 20 or more days after the day on which the requester provided to the governmental entity, political subdivision, or other person against which the requester seeks an award of attorney fees and costs, an adequate explanation in writing of the basis for the requester's position, regardless of whether the explanation is a part of or outside an administrative or court proceeding.
- (8) Except for the waiver of immunity in Subsection 63G-7-301(2)(e), a claim for attorney fees or costs as provided in this section is not subject to Chapter 7, Governmental Immunity Act of Utah.

Amended by Chapter 373, 2026 General Session

**63G-2-803 No individual liability for certain decisions of a governmental entity.**

- (1) Neither the governmental entity, nor any officer or employee of the governmental entity, is liable for damages resulting from the release of a record where the person or government requesting the record presented evidence of authority to obtain the record even if it is subsequently determined that the requester had no authority.
- (2) Neither the governmental entity, nor any officer or employee of the governmental entity, is liable for damages arising from the negligent disclosure of records classified as private under Subsection 63G-2-302(1)(g) unless:
  - (a) the disclosure was of employment records maintained by the governmental entity; or
  - (b) the current or former government employee had previously filed the notice required by Section 63A-19-408 and:
    - (i) the government entity did not take reasonable steps to preclude access or distribution of the record; or
    - (ii) the release of the record was otherwise willfully or grossly negligent.
- (3) A mailing from a government agency to an individual who has filed an application under Section 63A-19-408 is not a wrongful disclosure under this chapter or under Title 63A, Chapter 12, Division of Archives and Records Service and Management of Government Records.

Amended by Chapter 202, 2026 General Session

**63G-2-804 Violation of provision of chapter -- Penalties for intentional mutilation or destruction -- Disciplinary action.**

A governmental entity may take disciplinary action which may include suspension or discharge against any employee of the governmental entity who intentionally violates any provision of this chapter or Subsection 63A-12-105(3).

Amended by Chapter 44, 2009 General Session