

1                                   **GOVERNMENT RECORDS ACCESS &**  
2                                   **MANAGEMENT ACT - TECHNICAL**  
3                                   **REVISIONS**

4                                   2002 GENERAL SESSION

5                                   STATE OF UTAH

6                                   **Sponsor: Alicia L. Suazo**

7   **This act modifies the Government Records Access and Management Act and references to**  
8   **that act to make technical revisions. This act provides an effective date.**

9   This act affects sections of Utah Code Annotated 1953 as follows:

10   AMENDS:

11           **31A-31-104**, as enacted by Chapter 243, Laws of Utah 1994

12           **53-5-708**, as last amended by Chapters 12 and 54, Laws of Utah 1994

13           **63-2-301 (Effective 07/01/02)**, as last amended by Chapter 8, Laws of Utah 2001, First  
14   Special Session

15           **63-2-301 (Superseded 07/01/02)**, as last amended by Chapter 48, Laws of Utah 1999

16           **63-2-903**, as last amended by Chapter 280, Laws of Utah 1992

17           **77-38-3**, as last amended by Chapter 103, Laws of Utah 1997

18           **78-2a-6**, as enacted by Chapter 321, Laws of Utah 1999

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

20           Section 1. Section **31A-31-104** is amended to read:

21           **31A-31-104. Disclosure of information.**

22           (1) (a) Subject to Subsection (2), upon written request by an insurer to an authorized  
23   agency, the authorized agency may release to the insurer information or evidence that is relevant  
24   to any suspected insurance fraud.

25           (b) Upon written request by an authorized agency to an insurer, the insurer or an agent  
26   authorized by the insurer to act on the insurer's behalf shall release to the authorized agency  
27   information or evidence that is relevant to any suspected insurance fraud.



28 (2) (a) Any information or evidence furnished to an authorized agency under this section  
29 may be classified as a protected record in accordance with Subsection 63-2-304~~[(8) of the~~  
30 ~~Government Records Access and Management Act]~~ (9).

31 (b) Any information or evidence furnished to an insurer under this section is not subject  
32 to discovery in a civil proceeding unless, after reasonable notice to any insurer, agent, or any  
33 authorized agency that has an interest in the information and subsequent hearing, a court  
34 determines that the public interest and any ongoing criminal investigation will not be jeopardized  
35 by the disclosure.

36 (c) An insurer shall report to the department agency terminations based upon a violation  
37 of this chapter.

38 Section 2. Section **53-5-708** is amended to read:

39 **53-5-708. Permit -- Names private.**

40 (1) When any permit is issued, a record shall be maintained in the office of the licensing  
41 authority. Notwithstanding the requirements of Subsection 63-2-301(1)(b), the names, addresses,  
42 telephone numbers, dates of birth, and Social Security numbers of persons receiving permits are  
43 protected records under Subsection 63-2-304~~[(9)]~~ (10).

44 (2) Copies of each permit issued shall be filed immediately by the licensing authority with  
45 the division.

46 Section 3. Section **63-2-301 (Effective 07/01/02)** is amended to read:

47 **63-2-301 (Effective 07/01/02). Records that must be disclosed.**

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

51 (a) laws;

52 (b) names, gender, gross compensation, job titles, job descriptions, business addresses,  
53 business telephone numbers, number of hours worked per pay period, dates of employment, and  
54 relevant education, previous employment, and similar job qualifications of the governmental  
55 entity's former and present employees and officers excluding:

56 (i) undercover law enforcement personnel; and

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

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

63 (d) final interpretations of statutes or rules by a governmental entity unless classified as  
64 protected as provided in Subsections 63-2-304~~(15)~~, (16), ~~and~~ (17), and (18);

65 (e) information contained in or compiled from a transcript, minutes, or report of the open  
66 portions of a meeting of a governmental entity as provided by Title 52, Chapter 4, Open and Public  
67 Meetings, including the records of all votes of each member of the governmental entity;

68 (f) judicial records unless a court orders the records to be restricted under the rules of civil  
69 or criminal procedure or unless the records are private under this chapter;

70 (g) records filed with or maintained by county recorders, clerks, treasurers, surveyors,  
71 zoning commissions, the Division of Forestry, Fire and State Lands, the School and Institutional  
72 Trust Lands Administration, the Division of Oil, Gas and Mining, the Division of Water Rights,  
73 or other governmental entities that give public notice of:

74 (i) titles or encumbrances to real property;

75 (ii) restrictions on the use of real property;

76 (iii) the capacity of persons to take or convey title to real property; or

77 (iv) tax status for real and personal property;

78 (h) records of the Department of Commerce that evidence incorporations, mergers, name  
79 changes, and uniform commercial code filings;

80 (i) data on individuals that would otherwise be private under this chapter if the individual  
81 who is the subject of the record has given the governmental entity written permission to make the  
82 records available to the public;

83 (j) documentation of the compensation that a governmental entity pays to a contractor or  
84 private provider;

85 (k) summary data; and

86 (l) voter registration records, including an individual's voting history, except for those parts  
87 of the record that are classified as private in Subsection 63-2-302(1)(a)(viii).

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

90 63-2-302, 63-2-303, or 63-2-304:

91 (a) administrative staff manuals, instructions to staff, and statements of policy;

92 (b) records documenting a contractor's or private provider's compliance with the terms of  
93 a contract with a governmental entity;

94 (c) records documenting the services provided by a contractor or a private provider to the  
95 extent the records would be public if prepared by the governmental entity;

96 (d) contracts entered into by a governmental entity;

97 (e) any account, voucher, or contract that deals with the receipt or expenditure of funds by  
98 a governmental entity;

99 (f) records relating to government assistance or incentives publicly disclosed, contracted  
100 for, or given by a governmental entity, encouraging a person to expand or relocate a business in  
101 Utah, except as provided in Subsection 63-2-304[~~(34)~~] (35);

102 (g) chronological logs and initial contact reports;

103 (h) correspondence by and with a governmental entity in which the governmental entity  
104 determines or states an opinion upon the rights of the state, a political subdivision, the public, or  
105 any person;

106 (i) empirical data contained in drafts if:

107 (i) the empirical data is not reasonably available to the requester elsewhere in similar form;

108 and

109 (ii) the governmental entity is given a reasonable opportunity to correct any errors or make  
110 nonsubstantive changes before release;

111 (j) drafts that are circulated to anyone other than:

112 (i) a governmental entity;

113 (ii) a political subdivision;

114 (iii) a federal agency if the governmental entity and the federal agency are jointly  
115 responsible for implementation of a program or project that has been legislatively approved;

116 (iv) a government-managed corporation; or

117 (v) a contractor or private provider;

118 (k) drafts that have never been finalized but were relied upon by the governmental entity  
119 in carrying out action or policy;

120 (l) original data in a computer program if the governmental entity chooses not to disclose

121 the program;

122 (m) arrest warrants after issuance, except that, for good cause, a court may order restricted  
123 access to arrest warrants prior to service;

124 (n) search warrants after execution and filing of the return, except that a court, for good  
125 cause, may order restricted access to search warrants prior to trial;

126 (o) records that would disclose information relating to formal charges or disciplinary  
127 actions against a past or present governmental entity employee if:

128 (i) the disciplinary action has been completed and all time periods for administrative  
129 appeal have expired; and

130 (ii) the charges on which the disciplinary action was based were sustained;

131 (p) records maintained by the Division of Forestry, Fire and State Lands, the School and  
132 Institutional Trust Lands Administration, or the Division of Oil, Gas and Mining that evidence  
133 mineral production on government lands;

134 (q) final audit reports;

135 (r) occupational and professional licenses;

136 (s) business licenses; and

137 (t) a notice of violation, a notice of agency action under Section 63-46b-3, or similar  
138 records used to initiate proceedings for discipline or sanctions against persons regulated by a  
139 governmental entity, but not including records that initiate employee discipline.

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

142 Section 4. Section **63-2-301 (Superseded 07/01/02)** is amended to read:

143 **63-2-301 (Superseded 07/01/02). Records that must be disclosed.**

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

147 (a) laws;

148 (b) names, gender, gross compensation, job titles, job descriptions, business addresses,  
149 business telephone numbers, number of hours worked per pay period, dates of employment, and  
150 relevant education, previous employment, and similar job qualifications of the governmental  
151 entity's former and present employees and officers excluding:

- 152 (i) undercover law enforcement personnel; and
- 153 (ii) investigative personnel if disclosure could reasonably be expected to impair the
- 154 effectiveness of investigations or endanger any individual's safety;
- 155 (c) final opinions, including concurring and dissenting opinions, and orders that are made
- 156 by a governmental entity in an administrative, adjudicative, or judicial proceeding except that if
- 157 the proceedings were properly closed to the public, the opinion and order may be withheld to the
- 158 extent that they contain information that is private, controlled, or protected;
- 159 (d) final interpretations of statutes or rules by a governmental entity unless classified as
- 160 protected as provided in Subsections 63-2-304~~(+5)~~, (16), ~~[and] (17), and (18)~~;
- 161 (e) information contained in or compiled from a transcript, minutes, or report of the open
- 162 portions of a meeting of a governmental entity as provided by Title 52, Chapter 4, Open and Public
- 163 Meetings, including the records of all votes of each member of the governmental entity;
- 164 (f) judicial records unless a court orders the records to be restricted under the rules of civil
- 165 or criminal procedure or unless the records are private under this chapter;
- 166 (g) records filed with or maintained by county recorders, clerks, treasurers, surveyors,
- 167 zoning commissions, the Division of Forestry, Fire and State Lands, the School and Institutional
- 168 Trust Lands Administration, the Division of Oil, Gas and Mining, the Division of Water Rights,
- 169 or other governmental entities that give public notice of:
  - 170 (i) titles or encumbrances to real property;
  - 171 (ii) restrictions on the use of real property;
  - 172 (iii) the capacity of persons to take or convey title to real property; or
  - 173 (iv) tax status for real and personal property;
- 174 (h) records of the Department of Commerce that evidence incorporations, mergers, name
- 175 changes, and uniform commercial code filings;
  - 176 (i) data on individuals that would otherwise be private under this chapter if the individual
  - 177 who is the subject of the record has given the governmental entity written permission to make the
  - 178 records available to the public;
- 179 (j) documentation of the compensation that a governmental entity pays to a contractor or
- 180 private provider;
- 181 (k) summary data; and
- 182 (l) voter registration records, including an individual's voting history, except for those parts

183 of the record that are classified as private in Subsection 63-2-302(1)(h).

184 (2) The following records are normally public, but to the extent that a record is expressly  
185 exempt from disclosure, access may be restricted under Subsection 63-2-201(3)(b), Section  
186 63-2-302, 63-2-303, or 63-2-304:

187 (a) administrative staff manuals, instructions to staff, and statements of policy;

188 (b) records documenting a contractor's or private provider's compliance with the terms of  
189 a contract with a governmental entity;

190 (c) records documenting the services provided by a contractor or a private provider to the  
191 extent the records would be public if prepared by the governmental entity;

192 (d) contracts entered into by a governmental entity;

193 (e) any account, voucher, or contract that deals with the receipt or expenditure of funds by  
194 a governmental entity;

195 (f) records relating to government assistance or incentives publicly disclosed, contracted  
196 for, or given by a governmental entity, encouraging a person to expand or relocate a business in  
197 Utah, except as provided in Subsection 63-2-304[~~(34)~~] (35);

198 (g) chronological logs and initial contact reports;

199 (h) correspondence by and with a governmental entity in which the governmental entity  
200 determines or states an opinion upon the rights of the state, a political subdivision, the public, or  
201 any person;

202 (i) empirical data contained in drafts if:

203 (i) the empirical data is not reasonably available to the requester elsewhere in similar form;  
204 and

205 (ii) the governmental entity is given a reasonable opportunity to correct any errors or make  
206 nonsubstantive changes before release;

207 (j) drafts that are circulated to anyone other than:

208 (i) a governmental entity;

209 (ii) a political subdivision;

210 (iii) a federal agency if the governmental entity and the federal agency are jointly  
211 responsible for implementation of a program or project that has been legislatively approved;

212 (iv) a government-managed corporation; or

213 (v) a contractor or private provider;

214 (k) drafts that have never been finalized but were relied upon by the governmental entity  
215 in carrying out action or policy;

216 (l) original data in a computer program if the governmental entity chooses not to disclose  
217 the program;

218 (m) arrest warrants after issuance, except that, for good cause, a court may order restricted  
219 access to arrest warrants prior to service;

220 (n) search warrants after execution and filing of the return, except that a court, for good  
221 cause, may order restricted access to search warrants prior to trial;

222 (o) records that would disclose information relating to formal charges or disciplinary  
223 actions against a past or present governmental entity employee if:

224 (i) the disciplinary action has been completed and all time periods for administrative  
225 appeal have expired; and

226 (ii) the charges on which the disciplinary action was based were sustained;

227 (p) records maintained by the Division of Forestry, Fire and State Lands, the School and  
228 Institutional Trust Lands Administration, or the Division of Oil, Gas and Mining that evidence  
229 mineral production on government lands;

230 (q) final audit reports;

231 (r) occupational and professional licenses;

232 (s) business licenses; and

233 (t) a notice of violation, a notice of agency action under Section 63-46b-3, or similar  
234 records used to initiate proceedings for discipline or sanctions against persons regulated by a  
235 governmental entity, but not including records that initiate employee discipline.

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

238 Section 5. Section **63-2-903** is amended to read:

239 **63-2-903. Duties of governmental entities.**

240 The chief administrative officer of each governmental entity shall:

241 (1) establish and maintain an active, continuing program for the economical and efficient  
242 management of the governmental entity's records as provided by this chapter;

243 (2) appoint one or more records officers who will be trained to work with the state archives  
244 in the care, maintenance, scheduling, disposal, classification, designation, access, and preservation



245 of records;

246 (3) make and maintain adequate and proper documentation of the organization, functions,  
247 policies, decisions, procedures, and essential transactions of the governmental entity designed to  
248 furnish information to protect the legal and financial rights of persons directly affected by the  
249 entity's activities;

250 (4) submit to the state archivist proposed schedules of records for final approval by the  
251 records committee;

252 (5) cooperate with the state archivist in conducting surveys made by the state archivist;

253 (6) comply with rules issued by the Department of Administrative Services as provided  
254 by Section 63-2-904;

255 (7) report to the state archives the designation of record series that it maintains;

256 (8) report to the state archives the classification of each record series that is classified; and

257 (9) establish and report to the state archives retention schedules for objects that the  
258 governmental entity determines are not records under Subsection [~~63-2-301~~] 63-2-103(18), but that  
259 have historical or evidentiary value.

260 Section 6. Section **77-38-3** is amended to read:

261 **77-38-3. Notification to victims -- Initial notice, election to receive subsequent notices**  
262 **-- Form of notice -- Protected victim information.**

263 (1) Within seven days of the filing of felony criminal charges against a defendant, the  
264 prosecuting agency shall provide an initial notice to reasonably identifiable and locatable victims  
265 of the crime contained in the charges, except as otherwise provided in this chapter.

266 (2) The initial notice to the victim of a crime shall provide information about electing to  
267 receive notice of subsequent important criminal justice hearings listed in Subsections 77-38-2(5)(a)  
268 through (f) and rights under this chapter.

269 (3) The prosecuting agency shall provide notice to a victim of a crime for the important  
270 criminal justice hearings, provided in Subsections 77-38-2(5)(a) through (f) which the victim has  
271 requested.

272 (4) (a) The responsible prosecuting agency may provide initial and subsequent notices in  
273 any reasonable manner, including telephonically, electronically, orally, or by means of a letter or  
274 form prepared for this purpose.

275 (b) In the event of an unforeseen important criminal justice hearing, listed in Subsections

276 77-38-2(5)(a) through (f) for which a victim has requested notice, a good faith attempt to contact  
277 the victim by telephone shall be considered sufficient notice, provided that the prosecuting agency  
278 subsequently notifies the victim of the result of the proceeding.

279 (5) (a) The court shall take reasonable measures to ensure that its scheduling practices for  
280 the proceedings provided in Subsections 77-38-2(5)(a) through (f) permit an opportunity for  
281 victims of crimes to be notified.

282 (b) The court shall also consider whether any notification system that it might use to  
283 provide notice of judicial proceedings to defendants could be used to provide notice of those same  
284 proceedings to victims of crimes.

285 (6) A defendant or, if it is the moving party, Adult Probation and Parole, shall give notice  
286 to the responsible prosecuting agency of any motion for modification of any determination made  
287 at any of the important criminal justice hearings provided in Subsections 77-38-2(5)(a) through  
288 (f) in advance of any requested court hearing or action so that the prosecuting agency may comply  
289 with its notification obligation.

290 (7) (a) Notice to a victim of a crime shall be provided by the Board of Pardons and Parole  
291 for the important criminal justice hearing provided in Subsection 77-38-2(5)(g).

292 (b) The board may provide notice in any reasonable manner, including telephonically,  
293 electronically, orally, or by means of a letter or form prepared for this purpose.

294 (8) Prosecuting agencies and the Board of Pardons and Parole are required to give notice  
295 to a victim of a crime for the proceedings provided in Subsections 77-38-2(5)(a) through (f) only  
296 where the victim has responded to the initial notice, requested notice of subsequent proceedings,  
297 and provided a current address and telephone number if applicable.

298 (9) (a) Law enforcement and criminal justice agencies shall refer any requests for notice  
299 or information about crime victim rights from victims to the responsible prosecuting agency.

300 (b) In a case in which the Board of Pardons and Parole is involved, the responsible  
301 prosecuting agency shall forward any request for notice that it has received from a victim to the  
302 Board of Pardons and Parole.

303 (10) In all cases where the number of victims exceeds ten, the responsible prosecuting  
304 agency may send any notices required under this chapter in its discretion to a representative sample  
305 of the victims.

306 (11) (a) A victim's address, telephone number, and victim impact statement maintained

307 by a peace officer, prosecuting agency, Youth Parole Authority, Division of Youth Corrections,  
308 Department of Corrections, and Board of Pardons and Parole, for purposes of providing notice  
309 under this section, is classified as protected as provided in Subsection 63-2-304~~(9)~~ (10).

310 (b) The victim's address, telephone number, and victim impact statement is available only  
311 to the following persons or entities in the performance of their duties:

312 (i) a law enforcement agency, including the prosecuting agency;

313 (ii) a victims' right committee as provided in Section 77-37-5;

314 (iii) a governmentally sponsored victim or witness program;

315 (iv) the Department of Corrections;

316 (v) Office of Crime Victims' Reparations;

317 (vi) Commission on Criminal and Juvenile Justice; and

318 (vii) the Board of Pardons and Parole.

319 (12) The notice provisions as provided in this section do not apply to misdemeanors as  
320 provided in Section 77-38-5 and to important juvenile justice hearings as provided in Section  
321 77-38-2.

322 Section 7. Section **78-2a-6** is amended to read:

323 **78-2a-6. Appellate Mediation Office -- Protected records and information --**  
324 **Governmental immunity.**

325 (1) Unless a more restrictive rule of court is adopted pursuant to Subsection  
326 63-2-201(3)(b), information and records relating to any matter on appeal received or generated by  
327 the Chief Appellate Mediator or other staff of the Appellate Mediation Office as a result of any  
328 party's participation or lack of participation in the settlement program shall be maintained as  
329 protected records pursuant to Subsections 63-2-304(16), (17), (18), and (33).

330 (2) In addition to the access restrictions on protected records provided in Section 63-2-202,  
331 the information and records may not be disclosed to judges, staff, or employees of any court of this  
332 state.

333 (3) The Chief Appellate Mediator may disclose statistical and other demographic  
334 information as may be necessary and useful to report on the status and to allow supervision and  
335 oversight of the Appellate Mediation Office.

336 (4) When acting as mediators, the Chief Appellate Mediator and other professional staff  
337 of the Appellate Mediation Office shall be immune from liability pursuant to Title 63, Chapter 30,

338 Utah Governmental Immunity Act.

339 (5) Pursuant to Utah Constitution, Article VIII, Section 4, the Supreme Court may exercise  
340 overall supervision of the Appellate Mediation Office as part of the appellate process.

341 Section 8. **Effective date.**

342 This act takes effect on May 6, 2002, except that the amendments to Section 63-2-301  
343 (Effective 07/01/02) take effect on July 1, 2002.

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**Legislative Review Note**  
**as of 1-23-02 9:20 AM**

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

**Office of Legislative Research and General Counsel**