

1                                   **GRAMA REVISIONS RELATED TO REVIEW**  
2                                   **OF ETHICS COMPLAINTS**

3                                   2010 GENERAL SESSION

4                                   STATE OF UTAH

5                                   **Chief Sponsor: John L. Valentine**

6                                   House Sponsor: John Dougall

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8 **LONG TITLE**

9 **General Description:**

10                   This bill modifies provisions of the Government Records Access and Management Act  
11 that relate to classification of records associated with the review of legislative ethics  
12 complaints.

13 **Highlighted Provisions:**

14                   This bill:

- 15                   ▶ provides protected status to certain records of the Independent Legislative Ethics  
16 Commission;
- 17                   ▶ provides that only records related to review of ethics complaints may be classified  
18 as private by a legislative ethics committee;
- 19                   ▶ permits private records related to review of an ethics complaint to be classified as  
20 public under legislative rule; and
- 21                   ▶ makes technical changes.

22 **Monies Appropriated in this Bill:**

23                   None

24 **Other Special Clauses:**

25                   This bill provides an immediate effective date.

26 **Utah Code Sections Affected:**

27 AMENDS:



28           **63G-2-302**, as last amended by Laws of Utah 2009, Chapters 126, 349, and 379



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

31           Section 1. Section **63G-2-302** is amended to read:

32           **63G-2-302. Private records.**

33           (1) The following records are private:

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

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

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

40           (d) records received by or generated by or for the Independent Legislative Ethics  
41 Commission or a Senate or House Ethics Committee [~~concerning any alleged violation of the~~  
42 ~~rules on legislative ethics, prior to the meeting, and after the meeting, if the ethics committee~~  
43 ~~meeting was closed to the public] in relation to the review of ethics complaints, unless the  
44 record is classified as public as provided in legislative rule;~~

45           (e) records received or generated for a Senate confirmation committee concerning  
46 character, professional competence, or physical or mental health of an individual:

47           (i) if prior to the meeting, the chair of the committee determines release of the records:

48           (A) reasonably could be expected to interfere with the investigation undertaken by the  
49 committee; or

50           (B) would create a danger of depriving a person of a right to a fair proceeding or  
51 impartial hearing; and

52           (ii) after the meeting, if the meeting was closed to the public;

53           (f) employment records concerning a current or former employee of, or applicant for  
54 employment with, a governmental entity that would disclose that individual's home address,  
55 home telephone number, Social Security number, insurance coverage, marital status, or payroll  
56 deductions;

57           (g) records or parts of records under Section 63G-2-303 that a current or former  
58 employee identifies as private according to the requirements of that section;

59 (h) that part of a record indicating a person's Social Security number or federal  
60 employer identification number if provided under Section 31A-23a-104, 31A-25-202,  
61 31A-26-202, 58-1-301, 61-1-4, or 61-2-6;

62 (i) that part of a voter registration record identifying a voter's driver license or  
63 identification card number, Social Security number, or last four digits of the Social Security  
64 number;

65 (j) a record that:

66 (i) contains information about an individual;

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

68 (iii) goes into an electronic database that:

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

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

73 (k) information provided to the Commissioner of Insurance under:

74 (i) Subsection 31A-23a-115(2)(a);

75 (ii) Subsection 31A-23a-302(3); or

76 (iii) Subsection 31A-26-210(3);

77 (l) information obtained through a criminal background check under Title 11, Chapter  
78 40, Criminal Background Checks by Political Subdivisions Operating Water Systems;

79 (m) information provided by an offender that is:

80 (i) required by the registration requirements of Section 77-27-21.5; and

81 (ii) not required to be made available to the public under Subsection 77-27-21.5(27);

82 and

83 (n) a statement and any supporting documentation filed with the attorney general in  
84 accordance with Section 34-45-107, if the federal law or action supporting the filing involves  
85 homeland security.

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

87 (a) records concerning a current or former employee of, or applicant for employment  
88 with a governmental entity, including performance evaluations and personal status information  
89 such as race, religion, or disabilities, but not including records that are public under Subsection

90 63G-2-301(2)(b) or 63G-2-301(3)(o), or private under Subsection (1)(b);

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

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

93 (ii) information provided to the governmental entity for the purpose of complying with

94 a financial assurance requirement; or

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

96 (c) records of independent state agencies if the disclosure of those records would

97 conflict with the fiduciary obligations of the agency;

98 (d) other records containing data on individuals the disclosure of which constitutes a

99 clearly unwarranted invasion of personal privacy;

100 (e) records provided by the United States or by a government entity outside the state

101 that are given with the requirement that the records be managed as private records, if the

102 providing entity states in writing that the record would not be subject to public disclosure if

103 retained by it; and

104 (f) any portion of a record in the custody of the Division of Aging and Adult Services,

105 created in Section 62A-3-102, that may disclose, or lead to the discovery of, the identity of a

106 person who made a report of alleged abuse, neglect, or exploitation of a vulnerable adult.

107 (3) (a) As used in this Subsection (3), "medical records" means medical reports,

108 records, statements, history, diagnosis, condition, treatment, and evaluation.

109 (b) Medical records in the possession of the University of Utah Hospital, its clinics,

110 doctors, or affiliated entities are not private records or controlled records under Section

111 63G-2-304 when the records are sought:

112 (i) in connection with any legal or administrative proceeding in which the patient's

113 physical, mental, or emotional condition is an element of any claim or defense; or

114 (ii) after a patient's death, in any legal or administrative proceeding in which any party

115 relies upon the condition as an element of the claim or defense.

116 (c) Medical records are subject to production in a legal or administrative proceeding

117 according to state or federal statutes or rules of procedure and evidence as if the medical

118 records were in the possession of a nongovernmental medical care provider.

119 **Section 2. Effective date.**

120 If approved by two-thirds of all the members elected to each house, this bill takes effect

121 upon approval by the governor, or the day following the constitutional time limit of Utah  
122 Constitution Article VII, Section 8, without the governor's signature, or in the case of a veto,  
123 the date of veto override.

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**Legislative Review Note**  
**as of 2-2-10 5:53 PM**

**Office of Legislative Research and General Counsel**

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**S.B. 138 - Grama Revisions Related to Review of Ethics Complaints**

**Fiscal Note**

2010 General Session

State of Utah

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**State Impact**

Enactment of this bill will not require additional appropriations.

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**Individual, Business and/or Local Impact**

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals, businesses, or local governments.

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