

28 (1) As used in this section:

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

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

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

35 (2) The following records are public except to the extent they contain information
36 expressly permitted to be treated confidentially under the provisions of Subsections
37 63G-2-201(3)(b) and (6)(a):

38 (a) laws;

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

43 (i) undercover law enforcement personnel; and

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

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

50 (d) final interpretations of statutes or rules by a governmental entity unless classified as
51 protected as provided in Subsections 63G-2-305(16), (17), and (18);

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

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

58 (g) unless otherwise classified as private under Section 63G-2-303, records or parts of

59 records filed with or maintained by county recorders, clerks, treasurers, surveyors, zoning
60 commissions, the Division of Forestry, Fire, and State Lands, the School and Institutional Trust
61 Lands Administration, the Division of Oil, Gas, and Mining, the Division of Water Rights, or
62 other governmental entities that give public notice of:

63 (i) titles or encumbrances to real property;

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

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

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

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

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

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

74 (k) summary data; and

75 (l) voter registration records, including an individual's voting history and the year of
76 the individual's date of birth, except for those parts of the record that are classified as private in
77 Subsection 63G-2-302(1)(i).

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

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

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

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

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

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

89 (f) records relating to government assistance or incentives publicly disclosed,

90 contracted for, or given by a governmental entity, encouraging a person to expand or relocate a
91 business in Utah, except as provided in Subsection 63G-2-305(35);

92 (g) chronological logs and initial contact reports;

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

96 (i) empirical data contained in drafts if:

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

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

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

102 (i) a governmental entity;

103 (ii) a political subdivision;

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

106 (iv) a government-managed corporation; or

107 (v) a contractor or private provider;

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

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

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

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

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

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

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

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

124 (q) final audit reports;

125 (r) occupational and professional licenses;

126 (s) business licenses; and

127 (t) a notice of violation, a notice of agency action under Section 63G-4-201, or similar
128 records used to initiate proceedings for discipline or sanctions against persons regulated by a
129 governmental entity, but not including records that initiate employee discipline.

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

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

133 **63G-2-302. Private records.**

134 (1) The following records are private:

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

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

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

141 (d) records received by or generated by or for:

142 (i) the Independent Legislative Ethics Commission, except for:

143 (A) the commission's summary data report that is required under legislative rule; and

144 (B) any other document that is classified as public under legislative rule; or

145 (ii) a Senate or House Ethics Committee in relation to the review of ethics complaints,
146 unless the record is classified as public under legislative rule;

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

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

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

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

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

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

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

161 (h) that part of a record indicating a person's Social Security number or federal
162 employer identification number if provided under Section 31A-23a-104, 31A-25-202,
163 31A-26-202, 58-1-301, 61-1-4, or 61-2f-203;

164 (i) that part of a voter registration record identifying:

165 (i) a voter's driver license or identification card number[;];

166 (ii) Social Security number, or last four digits of the Social Security number; or

167 (iii) the month and day of a voter's date of birth;

168 (j) a record that:

169 (i) contains information about an individual;

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

171 (iii) goes into an electronic database that:

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

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

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

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

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

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

180 (l) information obtained through a criminal background check under Title 11, Chapter
181 40, Criminal Background Checks by Political Subdivisions Operating Water Systems;

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

183 (i) required by the registration requirements of Section 77-27-21.5; and
184 (ii) not required to be made available to the public under Subsection 77-27-21.5(27);
185 and

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

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

190 (a) records concerning a current or former employee of, or applicant for employment
191 with a governmental entity, including performance evaluations and personal status information
192 such as race, religion, or disabilities, but not including records that are public under Subsection
193 63G-2-301(2)(b) or 63G-2-301(3)(o), or private under Subsection (1)(b);

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

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

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

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

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

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

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

207 (f) any portion of a record in the custody of the Division of Aging and Adult Services,
208 created in Section 62A-3-102, that may disclose, or lead to the discovery of, the identity of a
209 person who made a report of alleged abuse, neglect, or exploitation of a vulnerable adult.

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

212 (b) Medical records in the possession of the University of Utah Hospital, its clinics,
213 doctors, or affiliated entities are not private records or controlled records under Section

214 63G-2-304 when the records are sought:

215 (i) in connection with any legal or administrative proceeding in which the patient's
216 physical, mental, or emotional condition is an element of any claim or defense; or

217 (ii) after a patient's death, in any legal or administrative proceeding in which any party
218 relies upon the condition as an element of the claim or defense.

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

Legislative Review Note

as of 2-14-11 10:05 AM

Office of Legislative Research and General Counsel

FISCAL NOTE

H.B. 410

SHORT TITLE: **Access to Voter Date of Birth Records**

SPONSOR: **Edwards, R.**

2011 GENERAL SESSION, STATE OF UTAH

STATE GOVERNMENT (UCA 36-12-13(2)(b))

Enactment of this bill likely will not materially impact the state budget.

LOCAL GOVERNMENTS (UCA 36-12-13(2)(c))

Enactment of this bill likely will not result in direct, measurable costs for local governments.

DIRECT EXPENDITURES BY UTAH RESIDENTS AND BUSINESSES (UCA 36-12-13(2)(d))

Enactment of this bill likely will not result in direct, measurable expenditures by Utah residents or businesses.