

**Representative Rebecca P. Edwards** proposes the following substitute bill:

**ACCESS TO VOTER DATE OF BIRTH RECORDS**

2012 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Rebecca P. Edwards**

Senate Sponsor: Ralph Okerlund

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**LONG TITLE**

**General Description:**

This bill amends provisions relating to the birth date provided by a voter.

**Highlighted Provisions:**

This bill:

- ▶ amends the requirement of the lieutenant governor and county clerks to make certain records available for public inspection;
- ▶ authorizes the classification of a birth date as a private record;
- ▶ amends a voter registration form, provisional ballot envelope, a voter registration notice, and the electronic system for voter registration to allow a voter to request that the voter's birth date be classified as private record;
- ▶ authorizes a registered voter to request that the voter's birth date be classified as private record by filing a signed form with the county clerk;
- ▶ requires a county clerk to update a voter registration record to show that the birth date is classified as private; and
- ▶ makes technical and conforming changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**



26 None

27 **Utah Code Sections Affected:**

28 AMENDS:

29 **20A-2-104**, as last amended by Laws of Utah 2010, Chapter 197

30 **20A-2-108**, as last amended by Laws of Utah 2004, Chapter 219

31 **20A-2-206**, as last amended by Laws of Utah 2011, Chapter 17

32 **20A-2-304.5**, as enacted by Laws of Utah 2010, Chapter 304

33 **20A-2-306**, as last amended by Laws of Utah 2011, Chapter 297

34 **20A-2-308**, as enacted by Laws of Utah 1994, Chapter 311

35 **20A-6-105**, as last amended by Laws of Utah 2007, Chapter 285

36 **63G-2-302**, as last amended by Laws of Utah 2011, Chapters 85, 327, and 413



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

39 Section 1. Section **20A-2-104** is amended to read:

40 **20A-2-104. Voter registration form -- Registered voter lists -- Fees for copies.**

41 (1) Every person applying to be registered shall complete a registration form printed in  
42 substantially the following form:

43 -----

44 UTAH ELECTION REGISTRATION FORM

45 Are you a citizen of the United States of America? Yes No

46 Will you be 18 years old on or before election day? Yes No

47 If you checked "no" to either of the above two questions, do not complete this form.

48 Name of Voter

49 \_\_\_\_\_

50 First Middle Last

51 Utah Driver License or Utah Identification Card Number \_\_\_\_\_

52 Date of Birth \_\_\_\_\_

53 Street Address of Principal Place of Residence

54 \_\_\_\_\_

55 City County State Zip Code

56 Telephone Number (optional) \_\_\_\_\_

57 Last four digits of Social Security Number \_\_\_\_\_

58 Last former address at which I was registered to vote (if  
59 known)\_\_\_\_\_

60 \_\_\_\_\_

61 City County State Zip Code

62 Political Party

63 (a listing of each registered political party, as defined in Section 20A-8-101 and maintained by  
64 the lieutenant governor under Section 67-1a-2, with each party's name preceded by a checkbox)

65 Unaffiliated (no political party preference) Other (Please specify)\_\_\_\_\_

66 I do swear (or affirm), subject to penalty of law for false statements, that the  
67 information contained in this form is true, and that I am a citizen of the United States and a  
68 resident of the state of Utah, residing at the above address. I will be at least 18 years old and  
69 will have resided in Utah for 30 days immediately before the next election. I am not a  
70 convicted felon currently incarcerated for commission of a felony.

71 Signed and sworn

72 \_\_\_\_\_

73 Voter's Signature

74 \_\_\_\_\_(month/day/year).

75 CITIZENSHIP AFFIDAVIT

76 Name:

77 Name at birth, if different:

78 Place of birth:

79 Date of birth:

80 Date and place of naturalization (if applicable):

81 I hereby swear and affirm, under penalties for voting fraud set forth below, that I am a  
82 citizen and that to the best of my knowledge and belief the information above is true and  
83 correct.

84 \_\_\_\_\_

85 Signature of Applicant

86 In accordance with Section 20A-2-401, the penalty for willfully causing, procuring, or  
87 allowing yourself to be registered to vote if you know you are not entitled to register to vote is

88 up to one year in jail and a fine of up to \$2,500.

89 Do you want your birth date classified as a private record? Yes No

90 NOTICE: IN ORDER TO BE ALLOWED TO VOTE, YOU MUST PRESENT VALID  
91 VOTER IDENTIFICATION TO THE POLL WORKER BEFORE VOTING, WHICH MUST  
92 BE A VALID FORM OF PHOTO IDENTIFICATION THAT SHOWS YOUR NAME AND  
93 PHOTOGRAPH; OR  
94 TWO DIFFERENT FORMS OF IDENTIFICATION THAT SHOW YOUR NAME AND  
95 CURRENT ADDRESS.

96 FOR OFFICIAL USE ONLY

97 Type of I.D. \_\_\_\_\_

98 Voting Precinct \_\_\_\_\_

99 Voting I.D. Number \_\_\_\_\_

100 -----

101 (2) (a) Except as provided under Subsection (2)(b), the county clerk shall retain a copy  
102 of each voter registration form in a permanent countywide alphabetical file, which may be  
103 electronic or some other recognized system.

104 (b) The county clerk may transfer a superceded voter registration form to the Division  
105 of Archives and Records Service created under Section 63A-12-101.

106 (3) (a) Each county clerk shall retain lists of currently registered voters.

107 (b) The lieutenant governor shall maintain a list of registered voters in electronic form.

108 (c) If there are any discrepancies between the two lists, the county clerk's list is the  
109 official list.

110 (d) The lieutenant governor and the county clerks may charge the fees established  
111 under the authority of Subsection 63G-2-203(10) to individuals who wish to obtain a copy of  
112 the list of registered voters.

113 (4) When political parties not listed on the voter registration form qualify as registered  
114 political parties under Title 20A, Chapter 8, Political Party Formation and Procedures, the  
115 lieutenant governor shall inform the county clerks about the name of the new political party  
116 and direct the county clerks to ensure that the voter registration form is modified to include that  
117 political party.

118 (5) Upon receipt of a voter registration form from an applicant, the county clerk or the

119 clerk's designee shall:

120 (a) review each voter registration form for completeness and accuracy; and

121 (b) if the county clerk believes, based upon a review of the form, that a person may be  
122 seeking to register to vote who is not legally entitled to register to vote, refer the form to the  
123 county attorney for investigation and possible prosecution.

124 Section 2. Section **20A-2-108** is amended to read:

125 **20A-2-108. Driver license registration form -- Transmittal of information.**

126 (1) The lieutenant governor and the Driver License Division shall design the driver  
127 license application and renewal forms to include the question "if you are not registered to vote  
128 where you live now, would you like to register to vote today?"

129 (2) (a) The lieutenant governor and the Driver License Division shall design a motor  
130 voter registration form to be used in conjunction with driver license application and renewal  
131 forms.

132 (b) Each driver license application and renewal form shall contain:

133 (i) a place for the applicant to decline to register to vote;

134 (ii) an eligibility statement in substantially the following form:

135 "I do swear (or affirm), subject to penalty of law for false statements, that the  
136 information contained in this form is true, and that I am a citizen of the United States and a  
137 resident of the state of Utah, residing at the above address. I will be at least 18 years old and  
138 will have resided in Utah for 30 days immediately before the next election.

139 Signed and sworn

140 \_\_\_\_\_

141 Voter's Signature

142 \_\_\_\_\_(month\day\year)";

143 (iii) a citizenship affidavit in substantially the following form:

144 "CITIZENSHIP AFFIDAVIT

145 Name:

146 Name at birth, if different:

147 Place of birth:

148 Date of birth:

149 Date and place of naturalization (if applicable):

150 I hereby swear and affirm, under penalties for voting fraud set forth below, that I am a  
151 citizen and that to the best of my knowledge and belief the information above is true and  
152 correct.

153 \_\_\_\_\_

154 Signature of Applicant

155 In accordance with Section 20A-2-401, the penalty for willfully causing, procuring, or  
156 allowing yourself to be registered to vote if you know you are not entitled to register to vote is  
157 up to one year in jail and a fine of up to \$2,500[<sup>+</sup>].

158 Do you want your birth date classified as a private record? Yes No;

159 (iv) a statement that if an applicant declines to register to vote, the fact that the  
160 applicant has declined to register will remain confidential and will be used only for voter  
161 registration purposes; and

162 (v) a statement that if an applicant does register to vote, the office at which the  
163 applicant submits a voter registration application will remain confidential and will be used only  
164 for voter registration purposes.

165 (3) Upon receipt of a voter registration form from an applicant, the county clerk or the  
166 clerk's designee shall:

167 (a) review the voter registration form for completeness and accuracy; and

168 (b) if the county clerk believes, based upon a review of the form, that a person may be  
169 seeking to register to vote who is not legally entitled to register to vote, refer the form to the  
170 county attorney for investigation and possible prosecution.

171 Section 3. Section **20A-2-206** is amended to read:

172 **20A-2-206. Electronic registration -- Requests for absentee ballot application.**

173 (1) The lieutenant governor may create and maintain an electronic system for voter  
174 registration and requesting an absentee ballot that is publicly available on the Internet.

175 (2) An electronic system for voter registration shall require:

176 (a) that an applicant have a valid driver license or identification card, issued under Title  
177 53, Chapter 3, Uniform Driver License Act, that reflects the person's current principal place of  
178 residence;

179 (b) that the applicant provide the information required by Section 20A-2-104, except  
180 that the applicant's signature may be obtained in the manner described in Subsections (2)(d)

181 and (4);

182 (c) that the applicant attest to the truth of the information provided; and

183 (d) that the applicant authorize the lieutenant governor's and county clerk's use of the  
184 applicant's driver license or identification card signature, obtained under Title 53, Chapter 3,  
185 Uniform Driver License Act, for voter registration purposes.

186 (3) Notwithstanding Section 20A-2-104, an applicant using the electronic system for  
187 voter registration created under this section is not required to complete a printed registration  
188 form.

189 (4) A system created and maintained under this section shall:

190 (a) provide the notices concerning a voter's presentation of identification contained in  
191 Subsection 20A-2-104(1)~~[-]; and~~

192 (b) allow a voter to request that the voter's birth date be classified as a private record  
193 under Section 63G-2-302.

194 (5) The lieutenant governor shall obtain a digital copy of the applicant's driver license  
195 or identification card signature from the Driver License Division.

196 (6) Upon receiving all information from an applicant and the Driver License Division,  
197 the lieutenant governor shall send the information to the county clerk for the county in which  
198 the applicant's principal place of residence is found for further action as required by Section  
199 20A-2-304.

200 (7) The lieutenant governor may use additional security measures to ensure the  
201 accuracy and integrity of an electronically submitted voter registration.

202 (8) (a) If an individual applies to register under this section during the period beginning  
203 on the date after the voter registration deadline and ending on the date that is 15 calendar days  
204 before the date of an election, the county clerk shall:

205 (i) accept the application for registration if the individual, on the date of the election,  
206 will be legally qualified and entitled to vote in a voting precinct in the state; and

207 (ii) inform the individual that:

208 (A) the individual is registered to vote in the pending election; and

209 (B) for the pending election, the individual must vote on the day of the election and is  
210 not eligible to vote using early voting under Chapter 3, Part 6, Early Voting, because the  
211 individual registered too late.

212 (b) If an individual applies to register under this section during the 14 calendar days  
213 before an election, the county clerk shall:

214 (i) accept the application for registration if the individual, on the date of the election,  
215 will be legally qualified and entitled to vote in a voting precinct in the state; and

216 (ii) inform the individual that the individual is registered to vote but may not vote in  
217 the pending election because the individual registered too late.

218 (9) (a) A registered voter may file an application for an absentee ballot in accordance  
219 with Section 20A-3-304 on the electronic system for voter registration established under this  
220 section.

221 (b) The lieutenant governor shall provide a means by which a registered voter shall  
222 sign the application form as provided in Section 20A-3-304.

223 Section 4. Section **20A-2-304.5** is amended to read:

224 **20A-2-304.5. County clerk's responsibilities -- Updating voter registration --**  
225 **Classification of birth date.**

226 (1) A county clerk who receives notification from the lieutenant governor, as provided  
227 in Subsection 20A-2-109(1), of a change in a registered voter's principal place of residence or  
228 name may verify the change with the registered voter.

229 (2) Unless the county clerk verifies that a change described in Subsection (1) is  
230 incorrect, the county clerk shall:

231 (a) change the voter registration record to show the registered voter's current name and  
232 address; and

233 (b) notify the registered voter of the change to the voter registration record.

234 (3) (a) The birth date of a registered voter is a public record under Section 63G-2-301  
235 unless the voter requests that the voter's birth date be classified as a private record under  
236 Section 63G-2-302.

237 (b) A registered voter may request that the voter's birth date be classified as a private  
238 record:

239 (i) by filing a signed form with the county clerk;

240 (ii) on the voter registration form as provided in Section 20A-2-104, 20A-2-108, or  
241 20A-6-105;

242 (iii) in response to a voter registration notice as provided in Section 20A-2-306; or



243 (iv) on the electronic system for voter registration as provided in Section 20A-2-206.

244 (c) The county clerk shall change a voter registration record to show that the birth date  
245 is classified as private in accordance with this section.

246 Section 5. Section **20A-2-306** is amended to read:

247 **20A-2-306. Removing names from the official register -- Determining and**  
248 **confirming change of residence.**

249 (1) A county clerk may not remove a voter's name from the official register on the  
250 grounds that the voter has changed residence unless the voter:

251 (a) confirms in writing that the voter has changed residence to a place outside the  
252 county; or

253 (b) (i) has not voted in an election during the period beginning on the date of the notice  
254 required by Subsection (3), and ending on the day after the date of the second regular general  
255 election occurring after the date of the notice; and

256 (ii) has failed to respond to the notice required by Subsection (3).

257 (2) (a) When a county clerk obtains information that a voter's address has changed and  
258 it appears that the voter still resides within the same county, the county clerk shall:

259 (i) change the official register to show the voter's new address; and

260 (ii) send to the voter, by forwardable mail, the notice required by Subsection (3)  
261 printed on a postage prepaid, preaddressed return form.

262 (b) When a county clerk obtains information that a voter's address has changed and it  
263 appears that the voter now resides in a different county, the county clerk shall verify the  
264 changed residence by sending to the voter, by forwardable mail, the notice required by  
265 Subsection (3) printed on a postage prepaid, preaddressed return form.

266 (3) Each county clerk shall use substantially the following form to notify voters whose  
267 addresses have changed:

268 "VOTER REGISTRATION NOTICE

269 We have been notified that your residence has changed. Please read, complete, and  
270 return this form so that we can update our voter registration records. What is your current  
271 street address?

272 \_\_\_\_\_  
273 Street City County State Zip

274 If you have not changed your residence or have moved but stayed within the same  
275 county, you must complete and return this form to the county clerk so that it is received by the  
276 county clerk no later than 30 days before the date of the election. If you fail to return this form  
277 within that time:

278 - you may be required to show evidence of your address to the poll worker before being  
279 allowed to vote in either of the next two regular general elections; or

280 - if you fail to vote at least once from the date this notice was mailed until the passing  
281 of two regular general elections, you will no longer be registered to vote. If you have changed  
282 your residence and have moved to a different county in Utah, you may register to vote by  
283 contacting the county clerk in your county.

284 Do you want your birth date on your voter registration record classified as a private  
285 record?                      Yes                      No

286 \_\_\_\_\_

287 Signature of Voter"

288 (4) (a) Except as provided in Subsection (4)(b), the county clerk may not remove the  
289 names of any voters from the official register during the 90 days before a regular primary  
290 election and the 90 days before a regular general election.

291 (b) The county clerk may remove the names of voters from the official register during  
292 the 90 days before a regular primary election and the 90 days before a regular general election  
293 if:

- 294 (i) the voter requests, in writing, that the voter's name be removed; or
- 295 (ii) the voter has died.

296 (c) (i) After a county clerk mails a notice as required in this section, the clerk may list  
297 that voter as inactive.

298 (ii) An inactive voter shall be allowed to vote, sign petitions, and have all other  
299 privileges of a registered voter.

300 (iii) A county is not required to send routine mailings to inactive voters and is not  
301 required to count inactive voters when dividing precincts and preparing supplies.

302 Section 6. Section **20A-2-308** is amended to read:

303 **20A-2-308. Lieutenant governor and county clerks to preserve records.**

304 (1) As used in this section:

305 (a) "Voter registration records" means all records concerning the implementation of  
306 programs and activities conducted for the purpose of ensuring that the official register is  
307 accurate and current.

308 (b) "Voter registration records" does not mean records that:

309 (i) relate to a person's decision to decline to register to vote; and

310 (ii) identify the particular public assistance agency, discretionary voter registration  
311 agency, or Driver License Division through which a particular voter registered to vote.

312 (2) The lieutenant governor and each county clerk shall:

313 (a) preserve for at least two years all records relating to voter registration, including:

314 (i) the official register; and

315 (ii) the names and addresses of all persons to whom the notice required by Section  
316 20A-2-306 was sent and a notation as to whether or not the person responded to the notice;

317 (b) make the records, except for the part of the voter registration record classified as  
318 private under Section 63G-2-302, available for public inspection; and

319 (c) allow the records described in Subsection (2)(b) to be photocopied for a reasonable  
320 cost.

321 Section 7. Section **20A-6-105** is amended to read:

322 **20A-6-105. Provisional ballot envelopes.**

323 (1) Each election officer shall ensure that provisional ballot envelopes are printed in  
324 substantially the following form:

325 "AFFIRMATION

326 Are you a citizen of the United States of America? Yes No

327 Will you be 18 years old on or before election day? Yes No

328 If you checked "no" in response to either of the two above questions, do not complete this  
329 form.

330 Name of Voter \_\_\_\_\_

331 First Middle Last

332 Driver License or Identification Card Number \_\_\_\_\_

333 State of Issuance of Driver License or Identification Card Number \_\_\_\_\_

334 Date of Birth \_\_\_\_\_

335 Street Address of Principal Place of Residence

336 \_\_\_\_\_  
 337 City County State Zip Code  
 338 Telephone Number (optional) \_\_\_\_\_  
 339 Last four digits of Social Security Number \_\_\_\_\_  
 340 Last former address at which I was registered to vote (if known)  
 341 \_\_\_\_\_

342 City County State Zip Code  
 343 Voting Precinct (if known)  
 344 \_\_\_\_\_

345 I, (please print your full name) \_\_\_\_\_ do solemnly swear or  
 346 affirm:

347 That I am currently registered to vote in the state of Utah and am eligible to vote in this  
 348 election; that I have not voted in this election in any other precinct; that I am eligible to vote in  
 349 this precinct; and that I request that I be permitted to vote in this precinct; and

350 Subject to penalty of law for false statements, that the information contained in this  
 351 form is true, and that I am a citizen of the United States and a resident of Utah, residing at the  
 352 above address; and that I am at least 18 years old and have resided in Utah for the 30 days  
 353 immediately before this election.

354 Signed \_\_\_\_\_  
 355 Dated \_\_\_\_\_

356 In accordance with Section 20A-3-506, wilfully providing false information above is a  
 357 class B misdemeanor under Utah law and is punishable by imprisonment and by fine".

358 "CITIZENSHIP AFFIDAVIT

359 Name:

360 Name at birth, if different:

361 Place of birth:

362 Date of birth:

363 Date and place of naturalization (if applicable):

364 I hereby swear and affirm, under penalties for voting fraud set forth below, that I am a  
 365 citizen and that to the best of my knowledge and belief the information above is true and  
 366 correct.

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\_\_\_\_\_  
Signature of Applicant

In accordance with Section 20A-2-401, the penalty for willfully causing, procuring, or allowing yourself to be registered to vote if you know you are not entitled to register to vote is up to one year in jail and a fine of up to \$2,500.[<sup>4</sup>]

Do you want your birth date classified as a private record?                      Yes                      No"

(2) The provisional ballot envelope shall include:

(a) a unique number;

(b) a detachable part that includes the unique number; and

(c) a telephone number, internet address, or other indicator of a means, in accordance with Section 20A-6-105.5, where the voter can find out if the provisional ballot was counted.

Section 8. Section **63G-2-302** is amended to read:

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

(1) The following records are private:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

407 (h) that part of a record indicating a person's Social Security number or federal  
408 employer identification number if provided under Section 31A-23a-104, 31A-25-202,  
409 31A-26-202, 58-1-301, 58-55-302, 61-1-4, or 61-2f-203;

410 (i) that part of a voter registration record or official register identifying a voter's;

411 (i) driver license or identification card number[-];

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

413 (iii) birth date, if the voter requests the birth date be classified as private in accordance  
414 with Title 20A, Election Code;

415 (j) a record that:

416 (i) contains information about an individual;

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

418 (iii) goes into an electronic database that:

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

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

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

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

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

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

427 (l) information obtained through a criminal background check under Title 11, Chapter  
428 40, Criminal Background Checks by Political Subdivisions Operating Water Systems;

- 429 (m) information provided by an offender that is:
- 430 (i) required by the registration requirements of Section 77-27-21.5; and
- 431 (ii) not required to be made available to the public under Subsection 77-27-21.5(27);
- 432 (n) a statement and any supporting documentation filed with the attorney general in
- 433 accordance with Section 34-45-107, if the federal law or action supporting the filing involves
- 434 homeland security;
- 435 (o) electronic toll collection customer account information received or collected under
- 436 Section 72-6-118, including contact and payment information and customer travel data[-];
- 437 (p) an email address provided by a military or overseas voter under Section
- 438 20A-16-501; and
- 439 (q) a completed military-overseas ballot that is electronically transmitted under Title
- 440 20A, Chapter 16, Uniform Military and Overseas Voters Act.
- 441 (2) The following records are private if properly classified by a governmental entity:
- 442 (a) records concerning a current or former employee of, or applicant for employment
- 443 with a governmental entity, including performance evaluations and personal status information
- 444 such as race, religion, or disabilities, but not including records that are public under Subsection
- 445 63G-2-301(2)(b) or 63G-2-301(3)(o), or private under Subsection (1)(b);
- 446 (b) records describing an individual's finances, except that the following are public:
- 447 (i) records described in Subsection 63G-2-301(2);
- 448 (ii) information provided to the governmental entity for the purpose of complying with
- 449 a financial assurance requirement; or
- 450 (iii) records that must be disclosed in accordance with another statute;
- 451 (c) records of independent state agencies if the disclosure of those records would
- 452 conflict with the fiduciary obligations of the agency;
- 453 (d) other records containing data on individuals the disclosure of which constitutes a
- 454 clearly unwarranted invasion of personal privacy;
- 455 (e) records provided by the United States or by a government entity outside the state
- 456 that are given with the requirement that the records be managed as private records, if the
- 457 providing entity states in writing that the record would not be subject to public disclosure if
- 458 retained by it; and
- 459 (f) any portion of a record in the custody of the Division of Aging and Adult Services,

460 created in Section 62A-3-102, that may disclose, or lead to the discovery of, the identity of a  
461 person who made a report of alleged abuse, neglect, or exploitation of a vulnerable adult.

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

464 (b) Medical records in the possession of the University of Utah Hospital, its clinics,  
465 doctors, or affiliated entities are not private records or controlled records under Section  
466 63G-2-304 when the records are sought:

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

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

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