

**ACCESS TO VOTER DATE OF BIRTH RECORDS**

2012 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Rebecca P. Edwards**

Senate Sponsor: \_\_\_\_\_

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**LONG TITLE**

**General Description:**

This bill amends provisions relating to the birth date on a voter registration record.

**Highlighted Provisions:**

This bill:

- ▶ amends the requirement of the lieutenant governor and county clerks to make certain records available for public inspection;
  - ▶ classifies the month and day of a birth date on a voter registration record as a private record;
  - ▶ classifies the year of a birth date on a voter registration record as a public record;
- and
- ▶ makes technical changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

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

**63G-2-301**, as last amended by Laws of Utah 2011, Chapters 45 and 46

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



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

Section 1. Section **20A-2-308** is amended to read:

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

(1) As used in this section:

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

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

- (i) relate to a person's decision to decline to register to vote; and
- (ii) identify the particular public assistance agency, discretionary voter registration agency, or Driver License Division through which a particular voter registered to vote.

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

- (a) preserve for at least two years all records relating to voter registration, including:
  - (i) the official register; and
  - (ii) the names and addresses of all persons to whom the notice required by Section 20A-2-306 was sent and a notation as to whether or not the person responded to the notice;
- (b) make the records, except for the part of the voter registration record classified as private under Section 63G-2-302, available for public inspection; and
- (c) allow the records described in Subsection (2)(b) to be photocopied for a reasonable cost.

Section 2. Section **63G-2-301** is amended to read:

**63G-2-301. Records that must be disclosed.**

(1) As used in this section:

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

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

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

(2) The following records are public except to the extent they contain information

59 expressly permitted to be treated confidentially under the provisions of Subsections  
60 63G-2-201(3)(b) and (6)(a):

61 (a) laws;

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

66 (i) undercover law enforcement personnel; and  
67 (ii) investigative personnel if disclosure could reasonably be expected to impair the  
68 effectiveness of investigations or endanger any individual's safety;

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

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

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

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

81 (g) unless otherwise classified as private under Section 63G-2-303, records or parts of  
82 records filed with or maintained by county recorders, clerks, treasurers, surveyors, zoning  
83 commissions, the Division of Forestry, Fire, and State Lands, the School and Institutional Trust  
84 Lands Administration, the Division of Oil, Gas, and Mining, the Division of Water Rights, or  
85 other governmental entities that give public notice of:

86 (i) titles or encumbrances to real property;  
87 (ii) restrictions on the use of real property;  
88 (iii) the capacity of persons to take or convey title to real property; or  
89 (iv) tax status for real and personal property;

- 90 (h) records of the Department of Commerce that evidence incorporations, mergers,  
91 name changes, and uniform commercial code filings;
- 92 (i) data on individuals that would otherwise be private under this chapter if the  
93 individual who is the subject of the record has given the governmental entity written  
94 permission to make the records available to the public;
- 95 (j) documentation of the compensation that a governmental entity pays to a contractor  
96 or private provider;
- 97 (k) summary data;
- 98 (l) voter registration records, including an individual's voting history and the year of  
99 the individual's birth date, except for those parts of the record that are classified as private in  
100 Subsection 63G-2-302(1)(i);
- 101 (m) for an elected official, as defined in Section 11-47-102, a telephone number, if  
102 available, and email address, if available, where that elected official may be reached as required  
103 in Title 11, Chapter 47, Access to Elected Officials;
- 104 (n) for a school community council member, a telephone number, if available, and  
105 email address, if available, where that elected official may be reached directly as required in  
106 Section 53A-1a-108; and
- 107 (o) annual audited financial statements of the Utah Educational Savings Plan described  
108 in Section 53B-8a-111.
- 109 (3) The following records are normally public, but to the extent that a record is  
110 expressly exempt from disclosure, access may be restricted under Subsection 63G-2-201(3)(b),  
111 Section 63G-2-302, 63G-2-304, or 63G-2-305:
- 112 (a) administrative staff manuals, instructions to staff, and statements of policy;
- 113 (b) records documenting a contractor's or private provider's compliance with the terms  
114 of a contract with a governmental entity;
- 115 (c) records documenting the services provided by a contractor or a private provider to  
116 the extent the records would be public if prepared by the governmental entity;
- 117 (d) contracts entered into by a governmental entity;
- 118 (e) any account, voucher, or contract that deals with the receipt or expenditure of funds  
119 by a governmental entity;
- 120 (f) records relating to government assistance or incentives publicly disclosed,

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

123 (g) chronological logs and initial contact reports;

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

127 (i) empirical data contained in drafts if:

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

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

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

133 (i) a governmental entity;

134 (ii) a political subdivision;

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

137 (iv) a government-managed corporation; or

138 (v) a contractor or private provider;

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

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

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

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

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

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

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

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

155 (q) final audit reports;

156 (r) occupational and professional licenses;

157 (s) business licenses; and

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

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

163 Section 3. Section **63G-2-302** is amended to read:

164 **63G-2-302. Private records.**

165 (1) The following records are private:

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

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

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

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

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

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

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

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

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

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

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

- 183 (B) would create a danger of depriving a person of a right to a fair proceeding or  
184 impartial hearing; and
- 185 (ii) after the meeting, if the meeting was closed to the public;
- 186 (f) employment records concerning a current or former employee of, or applicant for  
187 employment with, a governmental entity that would disclose that individual's home address,  
188 home telephone number, Social Security number, insurance coverage, marital status, or payroll  
189 deductions;
- 190 (g) records or parts of records under Section 63G-2-303 that a current or former  
191 employee identifies as private according to the requirements of that section;
- 192 (h) that part of a record indicating a person's Social Security number or federal  
193 employer identification number if provided under Section 31A-23a-104, 31A-25-202,  
194 31A-26-202, 58-1-301, 58-55-302, 61-1-4, or 61-2f-203;
- 195 (i) that part of a voter registration record identifying:
- 196 (i) a voter's driver license or identification card number[;];  
197 (ii) Social Security number, or last four digits of the Social Security number; or  
198 (iii) the month and day of a voter's birth date;
- 199 (j) a record that:
- 200 (i) contains information about an individual;  
201 (ii) is voluntarily provided by the individual; and  
202 (iii) goes into an electronic database that:
- 203 (A) is designated by and administered under the authority of the Chief Information  
204 Officer; and
- 205 (B) acts as a repository of information about the individual that can be electronically  
206 retrieved and used to facilitate the individual's online interaction with a state agency;
- 207 (k) information provided to the Commissioner of Insurance under:
- 208 (i) Subsection 31A-23a-115(2)(a);  
209 (ii) Subsection 31A-23a-302(3); or  
210 (iii) Subsection 31A-26-210(3);
- 211 (l) information obtained through a criminal background check under Title 11, Chapter  
212 40, Criminal Background Checks by Political Subdivisions Operating Water Systems;
- 213 (m) information provided by an offender that is:

- 214 (i) required by the registration requirements of Section 77-27-21.5; and
- 215 (ii) not required to be made available to the public under Subsection 77-27-21.5(27);
- 216 (n) a statement and any supporting documentation filed with the attorney general in
- 217 accordance with Section 34-45-107, if the federal law or action supporting the filing involves
- 218 homeland security;
- 219 (o) electronic toll collection customer account information received or collected under
- 220 Section 72-6-118, including contact and payment information and customer travel data[-];
- 221 (p) an email address provided by a military or overseas voter under Section
- 222 20A-16-501; and
- 223 (q) a completed military-overseas ballot that is electronically transmitted under Title
- 224 20A, Chapter 16, Uniform Military and Overseas Voters Act.
- 225 (2) The following records are private if properly classified by a governmental entity:
- 226 (a) records concerning a current or former employee of, or applicant for employment
- 227 with a governmental entity, including performance evaluations and personal status information
- 228 such as race, religion, or disabilities, but not including records that are public under Subsection
- 229 63G-2-301(2)(b) or 63G-2-301(3)(o), or private under Subsection (1)(b);
- 230 (b) records describing an individual's finances, except that the following are public:
- 231 (i) records described in Subsection 63G-2-301(2);
- 232 (ii) information provided to the governmental entity for the purpose of complying with
- 233 a financial assurance requirement; or
- 234 (iii) records that must be disclosed in accordance with another statute;
- 235 (c) records of independent state agencies if the disclosure of those records would
- 236 conflict with the fiduciary obligations of the agency;
- 237 (d) other records containing data on individuals the disclosure of which constitutes a
- 238 clearly unwarranted invasion of personal privacy;
- 239 (e) records provided by the United States or by a government entity outside the state
- 240 that are given with the requirement that the records be managed as private records, if the
- 241 providing entity states in writing that the record would not be subject to public disclosure if
- 242 retained by it; and
- 243 (f) any portion of a record in the custody of the Division of Aging and Adult Services,
- 244 created in Section 62A-3-102, that may disclose, or lead to the discovery of, the identity of a



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

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

248 (b) Medical records in the possession of the University of Utah Hospital, its clinics,  
249 doctors, or affiliated entities are not private records or controlled records under Section  
250 63G-2-304 when the records are sought:

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

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

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

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**Legislative Review Note**  
as of 1-18-12 10:08 AM

**Office of Legislative Research and General Counsel**