

1 **GOVERNMENT RECORDS ACCESS AND MANAGEMENT ACT**

2 **- VOTER REGISTRATION RECORDS**

3 2012 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Margaret Dayton**

6 House Sponsor: Keith Grover

7

8 **LONG TITLE**

9 **Committee Note:**

10 The Government Operations and Political Subdivisions Interim Committee
11 recommended this bill.

12 **General Description:**

13 This bill amends the Government Records Access and Management Act to address
14 provisions relating to an email address on a voter registration record.

15 **Highlighted Provisions:**

16 This bill:

- 17 ▶ amends the requirement of the lieutenant governor and county clerks to make
- 18 certain records available for public inspection;
- 19 ▶ classifies a voter's email address on a voter registration record as a private record;
- 20 and
- 21 ▶ makes technical changes.

22 **Money Appropriated in this Bill:**

23 None

24 **Other Special Clauses:**

25 None

26 **Utah Code Sections Affected:**

27 AMENDS:



28 20A-2-308, as enacted by Laws of Utah 1994, Chapter 311

29 63G-2-302, as last amended by Laws of Utah 2011, Chapters 85, 327, and 413



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

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

33 **20A-2-308. Lieutenant governor and county clerks to preserve records.**

34 (1) As used in this section:

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

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

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

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

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

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

44 (i) the official register; and

45 (ii) the names and addresses of all persons to whom the notice required by Section
46 20A-2-306 was sent and a notation as to whether or not the person responded to the notice;

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

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

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

52 **63G-2-302. Private records.**

53 (1) The following records are private:

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

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

58 (c) records of publicly funded libraries that when examined alone or with other records

59 identify a patron;

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

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

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

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

64 (ii) a Senate or House Ethics Committee in relation to the review of ethics complaints,

65 unless the record is classified as public under legislative rule;

66 (e) records received or generated for a Senate confirmation committee concerning

67 character, professional competence, or physical or mental health of an individual:

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

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

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

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

74 (f) employment records concerning a current or former employee of, or applicant for

75 employment with, a governmental entity that would disclose that individual's home address,

76 home telephone number, Social Security number, insurance coverage, marital status, or payroll

77 deductions;

78 (g) records or parts of records under Section 63G-2-303 that a current or former

79 employee identifies as private according to the requirements of that section;

80 (h) that part of a record indicating a person's Social Security number or federal

81 employer identification number if provided under Section 31A-23a-104, 31A-25-202,

82 31A-26-202, 58-1-301, 58-55-302, 61-1-4, or 61-2f-203;

83 (i) that part of a voter registration record identifying a voter's:

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

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

85a **H→ [f] or [f] ←H**

86 (iii) email address; **H→ or**

86a ~~(iv) birth date;~~ **←H**

87 (j) a record that:

88 (i) contains information about an individual;

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

- 90 (iii) goes into an electronic database that:
- 91 (A) is designated by and administered under the authority of the Chief Information
- 92 Officer; and
- 93 (B) acts as a repository of information about the individual that can be electronically
- 94 retrieved and used to facilitate the individual's online interaction with a state agency;
- 95 (k) information provided to the Commissioner of Insurance under:
- 96 (i) Subsection 31A-23a-115(2)(a);
- 97 (ii) Subsection 31A-23a-302(3); or
- 98 (iii) Subsection 31A-26-210(3);
- 99 (l) information obtained through a criminal background check under Title 11, Chapter
- 100 40, Criminal Background Checks by Political Subdivisions Operating Water Systems;
- 101 (m) information provided by an offender that is:
- 102 (i) required by the registration requirements of Section 77-27-21.5; and
- 103 (ii) not required to be made available to the public under Subsection 77-27-21.5(27);
- 104 (n) a statement and any supporting documentation filed with the attorney general in
- 105 accordance with Section 34-45-107, if the federal law or action supporting the filing involves
- 106 homeland security;
- 107 (o) electronic toll collection customer account information received or collected under
- 108 Section 72-6-118, including contact and payment information and customer travel data[-];
- 109 (p) an email address provided by a military or overseas voter under Section
- 110 20A-16-501; and
- 111 (q) a completed military-overseas ballot that is electronically transmitted under Title
- 112 20A, Chapter 16, Uniform Military and Overseas Voters Act.
- 113 (2) The following records are private if properly classified by a governmental entity:
- 114 (a) records concerning a current or former employee of, or applicant for employment
- 115 with a governmental entity, including performance evaluations and personal status information
- 116 such as race, religion, or disabilities, but not including records that are public under Subsection
- 117 63G-2-301(2)(b) or 63G-2-301(3)(o), or private under Subsection (1)(b);
- 118 (b) records describing an individual's finances, except that the following are public:
- 119 (i) records described in Subsection 63G-2-301(2);
- 120 (ii) information provided to the governmental entity for the purpose of complying with

121 a financial assurance requirement; or
122 (iii) records that must be disclosed in accordance with another statute;
123 (c) records of independent state agencies if the disclosure of those records would
124 conflict with the fiduciary obligations of the agency;
125 (d) other records containing data on individuals the disclosure of which constitutes a
126 clearly unwarranted invasion of personal privacy;
127 (e) records provided by the United States or by a government entity outside the state
128 that are given with the requirement that the records be managed as private records, if the
129 providing entity states in writing that the record would not be subject to public disclosure if
130 retained by it; and
131 (f) any portion of a record in the custody of the Division of Aging and Adult Services,
132 created in Section 62A-3-102, that may disclose, or lead to the discovery of, the identity of a
133 person who made a report of alleged abuse, neglect, or exploitation of a vulnerable adult.
134 (3) (a) As used in this Subsection (3), "medical records" means medical reports,
135 records, statements, history, diagnosis, condition, treatment, and evaluation.
136 (b) Medical records in the possession of the University of Utah Hospital, its clinics,
137 doctors, or affiliated entities are not private records or controlled records under Section
138 63G-2-304 when the records are sought:
139 (i) in connection with any legal or administrative proceeding in which the patient's
140 physical, mental, or emotional condition is an element of any claim or defense; or
141 (ii) after a patient's death, in any legal or administrative proceeding in which any party
142 relies upon the condition as an element of the claim or defense.
143 (c) Medical records are subject to production in a legal or administrative proceeding
144 according to state or federal statutes or rules of procedure and evidence as if the medical
145 records were in the possession of a nongovernmental medical care provider.

Legislative Review Note
as of 10-26-11 10:14 AM

Office of Legislative Research and General Counsel