

1 **CORRECTIONAL FACILITY TRANSPARENCY**

2 **REQUIREMENTS**

3 2020 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Jacob L. Anderegg**

6 House Sponsor: Joel Ferry

7

LONG TITLE

8 **General Description:**

9 This bill classifies certain records related to correctional facilities as public.

10 **Highlighted Provisions:**

11 This bill:

- 12 ▶ defines correctional facility; and
- 13 ▶ classifies records related to the operation of a correctional facility as public, except
- 14 in certain circumstances.

15 **Money Appropriated in this Bill:**

16 None

17 **Other Special Clauses:**

18 None

19 **Utah Code Sections Affected:**

20 AMENDS:

21 **63G-2-301**, as last amended by Laws of Utah 2018, Chapter 415

22

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

23 Section 1. Section **63G-2-301** is amended to read:

24 **63G-2-301. Public records.**

25 (1) As used in this section:



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

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

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

34 (d) "Correctional facility" means the same as that term is defined in Section
35 [77-16b-102](#).

36 (2) The following records are public except to the extent they contain information
37 expressly permitted to be treated confidentially under the provisions of Subsections
38 [63G-2-201](#)(3)(b) and (6)(a):

39 (a) laws;

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

44 (i) undercover law enforcement personnel; and

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

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

51 (d) final interpretations of statutes or rules by a governmental entity unless classified as
52 protected as provided in Subsection [63G-2-305](#)(17) or (18);

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

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

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

- 64 (i) titles or encumbrances to real property;
- 65 (ii) restrictions on the use of real property;
- 66 (iii) the capacity of persons to take or convey title to real property; or
- 67 (iv) tax status for real and personal property;

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

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

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

75 (k) summary data;

76 (l) voter registration records, including an individual's voting history, except for a voter
77 registration record or those parts of a voter registration record that are classified as private
78 under Subsection 63G-2-302(1)(j) or (k);

79 (m) for an elected official, as defined in Section 11-47-102, a telephone number, if
80 available, and email address, if available, where that elected official may be reached as required
81 in Title 11, Chapter 47, Access to Elected Officials;

82 (n) for a school community council member, a telephone number, if available, and
83 email address, if available, where that elected official may be reached directly as required in
84 Section 53G-7-1203;

85 (o) annual audited financial statements of the Utah Educational Savings Plan described
86 in Section 53B-8a-111; and

87 (p) an initiative packet, as defined in Section 20A-7-101, and a referendum packet, as
88 defined in Section 20A-7-101, after the packet is submitted to a county clerk.

89 (3) The following records are normally public, but to the extent that a record is

90 expressly exempt from disclosure, access may be restricted under Subsection 63G-2-201(3)(b),
91 Section 63G-2-302, 63G-2-304, or 63G-2-305:

- 92 (a) administrative staff manuals, instructions to staff, and statements of policy;
- 93 (b) records documenting a contractor's or private provider's compliance with the terms
94 of a contract with a governmental entity;
- 95 (c) records documenting the services provided by a contractor or a private provider to
96 the extent the records would be public if prepared by the governmental entity;
- 97 (d) contracts entered into by a governmental entity;
- 98 (e) any account, voucher, or contract that deals with the receipt or expenditure of funds
99 by a governmental entity;
- 100 (f) records relating to government assistance or incentives publicly disclosed,
101 contracted for, or given by a governmental entity, encouraging a person to expand or relocate a
102 business in Utah, except as provided in Subsection 63G-2-305(35);
- 103 (g) chronological logs and initial contact reports;
- 104 (h) correspondence by and with a governmental entity in which the governmental entity
105 determines or states an opinion upon the rights of the state, a political subdivision, the public,
106 or any person;
- 107 (i) empirical data contained in drafts if:
 - 108 (i) the empirical data is not reasonably available to the requester elsewhere in similar
109 form; and
 - 110 (ii) the governmental entity is given a reasonable opportunity to correct any errors or
111 make nonsubstantive changes before release;
- 112 (j) drafts that are circulated to anyone other than:
 - 113 (i) a governmental entity;
 - 114 (ii) a political subdivision;
 - 115 (iii) a federal agency if the governmental entity and the federal agency are jointly
116 responsible for implementation of a program or project that has been legislatively approved;
 - 117 (iv) a government-managed corporation; or
 - 118 (v) a contractor or private provider;
- 119 (k) drafts that have never been finalized but were relied upon by the governmental
120 entity in carrying out action or policy;

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

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

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

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

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

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

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

135 (q) final audit reports;

136 (r) occupational and professional licenses;

137 (s) business licenses; [~~and~~]

138 (t) a notice of violation, a notice of agency action under Section [63G-4-201](#), or similar
139 records used to initiate proceedings for discipline or sanctions against persons regulated by a
140 governmental entity, but not including records that initiate employee discipline[-]; and

141 (u) (i) records that disclose a standard, regulation, policy, guideline, or rule regarding
142 the operation of a correctional facility or the care and control of inmates committed to the
143 custody of a correctional facility; and

144 (ii) records that disclose the results of an audit or other inspection assessing a
145 correctional facility's compliance with a standard, regulation, policy, guideline, or rule
146 described in Subsection (3)(u)(i) ~~Ŝ~~ → if:

146a **(A) before the records are disclosed, the correctional facility that is the subject of the**
146b **audit or other inspection is given the opportunity to respond to the audit or other inspection in**
146c **writing; and**

146d **(B) any response to the audit or other inspection provided by the correctional facility is**
146e **attached to a response to a request for records that disclose the results of an audit or other**
146f **inspection under Subsection (3)(u)(ii) ←Ŝ .**

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