

Senator Curtis S. Bramble proposes the following substitute bill:

GOVERNMENT RECORDS AMENDMENTS

2020 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Jacob L. Anderegg

House Sponsor: Joel Ferry

LONG TITLE

General Description:

This bill modifies provisions related to government records.

Highlighted Provisions:

This bill:

- ▶ defines correctional facility;
- ▶ classifies records related to the operation of a correctional facility as public, except in certain circumstances; and
- ▶ modifies the rulemaking authority of the executive director of the Department of Administrative Services under the Public Records Management Act.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63A-12-104, as renumbered and amended by Laws of Utah 2008, Chapter 382

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



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

27 Section 1. Section **63A-12-104** is amended to read:

28 **63A-12-104. Rulemaking authority.**

29 (1) The executive director of the Department of Administrative Services, with the
30 recommendation of the state archivist, may make rules as provided by Title 63G, Chapter 3,
31 Utah Administrative Rulemaking Act, to implement provisions of this chapter and Title 63G,
32 Chapter 2, Government Records Access and Management Act, dealing with procedures for the
33 collection, storage, designation, classification, access, mediation for records access, and
34 management of records.

35 (2) A governmental entity that includes divisions, boards, departments, committees,
36 commissions, or other subparts that fall within the definition of a governmental entity under
37 this chapter, may, by rule, specify at which level the requirements specified in this chapter shall
38 be undertaken.

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

40 **63G-2-301. Public records.**

41 (1) As used in this section:

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

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

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

48 (d) "Correctional facility" means the same as that term is defined in Section
49 [77-16b-102](#).

50 (2) The following records are public except to the extent they contain information
51 expressly permitted to be treated confidentially under the provisions of Subsections
52 [63G-2-201\(3\)\(b\)](#) and [\(6\)\(a\)](#):

53 (a) laws;

54 (b) the name, gender, gross compensation, job title, job description, business address,
55 business email address, business telephone number, number of hours worked per pay period,
56 dates of employment, and relevant education, previous employment, and similar job

57 qualifications of a current or former employee or officer of the governmental entity, excluding:

58 (i) undercover law enforcement personnel; and

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

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

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

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

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

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

78 (i) titles or encumbrances to real property;

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

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

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

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

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

87 (j) documentation of the compensation that a governmental entity pays to a contractor

88 or private provider;

89 (k) summary data;

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

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

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

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

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

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

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

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

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

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

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

114 (f) records relating to government assistance or incentives publicly disclosed,
115 contracted for, or given by a governmental entity, encouraging a person to expand or relocate a
116 business in Utah, except as provided in Subsection 63G-2-305(35);

117 (g) chronological logs and initial contact reports;

118 (h) correspondence by and with a governmental entity in which the governmental entity

119 determines or states an opinion upon the rights of the state, a political subdivision, the public,
120 or any person;

121 (i) empirical data contained in drafts if:

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

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

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

127 (i) a governmental entity;

128 (ii) a political subdivision;

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

131 (iv) a government-managed corporation; or

132 (v) a contractor or private provider;

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

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

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

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

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

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

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

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

149 (q) final audit reports;

- 150 (r) occupational and professional licenses;
- 151 (s) business licenses; [~~and~~]
- 152 (t) a notice of violation, a notice of agency action under Section 63G-4-201, or similar
153 records used to initiate proceedings for discipline or sanctions against persons regulated by a
154 governmental entity, but not including records that initiate employee discipline[-]; and
- 155 (u) (i) records that disclose a standard, regulation, policy, guideline, or rule regarding
156 the operation of a correctional facility or the care and control of inmates committed to the
157 custody of a correctional facility; and
- 158 (ii) records that disclose the results of an audit or other inspection assessing a
159 correctional facility's compliance with a standard, regulation, policy, guideline, or rule
160 described in Subsection (3)(u)(i).
- 161 (4) The list of public records in this section is not exhaustive and should not be used to
162 limit access to records.