

1 **JUDICIAL PERFORMANCE EVALUATION COMMISSION**

2 **AMENDMENTS**

3 2022 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Nelson T. Abbott**

6 Senate Sponsor: Jani Iwamoto

7

8 **LONG TITLE**

9 **General Description:**

10 This bill amends provisions relating to the Judicial Performance Evaluation
11 Commission.

12 **Highlighted Provisions:**

13 This bill:

- 14 ▶ defines terms;
- 15 ▶ provides that the Judicial Performance Evaluation Commission will determine
16 whether a judge meets or exceeds minimum performance standards, rather than
17 making a recommendation regarding retaining a judge;
- 18 ▶ makes conforming changes in the Election Code and the Government Records
19 Access and Management Act; and
- 20 ▶ makes other technical and conforming changes.

21 **Money Appropriated in this Bill:**

22 None

23 **Other Special Clauses:**

24 This bill provides a special effective date.

25 **Utah Code Sections Affected:**

26 AMENDS:

27 **20A-7-702**, as last amended by Laws of Utah 2020, Fifth Special Session, Chapter 20

28 **63G-2-305**, as last amended by Laws of Utah 2021, Chapters 148, 179, 231, 353, 373,

29 and 382

30 **78A-12-102**, as last amended by Laws of Utah 2014, Chapter 152

31 **78A-12-201**, as last amended by Laws of Utah 2017, Chapter 374

32 **78A-12-203**, as last amended by Laws of Utah 2017, Chapters 81 and 374

33 **78A-12-205**, as last amended by Laws of Utah 2017, Chapter 81

34 **78A-12-206**, as last amended by Laws of Utah 2017, Chapter 374

35 ENACTS:

36 **20A-7-702.5**, Utah Code Annotated 1953



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

39 Section 1. Section **20A-7-702** is amended to read:

40 **20A-7-702. Voter information pamphlet -- Form -- Contents.**

41 [(†)] The voter information pamphlet shall contain the following items in this order:

42 [(a)] (1) a cover title page;

43 [(b)] (2) an introduction to the pamphlet by the lieutenant governor;

44 [(c)] (3) a table of contents;

45 [(d)] (4) a list of all candidates for constitutional offices;

46 [(e)] (5) a list of candidates for each legislative district;

47 [(f)] (6) a 100-word statement of qualifications for each candidate for the office of

48 governor, lieutenant governor, attorney general, state auditor, or state treasurer, if submitted by

49 the candidate to the lieutenant governor's office before 5 p.m. on the first business day in

50 August before the date of the election;

51 [(g)] (7) information pertaining to all measures to be submitted to the voters, beginning

52 a new page for each measure and containing, in the following order for each measure:

53 [(i)] (a) a copy of the number and ballot title of the measure;

54 [(ii)] (b) the final vote cast by the Legislature on the measure if it is a measure

55 submitted by the Legislature or by referendum;

56 [(iii)] (c) the impartial analysis of the measure prepared by the Office of Legislative
57 Research and General Counsel;

58 [(iv)] (d) the arguments in favor of the measure, the rebuttal to the arguments in favor
59 of the measure, the arguments against the measure, and the rebuttal to the arguments against
60 the measure, with the name and title of the authors at the end of each argument or rebuttal;

61 [(v)] (e) for each constitutional amendment, a complete copy of the text of the
62 constitutional amendment, with all new language underlined, and all deleted language placed
63 within brackets;

64 [(vi)] (f) for each initiative qualified for the ballot:

65 [(A)] (i) a copy of the measure as certified by the lieutenant governor and a copy of the
66 fiscal impact estimate prepared according to Section [20A-7-202.5](#); and

67 [(B)] (ii) if the initiative proposes a tax increase, the following statement in bold type:

68 "This initiative seeks to increase the current (insert name of tax) rate by (insert the tax
69 percentage difference) percent, resulting in a(n) (insert the tax percentage increase) percent
70 increase in the current tax rate."; and

71 [(vii)] (g) for each referendum qualified for the ballot, a complete copy of the text of
72 the law being submitted to the voters for their approval or rejection, with all new language
73 underlined and all deleted language placed within brackets, as applicable;

74 [(h)] (8) a description provided by the Judicial Performance Evaluation Commission of
75 the selection and retention process for judges, including, in the following order:

76 [(i)] (a) a description of the judicial selection process;

77 [(ii)] (b) a description of the judicial performance evaluation process;

78 [(iii)] (c) a description of the judicial retention election process;

79 [(iv)] (d) a list of the criteria of the judicial performance evaluation and the [~~minimum~~
80 ~~performance~~] certification standards;

81 [(v)] (e) the names of the judges standing for retention election; and

82 [(vi)] (f) for each judge:

83 ~~[(A)]~~ (i) a list of the counties in which the judge is subject to retention election;

84 ~~[(B)]~~ (ii) a short biography of professional qualifications and a recent photograph;

85 ~~[(C)]~~ (iii) a narrative concerning the judge's performance;

86 ~~[(D)]~~ (iv) for each certification standard ~~[of performance]~~ under Section 78A-12-205, a

87 statement identifying whether ~~[or not]~~, under Section 78A-12-205, the judge met the standard

88 and, if not, the manner in which the judge failed to meet the standard;

89 ~~[(E)]~~ a statement identifying whether or not the Judicial Performance Evaluation

90 Commission recommends the judge be retained or declines to make a recommendation and the

91 number of votes for and against the commission's recommendation;]

92 (v) a statement that the Judicial Performance Evaluation Commission:

93 (A) has determined that the judge meets or exceeds minimum performance standards;

94 (B) has determined that the judge does not meet or exceed minimum performance

95 standards; or

96 (C) has not made a determination regarding whether the judge meets or exceeds

97 minimum performance standards;

98 ~~[(F)]~~ (vi) any statement, described in Subsection 78A-12-206(3)(b), provided by a

99 judge ~~[who is not recommended for retention by]~~ whom the Judicial Performance Evaluation

100 Commission ~~[under Section 78A-12-203]~~ determines does not meet or exceed minimum

101 performance standards;

102 ~~[(G)]~~ (vii) in a bar graph, the average of responses to each survey category, displayed

103 with an identification of the minimum acceptable score as set by Section 78A-12-205 and the

104 average score of all judges of the same court level; and

105 ~~[(H)]~~ (viii) a website address that contains the Judicial Performance Evaluation

106 Commission's report on the judge's performance evaluation;

107 ~~[(I)]~~ (9) for each judge, a statement provided by the Utah Supreme Court identifying

108 the cumulative number of informal reprimands, when consented to by the judge in accordance

109 with Title 78A, Chapter 11, Judicial Conduct Commission, formal reprimands, and all orders

110 of censure and suspension issued by the Utah Supreme Court under Utah Constitution, Article
111 VIII, Section 13, during the judge's current term and the immediately preceding term, and a
112 detailed summary of the supporting reasons for each violation of the Code of Judicial Conduct
113 that the judge has received;

114 [(j)] (10) an explanation of ballot marking procedures prepared by the lieutenant
115 governor, indicating the ballot marking procedure used by each county and explaining how to
116 mark the ballot for each procedure;

117 [(k)] (11) voter registration information, including information on how to obtain a
118 ballot;

119 [(l)] (12) a list of all county clerks' offices and phone numbers;

120 [(m)] (13) the address of the Statewide Electronic Voter Information Website, with a
121 statement indicating that the election officer will post on the website any changes to the
122 location of a polling place and the location of any additional polling place;

123 [(n)] (14) a phone number that a voter may call to obtain information regarding the
124 location of a polling place; and

125 [(o)] (15) on the back cover page, a printed copy of the following statement signed by
126 the lieutenant governor:

127 "I, _____ (print name), Lieutenant Governor of Utah, certify that the
128 measures contained in this pamphlet will be submitted to the voters of Utah at the election to
129 be held throughout the state on ____ (date of election), and that this pamphlet is complete and
130 correct according to law.

131 SEAL

132 Witness my hand and the Great Seal of the State, at Salt Lake City, Utah this ____ day
133 of ____ (month), ____ (year)

134 (signed) _____

135 Lieutenant Governor"

136 [~~2~~] ~~No earlier than 75 days, and no later than 15 days, before the day on which voting~~

137 commences, the lieutenant governor shall make all information provided in the voter
138 information pamphlet available on the Statewide Electronic Voter Information Website
139 Program described in Section [20A-7-801](#).]

140 [~~(3) The lieutenant governor may distribute a voter information pamphlet at a location~~
141 ~~frequented by a person who cannot easily access the Statewide Electronic Voter Information~~
142 ~~Website authorized by Section [20A-7-801](#).~~]

143 Section 2. Section **20A-7-702.5** is enacted to read:

144 **20A-7-702.5. Publication of voter information pamphlet.**

145 (1) No earlier than 75 days, and no later than 15 days, before the day on which voting
146 commences, the lieutenant governor shall make all information provided in the voter
147 information pamphlet available on the Statewide Electronic Voter Information Website
148 Program described in Section [20A-7-801](#).

149 (2) The lieutenant governor may distribute a voter information pamphlet at a location
150 frequented by a person who cannot easily access the Statewide Electronic Voter Information
151 Website authorized by Section [20A-7-801](#).

152 Section 3. Section **63G-2-305** is amended to read:

153 **63G-2-305. Protected records.**

154 The following records are protected if properly classified by a governmental entity:

155 (1) trade secrets as defined in Section [13-24-2](#) if the person submitting the trade secret
156 has provided the governmental entity with the information specified in Section [63G-2-309](#);

157 (2) commercial information or nonindividual financial information obtained from a
158 person if:

159 (a) disclosure of the information could reasonably be expected to result in unfair
160 competitive injury to the person submitting the information or would impair the ability of the
161 governmental entity to obtain necessary information in the future;

162 (b) the person submitting the information has a greater interest in prohibiting access
163 than the public in obtaining access; and

164 (c) the person submitting the information has provided the governmental entity with
165 the information specified in Section [63G-2-309](#);

166 (3) commercial or financial information acquired or prepared by a governmental entity
167 to the extent that disclosure would lead to financial speculations in currencies, securities, or
168 commodities that will interfere with a planned transaction by the governmental entity or cause
169 substantial financial injury to the governmental entity or state economy;

170 (4) records, the disclosure of which could cause commercial injury to, or confer a
171 competitive advantage upon a potential or actual competitor of, a commercial project entity as
172 defined in Subsection [11-13-103\(4\)](#);

173 (5) test questions and answers to be used in future license, certification, registration,
174 employment, or academic examinations;

175 (6) records, the disclosure of which would impair governmental procurement
176 proceedings or give an unfair advantage to any person proposing to enter into a contract or
177 agreement with a governmental entity, except, subject to Subsections (1) and (2), that this
178 Subsection (6) does not restrict the right of a person to have access to, after the contract or
179 grant has been awarded and signed by all parties:

180 (a) a bid, proposal, application, or other information submitted to or by a governmental
181 entity in response to:

182 (i) an invitation for bids;

183 (ii) a request for proposals;

184 (iii) a request for quotes;

185 (iv) a grant; or

186 (v) other similar document; or

187 (b) an unsolicited proposal, as defined in Section [63G-6a-712](#);

188 (7) information submitted to or by a governmental entity in response to a request for
189 information, except, subject to Subsections (1) and (2), that this Subsection (7) does not restrict
190 the right of a person to have access to the information, after:

191 (a) a contract directly relating to the subject of the request for information has been
192 awarded and signed by all parties; or

193 (b) (i) a final determination is made not to enter into a contract that relates to the
194 subject of the request for information; and

195 (ii) at least two years have passed after the day on which the request for information is
196 issued;

197 (8) records that would identify real property or the appraisal or estimated value of real
198 or personal property, including intellectual property, under consideration for public acquisition
199 before any rights to the property are acquired unless:

200 (a) public interest in obtaining access to the information is greater than or equal to the
201 governmental entity's need to acquire the property on the best terms possible;

202 (b) the information has already been disclosed to persons not employed by or under a
203 duty of confidentiality to the entity;

204 (c) in the case of records that would identify property, potential sellers of the described
205 property have already learned of the governmental entity's plans to acquire the property;

206 (d) in the case of records that would identify the appraisal or estimated value of
207 property, the potential sellers have already learned of the governmental entity's estimated value
208 of the property; or

209 (e) the property under consideration for public acquisition is a single family residence
210 and the governmental entity seeking to acquire the property has initiated negotiations to acquire
211 the property as required under Section [78B-6-505](#);

212 (9) records prepared in contemplation of sale, exchange, lease, rental, or other
213 compensated transaction of real or personal property including intellectual property, which, if
214 disclosed prior to completion of the transaction, would reveal the appraisal or estimated value
215 of the subject property, unless:

216 (a) the public interest in access is greater than or equal to the interests in restricting
217 access, including the governmental entity's interest in maximizing the financial benefit of the

218 transaction; or

219 (b) when prepared by or on behalf of a governmental entity, appraisals or estimates of
220 the value of the subject property have already been disclosed to persons not employed by or
221 under a duty of confidentiality to the entity;

222 (10) records created or maintained for civil, criminal, or administrative enforcement
223 purposes or audit purposes, or for discipline, licensing, certification, or registration purposes, if
224 release of the records:

225 (a) reasonably could be expected to interfere with investigations undertaken for
226 enforcement, discipline, licensing, certification, or registration purposes;

227 (b) reasonably could be expected to interfere with audits, disciplinary, or enforcement
228 proceedings;

229 (c) would create a danger of depriving a person of a right to a fair trial or impartial
230 hearing;

231 (d) reasonably could be expected to disclose the identity of a source who is not
232 generally known outside of government and, in the case of a record compiled in the course of
233 an investigation, disclose information furnished by a source not generally known outside of
234 government if disclosure would compromise the source; or

235 (e) reasonably could be expected to disclose investigative or audit techniques,
236 procedures, policies, or orders not generally known outside of government if disclosure would
237 interfere with enforcement or audit efforts;

238 (11) records the disclosure of which would jeopardize the life or safety of an
239 individual;

240 (12) records the disclosure of which would jeopardize the security of governmental
241 property, governmental programs, or governmental recordkeeping systems from damage, theft,
242 or other appropriation or use contrary to law or public policy;

243 (13) records that, if disclosed, would jeopardize the security or safety of a correctional
244 facility, or records relating to incarceration, treatment, probation, or parole, that would interfere

245 with the control and supervision of an offender's incarceration, treatment, probation, or parole;

246 (14) records that, if disclosed, would reveal recommendations made to the Board of
247 Pardons and Parole by an employee of or contractor for the Department of Corrections, the
248 Board of Pardons and Parole, or the Department of Human Services that are based on the
249 employee's or contractor's supervision, diagnosis, or treatment of any person within the board's
250 jurisdiction;

251 (15) records and audit workpapers that identify audit, collection, and operational
252 procedures and methods used by the State Tax Commission, if disclosure would interfere with
253 audits or collections;

254 (16) records of a governmental audit agency relating to an ongoing or planned audit
255 until the final audit is released;

256 (17) records that are subject to the attorney client privilege;

257 (18) records prepared for or by an attorney, consultant, surety, indemnitor, insurer,
258 employee, or agent of a governmental entity for, or in anticipation of, litigation or a judicial,
259 quasi-judicial, or administrative proceeding;

260 (19) (a) (i) personal files of a state legislator, including personal correspondence to or
261 from a member of the Legislature; and

262 (ii) notwithstanding Subsection (19)(a)(i), correspondence that gives notice of
263 legislative action or policy may not be classified as protected under this section; and

264 (b) (i) an internal communication that is part of the deliberative process in connection
265 with the preparation of legislation between:

266 (A) members of a legislative body;

267 (B) a member of a legislative body and a member of the legislative body's staff; or

268 (C) members of a legislative body's staff; and

269 (ii) notwithstanding Subsection (19)(b)(i), a communication that gives notice of
270 legislative action or policy may not be classified as protected under this section;

271 (20) (a) records in the custody or control of the Office of Legislative Research and

272 General Counsel, that, if disclosed, would reveal a particular legislator's contemplated
273 legislation or contemplated course of action before the legislator has elected to support the
274 legislation or course of action, or made the legislation or course of action public; and
275 (b) notwithstanding Subsection (20)(a), the form to request legislation submitted to the
276 Office of Legislative Research and General Counsel is a public document unless a legislator
277 asks that the records requesting the legislation be maintained as protected records until such
278 time as the legislator elects to make the legislation or course of action public;

279 (21) research requests from legislators to the Office of Legislative Research and
280 General Counsel or the Office of the Legislative Fiscal Analyst and research findings prepared
281 in response to these requests;

282 (22) drafts, unless otherwise classified as public;

283 (23) records concerning a governmental entity's strategy about:

284 (a) collective bargaining; or
285 (b) imminent or pending litigation;

286 (24) records of investigations of loss occurrences and analyses of loss occurrences that
287 may be covered by the Risk Management Fund, the Employers' Reinsurance Fund, the
288 Uninsured Employers' Fund, or similar divisions in other governmental entities;

289 (25) records, other than personnel evaluations, that contain a personal recommendation
290 concerning an individual if disclosure would constitute a clearly unwarranted invasion of
291 personal privacy, or disclosure is not in the public interest;

292 (26) records that reveal the location of historic, prehistoric, paleontological, or
293 biological resources that if known would jeopardize the security of those resources or of
294 valuable historic, scientific, educational, or cultural information;

295 (27) records of independent state agencies if the disclosure of the records would
296 conflict with the fiduciary obligations of the agency;

297 (28) records of an institution within the state system of higher education defined in
298 Section [53B-1-102](#) regarding tenure evaluations, appointments, applications for admissions,

299 retention decisions, and promotions, which could be properly discussed in a meeting closed in
300 accordance with Title 52, Chapter 4, Open and Public Meetings Act, provided that records of
301 the final decisions about tenure, appointments, retention, promotions, or those students
302 admitted, may not be classified as protected under this section;

303 (29) records of the governor's office, including budget recommendations, legislative
304 proposals, and policy statements, that if disclosed would reveal the governor's contemplated
305 policies or contemplated courses of action before the governor has implemented or rejected
306 those policies or courses of action or made them public;

307 (30) records of the Office of the Legislative Fiscal Analyst relating to budget analysis,
308 revenue estimates, and fiscal notes of proposed legislation before issuance of the final
309 recommendations in these areas;

310 (31) records provided by the United States or by a government entity outside the state
311 that are given to the governmental entity with a requirement that they be managed as protected
312 records if the providing entity certifies that the record would not be subject to public disclosure
313 if retained by it;

314 (32) transcripts, minutes, recordings, or reports of the closed portion of a meeting of a
315 public body except as provided in Section [52-4-206](#);

316 (33) records that would reveal the contents of settlement negotiations but not including
317 final settlements or empirical data to the extent that they are not otherwise exempt from
318 disclosure;

319 (34) memoranda prepared by staff and used in the decision-making process by an
320 administrative law judge, a member of the Board of Pardons and Parole, or a member of any
321 other body charged by law with performing a quasi-judicial function;

322 (35) records that would reveal negotiations regarding assistance or incentives offered
323 by or requested from a governmental entity for the purpose of encouraging a person to expand
324 or locate a business in Utah, but only if disclosure would result in actual economic harm to the
325 person or place the governmental entity at a competitive disadvantage, but this section may not

326 be used to restrict access to a record evidencing a final contract;

327 (36) materials to which access must be limited for purposes of securing or maintaining
328 the governmental entity's proprietary protection of intellectual property rights including patents,
329 copyrights, and trade secrets;

330 (37) the name of a donor or a prospective donor to a governmental entity, including an
331 institution within the state system of higher education defined in Section 53B-1-102, and other
332 information concerning the donation that could reasonably be expected to reveal the identity of
333 the donor, provided that:

334 (a) the donor requests anonymity in writing;

335 (b) any terms, conditions, restrictions, or privileges relating to the donation may not be
336 classified protected by the governmental entity under this Subsection (37); and

337 (c) except for an institution within the state system of higher education defined in
338 Section 53B-1-102, the governmental unit to which the donation is made is primarily engaged
339 in educational, charitable, or artistic endeavors, and has no regulatory or legislative authority
340 over the donor, a member of the donor's immediate family, or any entity owned or controlled
341 by the donor or the donor's immediate family;

342 (38) accident reports, except as provided in Sections 41-6a-404, 41-12a-202, and
343 73-18-13;

344 (39) a notification of workers' compensation insurance coverage described in Section
345 34A-2-205;

346 (40) (a) the following records of an institution within the state system of higher
347 education defined in Section 53B-1-102, which have been developed, discovered, disclosed to,
348 or received by or on behalf of faculty, staff, employees, or students of the institution:

349 (i) unpublished lecture notes;

350 (ii) unpublished notes, data, and information:

351 (A) relating to research; and

352 (B) of:

353 (I) the institution within the state system of higher education defined in Section
354 [53B-1-102](#); or

355 (II) a sponsor of sponsored research;

356 (iii) unpublished manuscripts;

357 (iv) creative works in process;

358 (v) scholarly correspondence; and

359 (vi) confidential information contained in research proposals;

360 (b) Subsection (40)(a) may not be construed to prohibit disclosure of public
361 information required pursuant to Subsection [53B-16-302\(2\)\(a\)](#) or (b); and

362 (c) Subsection (40)(a) may not be construed to affect the ownership of a record;

363 (41) (a) records in the custody or control of the Office of the Legislative Auditor
364 General that would reveal the name of a particular legislator who requests a legislative audit
365 prior to the date that audit is completed and made public; and

366 (b) notwithstanding Subsection (41)(a), a request for a legislative audit submitted to the
367 Office of the Legislative Auditor General is a public document unless the legislator asks that
368 the records in the custody or control of the Office of the Legislative Auditor General that would
369 reveal the name of a particular legislator who requests a legislative audit be maintained as
370 protected records until the audit is completed and made public;

371 (42) records that provide detail as to the location of an explosive, including a map or
372 other document that indicates the location of:

373 (a) a production facility; or

374 (b) a magazine;

375 (43) information:

376 (a) contained in the statewide database of the Division of Aging and Adult Services
377 created by Section [62A-3-311.1](#); or

378 (b) received or maintained in relation to the Identity Theft Reporting Information
379 System (IRIS) established under Section [67-5-22](#);

380 (44) information contained in the Licensing Information System described in Title
381 62A, Chapter 4a, Child and Family Services;

382 (45) information regarding National Guard operations or activities in support of the
383 National Guard's federal mission;

384 (46) records provided by any pawn or secondhand business to a law enforcement
385 agency or to the central database in compliance with Title 13, Chapter 32a, Pawnshop and
386 Secondhand Merchandise Transaction Information Act;

387 (47) information regarding food security, risk, and vulnerability assessments performed
388 by the Department of Agriculture and Food;

389 (48) except to the extent that the record is exempt from this chapter pursuant to Section
390 [63G-2-106](#), records related to an emergency plan or program, a copy of which is provided to or
391 prepared or maintained by the Division of Emergency Management, and the disclosure of
392 which would jeopardize:

- 393 (a) the safety of the general public; or
- 394 (b) the security of:
 - 395 (i) governmental property;
 - 396 (ii) governmental programs; or
 - 397 (iii) the property of a private person who provides the Division of Emergency
398 Management information;

399 (49) records of the Department of Agriculture and Food that provides for the
400 identification, tracing, or control of livestock diseases, including any program established under
401 Title 4, Chapter 24, Utah Livestock Brand and Anti-Theft Act, or Title 4, Chapter 31, Control
402 of Animal Disease;

403 (50) as provided in Section [26-39-501](#):

- 404 (a) information or records held by the Department of Health related to a complaint
405 regarding a child care program or residential child care which the department is unable to
406 substantiate; and

407 (b) information or records related to a complaint received by the Department of Health
408 from an anonymous complainant regarding a child care program or residential child care;

409 (51) unless otherwise classified as public under Section 63G-2-301 and except as
410 provided under Section 41-1a-116, an individual's home address, home telephone number, or
411 personal mobile phone number, if:

412 (a) the individual is required to provide the information in order to comply with a law,
413 ordinance, rule, or order of a government entity; and

414 (b) the subject of the record has a reasonable expectation that this information will be
415 kept confidential due to:

416 (i) the nature of the law, ordinance, rule, or order; and

417 (ii) the individual complying with the law, ordinance, rule, or order;

418 (52) the portion of the following documents that contains a candidate's residential or
419 mailing address, if the candidate provides to the filing officer another address or phone number
420 where the candidate may be contacted:

421 (a) a declaration of candidacy, a nomination petition, or a certificate of nomination,
422 described in Section 20A-9-201, 20A-9-202, 20A-9-203, 20A-9-404, 20A-9-405, 20A-9-408,
423 20A-9-408.5, 20A-9-502, or 20A-9-601;

424 (b) an affidavit of impecuniosity, described in Section 20A-9-201; or

425 (c) a notice of intent to gather signatures for candidacy, described in Section
426 20A-9-408;

427 (53) the name, home address, work addresses, and telephone numbers of an individual
428 that is engaged in, or that provides goods or services for, medical or scientific research that is:

429 (a) conducted within the state system of higher education, as defined in Section
430 53B-1-102; and

431 (b) conducted using animals;

432 (54) in accordance with Section 78A-12-203, any record of the Judicial Performance
433 Evaluation Commission concerning an individual commissioner's vote [~~on whether or not to~~

434 ~~recommend that the voters retain a judge including~~], in relation to whether a judge meets or
435 exceeds minimum performance standards under Subsection 78A-12-203(4), and information
436 disclosed under Subsection 78A-12-203(5)(e);

437 (55) information collected and a report prepared by the Judicial Performance
438 Evaluation Commission concerning a judge, unless Section 20A-7-702 or Title 78A, Chapter
439 12, Judicial Performance Evaluation Commission Act, requires disclosure of, or makes public,
440 the information or report;

441 (56) records provided or received by the Public Lands Policy Coordinating Office in
442 furtherance of any contract or other agreement made in accordance with Section 63L-11-202;

443 (57) information requested by and provided to the 911 Division under Section
444 63H-7a-302;

445 (58) in accordance with Section 73-10-33:

446 (a) a management plan for a water conveyance facility in the possession of the Division
447 of Water Resources or the Board of Water Resources; or

448 (b) an outline of an emergency response plan in possession of the state or a county or
449 municipality;

450 (59) the following records in the custody or control of the Office of Inspector General
451 of Medicaid Services, created in Section 63A-13-201:

452 (a) records that would disclose information relating to allegations of personal
453 misconduct, gross mismanagement, or illegal activity of a person if the information or
454 allegation cannot be corroborated by the Office of Inspector General of Medicaid Services
455 through other documents or evidence, and the records relating to the allegation are not relied
456 upon by the Office of Inspector General of Medicaid Services in preparing a final investigation
457 report or final audit report;

458 (b) records and audit workpapers to the extent they would disclose the identity of a
459 person who, during the course of an investigation or audit, communicated the existence of any
460 Medicaid fraud, waste, or abuse, or a violation or suspected violation of a law, rule, or

461 regulation adopted under the laws of this state, a political subdivision of the state, or any
462 recognized entity of the United States, if the information was disclosed on the condition that
463 the identity of the person be protected;

464 (c) before the time that an investigation or audit is completed and the final
465 investigation or final audit report is released, records or drafts circulated to a person who is not
466 an employee or head of a governmental entity for the person's response or information;

467 (d) records that would disclose an outline or part of any investigation, audit survey
468 plan, or audit program; or

469 (e) requests for an investigation or audit, if disclosure would risk circumvention of an
470 investigation or audit;

471 (60) records that reveal methods used by the Office of Inspector General of Medicaid
472 Services, the fraud unit, or the Department of Health, to discover Medicaid fraud, waste, or
473 abuse;

474 (61) information provided to the Department of Health or the Division of Occupational
475 and Professional Licensing under Subsections 58-67-304(3) and (4) and Subsections
476 58-68-304(3) and (4);

477 (62) a record described in Section 63G-12-210;

478 (63) captured plate data that is obtained through an automatic license plate reader
479 system used by a governmental entity as authorized in Section 41-6a-2003;

480 (64) any record in the custody of the Utah Office for Victims of Crime relating to a
481 victim, including:

482 (a) a victim's application or request for benefits;

483 (b) a victim's receipt or denial of benefits; and

484 (c) any administrative notes or records made or created for the purpose of, or used to,
485 evaluate or communicate a victim's eligibility for or denial of benefits from the Crime Victim
486 Reparations Fund;

487 (65) an audio or video recording created by a body-worn camera, as that term is

488 defined in Section 77-7a-103, that records sound or images inside a hospital or health care
489 facility as those terms are defined in Section 78B-3-403, inside a clinic of a health care
490 provider, as that term is defined in Section 78B-3-403, or inside a human service program as
491 that term is defined in Section 62A-2-101, except for recordings that:

492 (a) depict the commission of an alleged crime;

493 (b) record any encounter between a law enforcement officer and a person that results in
494 death or bodily injury, or includes an instance when an officer fires a weapon;

495 (c) record any encounter that is the subject of a complaint or a legal proceeding against
496 a law enforcement officer or law enforcement agency;

497 (d) contain an officer involved critical incident as defined in Subsection
498 76-2-408(1)(f); or

499 (e) have been requested for reclassification as a public record by a subject or
500 authorized agent of a subject featured in the recording;

501 (66) a record pertaining to the search process for a president of an institution of higher
502 education described in Section 53B-2-102, except for application materials for a publicly
503 announced finalist;

504 (67) an audio recording that is:

505 (a) produced by an audio recording device that is used in conjunction with a device or
506 piece of equipment designed or intended for resuscitating an individual or for treating an
507 individual with a life-threatening condition;

508 (b) produced during an emergency event when an individual employed to provide law
509 enforcement, fire protection, paramedic, emergency medical, or other first responder service:

510 (i) is responding to an individual needing resuscitation or with a life-threatening
511 condition; and

512 (ii) uses a device or piece of equipment designed or intended for resuscitating an
513 individual or for treating an individual with a life-threatening condition; and

514 (c) intended and used for purposes of training emergency responders how to improve

515 their response to an emergency situation;

516 (68) records submitted by or prepared in relation to an applicant seeking a
517 recommendation by the Research and General Counsel Subcommittee, the Budget
518 Subcommittee, or the Audit Subcommittee, established under Section 36-12-8, for an
519 employment position with the Legislature;

520 (69) work papers as defined in Section 31A-2-204;

521 (70) a record made available to Adult Protective Services or a law enforcement agency
522 under Section 61-1-206;

523 (71) a record submitted to the Insurance Department in accordance with Section
524 31A-37-201;

525 (72) a record described in Section 31A-37-503;

526 (73) any record created by the Division of Occupational and Professional Licensing as
527 a result of Subsection 58-37f-304(5) or 58-37f-702(2)(a)(ii);

528 (74) a record described in Section 72-16-306 that relates to the reporting of an injury
529 involving an amusement ride;

530 (75) except as provided in Subsection 63G-2-305.5(1), the signature of an individual
531 on a political petition, or on a request to withdraw a signature from a political petition,
532 including a petition or request described in the following titles:

533 (a) Title 10, Utah Municipal Code;

534 (b) Title 17, Counties;

535 (c) Title 17B, Limited Purpose Local Government Entities - Local Districts;

536 (d) Title 17D, Limited Purpose Local Government Entities - Other Entities; and

537 (e) Title 20A, Election Code;

538 (76) except as provided in Subsection 63G-2-305.5(2), the signature of an individual in
539 a voter registration record;

540 (77) except as provided in Subsection 63G-2-305.5(3), any signature, other than a
541 signature described in Subsection (75) or (76), in the custody of the lieutenant governor or a

542 local political subdivision collected or held under, or in relation to, Title 20A, Election Code;
543 (78) a Form I-918 Supplement B certification as described in Title 77, Chapter 38, Part
544 5, Victims Guidelines for Prosecutors Act;
545 (79) a record submitted to the Insurance Department under Subsection
546 31A-48-103(1)(b);
547 (80) personal information, as defined in Section 63G-26-102, to the extent disclosure is
548 prohibited under Section 63G-26-103;
549 (81) ~~(a)~~ an image taken of an individual during the process of booking the individual
550 into jail, unless:
551 ~~(i)~~ (a) the individual is convicted of a criminal offense based upon the conduct for
552 which the individual was incarcerated at the time the image was taken;
553 ~~(ii)~~ (b) a law enforcement agency releases or disseminates the image after
554 determining that:
555 ~~(A)~~ (i) the individual is a fugitive or an imminent threat to an individual or to public
556 safety; and
557 ~~(B)~~ (ii) releasing or disseminating the image will assist in apprehending the
558 individual or reducing or eliminating the threat; or
559 ~~(iii)~~ (c) a judge orders the release or dissemination of the image based on a finding
560 that the release or dissemination is in furtherance of a legitimate law enforcement interest[-];
561 (82) a record:
562 (a) concerning an interstate claim to the use of waters in the Colorado River system;
563 (b) relating to a judicial proceeding, administrative proceeding, or negotiation with a
564 representative from another state or the federal government as provided in Section
565 63M-14-205; and
566 (c) the disclosure of which would:
567 (i) reveal a legal strategy relating to the state's claim to the use of the water in the
568 Colorado River system;

569 (ii) harm the ability of the Colorado River Authority of Utah or river commissioner to
570 negotiate the best terms and conditions regarding the use of water in the Colorado River
571 system; or

572 (iii) give an advantage to another state or to the federal government in negotiations
573 regarding the use of water in the Colorado River system; and

574 (83) any part of an application described in Section 63N-16-201 that the Governor's
575 Office of Economic Opportunity determines is nonpublic, confidential information that if
576 disclosed would result in actual economic harm to the applicant, but this Subsection (83) may
577 not be used to restrict access to a record evidencing a final contract or approval decision.

578 Section 4. Section 78A-12-102 is amended to read:

579 **78A-12-102. Definitions.**

580 As used in this chapter:

581 (1) "Commission" means the Judicial Performance Evaluation Commission established
582 by this chapter.

583 (2) "Does not meet or exceed minimum performance standards" means that:

584 (a) (i) a judge does not meet the certification standards under Section 78A-12-205; and

585 (ii) the presumption, described in Subsection 78A-12-203(4)(b)(ii), that the judge does
586 not meet or exceed minimum performance standards is not overcome by substantial

587 countervailing evidence; or

588 (b) a judge meets the certification standards under Section 78A-12-205, but the
589 presumption, described in Subsection 78A-12-203(4)(b)(i), that the judge meets or exceeds
590 minimum performance standards is overcome by substantial countervailing evidence.

591 [~~2~~] (3) Except as provided in Section 78A-12-207, "judge" means a state court judge
592 or a state court justice who is subject to a retention election.

593 [~~3~~] (4) "Justice" means a judge who is a member of the Supreme Court.

594 [~~4~~] (5) "Justice court judge" means a judge appointed pursuant to Title 78A, Chapter
595 7, Justice Court.

596 (6) "Meets or exceeds minimum performance standards" means that:
597 (a) (i) a judge meets the certification standards under Section 78A-12-205; and
598 (ii) the presumption that the judge meets or exceeds minimum performance standards,
599 described in Subsection 78A-12-203(4)(b)(i), is not overcome by substantial countervailing
600 evidence; or
601 (b) a judge does not meet the certification standards under Section 78A-12-205, but the
602 presumption described in Subsection 78A-12-203(4)(b)(ii), that the judge does not meet or
603 exceed minimum performance standards, is overcome by substantial countervailing evidence.

604 Section 5. Section 78A-12-201 is amended to read:

605 **78A-12-201. Judicial Performance Evaluation Commission -- Creation --**
606 **Membership.**

607 (1) There is created an independent commission called the Judicial Performance
608 Evaluation Commission consisting of 13 members, as follows:

609 (a) two members appointed by the president of the Senate, only one of whom may be a
610 member of the Utah State Bar;

611 (b) two members appointed by the speaker of the House of Representatives, only one
612 of whom may be a member of the Utah State Bar;

613 (c) four members appointed by the members of the Supreme Court, at least one of
614 whom, but not more than two of whom, may be a member of the Utah State Bar;

615 (d) four members appointed by the governor, at least one of whom, but not more than
616 two of whom, may be a member of the Utah State Bar; and

617 (e) the executive director of the Commission on Criminal and Juvenile Justice.

618 (2) (a) The president of the Senate and the speaker of the House of Representatives
619 shall confer when appointing members under Subsections (1)(a) and (b) to ensure that there is
620 at least one member from among their four appointees who is a member of the Utah State Bar.

621 (b) Each of the appointing authorities may appoint no more than half of the appointing
622 authority's members from the same political party.

623 (c) A sitting legislator or a sitting judge may not serve as a commission member.

624 (3) (a) A member appointed under Subsection (1) shall be appointed for a four-year
625 term.

626 (b) A member may serve no more than three consecutive terms.

627 (4) At the time of appointment, the terms of commission members shall be staggered
628 so that approximately half of commission members' terms expire every two years.

629 (5) When a vacancy occurs in the membership for any reason, the replacement shall be
630 appointed for the unexpired term by the same appointing authority that appointed the member
631 creating the vacancy.

632 (6) (a) Eight members of the commission constitute a quorum.

633 (b) The action of a majority of the quorum constitutes the action of the commission,
634 except that ~~[a decision of the commission to recommend that a judge be retained or not be~~
635 ~~retained may not be made except by a vote of at least six members. If because of absences the~~
636 ~~commission is unable to have at least six votes recommending that a judge be retained or not~~
637 ~~retained, the commission may meet a second time to consider whether to recommend that the~~
638 ~~judge be retained or not retained]~~ the commission may not make a determination that a judge
639 meets or exceeds minimum performance standards, or that a judge does not meet or exceed
640 minimum performance standards, by a vote of less than six members.

641 (c) If, because of absences, the commission is unable to make a determination
642 described in Subsection (6)(b) by at least six votes, the commission may meet a second time to
643 make a determination.

644 ~~[(c)]~~ (d) ~~If a vote on the question of whether [to recommend a judge be retained or not~~
645 ~~be retained ends in a tie or if a decision does not have six votes required by Subsection (6)(b);~~
646 ~~the commission may make no recommendation concerning the judge's retention]~~ a judge meets
647 or exceeds minimum performance standards or does not meet or exceed minimum performance
648 standards ends in a tie or does not pass by at least six votes, the record shall reflect that the
649 commission made no determination in relation to that judge.

650 Section 6. Section 78A-12-203 is amended to read:

651 **78A-12-203. Judicial performance evaluations.**

652 (1) Beginning with the 2012 judicial retention elections, the commission shall prepare
653 a performance evaluation for:

654 (a) each judge in the third and fifth year of the judge's term if the judge is not a justice
655 of the Supreme Court; and

656 (b) each justice of the Utah Supreme Court in the third, seventh, and ninth year of the
657 justice's term.

658 (2) Except as provided in Subsection (3), the performance evaluation for a judge under
659 Subsection (1) shall consider only the following information but shall give primary emphasis to
660 the information that is gathered and relates to the performance of the judge during the period
661 subsequent to the last judicial retention election of that judge or if the judge has not had a
662 judicial retention election, during the period applicable to the first judicial retention election:

663 (a) the results of the judge's most recent judicial performance survey that is conducted
664 by a third party in accordance with Section 78A-12-204;

665 (b) information concerning the judge's compliance with [~~minimum performance~~]
666 certification standards established in accordance with Section 78A-12-205;

667 (c) courtroom observation;

668 (d) the judge's judicial disciplinary record, if any;

669 (e) public comment solicited by the commission;

670 (f) information from an earlier judicial performance evaluation concerning the judge
671 except that the commission shall give primary emphasis to information gathered subsequent to
672 the last judicial retention election; and

673 (g) any other factor that the commission:

674 (i) considers relevant to evaluating the judge's performance for the purpose of a
675 retention election; and

676 (ii) establishes by rule made in accordance with Title 63G, Chapter 3, Utah

677 Administrative Rulemaking Act.

678 (3) The commission shall, in accordance with Title 63G, Chapter 3, Utah
679 Administrative Rulemaking Act, make rules concerning the conduct of courtroom observation
680 under Subsection (2), which shall include the following:

681 (a) an indication of who may perform the courtroom observation;

682 (b) a determination of whether the courtroom observation shall be made in person or
683 may be made by electronic means; and

684 (c) a list of principles and standards used to evaluate the behavior observed.

685 (4) (a) As part of the evaluation conducted under this section, the commission shall
686 ~~[determine whether to recommend that the voters retain the judge.]~~ do one of the following:

687 (i) determine, by a vote of at least six members, that the judge meets or exceeds
688 minimum performance standards;

689 (ii) determine, by a vote of at least six members, that the judge does not meet or exceed
690 minimum performance standards;

691 (iii) determine, by a majority vote, that the information concerning the judge is
692 insufficient to make a determination described in Subsection (4)(a)(i) or (ii); or

693 (iv) fail to make a determination described in Subsection (4)(a)(i), (ii), or (iii) by the
694 number of votes required for one of those determinations.

695 (b) (i) If a judge meets the ~~[minimum performance]~~ certification standards established
696 in accordance with Section 78A-12-205, there is a rebuttable presumption that ~~[the commission~~
697 ~~will recommend the voters retain]~~ the judge meets or exceeds minimum performance
698 standards.

699 (ii) If a judge fails to meet the ~~[minimum performance]~~ certification standards
700 established in accordance with Section 78A-12-205, there is a rebuttable presumption that ~~[the~~
701 ~~commission will recommend the voters not retain]~~ the judge does not meet or exceed minimum
702 performance standards.

703 ~~[(c) The commission may elect to make no recommendation on whether the voters~~

704 ~~should retain a judge if the commission determines that the information concerning the judge is~~
705 ~~insufficient to make a recommendation.]~~

706 ~~[(d) (i)] (c)~~ If the commission deviates from a presumption ~~[for or against~~
707 ~~recommending the voters retain a judge or elects to make no recommendation on whether the~~
708 ~~voters should retain a judge]~~ described in Subsection (4)(b), the commission shall provide a
709 detailed explanation of the reason for that deviation ~~[or election]~~ in the commission's report
710 under Section [78A-12-206](#).

711 ~~[(ii)] (d)~~ If the commission makes ~~[no recommendation because of a tie vote]~~ the
712 determination described in Subsection (4)(a)(iii) or fails to make a determination described in
713 Subsection (4)(a)(i), (ii), or (iii) by the number of votes required for those determinations, the
714 commission shall note that fact in the commission's report.

715 (5) (a) The commission shall allow a judge who is the subject of a judicial performance
716 retention evaluation, and who has not passed one or more of the ~~[minimum performance]~~
717 certification standards on the retention evaluation, to appear and speak at any commission
718 meeting during which the judge's judicial performance evaluation is considered.

719 (b) The commission may invite any judge to appear before the commission to discuss
720 concerns about the judge's judicial performance.

721 (c) (i) The commission may meet in a closed meeting to discuss a judge's judicial
722 performance evaluation by complying with Title 52, Chapter 4, Open and Public Meetings Act.

723 (ii) The commission may meet in an electronic meeting by complying with Title 52,
724 Chapter 4, Open and Public Meetings Act.

725 (d) Any record of an individual commissioner's vote ~~[on whether to recommend that~~
726 ~~the voters retain a judge]~~ under Subsection (4) is a protected record under Title 63G, Chapter 2,
727 Government Records Access and Management Act.

728 (e) (i) A member of the commission, including a member of the Utah State Bar, may
729 not be disqualified from voting ~~[on whether to recommend that the voters retain a judge]~~ under
730 Subsection (4) solely because the member appears before the judge as an attorney, a fact

731 witness, or an expert, ~~[so long as]~~ unless the member is ~~[not]~~ a litigant in a case pending before
732 the judge.

733 (ii) Notwithstanding Subsection (5)(e)(i), a member of the commission shall disclose
734 any conflicts of interest with the judge being reviewed to the other members of the commission
735 before the deliberation and vote ~~[of whether to recommend that a judge be retained or not be~~
736 ~~retained]~~ under Subsection (4).

737 (iii) Information disclosed under this Subsection (5)(e) is a protected record under Title
738 63G, Chapter 2, Government Records Access and Management Act.

739 (f) The commission may only disclose the final commission vote ~~[on whether or not to~~
740 ~~recommend that the voters retain a judge]~~ described in Subsection (4).

741 (6) (a) If the Utah Supreme Court issues a public sanction of a judge after the
742 commission ~~[makes a decision on whether to recommend the judge for retention]~~ makes or
743 fails to make a determination described in Subsection (4), but before the publication of the
744 voter information pamphlet in accordance with Section [20A-7-702](#), the commission may elect
745 to reconsider the commission's ~~[recommendation]~~ action.

746 (b) The commission shall invite the judge described in Subsection (6)(a) to appear
747 before the commission during a closed meeting for the purpose of reconsidering the
748 commission's ~~[recommendation]~~ action.

749 (c) The judge described in Subsection (6)(a) may provide a written statement, not to
750 exceed 100 words, that shall be included in the judge's evaluation report.

751 (d) The commission shall include in the judge's evaluation report:

752 (i) the date of the reconsideration;

753 (ii) any change in the ~~[decision of whether to recommend that the voters retain the~~
754 ~~judge]~~ action of the commission; and

755 (iii) a brief statement explaining the reconsideration.

756 (e) The commission shall submit revisions to the judge's evaluation report to the
757 lieutenant governor by no later than August 31 of a regular general election year for publication

758 in the voter information pamphlet, and publish the revisions on the commission's website, and
759 through any other means the commission considers appropriate and within budgetary
760 constraints.

761 (7) (a) The commission shall compile a midterm report of the commission's judicial
762 performance evaluation of a judge.

763 (b) The midterm report of a judicial performance evaluation shall include information
764 that the commission considers appropriate for purposes of judicial self-improvement.

765 (c) The report shall be provided to the evaluated judge, the presiding judge of the
766 district in which the evaluated judge serves, and the Judicial Council. If the evaluated judge is
767 the presiding judge, the midterm report shall be provided to the chair of the board of judges for
768 the court level on which the evaluated judge serves.

769 (d) (i) The commission may provide a partial midterm evaluation to a judge whose
770 appointment date precludes the collection of complete midterm evaluation data.

771 (ii) For a newly appointed judge, a midterm evaluation is considered partial when the
772 midterm evaluation is missing a respondent group, including attorneys, court staff, court room
773 observers, or intercept survey respondents.

774 (iii) A judge who receives partial midterm evaluation data may receive a statement in
775 acknowledgment of that fact on the judge's voter information pamphlet page.

776 (iv) On or before the beginning of the retention evaluation cycle, the commission shall
777 inform the Judicial Council of the name of any judge who receives a partial midterm
778 evaluation.

779 (8) The commission shall identify a judge whose midterm evaluation:

780 (a) fails to meet [~~minimum performance~~] certification standards in accordance with
781 Section [78A-12-205](#) or as established by rule; or

782 (b) otherwise demonstrates to the commission that the judge's performance would be of
783 such concern if the performance occurred in a retention evaluation that the judge would be
784 invited to appear before the commission in accordance with Subsection (5)(b).

785 (9) The commission may make rules in accordance with Title 63G, Chapter 3, Utah
786 Administrative Rulemaking Act, as necessary to administer the evaluation required by this
787 section.

788 Section 7. Section **78A-12-205** is amended to read:

789 **78A-12-205. Certification standards.**

790 (1) The commission shall establish [~~minimum performance~~] certification standards
791 requiring that:

792 (a) the judge have no more than one public sanction issued by the Utah Supreme Court
793 during the judge's current term; and

794 (b) the judge receive a minimum score on the judicial performance survey as follows:

795 (i) an average score of no less than 65% on each survey category as provided in
796 Subsection **78A-12-204**(7); and

797 (ii) if the commission includes a question on the survey that does not use the numerical
798 scale, the commission shall establish the [~~minimum performance~~] certification standard for all
799 questions that do not use the numerical scale to be substantially equivalent to the standard
800 required under Subsection (1)(b)(i).

801 (2) The commission may establish an additional [~~minimum performance~~] certification
802 standard if the commission by at least two-thirds vote:

803 (a) determines that satisfaction of the standard is necessary to the satisfactory
804 performance of the judge; and

805 (b) adopts the standard.

806 (3) The commission may make rules in accordance with Title 63G, Chapter 3, Utah
807 Administrative Rulemaking Act, to establish a [~~minimum performance~~] certification standard.

808 Section 8. Section **78A-12-206** is amended to read:

809 **78A-12-206. Publication of the judicial performance evaluation -- Response by**
810 **judge.**

811 (1) (a) The commission shall compile a retention report of [~~its~~] the commission's

812 judicial performance evaluation of a judge.

813 (b) The report of a judicial performance evaluation nearest the judge's next scheduled
814 retention election shall be provided to the judge at least 45 days before the last day on which
815 the judge may file a declaration of the judge's candidacy in the retention election.

816 (c) A report prepared in accordance with Subsection (1)(b) and information obtained in
817 connection with the evaluation becomes a public record under Title 63G, Chapter 2,
818 Government Records Access and Management Act, on the day following the last day on which
819 the judge who is the subject of the report may file a declaration of the judge's candidacy in the
820 judge's scheduled retention election if the judge declares the judge's candidacy for the retention
821 election.

822 (d) Information collected and a report that is not public under Subsection (1)(c) is a
823 protected record under Title 63G, Chapter 2, Government Records Access and Management
824 Act.

825 (2) Within 15 days of receiving a copy of the commission's report under Subsection
826 (1)(b):

827 (a) a judge who is the subject of an unfavorable [~~retention recommendation under this~~
828 ~~section~~] action under Subsection [78A-12-203\(4\)](#) may:

- 829 (i) provide a written response to the commission about the report; and
- 830 (ii) request an interview with the commission for the purpose of addressing the report;
- 831 and

832 (b) a judge who is the subject of a favorable [~~retention recommendation under this~~
833 ~~section~~] action under Subsection [78A-12-203\(4\)](#) may provide a written response to the
834 commission about the commission's report.

835 (3) (a) After receiving a response from a judge in any form allowed by Subsection (2),
836 the commission may meet and reconsider [~~its decision to recommend the judge not be retained~~]
837 the commission's action.

838 (b) If the commission does not change [~~its decision to recommend the judge not be~~

839 ~~retained]~~ the commission's action, the judge may provide a written statement, not to exceed 100
840 words, that shall be included in the commission's report.

841 (4) The retention report of a judicial performance evaluation shall include:

842 (a) the results of the judicial performance survey, in both raw and summary form;

843 (b) information concerning the judge's compliance with the [~~minimum performance~~]
844 certification standards, including stating how many of the [~~minimum performance~~] certification
845 standards the judge met;

846 (c) information concerning any public discipline that a judge has received that is not
847 subject to restrictions on disclosure under Title 78A, Chapter 11, Judicial Conduct
848 Commission;

849 (d) a narrative concerning the judge's performance;

850 (e) the commission's [~~recommendation concerning whether the judge should be~~
851 ~~retained, or the statement required of the commission if it declines to make a recommendation]~~
852 determination under Subsection 78A-12-203(4);

853 (f) the number of votes for and against [~~the commission's recommendation]~~ a
854 determination described in Subsection 78A-12-203(4); and

855 (g) any other information the commission considers necessary to include in the report
856 to explain the [~~performance~~] certification standards and the [~~recommendation~~] determination or
857 lack of a determination made.

858 (5) (a) The commission may not include in [~~its~~] the commission's retention report
859 specific information concerning an earlier judicial performance evaluation.

860 (b) The commission may refer to information from an earlier judicial performance
861 evaluation concerning the judge in the commission's report only if necessary to explain
862 performance in the current reporting period and giving primary emphasis to the information
863 gathered during the current reporting period.

864 (6) The retention report of the commission's judicial performance evaluation shall be
865 made publicly available on an Internet website.

866 (7) The commission may make the report of the judicial performance evaluation
867 immediately preceding the judge's retention election publicly available through other means
868 within budgetary constraints.

869 (8) The commission shall provide a summary of the judicial performance evaluation
870 for each judge to the lieutenant governor for publication in the voter information pamphlet in
871 the manner required by Title 20A, Chapter 7, Issues Submitted to the Voters.

872 (9) The commission shall provide the Judicial Council with:

873 (a) the judicial performance survey results for each judge; and

874 (b) a copy of the retention report of each judicial performance evaluation.

875 (10) The Judicial Council shall provide information obtained concerning a judge under
876 Subsection (9) to the subject judge's presiding judge, if any.

877 Section 9. **Effective date.**

878 If approved by two-thirds of all the members elected to each house, this bill takes effect
879 upon approval by the governor, or the day following the constitutional time limit of Utah
880 Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto,
881 the date of veto override.