

ABORTION MODIFICATIONS

2023 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Jennifer Dailey-Provost

Senate Sponsor: _____

LONG TITLE

General Description:

This bill modifies provisions regulating an abortion.

Highlighted Provisions:

This bill:

- ▶ corrections technical errors;
- ▶ amends procedures relating to a physician's obligation to report abortions related to rape or incest;
- ▶ permits a victim of rape or incest who is seeking an abortion to file a restricted law enforcement report in order to comply with the physician reporting requirements;
- ▶ permits a victim to make a non-binding request that law enforcement not pursue charges or investigate such a report; and
- ▶ provides that a restricted statement filed under these provisions is a protected record under the Government Records and Access Management Act.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63G-2-305, as last amended by Laws of Utah 2022, Chapters 11, 109, 198, 201, 303,



28 335, 388, 391, and 415

29 76-7-302, as last amended by Laws of Utah 2022, Chapter 335

30 76-7a-101, as last amended by Laws of Utah 2021, Chapter 262

31 76-7a-201, as enacted by Laws of Utah 2020, Chapter 279



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

34 Section 1. Section 63G-2-305 is amended to read:

35 **63G-2-305. Protected records.**

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

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

39 (2) commercial information or nonindividual financial information obtained from a
40 person if:

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

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

46 (c) the person submitting the information has provided the governmental entity with
47 the information specified in Section 63G-2-309;

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

52 (4) records, the disclosure of which could cause commercial injury to, or confer a
53 competitive advantage upon a potential or actual competitor of, a commercial project entity as
54 defined in Subsection 11-13-103(4);

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

57 (6) records, the disclosure of which would impair governmental procurement
58 proceedings or give an unfair advantage to any person proposing to enter into a contract or

59 agreement with a governmental entity, except, subject to Subsections (1) and (2), that this
60 Subsection (6) does not restrict the right of a person to have access to, after the contract or
61 grant has been awarded and signed by all parties:

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

- 64 (i) an invitation for bids;
- 65 (ii) a request for proposals;
- 66 (iii) a request for quotes;
- 67 (iv) a grant; or
- 68 (v) other similar document; or

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

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

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

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

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

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

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

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

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

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

90 of the property; or

91 (e) the property under consideration for public acquisition is a single family residence
92 and the governmental entity seeking to acquire the property has initiated negotiations to acquire
93 the property as required under Section 78B-6-505;

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

98 (a) the public interest in access is greater than or equal to the interests in restricting
99 access, including the governmental entity's interest in maximizing the financial benefit of the
100 transaction; or

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

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

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

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

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

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

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

120 (11) records the disclosure of which would jeopardize the life or safety of an

121 individual;

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

125 (13) records that, if disclosed, would jeopardize the security or safety of a correctional
126 facility, or records relating to incarceration, treatment, probation, or parole, that would interfere
127 with the control and supervision of an offender's incarceration, treatment, probation, or parole;

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

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

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

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

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

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

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

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

148 (A) members of a legislative body;

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

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

151 (ii) notwithstanding Subsection (19)(b)(i), a communication that gives notice of

152 legislative action or policy may not be classified as protected under this section;

153 (20) (a) records in the custody or control of the Office of Legislative Research and
154 General Counsel, that, if disclosed, would reveal a particular legislator's contemplated
155 legislation or contemplated course of action before the legislator has elected to support the
156 legislation or course of action, or made the legislation or course of action public; and

157 (b) notwithstanding Subsection (20)(a), the form to request legislation submitted to the
158 Office of Legislative Research and General Counsel is a public document unless a legislator
159 asks that the records requesting the legislation be maintained as protected records until such
160 time as the legislator elects to make the legislation or course of action public;

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

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

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

166 (a) collective bargaining; or

167 (b) imminent or pending litigation;

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

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

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

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

179 (28) records of an institution within the state system of higher education defined in
180 Section [53B-1-102](#) regarding tenure evaluations, appointments, applications for admissions,
181 retention decisions, and promotions, which could be properly discussed in a meeting closed in
182 accordance with Title 52, Chapter 4, Open and Public Meetings Act, provided that records of

183 the final decisions about tenure, appointments, retention, promotions, or those students
184 admitted, may not be classified as protected under this section;

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

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

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

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

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

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

204 (35) records that would reveal negotiations regarding assistance or incentives offered
205 by or requested from a governmental entity for the purpose of encouraging a person to expand
206 or locate a business in Utah, but only if disclosure would result in actual economic harm to the
207 person or place the governmental entity at a competitive disadvantage, but this section may not
208 be used to restrict access to a record evidencing a final contract;

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

212 (37) the name of a donor or a prospective donor to a governmental entity, including an
213 institution within the state system of higher education defined in Section [53B-1-102](#), and other

214 information concerning the donation that could reasonably be expected to reveal the identity of
215 the donor, provided that:

- 216 (a) the donor requests anonymity in writing;
- 217 (b) any terms, conditions, restrictions, or privileges relating to the donation may not be
218 classified protected by the governmental entity under this Subsection (37); and

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

224 (38) accident reports, except as provided in Sections [41-6a-404](#), [41-12a-202](#), and
225 [73-18-13](#);

226 (39) a notification of workers' compensation insurance coverage described in Section
227 [34A-2-205](#);

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

- 231 (i) unpublished lecture notes;
- 232 (ii) unpublished notes, data, and information:
 - 233 (A) relating to research; and
 - 234 (B) of:
 - 235 (I) the institution within the state system of higher education defined in Section
236 [53B-1-102](#); or
 - 237 (II) a sponsor of sponsored research;
 - 238 (iii) unpublished manuscripts;
 - 239 (iv) creative works in process;
 - 240 (v) scholarly correspondence; and
 - 241 (vi) confidential information contained in research proposals;
- 242 (b) Subsection (40)(a) may not be construed to prohibit disclosure of public
243 information required pursuant to Subsection [53B-16-302\(2\)\(a\)](#) or (b); and
- 244 (c) Subsection (40)(a) may not be construed to affect the ownership of a record;

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

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

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

255 (a) a production facility; or

256 (b) a magazine;

257 (43) information contained in the statewide database of the Division of Aging and
258 Adult Services created by Section [62A-3-311.1](#);

259 (44) information contained in the Licensing Information System described in Title 80,
260 Chapter 2, Child Welfare Services;

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

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

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

268 (48) except to the extent that the record is exempt from this chapter pursuant to Section
269 [63G-2-106](#), records related to an emergency plan or program, a copy of which is provided to or
270 prepared or maintained by the Division of Emergency Management, and the disclosure of
271 which would jeopardize:

272 (a) the safety of the general public; or

273 (b) the security of:

274 (i) governmental property;

275 (ii) governmental programs; or

276 (iii) the property of a private person who provides the Division of Emergency
277 Management information;

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

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

283 (a) information or records held by the Department of Health and Human Services
284 related to a complaint regarding a child care program or residential child care which the
285 department is unable to substantiate; and

286 (b) information or records related to a complaint received by the Department of Health
287 and Human Services from an anonymous complainant regarding a child care program or
288 residential child care;

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

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

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

296 (i) the nature of the law, ordinance, rule, or order; and
297 (ii) the individual complying with the law, ordinance, rule, or order;

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

301 (a) a declaration of candidacy, a nomination petition, or a certificate of nomination,
302 described in Section [20A-9-201](#), [20A-9-202](#), [20A-9-203](#), [20A-9-404](#), [20A-9-405](#), [20A-9-408](#),
303 [20A-9-408.5](#), [20A-9-502](#), or [20A-9-601](#);

304 (b) an affidavit of impecuniosity, described in Section [20A-9-201](#); or
305 (c) a notice of intent to gather signatures for candidacy, described in Section
306 [20A-9-408](#);

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

309 (a) conducted within the state system of higher education, as defined in Section
310 [53B-1-102](#); and

311 (b) conducted using animals;

312 (54) in accordance with Section [78A-12-203](#), any record of the Judicial Performance
313 Evaluation Commission concerning an individual commissioner's vote, in relation to whether a
314 judge meets or exceeds minimum performance standards under Subsection [78A-12-203\(4\)](#), and
315 information disclosed under Subsection [78A-12-203\(5\)\(e\)](#);

316 (55) information collected and a report prepared by the Judicial Performance
317 Evaluation Commission concerning a judge, unless Section [20A-7-702](#) or Title 78A, Chapter
318 12, Judicial Performance Evaluation Commission Act, requires disclosure of, or makes public,
319 the information or report;

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

322 (57) information requested by and provided to the 911 Division under Section
323 [63H-7a-302](#);

324 (58) in accordance with Section [73-10-33](#):

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

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

329 (59) the following records in the custody or control of the Office of Inspector General
330 of Medicaid Services, created in Section [63A-13-201](#):

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

337 (b) records and audit workpapers to the extent they would disclose the identity of a

338 person who, during the course of an investigation or audit, communicated the existence of any
339 Medicaid fraud, waste, or abuse, or a violation or suspected violation of a law, rule, or
340 regulation adopted under the laws of this state, a political subdivision of the state, or any
341 recognized entity of the United States, if the information was disclosed on the condition that
342 the identity of the person be protected;

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

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

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

350 (60) records that reveal methods used by the Office of Inspector General of Medicaid
351 Services, the fraud unit, or the Department of Health and Human Services, to discover
352 Medicaid fraud, waste, or abuse;

353 (61) information provided to the Department of Health and Human Services or the
354 Division of Professional Licensing under Subsections [58-67-304\(3\)](#) and (4) and Subsections
355 [58-68-304\(3\)](#) and (4);

356 (62) a record described in Section [63G-12-210](#);

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

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

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

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

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

366 (65) an audio or video recording created by a body-worn camera, as that term is
367 defined in Section [77-7a-103](#), that records sound or images inside a hospital or health care
368 facility as those terms are defined in Section [78B-3-403](#), inside a clinic of a health care

369 provider, as that term is defined in Section 78B-3-403, or inside a human service program as
370 that term is defined in Section 62A-2-101, except for recordings that:

- 371 (a) depict the commission of an alleged crime;
- 372 (b) record any encounter between a law enforcement officer and a person that results in
373 death or bodily injury, or includes an instance when an officer fires a weapon;
- 374 (c) record any encounter that is the subject of a complaint or a legal proceeding against
375 a law enforcement officer or law enforcement agency;
- 376 (d) contain an officer involved critical incident as defined in Subsection
377 76-2-408(1)(f); or
- 378 (e) have been requested for reclassification as a public record by a subject or
379 authorized agent of a subject featured in the recording;
- 380 (66) a record pertaining to the search process for a president of an institution of higher
381 education described in Section 53B-2-102, except for application materials for a publicly
382 announced finalist;
- 383 (67) an audio recording that is:
 - 384 (a) produced by an audio recording device that is used in conjunction with a device or
385 piece of equipment designed or intended for resuscitating an individual or for treating an
386 individual with a life-threatening condition;
 - 387 (b) produced during an emergency event when an individual employed to provide law
388 enforcement, fire protection, paramedic, emergency medical, or other first responder service:
 - 389 (i) is responding to an individual needing resuscitation or with a life-threatening
390 condition; and
 - 391 (ii) uses a device or piece of equipment designed or intended for resuscitating an
392 individual or for treating an individual with a life-threatening condition; and
 - 393 (c) intended and used for purposes of training emergency responders how to improve
394 their response to an emergency situation;
- 395 (68) records submitted by or prepared in relation to an applicant seeking a
396 recommendation by the Research and General Counsel Subcommittee, the Budget
397 Subcommittee, or the Audit Subcommittee, established under Section 36-12-8, for an
398 employment position with the Legislature;
- 399 (69) work papers as defined in Section 31A-2-204;

400 (70) a record made available to Adult Protective Services or a law enforcement agency
401 under Section [61-1-206](#);

402 (71) a record submitted to the Insurance Department in accordance with Section
403 [31A-37-201](#);

404 (72) a record described in Section [31A-37-503](#);

405 (73) any record created by the Division of Professional Licensing as a result of
406 Subsection [58-37f-304\(5\)](#) or [58-37f-702\(2\)\(a\)\(ii\)](#);

407 (74) a record described in Section [72-16-306](#) that relates to the reporting of an injury
408 involving an amusement ride;

409 (75) except as provided in Subsection [63G-2-305.5\(1\)](#), the signature of an individual
410 on a political petition, or on a request to withdraw a signature from a political petition,
411 including a petition or request described in the following titles:

412 (a) Title 10, Utah Municipal Code;

413 (b) Title 17, Counties;

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

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

416 (e) Title 20A, Election Code;

417 (76) except as provided in Subsection [63G-2-305.5\(2\)](#), the signature of an individual in
418 a voter registration record;

419 (77) except as provided in Subsection [63G-2-305.5\(3\)](#), any signature, other than a
420 signature described in Subsection (75) or (76), in the custody of the lieutenant governor or a
421 local political subdivision collected or held under, or in relation to, Title 20A, Election Code;

422 (78) a Form I-918 Supplement B certification as described in Title 77, Chapter 38, Part
423 5, Victims Guidelines for Prosecutors Act;

424 (79) a record submitted to the Insurance Department under Section [31A-48-103](#);

425 (80) personal information, as defined in Section [63G-26-102](#), to the extent disclosure is
426 prohibited under Section [63G-26-103](#);

427 (81) an image taken of an individual during the process of booking the individual into
428 jail, unless:

429 (a) the individual is convicted of a criminal offense based upon the conduct for which
430 the individual was incarcerated at the time the image was taken;

431 (b) a law enforcement agency releases or disseminates the image:
432 (i) after determining that the individual is a fugitive or an imminent threat to an
433 individual or to public safety and releasing or disseminating the image will assist in
434 apprehending the individual or reducing or eliminating the threat; or
435 (ii) to a potential witness or other individual with direct knowledge of events relevant
436 to a criminal investigation or criminal proceeding for the purpose of identifying or locating an
437 individual in connection with the criminal investigation or criminal proceeding; or
438 (c) a judge orders the release or dissemination of the image based on a finding that the
439 release or dissemination is in furtherance of a legitimate law enforcement interest;

440 (82) a record:
441 (a) concerning an interstate claim to the use of waters in the Colorado River system;
442 (b) relating to a judicial proceeding, administrative proceeding, or negotiation with a
443 representative from another state or the federal government as provided in Section
444 [63M-14-205](#); and
445 (c) the disclosure of which would:
446 (i) reveal a legal strategy relating to the state's claim to the use of the water in the
447 Colorado River system;
448 (ii) harm the ability of the Colorado River Authority of Utah or river commissioner to
449 negotiate the best terms and conditions regarding the use of water in the Colorado River
450 system; or
451 (iii) give an advantage to another state or to the federal government in negotiations
452 regarding the use of water in the Colorado River system;

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

457 (84) the following records of a drinking water or wastewater facility:
458 (a) an engineering or architectural drawing of the drinking water or wastewater facility;
459 and
460 (b) except as provided in Section [63G-2-106](#), a record detailing tools or processes the
461 drinking water or wastewater facility uses to secure, or prohibit access to, the records described

462 in Subsection (84)(a); ~~and~~

463 (85) a statement that an employee of a governmental entity provides to the
464 governmental entity as part of the governmental entity's personnel or administrative
465 investigation into potential misconduct involving the employee if the governmental entity:

466 (a) requires the statement under threat of employment disciplinary action, including
467 possible termination of employment, for the employee's refusal to provide the statement; and

468 (b) provides the employee assurance that the statement cannot be used against the
469 employee in any criminal proceeding; and

470 (86) a restricted law enforcement report as defined in Sections 76-7-302 and
471 76-7a-101.

472 Section 2. Section **76-7-302** is amended to read:

473 **76-7-302. Circumstances under which abortion authorized.**

474 (1) As used in this section~~["viable"]~~:

475 (a) "Reporting individual" means a person who files a report with law enforcement;

476 (b) "Restricted law enforcement report" means a report made to a law enforcement
477 agency:

478 (i) by a woman seeking an abortion, or the parent or guardian of a minor seeking an
479 abortion;

480 (ii) for the purpose of reporting an incident listed under Subsection (3)(b)(iii)(A); and

481 (iii) where the woman seeking the abortion, or the parent or guardian of a minor
482 seeking an abortion, requests that the report be classified as a protected record because the
483 report puts the woman or minor's personal safety at risk.

484 (c) "Viable" means that the unborn child has reached a stage of fetal development
485 when the unborn child is potentially able to live outside the womb, as determined by the
486 attending physician to a reasonable degree of medical certainty.

487 (2) An abortion may be performed in this state only by a physician.

488 (3) An abortion may be performed in this state only under the following circumstances:

489 (a) the unborn child is not viable; or

490 (b) the unborn child is viable, if:

491 (i) the abortion is necessary to avert:

492 (A) the death of the woman on whom the abortion is performed; or

493 (B) a serious risk of substantial and irreversible impairment of a major bodily function
494 of the woman on whom the abortion is performed;

495 (ii) two physicians who practice maternal fetal medicine concur, in writing, in the
496 patient's medical record that the fetus:

497 (A) has a defect that is uniformly diagnosable and uniformly lethal; or

498 (B) has a severe brain abnormality that is uniformly diagnosable; or

499 (iii) (A) the woman is pregnant as a result of:

500 (I) rape, as described in Section 76-5-402;

501 (II) rape of a child, as described in Section 76-5-402.1; or

502 (III) incest, as described in Subsection 76-5-406(2)(j) or Section 76-7-102; and

503 (B) before the abortion is performed, the physician who performs the abortion:

504 (I) verifies that the incident described in Subsection (3)(b)(iii)(A) has been reported to
505 law enforcement either as a standard report to law enforcement or as a restricted law
506 enforcement report; and

507 (II) if applicable, complies with the requirements of Section 80-2-602.

508 (4) An abortion may be performed only in an abortion clinic or a hospital, unless it is
509 necessary to perform the abortion in another location due to a medical emergency.

510 (5) (a) Each law enforcement agency, including campus law enforcement as defined in
511 Section 53B-28-402, shall provide a form or instruction sheet to an individual who is reporting
512 an incident listed in Subsection (3)(b)(iii)(A) that:

513 (i) explains that the reporting individual may request that the report be classified as a
514 restricted law enforcement report if:

515 (A) the report is being made in connection with a possible pregnancy; and

516 (B) the reporting individual believes that the report puts the reporting individual's
517 personal safety at risk;

518 (ii) explains that a restricted law enforcement report is a protected record under Title
519 63G, Chapter 2, Government Records Access and Management Act;

520 (iii) explains that:

521 (A) the reporting individual may request that law enforcement and campus law
522 enforcement not investigate or otherwise pursue criminal charges for the reported incident; and

523 (B) while the law enforcement agency or campus law enforcement will use reasonable

524 efforts to respect a request not to investigate or pursue charges, such a request is not binding;
525 and

526 (iv) provides a means for the reporting individual to confirm or reject the following:

527 (A) that the reporting individual requests that the record be classified as a restricted law
528 enforcement report; and

529 (B) that the reporting individual requests that law enforcement use reasonable efforts to
530 not investigate or otherwise pursue criminal charges for the reported incident.

531 (b) Upon receiving a report subject to the requirements of this section, a law
532 enforcement agency, and campus law enforcement, shall, if requested to do so by the reporting
533 individual:

534 (i) classify a report as a restricted law enforcement report under Section [63G-2-305](#);

535 and

536 (ii) use reasonable efforts to comply with a request to not investigate or otherwise
537 pursue criminal charges for the reported incident.

538 Section 3. Section **76-7a-101** is amended to read:

539 **76-7a-101. Definitions.**

540 As used in this chapter:

541 (1) (a) "Abortion" means:

542 (i) the intentional termination or attempted termination of human pregnancy after
543 implantation of a fertilized ovum through a medical procedure carried out by a physician or
544 through a substance used under the direction of a physician;

545 (ii) the intentional killing or attempted killing of a live unborn child through a medical
546 procedure carried out by a physician or through a substance used under the direction of a
547 physician; or

548 (iii) the intentional causing or attempted causing of a miscarriage through a medical
549 procedure carried out by a physician or through a substance used under the direction of a
550 physician.

551 (b) "Abortion" does not include:

552 (i) removal of a dead unborn child;

553 (ii) removal of an ectopic pregnancy; or

554 (iii) the killing or attempted killing of an unborn child without the consent of the

555 pregnant woman, unless:

556 (A) the killing or attempted killing is done through a medical procedure carried out by
557 a physician or through a substance used under the direction of a physician; and

558 (B) the physician is unable to obtain the consent due to a medical emergency.

559 (2) "Abortion clinic" means a type I abortion clinic licensed by the state or a type II
560 abortion clinic licensed by the state.

561 (3) "Department" means the Department of Health and Human Services.

562 (4) "Down syndrome" means a genetic condition associated with an extra chromosome
563 21, in whole or in part, or an effective trisomy for chromosome 21.

564 (5) "Hospital" means:

565 (a) a general hospital licensed by the department; or

566 (b) a clinic or other medical facility to the extent the clinic or other medical facility is
567 certified by the department as providing equipment and personnel sufficient in quantity and
568 quality to provide the same degree of safety to a pregnant woman and an unborn child as would
569 be provided for the particular medical procedure undertaken by a general hospital licensed by
570 the department.

571 (6) "Incest" means the same as that term is defined in Section [80-1-102](#).

572 (7) "Medical emergency" means a condition which, on the basis of the physician's good
573 faith clinical judgment, so threatens the life of a pregnant woman as to necessitate the
574 immediate abortion of her pregnancy to avert her death, or for which a delay will create serious
575 risk of substantial and irreversible impairment of major bodily function.

576 (8) "Physician" means:

577 (a) a medical doctor licensed to practice medicine and surgery in the state;

578 (b) an osteopathic physician licensed to practice osteopathic medicine in the state; or

579 (c) a physician employed by the federal government who has qualifications similar to
580 an individual described in Subsection (8)(a) or (b).

581 (9) "Rape" means the same as that term is defined in Title 76, Utah Criminal Code.

582 (10) "Reporting individual" means a person who files a report with law enforcement.

583 (11) "Restricted law enforcement report" means a report made to a law enforcement
584 agency:

585 (a) by a woman seeking an abortion, or the parent or guardian of a minor seeking an

586 abortion;

587 (b) for the purpose of reporting an incident listed under Subsection [76-7a-201\(1\)\(c\)\(i\)](#);

588 and

589 (c) where the woman seeking the abortion, or the parent or guardian of a minor seeking
590 an abortion, requests that the report be classified as a protected record because the report puts
591 the woman or minor's personal safety at risk.

592 ~~[(10)]~~ (12) (a) "Severe brain abnormality" means a malformation or defect that causes
593 an individual to live in a mentally vegetative state.

594 (b) "Severe brain abnormality" does not include:

595 (i) Down syndrome;

596 (ii) spina bifida;

597 (iii) cerebral palsy; or

598 (iv) any other malformation, defect, or condition that does not cause an individual to
599 live in a mentally vegetative state.

600 Section 4. Section **76-7a-201** is amended to read:

601 **76-7a-201. Abortion prohibition -- Exceptions -- Penalties.**

602 (1) An abortion may be performed in this state only under the following circumstances:

603 (a) the abortion is necessary to avert:

604 (i) the death of the woman on whom the abortion is performed; or

605 (ii) a serious risk of substantial and irreversible impairment of a major bodily function
606 of the woman on whom the abortion is performed;

607 (b) two physicians who practice maternal fetal medicine concur, in writing, in the
608 patient's medical record that the fetus:

609 (i) has a defect that is uniformly diagnosable and uniformly lethal; or

610 (ii) has a severe brain abnormality that is uniformly diagnosable; or

611 (c) (i) the woman is pregnant as a result of:

612 (A) rape;

613 (B) rape of a child; or

614 (C) incest; and

615 (ii) before the abortion is performed, the physician who performs the abortion:

616 (A) verifies that the incident described in Subsection (1)(c)(i) has been reported to law

617 enforcement either as a standard report to law enforcement or as a restricted law enforcement
618 report; and

619 (B) if applicable, complies with requirements related to reporting suspicions of or
620 known child abuse.

621 (2) An abortion may be performed only:

622 (a) by a physician; and

623 (b) in an abortion clinic or a hospital, unless it is necessary to perform the abortion in
624 another location due to a medical emergency.

625 (3) A person who performs an abortion in violation of this section is guilty of a second
626 degree felony.

627 (4) In addition to the penalty described in Subsection (3), the department may take
628 appropriate corrective action against an abortion clinic, including revoking the abortion clinic's
629 license, if a violation of this chapter occurs at the abortion clinic.

630 (5) The department shall report a physician's violation of any provision of this section
631 to the state entity that regulates the licensing of a physician.

632 (6) (a) Each law enforcement agency, including campus law enforcement as defined in
633 Section 53B-28-402, shall provide a form or instruction sheet to an individual who is reporting
634 an incident listed in Subsection (1)(c)(i) that:

635 (i) explains that the reporting individual may request that the report be classified as a
636 restricted law enforcement report if:

637 (A) the report is being made in connection with a possible pregnancy; and

638 (B) the reporting individual believes that the report puts the reporting individual's
639 personal safety at risk;

640 (ii) explains that a restricted law enforcement report is a protected record under Title
641 63G, Chapter 2, Government Records Access and Management Act;

642 (iii) explains that:

643 (A) the reporting individual may request that law enforcement and campus law
644 enforcement not investigate or otherwise pursue criminal charges for the reported incident; and

645 (B) while the law enforcement agency or campus law enforcement will use reasonable
646 efforts to respect a request not to investigate or pursue charges, such a request is not binding;

647 and

648 (iv) provides a means for the reporting individual to confirm or reject the following:
649 (A) that the reporting individual requests that the record be classified as a restricted law
650 enforcement report; and
651 (B) that the reporting individual requests that law enforcement use reasonable efforts to
652 not investigate or otherwise pursue criminal charges for the reported incident.
653 (b) Upon receiving a report subject to the requirements of this section, a law
654 enforcement agency, and campus law enforcement, shall, if requested to do so by the reporting
655 individual:
656 (i) classify a report as a restricted law enforcement report under Section [63G-2-305](#);
657 and
658 (ii) use reasonable efforts to comply with a request to not investigate or otherwise
659 pursue criminal charges for the reported incident.