

**PROTECTION OF STATE OFFICIAL OR
EMPLOYEE PERSONAL INFORMATION**

2024 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Kera Birkeland

Senate Sponsor: Michael S. Kennedy

LONG TITLE

General Description:

This bill addresses state elected official's or state employee's personal identifying information.

Highlighted Provisions:

This bill:

- defines terms;
- permits state elected officials or certain state employees to request the removal of personal identifying information from the open web by the Division of Technology Services (division);
- allows for contracting for services;
- provides for rulemaking related to requesting the removal;
- prohibits charging for the division's services;
- addresses liability related to the division's services;
- makes information a private record; and
- makes technical and conforming amendments.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63A-16-104, as last amended by Laws of Utah 2023, Chapter 43

63G-2-302, as last amended by Laws of Utah 2023, Chapters 329, 471

27 ENACTS:

28 **63A-16-109**, Utah Code Annotated 1953

29

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

31 Section 1. Section **63A-16-104** is amended to read:

32 **63A-16-104 . Duties of division.**

33 The division shall:

- 34 (1) lead state executive branch agency efforts to establish and reengineer the state's
35 information technology architecture with the goal of coordinating central and individual
36 agency information technology in a manner that:
- 37 (a) ensures compliance with the executive branch agency strategic plan; and
 - 38 (b) ensures that cost-effective, efficient information and communication systems and
39 resources are being used by agencies to:
 - 40 (i) reduce data, hardware, and software redundancy;
 - 41 (ii) improve system interoperability and data accessibility between agencies; and
 - 42 (iii) meet the agency's and user's business and service needs;
- 43 (2) coordinate an executive branch strategic plan for all agencies;
- 44 (3) develop and implement processes to replicate information technology best practices and
45 standards throughout the executive branch;
- 46 (4) once every three years:
- 47 (a) conduct an information technology security assessment via an independent third
48 party:
 - 49 (i) to evaluate the adequacy of the division's and the executive branch agencies' data
50 and information technology system security standards; and
 - 51 (ii) that will be completed over a period that does not exceed two years; and
 - 52 (b) communicate the results of the assessment described in Subsection (4)(a) to the
53 appropriate executive branch agencies and to the president of the Senate and the
54 speaker of the House of Representatives;
- 55 (5) subject to Subsection 63G-6a-109.5(9):
- 56 (a) advise executive branch agencies on project and contract management principles as
57 they relate to information technology projects within the executive branch; and
 - 58 (b) approve the acquisition of technology services and products by executive branch
59 agencies as required under Section 63G-6a-109.5;
- 60 (6) work toward building stronger partnering relationships with providers;

- 61 (7) develop service level agreements with executive branch departments and agencies to
62 ensure quality products and services are delivered on schedule and within budget;
- 63 (8) develop standards for application development including a standard methodology and
64 cost-benefit analysis that all agencies shall utilize for application development activities;
- 65 (9) determine and implement statewide efforts to standardize data elements;
- 66 (10) coordinate with executive branch agencies to provide basic website standards for
67 agencies that address common design standards and navigation standards, including:
- 68 (a) accessibility for individuals with disabilities in accordance with:
- 69 (i) the standards of 29 U.S.C. Sec. 794d; and
70 (ii) Section 63A-16-209;
- 71 (b) consistency with standardized government security standards;
- 72 (c) designing around user needs with data-driven analysis influencing management and
73 development decisions, using qualitative and quantitative data to determine user
74 goals, needs, and behaviors, and continual testing of the website, web-based form,
75 web-based application, or digital service to ensure that user needs are addressed;
- 76 (d) providing users of the website, web-based form, web-based application, or digital
77 service with the option for a more customized digital experience that allows users to
78 complete digital transactions in an efficient and accurate manner; and
- 79 (e) full functionality and usability on common mobile devices;
- 80 (11) consider, when making a purchase for an information system, cloud computing
81 options, including any security benefits, privacy, data retention risks, and cost savings
82 associated with cloud computing options;
- 83 (12) develop systems and methodologies to review, evaluate, and prioritize existing
84 information technology projects within the executive branch and report to the governor
85 and the Government Operations Interim Committee in accordance with Section
86 63A-16-201 on a semiannual basis regarding the status of information technology
87 projects;
- 88 (13) assist the Governor's Office of Planning and Budget with the development of
89 information technology budgets for agencies;
- 90 (14) ensure that any training or certification required of a public official or public
91 employee, as those terms are defined in Section 63G-22-102, complies with Title 63G,
92 Chapter 22, State Training and Certification Requirements, if the training or certification
93 is required:
- 94 (a) under this chapter;

- 95 (b) by the department; or
96 (c) by the division;
- 97 (15) provide support to executive branch agencies for the information technology assets and
98 functions that are unique to the agency and are mission critical functions of the agency;
- 99 (16) provide in-house information technology staff support to executive branch agencies;
- 100 (17) establish a committee composed of agency user groups to coordinate division services
101 with agency needs;
- 102 (18) assist executive branch agencies in complying with the requirements of any rule made
103 by the chief information officer;
- 104 (19) develop and implement an effective enterprise architecture governance model for the
105 executive branch;
- 106 (20) provide oversight of information technology projects that impact statewide information
107 technology services, assets, or functions of state government to:
- 108 (a) control costs;
109 (b) ensure business value to a project;
110 (c) maximize resources;
111 (d) ensure the uniform application of best practices; and
112 (e) avoid duplication of resources;
- 113 (21) develop a method of accountability to agencies for services provided by the
114 department through service agreements with the agencies;
- 115 (22) serve as a project manager for enterprise architecture, including management of
116 applications, standards, and procurement of enterprise architecture;
- 117 (23) coordinate the development and implementation of advanced state telecommunication
118 systems;
- 119 (24) provide services, including technical assistance:
- 120 (a) to executive branch agencies and subscribers to the services; and
121 (b) related to information technology or telecommunications;
- 122 (25) establish telecommunication system specifications and standards for use by:
- 123 (a) one or more executive branch agencies; or
124 (b) one or more entities that subscribe to the telecommunication systems in accordance
125 with Section 63A-16-302;
- 126 (26) coordinate state telecommunication planning, in cooperation with:
- 127 (a) state telecommunication users;
128 (b) executive branch agencies; and

- 129 (c) other subscribers to the state's telecommunication systems;
- 130 (27) cooperate with the federal government, other state entities, counties, and municipalities
- 131 in the development, implementation, and maintenance of:
- 132 (a) (i) governmental information technology; or
- 133 (ii) governmental telecommunication systems; and
- 134 (b) (i) as part of a cooperative organization; or
- 135 (ii) through means other than a cooperative organization;
- 136 (28) establish, operate, manage, and maintain:
- 137 (a) one or more state data centers; and
- 138 (b) one or more regional computer centers;
- 139 (29) design, implement, and manage all state-owned, leased, or rented land, mobile, or
- 140 radio telecommunication systems that are used in the delivery of services for state
- 141 government or the state's political subdivisions;
- 142 (30) in accordance with the executive branch strategic plan, implement minimum standards
- 143 to be used by the division for purposes of compatibility of procedures, programming
- 144 languages, codes, and media that facilitate the exchange of information within and
- 145 among telecommunication systems;
- 146 (31) establish standards for the information technology needs of a collection of executive
- 147 branch agencies or programs that share common characteristics relative to the types of
- 148 stakeholders the agencies or programs serve, including:
- 149 (a) project management;
- 150 (b) application development; and
- 151 (c) subject to Subsections (5) and 63G-6a-109.5(9), procurement;
- 152 (32) provide oversight of information technology standards that impact multiple executive
- 153 branch agency information technology services, assets, or functions to:
- 154 (a) control costs;
- 155 (b) ensure business value to a project;
- 156 (c) maximize resources;
- 157 (d) ensure the uniform application of best practices; and
- 158 (e) avoid duplication of resources; ~~and~~
- 159 (33) establish a system of accountability to user agencies through the use of service
- 160 agreements[-] ; and
- 161 (34) provide the services described in Section 63A-16-109 for a state elected official or
- 162 state employee who has been threatened.

163 Section 2. Section **63A-16-109** is enacted to read:

164 **63A-16-109 . Removal of state elected official or employee personal identifying**
165 **information.**

166 (1) As used in this section:

167 (a) "Open web" means the Internet used for everyday activities like browsing, searching,
168 reading media, online shopping, or other website or online applications.

169 (b) "Personal identifying information" means the following:

170 (i) physical home address and personal email address;

171 (ii) home telephone number and personal mobile telephone number;

172 (iii) driver license or other government-issued identification; or

173 (iv) social security number.

174 (c) (i) "State elected official" means a person who holds an office in state government
175 that is required by law to be filled by an election, including the offices of
176 governor, lieutenant governor, attorney general, state auditor, state treasurer, and
177 legislator.

178 (ii) "State elected official" does not include a judge.

179 (d) "State employee who has been threatened" means an individual:

180 (i) (A) who is a cabinet level official or senior staff of the governor; or

181 (B) who is an employee of the state executive branch and meets selective criteria
182 implemented by the division that are established by rule made under
183 Subsection (4); and

184 (ii) whose life or safety has been threatened in the course of performing the
185 individual's state duties through a text, phone call, email, postal delivery,
186 face-to-face encounter, or website or online application.

187 (2) At the written request of a state elected official or a state employee who has been
188 threatened, the division shall within 30 days of receipt of the request:

189 (a) search the open web for personal identifying information that is about the state
190 elected official or state employee who has been threatened;

191 (b) when possible, remove the personal identifying information found under Subsection
192 (2)(a) from the open web; and

193 (c) conduct continuous monthly removal when possible of personal identifying
194 information from the open web.

195 (3) The chief information officer may contract, in accordance with Title 63G, Chapter 6a,
196 Utah Procurement Code, with a third party to provide the services described in

- 197 Subsection (2).
- 198 (4) The chief information officer may by rule made in accordance with Title 63G, Chapter
 199 3, Utah Administrative Rulemaking Act, establish requirements related to:
- 200 (a) what information the state elected official or state employee who has been threatened
 201 shall provide the division as part of the request described in Subsection (2);
- 202 (b) procedures for submitting the written request to the division; and
- 203 (c) establishing the selective criteria used to determine whether a state employee may
 204 receive the services described in Subsection (2).
- 205 (5) The division may not charge a rate for the services provided under this section.
- 206 (6) (a) In addition to the governmental immunity granted in Title 63G, Chapter 7,
 207 Governmental Immunity Act of Utah, the division is not liable for actions performed
 208 under this section except as a result of intentional misconduct or gross negligence
 209 including reckless, willful, or wanton misconduct.
- 210 (b) This section does not create a special duty of care.
- 211 (7) A federal, state, or local government record is not subject to this section, even if the
 212 government record contains personal identifying information.

213 Section 3. Section **63G-2-302** is amended to read:

214 **63G-2-302 . Private records.**

- 215 (1) The following records are private:
- 216 (a) records concerning an individual's eligibility for unemployment insurance benefits,
 217 social services, welfare benefits, or the determination of benefit levels;
- 218 (b) records containing data on individuals describing medical history, diagnosis,
 219 condition, treatment, evaluation, or similar medical data;
- 220 (c) records of publicly funded libraries that when examined alone or with other records
 221 identify a patron;
- 222 (d) records received by or generated by or for:
- 223 (i) the Independent Legislative Ethics Commission, except for:
- 224 (A) the commission's summary data report that is required under legislative rule;
 225 and
- 226 (B) any other document that is classified as public under legislative rule; or
- 227 (ii) a Senate or House Ethics Committee in relation to the review of ethics
 228 complaints, unless the record is classified as public under legislative rule;
- 229 (e) records received by, or generated by or for, the Independent Executive Branch Ethics
 230 Commission, except as otherwise expressly provided in Title 63A, Chapter 14,

- 231 Review of Executive Branch Ethics Complaints;
- 232 (f) records received or generated for a Senate confirmation committee concerning
233 character, professional competence, or physical or mental health of an individual:
- 234 (i) if, prior to the meeting, the chair of the committee determines release of the
235 records:
- 236 (A) reasonably could be expected to interfere with the investigation undertaken by
237 the committee; or
- 238 (B) would create a danger of depriving a person of a right to a fair proceeding or
239 impartial hearing; and
- 240 (ii) after the meeting, if the meeting was closed to the public;
- 241 (g) employment records concerning a current or former employee of, or applicant for
242 employment with, a governmental entity that would disclose that individual's home
243 address, home telephone number, social security number, insurance coverage, marital
244 status, or payroll deductions;
- 245 (h) records or parts of records under Section 63G-2-303 that a current or former
246 employee identifies as private according to the requirements of that section;
- 247 (i) that part of a record indicating a person's social security number or federal employer
248 identification number if provided under Section 31A-23a-104, 31A-25-202,
249 31A-26-202, 58-1-301, 58-55-302, 61-1-4, or 61-2f-203;
- 250 (j) that part of a voter registration record identifying a voter's:
- 251 (i) driver license or identification card number;
- 252 (ii) social security number, or last four digits of the social security number;
- 253 (iii) email address;
- 254 (iv) date of birth; or
- 255 (v) phone number;
- 256 (k) a voter registration record that is classified as a private record by the lieutenant
257 governor or a county clerk under Subsection 20A-2-101.1(5)(a), 20A-2-104(4)(h), or
258 20A-2-204(4)(b);
- 259 (l) a voter registration record that is withheld under Subsection 20A-2-104(7);
- 260 (m) a withholding request form described in Subsections 20A-2-104(7) and (8) and any
261 verification submitted in support of the form;
- 262 (n) a record that:
- 263 (i) contains information about an individual;
- 264 (ii) is voluntarily provided by the individual; and

- 265 (iii) goes into an electronic database that:
- 266 (A) is designated by and administered under the authority of the Chief Information
- 267 Officer; and
- 268 (B) acts as a repository of information about the individual that can be
- 269 electronically retrieved and used to facilitate the individual's online interaction
- 270 with a state agency;
- 271 (o) information provided to the Commissioner of Insurance under:
- 272 (i) Subsection 31A-23a-115(3)(a);
- 273 (ii) Subsection 31A-23a-302(4); or
- 274 (iii) Subsection 31A-26-210(4);
- 275 (p) information obtained through a criminal background check under Title 11, Chapter
- 276 40, Criminal Background Checks by Political Subdivisions Operating Water Systems;
- 277 (q) information provided by an offender that is:
- 278 (i) required by the registration requirements of Title 77, Chapter 41, Sex and Kidnap
- 279 Offender Registry or Title 77, Chapter 43, Child Abuse Offender Registry; and
- 280 (ii) not required to be made available to the public under Subsection 77-41-110(4) or
- 281 77-43-108(4);
- 282 (r) a statement and any supporting documentation filed with the attorney general in
- 283 accordance with Section 34-45-107, if the federal law or action supporting the filing
- 284 involves homeland security;
- 285 (s) electronic toll collection customer account information received or collected under
- 286 Section 72-6-118 and customer information described in Section 17B-2a-815
- 287 received or collected by a public transit district, including contact and payment
- 288 information and customer travel data;
- 289 (t) an email address provided by a military or overseas voter under Section 20A-16-501;
- 290 (u) a completed military-overseas ballot that is electronically transmitted under Title
- 291 20A, Chapter 16, Uniform Military and Overseas Voters Act;
- 292 (v) records received by or generated by or for the Political Subdivisions Ethics Review
- 293 Commission established in Section 63A-15-201, except for:
- 294 (i) the commission's summary data report that is required in Section 63A-15-202; and
- 295 (ii) any other document that is classified as public in accordance with Title 63A,
- 296 Chapter 15, Political Subdivisions Ethics Review Commission;
- 297 (w) a record described in Section 53G-9-604 that verifies that a parent was notified of an
- 298 incident or threat;

- 299 (x) a criminal background check or credit history report conducted in accordance with
 300 Section 63A-3-201;
- 301 (y) a record described in Subsection 53-5a-104(7);
- 302 (z) on a record maintained by a county for the purpose of administering property taxes,
 303 an individual's:
- 304 (i) email address;
- 305 (ii) phone number; or
- 306 (iii) personal financial information related to a person's payment method;
- 307 (aa) a record submitted by a taxpayer to establish the taxpayer's eligibility for an
 308 exemption, deferral, abatement, or relief under:
- 309 (i) Title 59, Chapter 2, Part 11, Exemptions;
- 310 (ii) Title 59, Chapter 2, Part 12, Property Tax Relief;
- 311 (iii) Title 59, Chapter 2, Part 18, Tax Deferral and Tax Abatement; or
- 312 (iv) Title 59, Chapter 2, Part 19, Armed Forces Exemptions;
- 313 (bb) a record provided by the State Tax Commission in response to a request under
 314 Subsection 59-1-403(4)(y)(iii);
- 315 (cc) a record of the Child Welfare Legislative Oversight Panel regarding an individual
 316 child welfare case, as described in Subsection 36-33-103(3); [~~and~~]
- 317 (dd) a record relating to drug or alcohol testing of a state employee under Section
 318 63A-17-1004[-] ; and
- 319 (ee) a record relating to a request by a state elected official or state employee who has
 320 been threatened to the Division of Technology Services to remove personal
 321 identifying information from the open web under Section 63A-16-109.
- 322 (2) The following records are private if properly classified by a governmental entity:
- 323 (a) records concerning a current or former employee of, or applicant for employment
 324 with a governmental entity, including performance evaluations and personal status
 325 information such as race, religion, or disabilities, but not including records that are
 326 public under Subsection 63G-2-301(2)(b) or 63G-2-301(3)(o) or private under
 327 Subsection (1)(b);
- 328 (b) records describing an individual's finances, except that the following are public:
- 329 (i) records described in Subsection 63G-2-301(2);
- 330 (ii) information provided to the governmental entity for the purpose of complying
 331 with a financial assurance requirement; or
- 332 (iii) records that must be disclosed in accordance with another statute;

- 333 (c) records of independent state agencies if the disclosure of those records would
334 conflict with the fiduciary obligations of the agency;
- 335 (d) other records containing data on individuals the disclosure of which constitutes a
336 clearly unwarranted invasion of personal privacy;
- 337 (e) records provided by the United States or by a government entity outside the state that
338 are given with the requirement that the records be managed as private records, if the
339 providing entity states in writing that the record would not be subject to public
340 disclosure if retained by it;
- 341 (f) any portion of a record in the custody of the Division of Aging and Adult Services,
342 created in Section 26B-6-102, that may disclose, or lead to the discovery of, the
343 identity of a person who made a report of alleged abuse, neglect, or exploitation of a
344 vulnerable adult; and
- 345 (g) audio and video recordings created by a body-worn camera, as defined in Section
346 77-7a-103, that record sound or images inside a home or residence except for
347 recordings that:
- 348 (i) depict the commission of an alleged crime;
- 349 (ii) record any encounter between a law enforcement officer and a person that results
350 in death or bodily injury, or includes an instance when an officer fires a weapon;
- 351 (iii) record any encounter that is the subject of a complaint or a legal proceeding
352 against a law enforcement officer or law enforcement agency;
- 353 (iv) contain an officer involved critical incident as defined in Subsection 76-2-408
354 (1)(f); or
- 355 (v) have been requested for reclassification as a public record by a subject or
356 authorized agent of a subject featured in the recording.
- 357 (3) (a) As used in this Subsection (3), "medical records" means medical reports, records,
358 statements, history, diagnosis, condition, treatment, and evaluation.
- 359 (b) Medical records in the possession of the University of Utah Hospital, its clinics,
360 doctors, or affiliated entities are not private records or controlled records under
361 Section 63G-2-304 when the records are sought:
- 362 (i) in connection with any legal or administrative proceeding in which the patient's
363 physical, mental, or emotional condition is an element of any claim or defense; or
- 364 (ii) after a patient's death, in any legal or administrative proceeding in which any
365 party relies upon the condition as an element of the claim or defense.
- 366 (c) Medical records are subject to production in a legal or administrative proceeding

367 according to state or federal statutes or rules of procedure and evidence as if the
368 medical records were in the possession of a nongovernmental medical care provider.

369 Section 4. **Effective date.**

370 This bill takes effect on May 1, 2024.