

Senator Michael S. Kennedy proposes the following substitute bill:

**FATALITY REVIEW AMENDMENTS**

2024 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Christine F. Watkins**

Senate Sponsor: Michael S. Kennedy

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**LONG TITLE**

**General Description:**

This bill amends provisions relating to fatality reviews.

**Highlighted Provisions:**

This bill:

- ▶ amends definitions;
- ▶ consolidates and streamlines certain notice requirements in the fatality review process;
- ▶ updates language to reflect the electronic storage of certain records;
- ▶ amends certain deadlines related to the fatality review process; and
- ▶ makes technical and conforming changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**26B-1-501**, as renumbered and amended by Laws of Utah 2023, Chapter 305

**26B-1-502**, as renumbered and amended by Laws of Utah 2023, Chapter 305



- 26 [26B-1-505](#), as renumbered and amended by Laws of Utah 2023, Chapter 305
- 27 [26B-1-506](#), as renumbered and amended by Laws of Utah 2023, Chapter 305
- 28 [26B-1-507](#), as renumbered and amended by Laws of Utah 2023, Chapter 305
- 29 [52-4-205](#), as last amended by Laws of Utah 2023, Chapters 263, 328, 374, and 521
- 30 [63G-2-202](#), as last amended by Laws of Utah 2023, Chapter 329

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

33 Section 1. Section **26B-1-501** is amended to read:

34 **26B-1-501. Definitions.**

35 As used in this part:

- 36 (1) "Abuse" means the same as that term is defined in Section [80-1-102](#).
- 37 (2) "Child" means the same as that term is defined in Section [80-1-102](#).
- 38 (3) "Committee" means a fatality review committee that is formed under Section
- 39 [26B-1-503](#) or [26B-1-504](#).
- 40 (4) "Dependency" means the same as that term is defined in Section [80-1-102](#).
- 41 (5) "Formal review" means a review of a death or a near fatality that is ordered under
- 42 Subsection [~~[26B-1-502\(6\)](#)~~ [26B-1-502\(5\)](#)].
- 43 (6) "Near fatality" means alleged abuse or neglect that, as certified by a physician,
- 44 places a child in serious or critical condition.
- 45 (7) "Qualified individual" means an individual who:
- 46 (a) at the time that the individual dies, is a resident of a facility or program that is
- 47 owned or operated by the department or a division of the department;
- 48 (b) (i) is in the custody of the department or a division of the department; and
- 49 (ii) is placed in a residential placement by the department or a division of the
- 50 department;
- 51 (c) at the time that the individual dies, has an open case for the receipt of child welfare
- 52 services, including:
- 53 (i) an investigation for abuse, neglect, or dependency;
- 54 (ii) foster care;
- 55 (iii) in-home services; or
- 56 (iv) substitute care;

57 (d) had an open case for the receipt of child welfare services within one year before the  
58 day on which the individual dies;

59 (e) was the subject of an accepted referral received by Adult Protective Services within  
60 one year before the day on which the individual dies, if:

61 (i) the department or a division of the department is aware of the death; and

62 (ii) the death is reported as a homicide, suicide, or an undetermined cause;

63 (f) received services from, or under the direction of, the Division of Services for People  
64 with Disabilities within one year before the day on which the individual dies[~~unless the~~  
65 ~~individual~~];

66 [~~(i) lived in the individual's home at the time of death; and]~~

67 [~~(ii) the director of the Division of Continuous Quality and Improvement determines~~  
68 ~~that the death was not in any way related to services that were provided by, or under the~~  
69 ~~direction of, the department or a division of the department;]~~

70 (g) dies within 60 days after the day on which the individual is discharged from the  
71 Utah State Hospital, if the department is aware of the death;

72 (h) is a child who:

73 (i) suffers a near fatality; and

74 (ii) is the subject of an open case for the receipt of child welfare services within one  
75 year before the day on which the child suffered the near fatality, including:

76 (A) an investigation for abuse, neglect, or dependency;

77 (B) foster care;

78 (C) in-home services; or

79 (D) substitute care; or

80 (i) is designated as a qualified individual by the executive director.

81 (8) "Neglect" means the same as that term is defined in Section 80-1-102.

82 (9) "Substitute care" means the same as that term is defined in Section 80-1-102.

83 Section 2. Section **26B-1-502** is amended to read:

84 **26B-1-502. Initial review.**

85 (1) Within seven days after the day on which the department knows that a qualified  
86 individual has died or is an individual described in Subsection 26B-1-501(7)(h), a person  
87 designated by the department shall:

88 (a) (i) for a death, complete a deceased client report form, created by the department; or  
89 (ii) for an individual described in Subsection 26B-1-501(7)(h), complete a near fatality  
90 client report form, created by the department; and

91 (b) forward the completed client report form to:

92 (i) the director of the office or division that has jurisdiction over the region or  
93 facility[-];

94 (ii) the executive director;

95 (iii) the director of the Division of Continuous Quality and Improvement; and

96 (iv) the fatality review coordinator, or the fatality review coordinator's designee.

97 [~~(2)~~] ~~The director of the office or division described in Subsection (1) shall, upon~~  
98 ~~receipt of a near fatality client report form or a deceased client report form, immediately~~  
99 ~~provide a copy of the form to:]~~

100 [~~(a) the executive director; and]~~

101 [~~(b) the fatality review coordinator or the fatality review coordinator's designee.]~~

102 [~~(3)~~] (2) Within 10 days after the day on which the fatality review coordinator or the  
103 fatality review coordinator's designee receives a copy of the near fatality client report form or  
104 the deceased client report form, the fatality review coordinator or the fatality review  
105 coordinator's designee shall request a copy of all relevant department case records, or electronic  
106 access to all relevant department case records, regarding the individual who is the subject of  
107 the client report form.

108 [~~(4)~~] (3) Each person who receives a request for a record described in Subsection [~~(3)~~]  
109 (2) shall provide a copy of the record, or electronic access to the record, to the fatality review  
110 coordinator or the fatality review coordinator's designee, by a secure method, within seven days  
111 after the day on which the request is made.

112 [~~(5)~~] (4) Within 30 days after the day on which the fatality review coordinator or the  
113 fatality review coordinator's designee receives the case records requested under Subsection  
114 [~~(3)~~] (2), the fatality review coordinator, or the fatality review coordinator's designee, shall:

115 (a) review the client report form, the case files, and other relevant information received  
116 by the fatality review coordinator; and

117 (b) make a recommendation to the director of the Division of Continuous Quality and  
118 Improvement regarding whether a formal review of the death or near fatality should be

119 conducted.

120 ~~[(6)]~~ (5) (a) In accordance with Subsection ~~[(6)(b)]~~ (5)(b), within ~~[seven]~~ 14 days after  
121 the day on which the fatality review coordinator or the fatality review coordinator's designee  
122 makes the recommendation described in Subsection ~~[(5)(b)]~~ (4)(b), the director of the Division  
123 of Continuous Quality and Improvement or the director's designee shall determine whether to  
124 order that a review of the death or near fatality be conducted.

125 (b) The director of the Division of Continuous Quality and Improvement or the  
126 director's designee shall order that a formal review of the death or near fatality be conducted if:

127 (i) at the time of the near fatality or the death, the qualified individual is:

128 (A) an individual described in ~~[Subsection 26B-1-501(6)(a) or (b)]~~ Subsections  
129 26B-1-501(7)(a) through (h), unless:

130 (I) the near fatality or the death is due to a natural cause; or

131 (II) the director of the Division of Continuous Quality and Improvement or the  
132 director's designee determines that the near fatality or the death was not in any way related to  
133 services that were provided by, or under the direction of, the department or a division of the  
134 department; or

135 (B) a child in foster care or substitute care, unless the near fatality or the death is due  
136 to:

137 (I) a natural cause; or

138 (II) an accident;

139 (ii) it appears, based on the information provided to the director of the Division of  
140 Continuous Quality and Improvement or the director's designee, that:

141 (A) a provision of law, rule, policy, or procedure relating to the qualified individual or  
142 the individual's family may not have been complied with;

143 (B) the near fatality or the fatality was not responded to properly;

144 (C) a law, rule, policy, or procedure may need to be changed; or

145 (D) additional training is needed;

146 (iii) (A) the death is caused by suicide; or

147 (B) the near fatality is caused by attempted suicide; or

148 (iv) the director of the Division of Continuous Quality and Improvement or the  
149 director's designee determines that another reason exists to order that a review of the near

150 fatality or the death be conducted.

151 Section 3. Section **26B-1-505** is amended to read:

152 **26B-1-505. Fatality review committee proceedings.**

153 (1) A majority vote of committee members present constitutes the action of the  
154 committee.

155 (2) The department shall give the committee access to all reports, records, and other  
156 documents that are relevant to the near fatality or the death under investigation, including:

157 (a) narrative reports;

158 (b) case files;

159 (c) autopsy reports; and

160 (d) police reports, unless the report is protected from disclosure under Subsection  
161 **63G-2-305**(10) or (11).

162 (3) The Utah State Hospital and the Utah State Developmental Center shall provide  
163 protected health information to the committee if requested by a fatality review coordinator.

164 (4) A committee shall convene [~~its first meeting within 14 days after the day on which~~  
165 ~~a formal review is ordered~~] monthly, unless this time is extended, for good cause, by the  
166 director of the Division of Continuous Quality and Improvement.

167 (5) A committee may interview a staff member, a provider, or any other person who  
168 may have knowledge or expertise that is relevant to the formal review.

169 (6) A committee shall render an advisory opinion regarding:

170 (a) whether the provisions of law, rule, policy, and procedure relating to the qualified  
171 individual and the individual's family were complied with;

172 (b) whether the near fatality or the death was responded to properly;

173 (c) whether to recommend that a law, rule, policy, or procedure be changed; and

174 (d) whether additional training is needed.

175 Section 4. Section **26B-1-506** is amended to read:

176 **26B-1-506. Fatality review committee report -- Response to report.**

177 (1) Within 20 days after the day on which the committee proceedings described in  
178 Section **26B-1-505** end, the committee shall submit:

179 (a) a written report to the executive director that includes:

180 (i) the advisory opinions made under Subsection **26B-1-505**(6); and

181 (ii) any recommendations regarding action that should be taken in relation to an  
 182 employee of the department or a person who contracts with the department; and

183 (b) a copy of the report described in Subsection (1)(a) to:

184 (i) the director, or the director's designee, of the office or division to which the near  
 185 fatality or the death relates; and

186 (ii) the regional director, or the regional director's designee, of the region to which the  
 187 near fatality or the death relates~~[-, and].~~

188 ~~[(c) a copy of the report described in Subsection (1)(a), with only identifying  
 189 information redacted, to the Office of Legislative Research and General Counsel.]~~

190 (2) Within ~~[20]~~ 60 days after the day on which the director described in Subsection  
 191 (1)(b)(i) receives a copy of the report described in Subsection (1)(a), the ~~[director]~~ department  
 192 shall provide a written response ~~[to the director of the Division of Continuous Quality and  
 193 Improvement and a copy of the response]~~, with only identifying information redacted, to the  
 194 Office of Legislative Research and General Counsel, if the report:

195 (a) indicates that a law, rule, policy, or procedure was not complied with;

196 (b) indicates that the near fatality or the death was not responded to properly;

197 (c) recommends that a law, rule, policy, or procedure be changed; or

198 (d) indicates that additional training is needed.

199 (3) The response described in Subsection (2) shall include:

200 (a) a plan of action to implement any recommended improvements within the [office or  
 201 division] department; and

202 (b) the approval of the executive director or the executive director's designee for the  
 203 plan described in Subsection (3)(a).

204 ~~[(4) Within 30 days after the day on which the executive director receives the response  
 205 described in Subsection (2), the executive director, or the executive director's designee shall:]~~

206 ~~[(a) review the plan of action described in Subsection (3);]~~

207 ~~[(b) make any written response that the executive director or the executive director's  
 208 designee determines is necessary;]~~

209 ~~[(c) provide a copy of the written response described in Subsection (4)(b), with only  
 210 identifying information redacted, to the Office of Legislative Research and General Counsel;  
 211 and]~~

212 ~~[(d) provide an unredacted copy of the response described in Subsection (4)(b) to the~~  
213 ~~director of the Division of Continuous Quality and Improvement.]~~

214 ~~[(5)]~~ (4) A report described in Subsection (1) and ~~[each]~~ the response described in ~~[this~~  
215 ~~section]~~ Subsection (2) is a protected record.

216 ~~[(6)]~~ (5) (a) As used in this Subsection ~~[(6)]~~ (5), "fatality review document" means any  
217 document created in connection with, or as a result of, a formal review of a near fatality or a  
218 death, or a decision whether to conduct a formal review of a near fatality or a death, including:

- 219 (i) a report described in Subsection (1);  
220 (ii) a response described in ~~[this section]~~ Subsection (2);  
221 (iii) a recommendation regarding whether a formal review should be conducted;  
222 (iv) a decision to conduct a formal review;  
223 (v) notes of a person who participates in a formal review;  
224 (vi) notes of a person who reviews a formal review report;  
225 (vii) minutes of a formal review;  
226 (viii) minutes of a meeting where a formal review report is reviewed; and  
227 (ix) minutes of, documents received in relation to, and documents generated in relation  
228 to, the portion of a meeting of the Health and Human Services Interim Committee or the Child  
229 Welfare Legislative Oversight Panel that a formal review report or a document described in this  
230 Subsection ~~[(6)(a)]~~ (5)(a) is reviewed or discussed.

231 (b) A fatality review document is not subject to discovery, subpoena, or similar  
232 compulsory process in any civil, judicial, or administrative proceeding, nor shall any individual  
233 or organization with lawful access to the data be compelled to testify with regard to a report  
234 described in Subsection (1) or a response described in ~~[this section]~~ Subsection (2).

235 (c) The following are not admissible as evidence in a civil, judicial, or administrative  
236 proceeding:

- 237 (i) a fatality review document; and  
238 (ii) an executive summary described in Subsection [26B-1-507\(4\)](#).

239 Section 5. Section **26B-1-507** is amended to read:

240 **26B-1-507. Reporting to, and review by, legislative committees.**

241 (1) ~~[The Office of Legislative Research and General Counsel]~~ On or before September  
242 1 of each year, the department shall provide, with only identifying information redacted, a copy



243 of the report described in Subsection ~~[26B-1-506(1)(c)]~~ 26B-1-506(1)(b), and the ~~[responses]~~  
 244 ~~response~~ described in ~~[Subsections 26B-1-506(2) and (4)(c)]~~ Subsection 26B-1-506(2) to the  
 245 Office of Legislative Research and General Counsel and the chairs of:

246 (a) the Health and Human Services Interim Committee; or

247 (b) if the qualified individual who is the subject of the report is an individual described  
 248 in Subsection 26B-1-501(7)(c), (d), or (h), the Child Welfare Legislative Oversight Panel.

249 (2) (a) The Health and Human Services Interim Committee may, in a closed meeting,  
 250 review a report described in Subsection 26B-1-506(1)(b).

251 (b) The Child Welfare Legislative Oversight Panel shall, in a closed meeting, review a  
 252 report described in Subsection (1)(b).

253 (3) (a) The Health and Human Services Interim Committee and the Child Welfare  
 254 Legislative Oversight Panel may not interfere with, or make recommendations regarding, the  
 255 resolution of a particular case.

256 (b) The purpose of a review described in Subsection (2) is to assist a committee or  
 257 panel described in Subsection (2) in determining whether to recommend a change in the law.

258 (c) Any recommendation, described in Subsection (3)(b), by a committee or panel for a  
 259 change in the law shall be made in an open meeting.

260 (4) ~~[(a)]~~ On or before September 1 of each year, the department shall provide an  
 261 executive summary of all formal review reports for the preceding state fiscal year to ~~[the Office~~  
 262 ~~of Legislative Research and General Counsel.]~~;

263 ~~[(b)]~~ (a) ~~[The]~~ the Office of Legislative Research and General Counsel ~~[shall forward a~~  
 264 ~~copy of the executive summary described in Subsection (4)(a) to:]~~;

265 ~~[(i)]~~ (b) the Health and Human Services Interim Committee; and

266 ~~[(ii)]~~ (c) the Child Welfare Legislative Oversight Panel.

267 (5) The executive summary described in Subsection (4):

268 (a) may not include any names or identifying information;

269 (b) shall include:

270 (i) all recommendations regarding changes to the law that were made during the  
 271 preceding fiscal year under Subsection 26B-1-505(6);

272 (ii) all changes made, or in the process of being made, to a law, rule, policy, or  
 273 procedure in response to a formal review that occurred during the preceding fiscal year;

- 274 (iii) a description of the training that has been completed in response to a formal  
275 review that occurred during the preceding fiscal year;
- 276 (iv) statistics for the preceding fiscal year regarding:
- 277 (A) the number of qualified individuals and the type of deaths and near fatalities that  
278 are known to the department;
- 279 (B) the number of formal reviews conducted;
- 280 (C) the categories described in Subsection 26B-1-501(7) of qualified individuals;
- 281 (D) the gender, age, race, and other significant categories of qualified individuals; and
- 282 (E) the number of fatalities of qualified individuals known to the department that are  
283 identified as suicides; and
- 284 (v) action taken by the Division of Licensing and Background Checks [~~and the Bureau~~  
285 ~~of Internal Review and Audits~~] in response to the near fatality or the death of a qualified  
286 individual; and
- 287 (c) is a public document.
- 288 (6) The Division of Child and Family Services shall, to the extent required by the  
289 federal Child Abuse Prevention and Treatment Act of 1988, Pub. L. No. 93-247, as amended,  
290 allow public disclosure of the findings or information relating to a case of child abuse or  
291 neglect that results in a child fatality or a near fatality.

292 Section 6. Section 52-4-205 is amended to read:

293 **52-4-205. Purposes of closed meetings -- Certain issues prohibited in closed**  
294 **meetings.**

- 295 (1) A closed meeting described under Section 52-4-204 may only be held for:
- 296 (a) except as provided in Subsection (3), discussion of the character, professional  
297 competence, or physical or mental health of an individual;
- 298 (b) strategy sessions to discuss collective bargaining;
- 299 (c) strategy sessions to discuss pending or reasonably imminent litigation;
- 300 (d) strategy sessions to discuss the purchase, exchange, or lease of real property,  
301 including any form of a water right or water shares, or to discuss a proposed development  
302 agreement, project proposal, or financing proposal related to the development of land owned by  
303 the state, if public discussion would:
- 304 (i) disclose the appraisal or estimated value of the property under consideration; or

- 305 (ii) prevent the public body from completing the transaction on the best possible terms;
- 306 (e) strategy sessions to discuss the sale of real property, including any form of a water
- 307 right or water shares, if:
  - 308 (i) public discussion of the transaction would:
    - 309 (A) disclose the appraisal or estimated value of the property under consideration; or
    - 310 (B) prevent the public body from completing the transaction on the best possible terms;
  - 311 (ii) the public body previously gave public notice that the property would be offered for
  - 312 sale; and
    - 313 (iii) the terms of the sale are publicly disclosed before the public body approves the
    - 314 sale;
  - 315 (f) discussion regarding deployment of security personnel, devices, or systems;
  - 316 (g) investigative proceedings regarding allegations of criminal misconduct;
  - 317 (h) as relates to the Independent Legislative Ethics Commission, conducting business
  - 318 relating to the receipt or review of ethics complaints;
    - 319 (i) as relates to an ethics committee of the Legislature, a purpose permitted under
    - 320 Subsection [52-4-204\(1\)\(a\)\(iii\)\(C\)](#);
    - 321 (j) as relates to the Independent Executive Branch Ethics Commission created in
    - 322 Section [63A-14-202](#), conducting business relating to an ethics complaint;
    - 323 (k) as relates to a county legislative body, discussing commercial information as
    - 324 defined in Section [59-1-404](#);
    - 325 (l) as relates to the Utah Higher Education Savings Board of Trustees and its appointed
    - 326 board of directors, discussing fiduciary or commercial information;
    - 327 (m) deliberations, not including any information gathering activities, of a public body
    - 328 acting in the capacity of:
      - 329 (i) an evaluation committee under Title 63G, Chapter 6a, Utah Procurement Code,
      - 330 during the process of evaluating responses to a solicitation, as defined in Section [63G-6a-103](#);
      - 331 (ii) a protest officer, defined in Section [63G-6a-103](#), during the process of making a
      - 332 decision on a protest under Title 63G, Chapter 6a, Part 16, Protests; or
      - 333 (iii) a procurement appeals panel under Title 63G, Chapter 6a, Utah Procurement
      - 334 Code, during the process of deciding an appeal under Title 63G, Chapter 6a, Part 17,
      - 335 Procurement Appeals Board;

336 (n) the purpose of considering information that is designated as a trade secret, as  
337 defined in Section 13-24-2, if the public body's consideration of the information is necessary to  
338 properly conduct a procurement under Title 63G, Chapter 6a, Utah Procurement Code;

339 (o) the purpose of discussing information provided to the public body during the  
340 procurement process under Title 63G, Chapter 6a, Utah Procurement Code, if, at the time of  
341 the meeting:

342 (i) the information may not, under Title 63G, Chapter 6a, Utah Procurement Code, be  
343 disclosed to a member of the public or to a participant in the procurement process; and

344 (ii) the public body needs to review or discuss the information to properly fulfill its  
345 role and responsibilities in the procurement process;

346 (p) as relates to the governing board of a governmental nonprofit corporation, as that  
347 term is defined in Section 11-13a-102, the purpose of discussing information that is designated  
348 as a trade secret, as that term is defined in Section 13-24-2, if:

349 (i) public knowledge of the discussion would reasonably be expected to result in injury  
350 to the owner of the trade secret; and

351 (ii) discussion of the information is necessary for the governing board to properly  
352 discharge the board's duties and conduct the board's business;

353 (q) as it relates to the Cannabis Production Establishment Licensing Advisory Board,  
354 to review confidential information regarding violations and security requirements in relation to  
355 the operation of cannabis production establishments;

356 (r) considering a loan application, if public discussion of the loan application would  
357 disclose:

358 (i) nonpublic personal financial information; or

359 (ii) a nonpublic trade secret, as defined in Section 13-24-2, or nonpublic business  
360 financial information the disclosure of which would reasonably be expected to result in unfair  
361 competitive injury to the person submitting the information;

362 (s) a discussion of the board of the Point of the Mountain State Land Authority, created  
363 in Section 11-59-201, regarding a potential tenant of point of the mountain state land, as  
364 defined in Section 11-59-102; or

365 (t) a purpose for which a meeting is required to be closed under Subsection (2).

366 (2) The following meetings shall be closed:

367 (a) a meeting of the Health and Human Services Interim Committee to review a report  
368 described in Subsection [26B-1-506\(1\)\(a\)](#), and [~~the responses~~] a response to the report described  
369 in [~~Subsections [26B-1-506\(2\)](#) and [\(4\)](#)] Subsection [26B-1-506\(2\)](#);~~

370 (b) a meeting of the Child Welfare Legislative Oversight Panel to:

371 (i) review a report described in Subsection [26B-1-506\(1\)\(a\)](#), and [~~the responses~~] a  
372 response to the report described in [~~Subsections [26B-1-506\(2\)](#) and [\(4\)](#)] Subsection  
373 [26B-1-506\(2\)](#); or~~

374 (ii) review and discuss an individual case, as described in Subsection [36-33-103\(2\)](#);

375 (c) a meeting of the Opioid and Overdose Fatality Review Committee, created in  
376 Section [26B-1-403](#), to review and discuss an individual case, as described in Subsection  
377 [26B-1-403\(10\)](#);

378 (d) a meeting of a conservation district as defined in Section [17D-3-102](#) for the  
379 purpose of advising the Natural Resource Conservation Service of the United States  
380 Department of Agriculture on a farm improvement project if the discussed information is  
381 protected information under federal law;

382 (e) a meeting of the Compassionate Use Board established in Section [26B-1-421](#) for  
383 the purpose of reviewing petitions for a medical cannabis card in accordance with Section  
384 [26B-1-421](#);

385 (f) a meeting of the Colorado River Authority of Utah if:

386 (i) the purpose of the meeting is to discuss an interstate claim to the use of the water in  
387 the Colorado River system; and

388 (ii) failing to close the meeting would:

389 (A) reveal the contents of a record classified as protected under Subsection  
390 [63G-2-305\(82\)](#);

391 (B) reveal a legal strategy relating to the state's claim to the use of the water in the  
392 Colorado River system;

393 (C) harm the ability of the Colorado River Authority of Utah or river commissioner to  
394 negotiate the best terms and conditions regarding the use of water in the Colorado River  
395 system; or

396 (D) give an advantage to another state or to the federal government in negotiations  
397 regarding the use of water in the Colorado River system;

398 (g) a meeting of the General Regulatory Sandbox Program Advisory Committee if:

399 (i) the purpose of the meeting is to discuss an application for participation in the  
400 regulatory sandbox as defined in Section 63N-16-102; and

401 (ii) failing to close the meeting would reveal the contents of a record classified as  
402 protected under Subsection 63G-2-305(83);

403 (h) a meeting of a project entity if:

404 (i) the purpose of the meeting is to conduct a strategy session to discuss market  
405 conditions relevant to a business decision regarding the value of a project entity asset if the  
406 terms of the business decision are publicly disclosed before the decision is finalized and a  
407 public discussion would:

408 (A) disclose the appraisal or estimated value of the project entity asset under  
409 consideration; or

410 (B) prevent the project entity from completing on the best possible terms a  
411 contemplated transaction concerning the project entity asset;

412 (ii) the purpose of the meeting is to discuss a record, the disclosure of which could  
413 cause commercial injury to, or confer a competitive advantage upon a potential or actual  
414 competitor of, the project entity;

415 (iii) the purpose of the meeting is to discuss a business decision, the disclosure of  
416 which could cause commercial injury to, or confer a competitive advantage upon a potential or  
417 actual competitor of, the project entity; or

418 (iv) failing to close the meeting would prevent the project entity from getting the best  
419 price on the market; and

420 (i) a meeting of the School Activity Eligibility Commission, described in Section  
421 53G-6-1003, if the commission is in effect in accordance with Section 53G-6-1002, to  
422 consider, discuss, or determine, in accordance with Section 53G-6-1004, an individual student's  
423 eligibility to participate in an interscholastic activity, as that term is defined in Section  
424 53G-6-1001, including the commission's determinative vote on the student's eligibility.

425 (3) In a closed meeting, a public body may not:

426 (a) interview a person applying to fill an elected position;

427 (b) discuss filling a midterm vacancy or temporary absence governed by Title 20A,  
428 Chapter 1, Part 5, Candidate Vacancy and Vacancy and Temporary Absence in Elected Office;

429 or

430 (c) discuss the character, professional competence, or physical or mental health of the  
431 person whose name was submitted for consideration to fill a midterm vacancy or temporary  
432 absence governed by Title 20A, Chapter 1, Part 5, Candidate Vacancy and Vacancy and  
433 Temporary Absence in Elected Office.

434 Section 7. Section **63G-2-202** is amended to read:

435 **63G-2-202. Access to private, controlled, and protected documents.**

436 (1) Except as provided in Subsection (11)(a), a governmental entity:

437 (a) shall, upon request, disclose a private record to:

438 (i) the subject of the record;

439 (ii) the parent or legal guardian of an unemancipated minor who is the subject of the  
440 record;

441 (iii) the legal guardian of a legally incapacitated individual who is the subject of the  
442 record;

443 (iv) any other individual who:

444 (A) has a power of attorney from the subject of the record;

445 (B) submits a notarized release from the subject of the record or the individual's legal  
446 representative dated no more than 90 days before the date the request is made; or

447 (C) if the record is a medical record described in Subsection **63G-2-302(1)(b)**, is a  
448 health care provider, as defined in Section **26B-8-501**, if releasing the record or information in  
449 the record is consistent with normal professional practice and medical ethics; or

450 (v) any person to whom the record must be provided pursuant to:

451 (A) court order as provided in Subsection (7); or

452 (B) a legislative subpoena as provided in Title 36, Chapter 14, Legislative Subpoena  
453 Powers; and

454 (b) may disclose a private record described in Subsections **63G-2-302(1)(j)** through  
455 (m), without complying with Section **63G-2-206**, to another governmental entity for a purpose  
456 related to:

457 (i) voter registration; or

458 (ii) the administration of an election.

459 (2) (a) Upon request, a governmental entity shall disclose a controlled record to:

460 (i) a physician, physician assistant, psychologist, certified social worker, insurance  
461 provider or producer, or a government public health agency upon submission of:

462 (A) a release from the subject of the record that is dated no more than 90 days prior to  
463 the date the request is made; and

464 (B) a signed acknowledgment of the terms of disclosure of controlled information as  
465 provided by Subsection (2)(b); and

466 (ii) any person to whom the record must be disclosed pursuant to:

467 (A) a court order as provided in Subsection (7); or

468 (B) a legislative subpoena as provided in Title 36, Chapter 14, Legislative Subpoena  
469 Powers.

470 (b) A person who receives a record from a governmental entity in accordance with  
471 Subsection (2)(a)(i) may not disclose controlled information from that record to any person,  
472 including the subject of the record.

473 (3) If there is more than one subject of a private or controlled record, the portion of the  
474 record that pertains to another subject shall be segregated from the portion that the requester is  
475 entitled to inspect.

476 (4) Upon request, and except as provided in Subsection (11)(b), a governmental entity  
477 shall disclose a protected record to:

478 (a) the person that submitted the record;

479 (b) any other individual who:

480 (i) has a power of attorney from all persons, governmental entities, or political  
481 subdivisions whose interests were sought to be protected by the protected classification; or

482 (ii) submits a notarized release from all persons, governmental entities, or political  
483 subdivisions whose interests were sought to be protected by the protected classification or from  
484 their legal representatives dated no more than 90 days prior to the date the request is made;

485 (c) any person to whom the record must be provided pursuant to:

486 (i) a court order as provided in Subsection (7); or

487 (ii) a legislative subpoena as provided in Title 36, Chapter 14, Legislative Subpoena  
488 Powers; or

489 (d) the owner of a mobile home park, subject to the conditions of Subsection

490 [41-1a-116\(5\)](#).



491 (5) Except as provided in Subsection (1)(b), a governmental entity may disclose a  
492 private, controlled, or protected record to another governmental entity, political subdivision,  
493 state, the United States, or a foreign government only as provided by Section [63G-2-206](#).

494 (6) Before releasing a private, controlled, or protected record, the governmental entity  
495 shall obtain evidence of the requester's identity.

496 (7) A governmental entity shall disclose a record pursuant to the terms of a court order  
497 signed by a judge from a court of competent jurisdiction, provided that:

498 (a) the record deals with a matter in controversy over which the court has jurisdiction;

499 (b) the court has considered the merits of the request for access to the record;

500 (c) the court has considered and, where appropriate, limited the requester's use and  
501 further disclosure of the record in order to protect:

502 (i) privacy interests in the case of private or controlled records;

503 (ii) business confidentiality interests in the case of records protected under Subsection  
504 [63G-2-305](#)(1), (2), (40)(a)(ii), or (40)(a)(vi); and

505 (iii) privacy interests or the public interest in the case of other protected records;

506 (d) to the extent the record is properly classified private, controlled, or protected, the  
507 interests favoring access, considering limitations thereon, are greater than or equal to the  
508 interests favoring restriction of access; and

509 (e) where access is restricted by a rule, statute, or regulation referred to in Subsection  
510 [63G-2-201](#)(3)(b), the court has authority independent of this chapter to order disclosure.

511 (8) (a) Except as provided in Subsection (8)(d), a governmental entity may disclose or  
512 authorize disclosure of private or controlled records for research purposes if the governmental  
513 entity:

514 (i) determines that the research purpose cannot reasonably be accomplished without  
515 use or disclosure of the information to the researcher in individually identifiable form;

516 (ii) determines that:

517 (A) the proposed research is bona fide; and

518 (B) the value of the research is greater than or equal to the infringement upon personal  
519 privacy;

520 (iii) (A) requires the researcher to assure the integrity, confidentiality, and security of  
521 the records; and

522 (B) requires the removal or destruction of the individual identifiers associated with the  
523 records as soon as the purpose of the research project has been accomplished;

524 (iv) prohibits the researcher from:

525 (A) disclosing the record in individually identifiable form, except as provided in  
526 Subsection (8)(b); or

527 (B) using the record for purposes other than the research approved by the governmental  
528 entity; and

529 (v) secures from the researcher a written statement of the researcher's understanding of  
530 and agreement to the conditions of this Subsection (8) and the researcher's understanding that  
531 violation of the terms of this Subsection (8) may subject the researcher to criminal prosecution  
532 under Section 63G-2-801.

533 (b) A researcher may disclose a record in individually identifiable form if the record is  
534 disclosed for the purpose of auditing or evaluating the research program and no subsequent use  
535 or disclosure of the record in individually identifiable form will be made by the auditor or  
536 evaluator except as provided by this section.

537 (c) A governmental entity may require indemnification as a condition of permitting  
538 research under this Subsection (8).

539 (d) A governmental entity may not disclose or authorize disclosure of a private record  
540 for research purposes as described in this Subsection (8) if the private record is a record  
541 described in Subsection 63G-2-302(1)(w).

542 (9) (a) Under Subsections 63G-2-201(5)(b) and 63G-2-401(6), a governmental entity  
543 may disclose to persons other than those specified in this section records that are:

544 (i) private under Section 63G-2-302; or

545 (ii) protected under Section 63G-2-305, subject to Section 63G-2-309 if a claim for  
546 business confidentiality has been made under Section 63G-2-309.

547 (b) Under Subsection 63G-2-403(11)(b), the State Records Committee may require the  
548 disclosure to persons other than those specified in this section of records that are:

549 (i) private under Section 63G-2-302;

550 (ii) controlled under Section 63G-2-304; or

551 (iii) protected under Section 63G-2-305, subject to Section 63G-2-309 if a claim for  
552 business confidentiality has been made under Section 63G-2-309.

553 (c) Under Subsection 63G-2-404(7), the court may require the disclosure of records  
554 that are private under Section 63G-2-302, controlled under Section 63G-2-304, or protected  
555 under Section 63G-2-305 to persons other than those specified in this section.

556 (10) (a) A private record described in Subsection 63G-2-302(2)(f) may only be  
557 disclosed as provided in Subsection (1)(a)(v).

558 (b) A protected record described in Subsection 63G-2-305(43) may only be disclosed  
559 as provided in Subsection (4)(c) or Section 26B-6-212.

560 (11) (a) A private, protected, or controlled record described in Section 26B-1-506 shall  
561 be disclosed as required under:

562 (i) Subsections 26B-1-506(1)(b)[;] and (2)[; ~~and (4)(c)~~]; and

563 (ii) Subsections 26B-1-507(1) and (6).

564 (b) A record disclosed under Subsection (11)(a) shall retain its character as private,  
565 protected, or controlled.

566 Section 8. **Effective date.**

567 This bill takes effect on May 1, 2024.