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FATALITY REVIEW AMENDMENTS
2024 GENERAL SESSION
STATE OF UTAH
Chief Sponsor: Christine F. Watkins
Senate Sponsor: Michael S. Kennedy

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
- 26B-1-505**, as renumbered and amended by Laws of Utah 2023, Chapter 305
- 26B-1-506**, as renumbered and amended by Laws of Utah 2023, Chapter 305
- 26B-1-507**, as renumbered and amended by Laws of Utah 2023, Chapter 305
- 52-4-205**, as last amended by Laws of Utah 2023, Chapters 263, 328, 374, and 521
- 63G-2-202**, as last amended by Laws of Utah 2023, Chapter 329

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

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

29 **26B-1-501 . Definitions.**

30 As used in this part:

- 31 (1) "Abuse" means the same as that term is defined in Section 80-1-102.
- 32 (2) "Child" means the same as that term is defined in Section 80-1-102.
- 33 (3) "Committee" means a fatality review committee that is formed under Section 26B-1-503
34 or 26B-1-504.
- 35 (4) "Dependency" means the same as that term is defined in Section 80-1-102.
- 36 (5) "Formal review" means a review of a death or a near fatality that is ordered under
37 Subsection [~~26B-1-502(6)~~] 26B-1-502(5).
- 38 (6) "Near fatality" means alleged abuse or neglect that, as certified by a physician, places a
39 child in serious or critical condition.
- 40 (7) "Qualified individual" means an individual who:
- 41 (a) at the time that the individual dies, is a resident of a facility or program that is owned
42 or operated by the department or a division of the department;
- 43 (b) (i) is in the custody of the department or a division of the department; and
44 (ii) is placed in a residential placement by the department or a division of the
45 department;
- 46 (c) at the time that the individual dies, has an open case for the receipt of child welfare
47 services, including:
- 48 (i) an investigation for abuse, neglect, or dependency;
- 49 (ii) foster care;
- 50 (iii) in-home services; or
- 51 (iv) substitute care;
- 52 (d) had an open case for the receipt of child welfare services within one year before the
53 day on which the individual dies;
- 54 (e) was the subject of an accepted referral received by Adult Protective Services within
55 one year before the day on which the individual dies, if:
- 56 (i) the department or a division of the department is aware of the death; and
57 (ii) the death is reported as a homicide, suicide, or an undetermined cause;
- 58 (f) received services from, or under the direction of, the Division of Services for People
59 with Disabilities within one year before the day on which the individual dies[~~, unless~~
60 ~~the individual;~~];
- 61 [~~(i) lived in the individual's home at the time of death; and]~~

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

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

67 (h) is a child who:

68 (i) suffers a near fatality; and

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

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

72 (B) foster care;

73 (C) in-home services; or

74 (D) substitute care; or

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

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

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

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

79 **26B-1-502 . Initial review.**

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

83 (a) (i) for a death, complete a deceased client report form, created by the department;
 84 or

85 (ii) for an individual described in Subsection 26B-1-501(7)(h), complete a near
 86 fatality client report form, created by the department; and

87 (b) forward the completed client report form to[-] :

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

89 (ii) the executive director;

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

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

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

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

96 ~~[(b) the fatality review coordinator or the fatality review coordinator's designee.]~~
 97 ~~[(3)]~~ (2) Within 10 days after the day on which the fatality review coordinator or the fatality
 98 review coordinator's designee receives a copy of the near fatality client report form or
 99 the deceased client report form, the fatality review coordinator or the fatality review
 100 coordinator's designee shall request a copy of all relevant department case records, or
 101 electronic access to all relevant department case records, regarding the individual who is
 102 the subject of the client report form.

103 ~~[(4)]~~ (3) Each person who receives a request for a record described in Subsection ~~[(3)]~~ (2)
 104 shall provide a copy of the record, or electronic access to the record, to the fatality
 105 review coordinator or the fatality review coordinator's designee, by a secure method,
 106 within seven days after the day on which the request is made.

107 ~~[(5)]~~ (4) Within 30 days after the day on which the fatality review coordinator or the fatality
 108 review coordinator's designee receives the case records requested under Subsection ~~[(3)]~~
 109 (2), the fatality review coordinator, or the fatality review coordinator's designee, shall:
 110 (a) review the client report form, the case files, and other relevant information received
 111 by the fatality review coordinator; and
 112 (b) make a recommendation to the director of the Division of Continuous Quality and
 113 Improvement regarding whether a formal review of the death or near fatality should
 114 be conducted.

115 ~~[(6)]~~ (5) (a) In accordance with Subsection ~~[(6)(b)]~~ (5)(b), within ~~[seven]~~ 14 days after the
 116 day on which the fatality review coordinator or the fatality review coordinator's
 117 designee makes the recommendation described in Subsection ~~[(5)(b)]~~ (4)(b), the
 118 director of the Division of Continuous Quality and Improvement or the director's
 119 designee shall determine whether to order that a review of the death or near fatality
 120 be conducted.

121 (b) The director of the Division of Continuous Quality and Improvement or the director's
 122 designee shall order that a formal review of the death or near fatality be conducted if:
 123 (i) at the time of the near fatality or the death, the qualified individual is:

124 (A) an individual described in ~~[Subsection 26B-1-501(6)(a) or (b)]~~ Subsections
 125 26B-1-501(7)(a) through (h), unless:

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

127 (II) the director of the Division of Continuous Quality and Improvement or the
 128 director's designee determines that the near fatality or the death was not in
 129 any way related to services that were provided by, or under the direction of,

- 130 the department or a division of the department; or
- 131 (B) a child in foster care or substitute care, unless the near fatality or the death is
- 132 due to:
- 133 (I) a natural cause; or
- 134 (II) an accident;
- 135 (ii) it appears, based on the information provided to the director of the Division of
- 136 Continuous Quality and Improvement or the director's designee, that:
- 137 (A) a provision of law, rule, policy, or procedure relating to the qualified
- 138 individual or the individual's family may not have been complied with;
- 139 (B) the near fatality or the fatality was not responded to properly;
- 140 (C) a law, rule, policy, or procedure may need to be changed; or
- 141 (D) additional training is needed;
- 142 (iii) (A) the death is caused by suicide; or
- 143 (B) the near fatality is caused by attempted suicide; or
- 144 (iv) the director of the Division of Continuous Quality and Improvement or the
- 145 director's designee determines that another reason exists to order that a review of
- 146 the near fatality or the death be conducted.

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

148 **26B-1-505 . Fatality review committee proceedings.**

- 149 (1) A majority vote of committee members present constitutes the action of the committee.
- 150 (2) The department shall give the committee access to all reports, records, and other
- 151 documents that are relevant to the near fatality or the death under investigation,
- 152 including:
- 153 (a) narrative reports;
- 154 (b) case files;
- 155 (c) autopsy reports; and
- 156 (d) police reports, unless the report is protected from disclosure under Subsection
- 157 63G-2-305(10) or (11).
- 158 (3) The Utah State Hospital and the Utah State Developmental Center shall provide
- 159 protected health information to the committee if requested by a fatality review
- 160 coordinator.
- 161 (4) A committee shall convene [~~its first meeting within 14 days after the day on which a~~
- 162 ~~formal review is ordered~~] monthly, unless this time is extended, for good cause, by the
- 163 director of the Division of Continuous Quality and Improvement.

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

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

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

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

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

171 (d) whether additional training is needed.

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

173 **26B-1-506 . Fatality review committee report -- Response to report.**

174 (1) Within 20 days after the day on which the committee proceedings described in Section
175 26B-1-505 end, the committee shall submit:

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

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

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

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

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

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

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

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

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

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

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

195 (d) indicates that additional training is needed.

196 (3) The response described in Subsection (2) shall include[-] :

197 (a) a plan of action to implement any recommended improvements within the [office or

- 198 ~~division]~~ department; and
- 199 (b) the approval of the executive director or the executive director's designee for the plan
- 200 described in Subsection (3)(a).
- 201 [~~(4) Within 30 days after the day on which the executive director receives the response~~
- 202 ~~described in Subsection (2), the executive director, or the executive director's designee~~
- 203 ~~shall:]~~
- 204 [~~(a) review the plan of action described in Subsection (3);]~~
- 205 [~~(b) make any written response that the executive director or the executive director's~~
- 206 ~~designee determines is necessary;]~~
- 207 [~~(c) provide a copy of the written response described in Subsection (4)(b), with only~~
- 208 ~~identifying information redacted, to the Office of Legislative Research and General~~
- 209 ~~Counsel; and]~~
- 210 [~~(d) provide an unredacted copy of the response described in Subsection (4)(b) to the~~
- 211 ~~director of the Division of Continuous Quality and Improvement.]~~
- 212 [~~(5)] (4) A report described in Subsection (1) and [~~each]~~ the response described in [~~this~~~~
- 213 ~~section]~~ Subsection (2) is a protected record.
- 214 [~~(6)] (5) (a) As used in this Subsection [~~(6)] (5), "fatality review document" means any~~~~
- 215 document created in connection with, or as a result of, a formal review of a near
- 216 fatality or a death, or a decision whether to conduct a formal review of a near fatality
- 217 or a death, including:
- 218 (i) a report described in Subsection (1);
- 219 (ii) a response described in [~~this section]~~ Subsection (2);
- 220 (iii) a recommendation regarding whether a formal review should be conducted;
- 221 (iv) a decision to conduct a formal review;
- 222 (v) notes of a person who participates in a formal review;
- 223 (vi) notes of a person who reviews a formal review report;
- 224 (vii) minutes of a formal review;
- 225 (viii) minutes of a meeting where a formal review report is reviewed; and
- 226 (ix) minutes of, documents received in relation to, and documents generated in
- 227 relation to, the portion of a meeting of the Health and Human Services Interim
- 228 Committee or the Child Welfare Legislative Oversight Panel that a formal review
- 229 report or a document described in this Subsection [~~(6)(a)] (5)(a) is reviewed or~~
- 230 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
 233 individual or organization with lawful access to the data be compelled to testify with
 234 regard to a report described in Subsection (1) or a response described in [~~this section~~]
 235 Subsection (2).

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

238 (i) a fatality review document; and

239 (ii) an executive summary described in Subsection 26B-1-507(4).

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

241 **26B-1-507 . Reporting to, and review by, legislative committees.**

242 (1) [~~The Office of Legislative Research and General Counsel~~] On or before September 1 of
 243 each year, the department shall provide, with only identifying information redacted, a
 244 copy of the report described in Subsection [~~26B-1-506(1)(e)~~] 26B-1-506(1)(b), and the [~~responses~~]
 245 response described in [~~Subsections 26B-1-506(2) and (4)(e)~~] Subsection
 246 26B-1-506(2) to the Office of Legislative Research and General Counsel and the chairs
 247 of:

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

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

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

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

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

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

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

264 (4) [~~(a)~~] On or before September 1 of each year, the department shall provide an
 265 executive summary of all formal review reports for the preceding state fiscal year to[

- 266 ~~the Office of Legislative Research and General Counsel.] :~~
267 ~~[(b)] (a) [The] the Office of Legislative Research and General Counsel[shall forward a~~
268 ~~copy of the executive summary described in Subsection (4)(a) to:] :~~
269 ~~[(+)] (b) the Health and Human Services Interim Committee; and~~
270 ~~[(+)] (c) the Child Welfare Legislative Oversight Panel.~~
271 (5) The executive summary described in Subsection (4):
272 (a) may not include any names or identifying information;
273 (b) shall include:
274 (i) all recommendations regarding changes to the law that were made during the
275 preceding fiscal year under Subsection 26B-1-505(6);
276 (ii) all changes made, or in the process of being made, to a law, rule, policy, or
277 procedure in response to a formal review that occurred during the preceding fiscal
278 year;
279 (iii) a description of the training that has been completed in response to a formal
280 review that occurred during the preceding fiscal year;
281 (iv) statistics for the preceding fiscal year regarding:
282 (A) the number of qualified individuals and the type of deaths and near fatalities
283 that are known to the department;
284 (B) the number of formal reviews conducted;
285 (C) the categories described in Subsection 26B-1-501(7) of qualified individuals;
286 (D) the gender, age, race, and other significant categories of qualified individuals;
287 and
288 (E) the number of fatalities of qualified individuals known to the department that
289 are identified as suicides; and
290 (v) action taken by the Division of Licensing and Background Checks~~[and the~~
291 ~~Bureau of Internal Review and Audits]~~ in response to the near fatality or the death
292 of a qualified individual; and
293 (c) is a public document.
294 (6) The Division of Child and Family Services shall, to the extent required by the federal
295 Child Abuse Prevention and Treatment Act of 1988, Pub. L. No. 93-247, as amended,
296 allow public disclosure of the findings or information relating to a case of child abuse or
297 neglect that results in a child fatality or a near fatality.
298 Section 6. Section **52-4-205** is amended to read:
299 **52-4-205 . Purposes of closed meetings -- Certain issues prohibited in closed**

300 **meetings.**

- 301 (1) A closed meeting described under Section 52-4-204 may only be held for:
- 302 (a) except as provided in Subsection (3), discussion of the character, professional
303 competence, or physical or mental health of an individual;
- 304 (b) strategy sessions to discuss collective bargaining;
- 305 (c) strategy sessions to discuss pending or reasonably imminent litigation;
- 306 (d) strategy sessions to discuss the purchase, exchange, or lease of real property,
307 including any form of a water right or water shares, or to discuss a proposed
308 development agreement, project proposal, or financing proposal related to the
309 development of land owned by the state, if public discussion would:
- 310 (i) disclose the appraisal or estimated value of the property under consideration; or
311 (ii) prevent the public body from completing the transaction on the best possible
312 terms;
- 313 (e) strategy sessions to discuss the sale of real property, including any form of a water
314 right or water shares, if:
- 315 (i) public discussion of the transaction would:
- 316 (A) disclose the appraisal or estimated value of the property under consideration;
317 or
- 318 (B) prevent the public body from completing the transaction on the best possible
319 terms;
- 320 (ii) the public body previously gave public notice that the property would be offered
321 for sale; and
- 322 (iii) the terms of the sale are publicly disclosed before the public body approves the
323 sale;
- 324 (f) discussion regarding deployment of security personnel, devices, or systems;
- 325 (g) investigative proceedings regarding allegations of criminal misconduct;
- 326 (h) as relates to the Independent Legislative Ethics Commission, conducting business
327 relating to the receipt or review of ethics complaints;
- 328 (i) as relates to an ethics committee of the Legislature, a purpose permitted under
329 Subsection 52-4-204(1)(a)(iii)(C);
- 330 (j) as relates to the Independent Executive Branch Ethics Commission created in Section
331 63A-14-202, conducting business relating to an ethics complaint;
- 332 (k) as relates to a county legislative body, discussing commercial information as defined
333 in Section 59-1-404;

- 334 (l) as relates to the Utah Higher Education Savings Board of Trustees and its appointed
335 board of directors, discussing fiduciary or commercial information;
- 336 (m) deliberations, not including any information gathering activities, of a public body
337 acting in the capacity of:
- 338 (i) an evaluation committee under Title 63G, Chapter 6a, Utah Procurement Code,
339 during the process of evaluating responses to a solicitation, as defined in Section
340 63G-6a-103;
- 341 (ii) a protest officer, defined in Section 63G-6a-103, during the process of making a
342 decision on a protest under Title 63G, Chapter 6a, Part 16, Protests; or
- 343 (iii) a procurement appeals panel under Title 63G, Chapter 6a, Utah Procurement
344 Code, during the process of deciding an appeal under Title 63G, Chapter 6a, Part
345 17, Procurement Appeals Board;
- 346 (n) the purpose of considering information that is designated as a trade secret, as defined
347 in Section 13-24-2, if the public body's consideration of the information is necessary
348 to properly conduct a procurement under Title 63G, Chapter 6a, Utah Procurement
349 Code;
- 350 (o) the purpose of discussing information provided to the public body during the
351 procurement process under Title 63G, Chapter 6a, Utah Procurement Code, if, at the
352 time of the meeting:
- 353 (i) the information may not, under Title 63G, Chapter 6a, Utah Procurement Code, be
354 disclosed to a member of the public or to a participant in the procurement process;
355 and
- 356 (ii) the public body needs to review or discuss the information to properly fulfill its
357 role and responsibilities in the procurement process;
- 358 (p) as relates to the governing board of a governmental nonprofit corporation, as that
359 term is defined in Section 11-13a-102, the purpose of discussing information that is
360 designated as a trade secret, as that term is defined in Section 13-24-2, if:
- 361 (i) public knowledge of the discussion would reasonably be expected to result in
362 injury to the owner of the trade secret; and
- 363 (ii) discussion of the information is necessary for the governing board to properly
364 discharge the board's duties and conduct the board's business;
- 365 (q) as it relates to the Cannabis Production Establishment Licensing Advisory Board, to
366 review confidential information regarding violations and security requirements in
367 relation to the operation of cannabis production establishments;

- 368 (r) considering a loan application, if public discussion of the loan application would
369 disclose:
- 370 (i) nonpublic personal financial information; or
371 (ii) a nonpublic trade secret, as defined in Section 13-24-2, or nonpublic business
372 financial information the disclosure of which would reasonably be expected to
373 result in unfair competitive injury to the person submitting the information;
- 374 (s) a discussion of the board of the Point of the Mountain State Land Authority, created
375 in Section 11-59-201, regarding a potential tenant of point of the mountain state land,
376 as defined in Section 11-59-102; or
- 377 (t) a purpose for which a meeting is required to be closed under Subsection (2).
- 378 (2) The following meetings shall be closed:
- 379 (a) a meeting of the Health and Human Services Interim Committee to review a report
380 described in Subsection 26B-1-506(1)(a), and [~~the responses~~] a response to the report
381 described in [~~Subsections 26B-1-506(2) and (4)~~] Subsection 26B-1-506(2);
- 382 (b) a meeting of the Child Welfare Legislative Oversight Panel to:
- 383 (i) review a report described in Subsection 26B-1-506(1)(a), and [~~the responses~~] a
384 response to the report described in [~~Subsections 26B-1-506(2) and (4)~~] Subsection
385 26B-1-506(2); or
- 386 (ii) review and discuss an individual case, as described in Subsection 36-33-103(2);
- 387 (c) a meeting of the Opioid and Overdose Fatality Review Committee, created in Section
388 26B-1-403, to review and discuss an individual case, as described in Subsection
389 26B-1-403(10);
- 390 (d) a meeting of a conservation district as defined in Section 17D-3-102 for the purpose
391 of advising the Natural Resource Conservation Service of the United States
392 Department of Agriculture on a farm improvement project if the discussed
393 information is protected information under federal law;
- 394 (e) a meeting of the Compassionate Use Board established in Section 26B-1-421 for the
395 purpose of reviewing petitions for a medical cannabis card in accordance with
396 Section 26B-1-421;
- 397 (f) a meeting of the Colorado River Authority of Utah if:
- 398 (i) the purpose of the meeting is to discuss an interstate claim to the use of the water
399 in the Colorado River system; and
- 400 (ii) failing to close the meeting would:
- 401 (A) reveal the contents of a record classified as protected under Subsection

- 402 63G-2-305(82);
- 403 (B) reveal a legal strategy relating to the state's claim to the use of the water in the
404 Colorado River system;
- 405 (C) harm the ability of the Colorado River Authority of Utah or river
406 commissioner to negotiate the best terms and conditions regarding the use of
407 water in the Colorado River system; or
- 408 (D) give an advantage to another state or to the federal government in negotiations
409 regarding the use of water in the Colorado River system;
- 410 (g) a meeting of the General Regulatory Sandbox Program Advisory Committee if:
- 411 (i) the purpose of the meeting is to discuss an application for participation in the
412 regulatory sandbox as defined in Section 63N-16-102; and
- 413 (ii) failing to close the meeting would reveal the contents of a record classified as
414 protected under Subsection 63G-2-305(83);
- 415 (h) a meeting of a project entity if:
- 416 (i) the purpose of the meeting is to conduct a strategy session to discuss market
417 conditions relevant to a business decision regarding the value of a project entity
418 asset if the terms of the business decision are publicly disclosed before the
419 decision is finalized and a public discussion would:
- 420 (A) disclose the appraisal or estimated value of the project entity asset under
421 consideration; or
- 422 (B) prevent the project entity from completing on the best possible terms a
423 contemplated transaction concerning the project entity asset;
- 424 (ii) the purpose of the meeting is to discuss a record, the disclosure of which could
425 cause commercial injury to, or confer a competitive advantage upon a potential or
426 actual competitor of, the project entity;
- 427 (iii) the purpose of the meeting is to discuss a business decision, the disclosure of
428 which could cause commercial injury to, or confer a competitive advantage upon a
429 potential or actual competitor of, the project entity; or
- 430 (iv) failing to close the meeting would prevent the project entity from getting the best
431 price on the market; and
- 432 (i) a meeting of the School Activity Eligibility Commission, described in Section
433 53G-6-1003, if the commission is in effect in accordance with Section 53G-6-1002,
434 to consider, discuss, or determine, in accordance with Section 53G-6-1004, an
435 individual student's eligibility to participate in an interscholastic activity, as that term

436 is defined in Section 53G-6-1001, including the commission's determinative vote on
437 the student's eligibility.

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

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

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

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

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

448 **63G-2-202 . Access to private, controlled, and protected documents.**

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

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

451 (i) the subject of the record;

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

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

456 (iv) any other individual who:

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

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

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

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

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

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

469 (b) may disclose a private record described in Subsections 63G-2-302(1)(j) through (m),

- 470 without complying with Section 63G-2-206, to another governmental entity for a
471 purpose related to:
- 472 (i) voter registration; or
473 (ii) the administration of an election.
- 474 (2) (a) Upon request, a governmental entity shall disclose a controlled record to:
- 475 (i) a physician, physician assistant, psychologist, certified social worker, insurance
476 provider or producer, or a government public health agency upon submission of:
- 477 (A) a release from the subject of the record that is dated no more than 90 days
478 prior to the date the request is made; and
479 (B) a signed acknowledgment of the terms of disclosure of controlled information
480 as provided by Subsection (2)(b); and
- 481 (ii) any person to whom the record must be disclosed pursuant to:
- 482 (A) a court order as provided in Subsection (7); or
483 (B) a legislative subpoena as provided in Title 36, Chapter 14, Legislative
484 Subpoena Powers.
- 485 (b) A person who receives a record from a governmental entity in accordance with
486 Subsection (2)(a)(i) may not disclose controlled information from that record to any
487 person, including the subject of the record.
- 488 (3) If there is more than one subject of a private or controlled record, the portion of the
489 record that pertains to another subject shall be segregated from the portion that the
490 requester is entitled to inspect.
- 491 (4) Upon request, and except as provided in Subsection (11)(b), a governmental entity shall
492 disclose a protected record to:
- 493 (a) the person that submitted the record;
494 (b) any other individual who:
- 495 (i) has a power of attorney from all persons, governmental entities, or political
496 subdivisions whose interests were sought to be protected by the protected
497 classification; or
498 (ii) submits a notarized release from all persons, governmental entities, or political
499 subdivisions whose interests were sought to be protected by the protected
500 classification or from their legal representatives dated no more than 90 days prior
501 to the date the request is made;
- 502 (c) any person to whom the record must be provided pursuant to:
- 503 (i) a court order as provided in Subsection (7); or

- 504 (ii) a legislative subpoena as provided in Title 36, Chapter 14, Legislative Subpoena
505 Powers; or
- 506 (d) the owner of a mobile home park, subject to the conditions of Subsection 41-1a-116
507 (5).
- 508 (5) Except as provided in Subsection (1)(b), a governmental entity may disclose a private,
509 controlled, or protected record to another governmental entity, political subdivision,
510 state, the United States, or a foreign government only as provided by Section 63G-2-206.
- 511 (6) Before releasing a private, controlled, or protected record, the governmental entity shall
512 obtain evidence of the requester's identity.
- 513 (7) A governmental entity shall disclose a record pursuant to the terms of a court order
514 signed by a judge from a court of competent jurisdiction, provided that:
- 515 (a) the record deals with a matter in controversy over which the court has jurisdiction;
516 (b) the court has considered the merits of the request for access to the record;
517 (c) the court has considered and, where appropriate, limited the requester's use and
518 further disclosure of the record in order to protect:
- 519 (i) privacy interests in the case of private or controlled records;
520 (ii) business confidentiality interests in the case of records protected under
521 Subsection 63G-2-305(1), (2), (40)(a)(ii), or (40)(a)(vi); and
522 (iii) privacy interests or the public interest in the case of other protected records;
- 523 (d) to the extent the record is properly classified private, controlled, or protected, the
524 interests favoring access, considering limitations thereon, are greater than or equal to
525 the interests favoring restriction of access; and
- 526 (e) where access is restricted by a rule, statute, or regulation referred to in Subsection
527 63G-2-201(3)(b), the court has authority independent of this chapter to order
528 disclosure.
- 529 (8) (a) Except as provided in Subsection (8)(d), a governmental entity may disclose or
530 authorize disclosure of private or controlled records for research purposes if the
531 governmental entity:
- 532 (i) determines that the research purpose cannot reasonably be accomplished without
533 use or disclosure of the information to the researcher in individually identifiable
534 form;
- 535 (ii) determines that:
- 536 (A) the proposed research is bona fide; and
537 (B) the value of the research is greater than or equal to the infringement upon

- 538 personal privacy;
- 539 (iii) (A) requires the researcher to assure the integrity, confidentiality, and security
- 540 of the records; and
- 541 (B) requires the removal or destruction of the individual identifiers associated
- 542 with the records as soon as the purpose of the research project has been
- 543 accomplished;
- 544 (iv) prohibits the researcher from:
- 545 (A) disclosing the record in individually identifiable form, except as provided in
- 546 Subsection (8)(b); or
- 547 (B) using the record for purposes other than the research approved by the
- 548 governmental entity; and
- 549 (v) secures from the researcher a written statement of the researcher's understanding
- 550 of and agreement to the conditions of this Subsection (8) and the researcher's
- 551 understanding that violation of the terms of this Subsection (8) may subject the
- 552 researcher to criminal prosecution under Section 63G-2-801.
- 553 (b) A researcher may disclose a record in individually identifiable form if the record is
- 554 disclosed for the purpose of auditing or evaluating the research program and no
- 555 subsequent use or disclosure of the record in individually identifiable form will be
- 556 made by the auditor or evaluator except as provided by this section.
- 557 (c) A governmental entity may require indemnification as a condition of permitting
- 558 research under this Subsection (8).
- 559 (d) A governmental entity may not disclose or authorize disclosure of a private record
- 560 for research purposes as described in this Subsection (8) if the private record is a
- 561 record described in Subsection 63G-2-302(1)(w).
- 562 (9) (a) Under Subsections 63G-2-201(5)(b) and 63G-2-401(6), a governmental entity
- 563 may disclose to persons other than those specified in this section records that are:
- 564 (i) private under Section 63G-2-302; or
- 565 (ii) protected under Section 63G-2-305, subject to Section 63G-2-309 if a claim for
- 566 business confidentiality has been made under Section 63G-2-309.
- 567 (b) Under Subsection 63G-2-403(11)(b), the State Records Committee may require the
- 568 disclosure to persons other than those specified in this section of records that are:
- 569 (i) private under Section 63G-2-302;
- 570 (ii) controlled under Section 63G-2-304; or
- 571 (iii) protected under Section 63G-2-305, subject to Section 63G-2-309 if a claim for

- 572 business confidentiality has been made under Section 63G-2-309.
- 573 (c) Under Subsection 63G-2-404(7), the court may require the disclosure of records that
574 are private under Section 63G-2-302, controlled under Section 63G-2-304, or
575 protected under Section 63G-2-305 to persons other than those specified in this
576 section.
- 577 (10) (a) A private record described in Subsection 63G-2-302(2)(f) may only be disclosed
578 as provided in Subsection (1)(a)(v).
- 579 (b) A protected record described in Subsection 63G-2-305(43) may only be disclosed as
580 provided in Subsection (4)(c) or Section 26B-6-212.
- 581 (11) (a) A private, protected, or controlled record described in Section 26B-1-506 shall
582 be disclosed as required under:
- 583 (i) Subsections 26B-1-506(1)(b)[,] and (2)[, ~~and (4)(e)~~]; and
584 (ii) Subsections 26B-1-507(1) and (6).
- 585 (b) A record disclosed under Subsection (11)(a) shall retain its character as private,
586 protected, or controlled.
- 587 Section 8. **Effective date.**
- 588 This bill takes effect on May 1, 2024.