

GOVERNMENT RECORDS ACCESS AMENDMENTS

2023 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Andrew Stoddard

Senate Sponsor: _____

LONG TITLE

General Description:

This bill modifies provisions of the Government Records Access and Management Act related to records on a personal electronic device.

Highlighted Provisions:

This bill:

▸ modifies the definition of "record" and enacts a definition of "personal electronic device" for purposes of the Government Records Access and Management Act;

▸ provides a process for searching the personal electronic device of an officer or employee of a governmental entity for records that are responsive to a record request;

▸ provides criminal penalties for an officer or employee who refuses to conduct a search or who submits a materially false sworn declaration;

▸ modifies a provision allowing a governmental entity to impose disciplinary action against an employee; and

▸ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:



28 AMENDS:

29 **20A-11-1205**, as last amended by Laws of Utah 2020, Chapter 22

30 **63G-2-103**, as last amended by Laws of Utah 2021, Chapters 211 and 283

31 **63G-2-801**, as last amended by Laws of Utah 2019, Chapter 254

32 **63G-2-804**, as last amended by Laws of Utah 2009, Chapter 44

33 **77-27-5**, as last amended by Laws of Utah 2021, Chapters 21, 246, 260 and last

34 amended by Coordination Clause, Laws of Utah 2021, Chapter 260

35 ENACTS:

36 **63G-2-204.5**, Utah Code Annotated 1953



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

39 Section 1. Section **20A-11-1205** is amended to read:

40 **20A-11-1205. Use of public email for a political purpose.**

41 (1) Except as provided in Subsection (5), a person may not send an email using the
42 email of a public entity:

43 (a) for a political purpose;

44 (b) to advocate for or against a proposed initiative, initiative, proposed referendum,
45 referendum, a proposed bond, a bond, or any ballot proposition; or

46 (c) to solicit a campaign contribution.

47 (2) (a) The lieutenant governor shall, after giving the person and the complainant
48 notice and an opportunity to be heard, impose a civil fine against a person who violates
49 Subsection (1) as follows:

50 (i) up to \$250 for a first violation; and

51 (ii) except as provided in Subsection (3), for each subsequent violation committed after
52 the lieutenant governor imposes a fine against the person for a first violation, \$1,000 multiplied
53 by the number of violations committed by the person.

54 (b) A person may, within 30 days after the day on which the lieutenant governor
55 imposes a fine against the person under this Subsection (2), appeal the fine to a district court.

56 (3) The lieutenant governor shall consider a violation of this section as a first violation
57 if the violation is committed more than seven years after the day on which the person last
58 committed a violation of this section.

59 (4) For purposes of this section, one violation means one act of sending an email,
60 regardless of the number of recipients of the email.

61 (5) A person does not violate this section if:

62 (a) the lieutenant governor finds that the email described in Subsection (1) was
63 inadvertently sent by the person using the email of a public entity;

64 (b) the person is directly providing information solely to another person or a group of
65 people in response to a question asked by the other person or group of people;

66 (c) the information the person emails is an argument or rebuttal argument prepared
67 under Section 20A-7-401.5 or 20A-7-402, and the email includes each opposing argument and
68 rebuttal argument that:

69 (i) relates to the same proposed initiative, initiative, proposed referendum, or
70 referendum; and

71 (ii) complies with the requirements of Section 20A-7-401.5 or 20A-7-402; or

72 (d) the person is engaging in:

73 (i) an internal communication solely within the public entity;

74 (ii) a communication solely with another public entity;

75 (iii) a communication solely with legal counsel;

76 (iv) a communication solely with the sponsors of an initiative or referendum;

77 (v) a communication solely with a land developer for a project permitted by a local
78 land use law that is challenged by a proposed referendum or a referendum; or

79 (vi) a communication solely with a person involved in a business transaction directly
80 relating to a project described in Subsection (5)(d)(v).

81 (6) A violation of this section does not invalidate an otherwise valid election.

82 (7) An email sent in violation of Subsection (1), as determined by the records officer,
83 constitutes a record, as defined in Section 63G-2-103, that is subject to the provisions of Title
84 63G, Chapter 2, Government Records Access and Management Act, notwithstanding any
85 applicability of Subsection 63G-2-103[(22)](23)(b)(i).

86 Section 2. Section 63G-2-103 is amended to read:

87 **63G-2-103. Definitions.**

88 As used in this chapter:

89 (1) "Audit" means:

90 (a) a systematic examination of financial, management, program, and related records
91 for the purpose of determining the fair presentation of financial statements, adequacy of
92 internal controls, or compliance with laws and regulations; or

93 (b) a systematic examination of program procedures and operations for the purpose of
94 determining their effectiveness, economy, efficiency, and compliance with statutes and
95 regulations.

96 (2) "Chronological logs" mean the regular and customary summary records of law
97 enforcement agencies and other public safety agencies that show:

98 (a) the time and general nature of police, fire, and paramedic calls made to the agency;
99 and

100 (b) any arrests or jail bookings made by the agency.

101 (3) "Classification," "classify," and their derivative forms mean determining whether a
102 record series, record, or information within a record is public, private, controlled, protected, or
103 exempt from disclosure under Subsection [63G-2-201\(3\)\(b\)](#).

104 (4) (a) "Computer program" means:

105 (i) a series of instructions or statements that permit the functioning of a computer
106 system in a manner designed to provide storage, retrieval, and manipulation of data from the
107 computer system; and

108 (ii) any associated documentation and source material that explain how to operate the
109 computer program.

110 (b) "Computer program" does not mean:

111 (i) the original data, including numbers, text, voice, graphics, and images;

112 (ii) analysis, compilation, and other manipulated forms of the original data produced by
113 use of the program; or

114 (iii) the mathematical or statistical formulas, excluding the underlying mathematical
115 algorithms contained in the program, that would be used if the manipulated forms of the
116 original data were to be produced manually.

117 (5) (a) "Contractor" means:

118 (i) any person who contracts with a governmental entity to provide goods or services
119 directly to a governmental entity; or

120 (ii) any private, nonprofit organization that receives funds from a governmental entity.

- 121 (b) "Contractor" does not mean a private provider.
- 122 (6) "Controlled record" means a record containing data on individuals that is controlled
123 as provided by Section [63G-2-304](#).
- 124 (7) "Designation," "designate," and their derivative forms mean indicating, based on a
125 governmental entity's familiarity with a record series or based on a governmental entity's
126 review of a reasonable sample of a record series, the primary classification that a majority of
127 records in a record series would be given if classified and the classification that other records
128 typically present in the record series would be given if classified.
- 129 (8) "Elected official" means each person elected to a state office, county office,
130 municipal office, school board or school district office, local district office, or special service
131 district office, but does not include judges.
- 132 (9) "Explosive" means a chemical compound, device, or mixture:
- 133 (a) commonly used or intended for the purpose of producing an explosion; and
134 (b) that contains oxidizing or combustive units or other ingredients in proportions,
135 quantities, or packing so that:
- 136 (i) an ignition by fire, friction, concussion, percussion, or detonator of any part of the
137 compound or mixture may cause a sudden generation of highly heated gases; and
138 (ii) the resultant gaseous pressures are capable of:
- 139 (A) producing destructive effects on contiguous objects; or
140 (B) causing death or serious bodily injury.
- 141 (10) "Government audit agency" means any governmental entity that conducts an audit.
- 142 (11) (a) "Governmental entity" means:
- 143 (i) executive department agencies of the state, the offices of the governor, lieutenant
144 governor, state auditor, attorney general, and state treasurer, the Board of Pardons and Parole,
145 the Board of Examiners, the National Guard, the Career Service Review Office, the State
146 Board of Education, the Utah Board of Higher Education, and the State Archives;
- 147 (ii) the Office of the Legislative Auditor General, Office of the Legislative Fiscal
148 Analyst, Office of Legislative Research and General Counsel, the Legislature, and legislative
149 committees, except any political party, group, caucus, or rules or sifting committee of the
150 Legislature;
- 151 (iii) courts, the Judicial Council, the Administrative Office of the Courts, and similar

152 administrative units in the judicial branch;

153 (iv) any state-funded institution of higher education or public education; or

154 (v) any political subdivision of the state, but, if a political subdivision has adopted an
155 ordinance or a policy relating to information practices pursuant to Section 63G-2-701, this
156 chapter shall apply to the political subdivision to the extent specified in Section 63G-2-701 or
157 as specified in any other section of this chapter that specifically refers to political subdivisions.

158 (b) "Governmental entity" also means:

159 (i) every office, agency, board, bureau, committee, department, advisory board, or
160 commission of an entity listed in Subsection (11)(a) that is funded or established by the
161 government to carry out the public's business;

162 (ii) as defined in Section 11-13-103, an interlocal entity or joint or cooperative
163 undertaking;

164 (iii) as defined in Section 11-13a-102, a governmental nonprofit corporation;

165 (iv) an association as defined in Section 53G-7-1101;

166 (v) the Utah Independent Redistricting Commission; and

167 (vi) a law enforcement agency, as defined in Section 53-1-102, that employs one or
168 more law enforcement officers, as defined in Section 53-13-103.

169 (c) "Governmental entity" does not include the Utah Educational Savings Plan created
170 in Section 53B-8a-103.

171 (12) "Gross compensation" means every form of remuneration payable for a given
172 period to an individual for services provided including salaries, commissions, vacation pay,
173 severance pay, bonuses, and any board, rent, housing, lodging, payments in kind, and any
174 similar benefit received from the individual's employer.

175 (13) "Individual" means a human being.

176 (14) (a) "Initial contact report" means an initial written or recorded report, however
177 titled, prepared by peace officers engaged in public patrol or response duties describing official
178 actions initially taken in response to either a public complaint about or the discovery of an
179 apparent violation of law, which report may describe:

180 (i) the date, time, location, and nature of the complaint, the incident, or offense;

181 (ii) names of victims;

182 (iii) the nature or general scope of the agency's initial actions taken in response to the

183 incident;

184 (iv) the general nature of any injuries or estimate of damages sustained in the incident;

185 (v) the name, address, and other identifying information about any person arrested or
186 charged in connection with the incident; or

187 (vi) the identity of the public safety personnel, except undercover personnel, or
188 prosecuting attorney involved in responding to the initial incident.

189 (b) Initial contact reports do not include follow-up or investigative reports prepared
190 after the initial contact report. However, if the information specified in Subsection (14)(a)
191 appears in follow-up or investigative reports, it may only be treated confidentially if it is
192 private, controlled, protected, or exempt from disclosure under Subsection 63G-2-201(3)(b).

193 (c) Initial contact reports do not include accident reports, as that term is described in
194 Title 41, Chapter 6a, Part 4, Accident Responsibilities.

195 (15) "Legislative body" means the Legislature.

196 (16) "Notice of compliance" means a statement confirming that a governmental entity
197 has complied with an order of the State Records Committee.

198 (17) "Person" means:

199 (a) an individual;

200 (b) a nonprofit or profit corporation;

201 (c) a partnership;

202 (d) a sole proprietorship;

203 (e) other type of business organization; or

204 (f) any combination acting in concert with one another.

205 (18) (a) "Personal electronic device" means a device that:

206 (i) enables access to or use of an electronic communication system, computing service,
207 or location information service;

208 (ii) (A) is owned by an individual who is an officer or employee of a governmental
209 entity;

210 (B) is partly or wholly paid for by the individual; or

211 (C) uses a data plan that is partly or wholly paid for by the individual; and

212 (iii) is used by the individual for government purposes or for the transaction of
213 government business.

214 (b) "Personal electronic device" includes a telephone, computer, pager, and electronic
215 tablet.

216 ~~[(18)]~~ (19) "Private provider" means any person who contracts with a governmental
217 entity to provide services directly to the public.

218 ~~[(19)]~~ (20) "Private record" means a record containing data on individuals that is
219 private as provided by Section [63G-2-302](#).

220 ~~[(20)]~~ (21) "Protected record" means a record that is classified protected as provided by
221 Section [63G-2-305](#).

222 ~~[(21)]~~ (22) "Public record" means a record that is not private, controlled, or protected
223 and that is not exempt from disclosure as provided in Subsection [63G-2-201\(3\)\(b\)](#).

224 ~~[(22)]~~ (23) (a) "Record" means a book, letter, document, paper, map, plan, photograph,
225 film, card, tape, recording, electronic data, or other documentary material regardless of physical
226 form ~~[or]~~, characteristics, or location, including on a personal electronic device:

227 (i) that is prepared, owned, received, or retained by a governmental entity or political
228 subdivision; and

229 (ii) where all of the information in the original is reproducible by photocopy or other
230 mechanical or electronic means.

231 (b) "Record" does not mean:

232 (i) a personal note or personal communication prepared or received by an employee or
233 officer of a governmental entity:

234 (A) in a capacity other than the employee's or officer's governmental capacity; or

235 (B) that is unrelated to the conduct of the public's business;

236 (ii) a temporary draft or similar material prepared for the originator's personal use or
237 prepared by the originator for the personal use of an individual for whom the originator is
238 working;

239 (iii) material that is legally owned by an individual in the individual's private capacity;

240 (iv) material to which access is limited by the laws of copyright or patent unless the
241 copyright or patent is owned by a governmental entity or political subdivision;

242 (v) proprietary software;

243 (vi) junk mail or a commercial publication received by a governmental entity or an
244 official or employee of a governmental entity;

- 245 (vii) a book that is cataloged, indexed, or inventoried and contained in the collections
246 of a library open to the public;
- 247 (viii) material that is cataloged, indexed, or inventoried and contained in the collections
248 of a library open to the public, regardless of physical form or characteristics of the material;
- 249 (ix) a daily calendar or other personal note prepared by the originator for the
250 originator's personal use or for the personal use of an individual for whom the originator is
251 working;
- 252 (x) a computer program that is developed or purchased by or for any governmental
253 entity for its own use;
- 254 (xi) a note or internal memorandum prepared as part of the deliberative process by:
- 255 (A) a member of the judiciary;
- 256 (B) an administrative law judge;
- 257 (C) a member of the Board of Pardons and Parole; or
- 258 (D) a member of any other body, other than an association or appeals panel as defined
259 in Section [53G-7-1101](#), charged by law with performing a quasi-judicial function;
- 260 (xii) a telephone number or similar code used to access a mobile communication
261 device that is used by an employee or officer of a governmental entity, provided that the
262 employee or officer of the governmental entity has designated at least one business telephone
263 number that is a public record as provided in Section [63G-2-301](#);
- 264 (xiii) information provided by the Public Employees' Benefit and Insurance Program,
265 created in Section [49-20-103](#), to a county to enable the county to calculate the amount to be
266 paid to a health care provider under Subsection [17-50-319\(2\)\(e\)\(ii\)](#);
- 267 (xiv) information that an owner of unimproved property provides to a local entity as
268 provided in Section [11-42-205](#);
- 269 (xv) a video or audio recording of an interview, or a transcript of the video or audio
270 recording, that is conducted at a Children's Justice Center established under Section [67-5b-102](#);
- 271 (xvi) child pornography, as defined by Section [76-5b-103](#);
- 272 (xvii) before final disposition of an ethics complaint occurs, a video or audio recording
273 of the closed portion of a meeting or hearing of:
- 274 (A) a Senate or House Ethics Committee;
- 275 (B) the Independent Legislative Ethics Commission;

276 (C) the Independent Executive Branch Ethics Commission, created in Section
277 63A-14-202; or
278 (D) the Political Subdivisions Ethics Review Commission established in Section
279 63A-15-201; or
280 (xviii) confidential communication described in Section 58-60-102, 58-61-102, or
281 58-61-702.

282 [~~(23)~~] (24) "Record series" means a group of records that may be treated as a unit for
283 purposes of designation, description, management, or disposition.

284 [~~(24)~~] (25) "Records officer" means the individual appointed by the chief
285 administrative officer of each governmental entity, or the political subdivision to work with
286 state archives in the care, maintenance, scheduling, designation, classification, disposal, and
287 preservation of records.

288 [~~(25)~~] (26) "Schedule," "scheduling," and their derivative forms mean the process of
289 specifying the length of time each record series should be retained by a governmental entity for
290 administrative, legal, fiscal, or historical purposes and when each record series should be
291 transferred to the state archives or destroyed.

292 [~~(26)~~] (27) "Sponsored research" means research, training, and other sponsored
293 activities as defined by the federal Executive Office of the President, Office of Management
294 and Budget:

295 (a) conducted:

296 (i) by an institution within the state system of higher education defined in Section
297 53B-1-102; and

298 (ii) through an office responsible for sponsored projects or programs; and

299 (b) funded or otherwise supported by an external:

300 (i) person that is not created or controlled by the institution within the state system of
301 higher education; or

302 (ii) federal, state, or local governmental entity.

303 [~~(27)~~] (28) "State archives" means the Division of Archives and Records Service
304 created in Section 63A-12-101.

305 [~~(28)~~] (29) "State archivist" means the director of the state archives.

306 [~~(29)~~] (30) "State Records Committee" means the State Records Committee created in

307 Section [63G-2-501](#).

308 ~~[(30)]~~ (31) "Summary data" means statistical records and compilations that contain
309 data derived from private, controlled, or protected information but that do not disclose private,
310 controlled, or protected information.

311 Section 3. Section **63G-2-204.5** is enacted to read:

312 **63G-2-204.5. Search for records on personal electronic device.**

313 (1) In responding to a request under Section [63G-2-204](#), a governmental entity may:

314 (a) conduct a search for a responsive record on a personal electronic device of an
315 officer or employee of the governmental entity, if the officer or employee consents to the
316 search; or

317 (b) request the officer or employee to conduct a search for a responsive record on the
318 personal electronic device of the officer or employee.

319 (2) If requested by the governmental entity that requests a search under Subsection
320 (1)(b), an officer or employee who conducts the search shall provide a sworn declaration
321 certifying that the officer or employee conducted the search and provided access to all records
322 that the officer or employee located that are responsive to the request.

323 (3) A governmental entity that requires and receives a sworn declaration under
324 Subsection (2):

325 (a) may rely on the sworn declaration in responding to the request for records with
326 respect to which the sworn declaration was provided; and

327 (b) if the sworn declaration is later shown to be false, is not liable for a violation of this
328 chapter that occurs because of the falsity of the sworn declaration.

329 Section 4. Section **63G-2-801** is amended to read:

330 **63G-2-801. Criminal penalties.**

331 (1) (a) A public employee or other person who has lawful access to any private,
332 controlled, or protected record under this chapter, and who intentionally discloses, provides a
333 copy of, or improperly uses a private, controlled, or protected record knowing that the
334 disclosure or use is prohibited under this chapter, is, except as provided in Subsection
335 [53-5-708\(1\)\(c\)](#), guilty of a class B misdemeanor.

336 (b) It is a defense to prosecution under Subsection (1)(a) that the actor used or released
337 private, controlled, or protected information in the reasonable belief that the use or disclosure

338 of the information was necessary to expose a violation of law involving government
339 corruption, abuse of office, or misappropriation of public funds or property.

340 (c) It is a defense to prosecution under Subsection (1)(a) that the record could have
341 lawfully been released to the recipient if it had been properly classified.

342 (d) It is a defense to prosecution under Subsection (1)(a) that the public employee or
343 other person disclosed, provided, or used the record based on a good faith belief that the
344 disclosure, provision, or use was in accordance with the law.

345 (2) (a) A person who by false pretenses, bribery, or theft, gains access to or obtains a
346 copy of any private, controlled, or protected record to which the person is not legally entitled is
347 guilty of a class B misdemeanor.

348 (b) No person shall be guilty under Subsection (2)(a) who receives the record,
349 information, or copy after the fact and without prior knowledge of or participation in the false
350 pretenses, bribery, or theft.

351 (3) (a) A public employee who intentionally refuses to release a record, the disclosure
352 of which the employee knows is required by law, is guilty of a class B misdemeanor.

353 (b) It is a defense to prosecution under Subsection (3)(a) that the public employee's
354 failure to release the record was based on a good faith belief that the public employee was
355 acting in accordance with the requirements of law.

356 ~~(c)~~ (4) A public employee who intentionally refuses to release a record, the disclosure
357 of which the employee knows is required by a final unappealed order from a government entity,
358 the State Records Committee, or a court is guilty of a class B misdemeanor.

359 (5) An officer or employee of a governmental entity is guilty of a class B misdemeanor
360 if the officer or employee:

361 (a) refuses to conduct a search after a governmental entity requests the officer or
362 employee to conduct a search under Subsection [63G-2-204.5\(1\)\(b\)](#); or

363 (b) provides a sworn declaration under Subsection [63G-2-204.5\(2\)](#) that is materially
364 false.

365 Section 5. Section **63G-2-804** is amended to read:

366 **63G-2-804. Violation of provision of chapter -- Penalties for intentional**
367 **mutilation or destruction -- Disciplinary action.**

368 A governmental entity may take disciplinary action [~~which may include~~], including

369 suspension or discharge, against any employee of the governmental entity who intentionally:

370 (1) violates any provision of this chapter or Subsection [63A-12-105\(3\)](#)[-]; or

371 (2) refuses to conduct a search after a governmental entity requests the officer or

372 employee to conduct a search under Subsection [63G-2-204.5\(1\)\(b\)](#).

373 Section 6. Section [77-27-5](#) is amended to read:

374 **77-27-5. Board of Pardons and Parole authority.**

375 (1) (a) Subject to this chapter and other laws of the state, and except for a conviction for
376 treason or impeachment, the board shall determine by majority decision when and under what
377 conditions an offender's conviction may be pardoned or commuted.

378 (b) The Board of Pardons and Parole shall determine by majority decision when and
379 under what conditions an offender committed to serve a sentence at a penal or correctional
380 facility, which is under the jurisdiction of the department, may:

381 (i) be released upon parole;

382 (ii) have a fine or forfeiture remitted;

383 (iii) have the offender's criminal accounts receivable remitted in accordance with
384 Section [77-32b-105](#) or [77-32b-106](#);

385 (iv) have the offender's payment schedule modified in accordance with Section
386 [77-32b-103](#); or

387 (v) have the offender's sentence terminated.

388 (c) (i) The board may sit together or in panels to conduct hearings.

389 (ii) The chair shall appoint members to the panels in any combination and in
390 accordance with rules made in accordance with Title 63G, Chapter 3, Utah Administrative
391 Rulemaking Act, by the board.

392 (iii) The chair may participate on any panel and when doing so is chair of the panel.

393 (iv) The chair of the board may designate the chair for any other panel.

394 (d) (i) Except after a hearing before the board, or the board's appointed examiner, in an
395 open session, the board may not:

396 (A) remit a fine or forfeiture for an offender or the offender's criminal accounts
397 receivable;

398 (B) release the offender on parole; or

399 (C) commute, pardon, or terminate an offender's sentence.

400 (ii) An action taken under this Subsection (1) other than by a majority of the board
401 shall be affirmed by a majority of the board.

402 (e) A commutation or pardon may be granted only after a full hearing before the board.

403 (2) (a) In the case of any hearings, timely prior notice of the time and location of the
404 hearing shall be given to the offender.

405 (b) The county or district attorney's office responsible for prosecution of the case, the
406 sentencing court, and law enforcement officials responsible for the defendant's arrest and
407 conviction shall be notified of any board hearings through the board's website.

408 (c) Whenever possible, the victim or the victim's representative, if designated, shall be
409 notified of original hearings and any hearing after that if notification is requested and current
410 contact information has been provided to the board.

411 (d) (i) Notice to the victim or the victim's representative shall include information
412 provided in Section 77-27-9.5, and any related rules made by the board under that section.

413 (ii) The information under Subsection (2)(d)(i) shall be provided in terms that are
414 reasonable for the lay person to understand.

415 (3) (a) A decision by the board is final and not subject for judicial review if the
416 decision is regarding:

417 (i) a pardon, parole, commutation, or termination of an offender's sentence;

418 (ii) the modification of an offender's payment schedule for restitution; or

419 (iii) the remission of an offender's criminal accounts receivable or a fine or forfeiture.

420 (b) Deliberative processes are not public and the board is exempt from Title 52,
421 Chapter 4, Open and Public Meetings Act, when the board is engaged in the board's
422 deliberative process.

423 (c) Pursuant to Subsection 63G-2-103[~~(22)~~](23)(b)(xi), records of the deliberative
424 process are exempt from Title 63G, Chapter 2, Government Records Access and Management
425 Act.

426 (d) Unless it will interfere with a constitutional right, deliberative processes are not
427 subject to disclosure, including discovery.

428 (e) Nothing in this section prevents the obtaining or enforcement of a civil judgment.

429 (4) (a) This chapter may not be construed as a denial of or limitation of the governor's
430 power to grant respite or reprieves in all cases of convictions for offenses against the state,

431 except treason or conviction on impeachment.

432 (b) Notwithstanding Subsection (4)(a), respites or reprieves may not extend beyond the
433 next session of the Board of Pardons and Parole.

434 (c) At the next session of the board, the board:

435 (i) shall continue or terminate the respite or reprieve; or

436 (ii) may commute the punishment or pardon the offense as provided.

437 (d) In the case of conviction for treason, the governor may suspend execution of the
438 sentence until the case is reported to the Legislature at the Legislature's next session.

439 (e) The Legislature shall pardon or commute the sentence or direct the sentence's
440 execution.

441 (5) (a) In determining when, where, and under what conditions an offender serving a
442 sentence may be paroled or pardoned, have a fine or forfeiture remitted, have the offender's
443 criminal accounts receivable remitted, or have the offender's sentence commuted or terminated,
444 the board shall:

445 (i) consider whether the offender has made restitution ordered by the court under
446 Section [77-38b-205](#), or is prepared to pay restitution as a condition of any parole, pardon,
447 remission of a criminal accounts receivable or a fine or forfeiture, or a commutation or
448 termination of the offender's sentence;

449 (ii) except as provided in Subsection (5)(b), develop and use a list of criteria for
450 making determinations under this Subsection (5);

451 (iii) consider information provided by the Department of Corrections regarding an
452 offender's individual case action plan; and

453 (iv) review an offender's status within 60 days after the day on which the board
454 receives notice from the Department of Corrections that the offender has completed all of the
455 offender's case action plan components that relate to activities that can be accomplished while
456 the offender is imprisoned.

457 (b) The board shall determine whether to remit an offender's criminal accounts
458 receivable under this Subsection (5) in accordance with Section [77-32b-105](#) or [77-32b-106](#).

459 (6) In determining whether parole may be terminated, the board shall consider:

460 (a) the offense committed by the parolee; and

461 (b) the parole period under Section [76-3-202](#), and in accordance with Section

462 [77-27-13](#).

463 (7) For an offender placed on parole after December 31, 2018, the board shall
464 terminate parole in accordance with the supervision length guidelines established by the Utah
465 Sentencing Commission under Section [63M-7-404](#), to the extent the guidelines are consistent
466 with the requirements of the law.