

**GOVERNMENT RECORDS MODIFICATIONS**

2023 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Jefferson Moss**

Senate Sponsor: \_\_\_\_\_

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**LONG TITLE**

**General Description:**

This bill amends provisions relating to government records, including provisions relating to the Division of Archives and Records Service, the Government Records Access and Management Act, and a chief privacy officer.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ permits the Division of Archives and Records Service to require a background check of employees and volunteers who have direct access to vulnerable records;
- ▶ modifies the duties and training of a records officer;
- ▶ requires the appointment of one or more privacy officers for an executive branch agency to fulfill certain duties relating to the agency's records;
- ▶ requires the appointment of one or more security officers for an executive branch agency to assess, coordinate, and manage cybersecurity for the agency;
- ▶ grants rulemaking authority to the state archivist, the executive director of the Department of Government Operations, and other departments, in relation to government records and the provisions of this bill;
- ▶ requires executive branch agencies to:
  - make and maintain an inventory of records that contain personal identifying information; and



- 28           • prepare and maintain a privacy annotation for each record series collected,  
29 maintained, or used by the executive branch agency that discloses whether the  
30 record series contains personal identifying information, describes the type of  
31 personal identifying information contained in the record series, and provides  
32 other information regarding the personal identifying information contained in  
33 the record series;
- 34           ▸ requires the executive director of the Department of Government Operations to  
35 make rules for identifying personal identifying information, inventorying the  
36 information, and reporting regarding the information;
- 37           ▸ modifies individual rights with respect to records that may be classified as private or  
38 controlled or that may contain personal identifying information;
- 39           ▸ changes the title of the "government operations privacy officer" to the "chief privacy  
40 officer"; and
- 41           ▸ makes technical and conforming changes.

42 **Money Appropriated in this Bill:**

43           None

44 **Other Special Clauses:**

45           None

46 **Utah Code Sections Affected:**

47 AMENDS:

- 48           **63A-12-100.5**, as last amended by Laws of Utah 2015, Chapter 322
- 49           **63A-12-101**, as last amended by Laws of Utah 2022, Chapter 169
- 50           **63A-12-103**, as last amended by Laws of Utah 2021, Chapter 344
- 51           **63A-12-108**, as renumbered and amended by Laws of Utah 2008, Chapter 382
- 52           **63C-24-202**, as enacted by Laws of Utah 2021, Chapter 155
- 53           **63G-2-103**, as last amended by Laws of Utah 2021, Chapters 211, 283
- 54           **63G-2-107**, as last amended by Laws of Utah 2016, Chapter 380
- 55           **63G-2-201**, as last amended by Laws of Utah 2019, Chapter 334
- 56           **63G-2-204**, as last amended by Laws of Utah 2021, Chapter 64
- 57           **63G-2-307**, as renumbered and amended by Laws of Utah 2008, Chapter 382
- 58           **63G-2-601**, as renumbered and amended by Laws of Utah 2008, Chapter 382

59 [63G-2-604](#), as last amended by Laws of Utah 2019, Chapter 254  
 60 [67-1-17](#), as enacted by Laws of Utah 2021, Chapter 155  
 61 [67-3-13](#), as enacted by Laws of Utah 2021, Chapter 155  
 62 [77-27-5](#), as last amended by Laws of Utah 2021, Chapters 21, 246 and 260 and last  
 63 amended by Coordination Clause, Laws of Utah 2021, Chapter 260

64 ENACTS:

65 [63A-12-115](#), Utah Code Annotated 1953  
 66 [63A-12-116](#), Utah Code Annotated 1953

67 REPEALS AND REENACTS:

68 [63A-12-104](#), as last amended by Laws of Utah 2022, Chapter 169

69 REPEALS:

70 [63A-12-100](#), as last amended by Laws of Utah 2021, Chapter 84



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

73 Section 1. Section [63A-12-100.5](#) is amended to read:

74 **CHAPTER 12. DIVISION OF ARCHIVES AND RECORDS SERVICE AND**  
 75 **MANAGEMENT OF GOVERNMENT RECORDS**

76 **[63A-12-100.5](#). Definitions.**

77 (1) Except as provided under Subsection (2), the definitions in Section [63G-2-103](#)  
 78 apply to this chapter.

79 (2) As used in this chapter:

80 (a) [~~"division" or "state archives"~~] "Division" means the Division of Archives and  
 81 Records Service[ ~~and~~].

82 (b) (i) "Executive branch agency" means the same as that term is defined in Section  
 83 [63A-16-102](#).

84 (ii) "Executive Branch agency" includes a state agency, as defined in Subsection  
 85 [67-1-17\(1\)\(d\)](#).

86 (c) (i) "Personal identifying information" means information about an individual that:

87 (A) identifies, or can be used to identify, an individual;

88 (B) distinguishes an individual from one or more other individuals; or

89 (C) is, or can be, logically associated with other information or data, through

90 technology or otherwise, to identify an individual or distinguish an individual from one or more  
91 other individuals.

92 (ii) "Personal identifying information" includes information identified as personal  
93 identifying information in accordance with the rules described in Section 63A-12-104.

94 (d) "Privacy annotation" means a summary, described in Subsection 63A-12-115(2)  
95 and rules made by the executive director under Subsection 63A-12-104(2), that, for each record  
96 series that an executive branch agency collects, maintains, or uses:

97 (i) discloses whether the record series contains personal identifying information; and

98 (ii) if the record series contains personal identifying information, includes the  
99 information described in Subsection 63A-12-115(2)(b).

100 ~~[(b)]~~ (e) ~~["record"]~~ Record means:

101 (i) the same as that term is defined in Section 63G-2-103; or

102 (ii) a video or audio recording of an interview, or a transcript of the video or audio  
103 recording, that is conducted at a Children's Justice Center established under Section 67-5b-102,  
104 the release of which is governed by Section 77-37-4.

105 (f) "State archives" means the Division of Archives and Records Service.

106 (g) "Vulnerable adult" means the same as that term is defined in Section 62A-3-301.

107 (h) "Vulnerable record" means a record or data relating to:

108 (i) national security interests;

109 (ii) the care, custody, or control of a child;

110 (iii) a fiduciary trust over money;

111 (iv) health care of a child; or

112 (v) the following, in relation to a vulnerable adult:

113 (A) protection, health care, or other care; or

114 (B) the provision of food, shelter, clothing, assistance with an activity of daily living,  
115 or assistance with financial resource management.

116 Section 2. Section 63A-12-101 is amended to read:

117 **63A-12-101. Division of Archives and Records Service created -- Duties.**

118 (1) There is created the Division of Archives and Records Service within the  
119 department.

120 (2) The state archives shall:

- 121 (a) administer the state's archives and records management programs, including storage  
122 of records, central reformatting programs, and quality control;
- 123 (b) apply fair, efficient, and economical management methods to the collection,  
124 creation, use, maintenance, retention, preservation, disclosure, and disposal of records and  
125 documents;
- 126 (c) establish standards, procedures, and techniques for the effective management and  
127 physical care of records;
- 128 (d) conduct surveys of office operations and recommend improvements in current  
129 records management practices, including the use of space, equipment, automation, and supplies  
130 used in creating, maintaining, storing, and servicing records;
- 131 (e) establish standards for the preparation of schedules providing for the retention of  
132 records of continuing value and for the prompt and orderly disposal of state records no longer  
133 possessing sufficient administrative, historical, legal, or fiscal value to warrant further  
134 retention;
- 135 (f) establish, maintain, and operate centralized reformatting lab facilities and quality  
136 control for the state;
- 137 (g) provide staff and support services to the Records Management Committee created  
138 in Section [63A-12-112](#) and the State Records Committee created in Section [63G-2-501](#);
- 139 (h) develop training programs to assist records officers and other interested officers and  
140 employees of governmental entities to administer this chapter and Title 63G, Chapter 2,  
141 Government Records Access and Management Act;
- 142 (i) provide access to public records deposited in the archives;
- 143 (j) administer and maintain the Utah Public Notice Website established under Section  
144 [63A-16-601](#);
- 145 (k) provide assistance to any governmental entity in administering this chapter and  
146 Title 63G, Chapter 2, Government Records Access and Management Act;
- 147 (l) prepare forms for use by all governmental entities for a person requesting access to  
148 a record; and
- 149 (m) if the department operates the Division of Archives and Records Service as an  
150 internal service fund agency in accordance with Section [63A-1-109.5](#), submit to the Rate  
151 Committee established in Section [63A-1-114](#):

- 152 (i) the proposed rate schedule as required by Section 63A-1-114; and
- 153 (ii) other information or analysis requested by the Rate Committee.
- 154 (3) The state archives may:
  - 155 (a) establish a report and directives management program; ~~and~~
  - 156 (b) establish a forms management program~~[-];~~ and
  - 157 (c) in accordance with Section 63A-12-101, require that an individual undergo a
  - 158 background check if the individual:

- 159 (i) applies to be, or currently is, an employee or volunteer of the division; and
- 160 (ii) will have direct access to a vulnerable record in the capacity described in
- 161 Subsection (3)(c)(i).

162 (4) The executive director may direct the state archives to administer other functions or  
 163 services consistent with this chapter and Title 63G, Chapter 2, Government Records Access  
 164 and Management Act.

165 Section 3. Section 63A-12-103 is amended to read:

166 **63A-12-103. Duties of governmental entities and executive branch agencies.**

167 (1) The chief administrative officer of each governmental entity shall:

168 ~~[(1)]~~ (a) establish and maintain an active, continuing program for the economical and  
 169 efficient management of the governmental entity's records as provided by this chapter and Title  
 170 63G, Chapter 2, Government Records Access and Management Act;

171 ~~[(2)]~~ (b) appoint one or more records officers who will be trained to work with the state  
 172 archives in the care, maintenance, scheduling, disposal, classification, designation, access,  
 173 privacy, and preservation of records;

174 ~~[(3)]~~ (c) ensure that officers and employees of the governmental entity that receive or  
 175 process records requests receive required training on the procedures and requirements of this  
 176 chapter and Title 63G, Chapter 2, Government Records Access and Management Act;

177 ~~[(4)]~~ (d) make and maintain adequate and proper documentation of the organization,  
 178 functions, policies, decisions, procedures, and essential transactions of the governmental entity  
 179 designed to furnish information to protect the legal and financial rights of persons directly  
 180 affected by the entity's activities;

181 ~~[(5)]~~ (e) submit to the state archivist proposed schedules of records for final approval  
 182 by the Records Management Committee created in Section 63A-12-112;

183           ~~[(6)]~~ (f) cooperate with the state archivist in conducting surveys made by the state  
184 archivist;

185           ~~[(7)]~~ (g) comply with rules issued by the Department of Government Operations as  
186 provided by Section [63A-12-104](#);

187           ~~[(8)]~~ (h) report to the state archives the designation of record series that it maintains;

188           ~~[(9)]~~ (i) report to the state archives the classification of each record series that is  
189 classified; and

190           ~~[(10)]~~ (j) establish and report to the state archives retention schedules for objects that  
191 the governmental entity determines are not defined as a record under Section [63G-2-103](#), but  
192 that have historical or evidentiary value.

193           (2) (a) The chief administrative officer of each executive branch agency shall appoint  
194 one or more privacy officers within the executive branch agency.

195           (b) A privacy officer appointed under Subsection (2)(a) shall, in accordance with the  
196 provisions of this part and the rules made under Section [63A-12-104](#):

197           (i) work with the chief privacy officer to establish and implement best practices for the  
198 executive branch agency's privacy practice, as defined in Subsection [67-1-17\(1\)\(c\)](#);

199           (ii) make, update, and maintain the inventory described in Subsection  
200 [63A-12-104\(2\)\(a\)](#);

201           (iii) determine, for each record series that the executive branch agency collects,  
202 maintains, or uses, whether the record series contains personal identifying information;

203           (iv) prepare a privacy annotation for each record series that the executive branch  
204 agency collects, maintains, or uses; and

205           (v) receive and comply with training provided by the chief privacy officer relating to  
206 fulfilling the provisions of this Subsection (2)(b).

207           (3) (a) The chief administrative officer of each executive branch agency shall appoint  
208 one or more security officers within the executive branch agency.

209           (b) A security officer appointed under Subsection (3)(a) shall:

210           (i) work with the chief information security officer, appointed under Section  
211 [63A-16-210](#), to assess, coordinate, and manage cybersecurity for the agency; and

212           (ii) receive and comply with training provided by the chief information security officer  
213 relating to fulfilling the duties described in Subsection (3)(b)(i).

214 (4) For an executive branch agency, an officer appointed under Subsection (1)(b),  
215 (2)(a), or (3)(a) may be the same individual, if the individual has the ability, time, and  
216 resources available to adequately, and timely, fulfill the responsibilities required of the officer  
217 under this section.

218 Section 4. Section **63A-12-104** is repealed and reenacted to read:

219 **63A-12-104. Rulemaking authority.**

220 (1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

221 (a) the state archivist may, for an executive branch agency, make rules establishing  
222 procedures for the collection, storage, designation, classification, access, mediation for records  
223 access, and management of records under this chapter and Title 63G, Chapter 2, Government  
224 Records Access and Management Act; and

225 (b) a department may make rules specifying at which level within the department the  
226 requirements described in this chapter will be undertaken.

227 (2) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
228 executive director shall, in consultation with the state archivist and the chief privacy officer,  
229 make rules for an executive branch agency that establish:

230 (a) requirements for making an inventory of each record series that contains personal  
231 identifying information, including:

232 (i) information collected as part of the inventory;

233 (ii) regularly reviewing, updating, and maintaining the inventory; and

234 (iii) reporting the inventory to the chief privacy officer;

235 (b) a list of information, categories of information, or types of information expressly  
236 designated as personal identifying information, in accordance with the criteria described in  
237 Subsections **63A-12-100.5**(2)(c)(i) through (iii)

238 (c) criteria, variables, and principles for determining whether information in a record  
239 series, not expressly designated under Subsection (2)(b), is personal identifying information;

240 (d) a list and description of categories or types of personal identifying information that  
241 are collected, maintained, or used by executive branch agencies; and

242 (e) requirements for the form, content, format, review, and update of a privacy  
243 annotation.

244 (3) The rules described in Subsection (2)(b) may incorporate, by reference, a data



245 dictionary that a privacy officer appointed under Subsection 63A-12-103(2)(a) shall use in  
 246 making the determination described in Subsection (2)(c).

247 Section 5. Section **63A-12-108** is amended to read:

248 **63A-12-108. Inspection and summary of record series -- Data dictionary.**

249 (1) [~~The state~~] State archives shall provide for public inspection of:

250 (a) the title and a summary description of each record series[-]; and

251 (b) for an executive branch agency, the privacy annotation of each record series.

252 (2) The department shall:

253 (a) post the data dictionary described in Subsection 63A-12-104(3) on the department's  
 254 website; and

255 (b) maintain and update the data dictionary on a regular basis.

256 Section 6. Section **63A-12-115** is enacted to read:

257 **63A-12-115. Privacy annotation for records series -- Requirements -- Content.**

258 (1) (a) Before January 1, 2026, an executive branch agency shall, for each record series  
 259 that the executive branch agency collects, maintains, or uses, evaluate the record series and  
 260 make a privacy annotation that completely and accurately complies with Subsection (2) and the  
 261 rules described in Subsection 63A-12-104(2)(e).

262 (b) Beginning on January 1, 2026, an executive branch agency may not collect,  
 263 maintain, or use personal identifying information unless the record series for which the  
 264 personal identifying information is collected, maintained, or used includes a privacy annotation  
 265 that completely and accurately complies with Subsection (2) and the rules described in  
 266 Subsection 63A-12-104(2)(e).

267 (2) A privacy annotation shall include the following:

268 (a) if the record series does not include personal identifying information, a statement  
 269 indicating that the record series does not include personal identifying information;

270 (b) if the record series includes personal identifying information:

271 (i) an inventory of the personal identifying information included in the record series;

272 and

273 (ii) for the personal identifying information described in Subsection (2)(b)(i):

274 (A) the purpose for which the executive branch agency collects, keeps, or uses the  
 275 personal identifying information;

276 (B) a citation to the executive branch agency's legal authority for collecting, keeping, or  
277 using the personal identifying information; and

278 (C) any other information required by state archives by rule under Subsection  
279 63A-12-104(2)(e).

280 Section 7. Section **63A-12-116** is enacted to read:

281 **63A-12-116. Background check for individuals with direct access to a vulnerable**  
282 **record.**

283 (1) If, under Subsection 63A-12-101(3)(c), state archives requires an individual to  
284 undergo a background check:

285 (a) the individual shall:

286 (i) submit to state archives, in a form designated by state archives, a fingerprint card  
287 and other information required by state archives for the background check; and

288 (ii) consent to a criminal background check by the Federal Bureau of Investigation, the  
289 Bureau of Criminal Identification, or any other state entity that performs criminal background  
290 checks; and

291 (b) state archives shall:

292 (i) submit the fingerprint card and information described in Subsection (1)(a)(i) to the  
293 Utah Bureau of Criminal Identification; and

294 (ii) pay all fees required to conduct the background check, including fees described in  
295 Subsection 53-10-108(15)(a) and fees required by the Federal Bureau of Investigation.

296 (2) The Bureau of Criminal Identification shall provide all results of a criminal  
297 background check described in this section to state archives, including results from state,  
298 regional, and nationwide background checks.

299 (3) State archives may make rules, in accordance with Title 63G, Chapter 3, Utah  
300 Administrative Rulemaking Act, to:

301 (a) establish procedures for requiring and conducting a background check under this  
302 section; and

303 (b) specify requirements for the information and fingerprint card required for a  
304 background check under this section.

305 Section 8. Section **63C-24-202** is amended to read:

306 **63C-24-202. Commission duties.**

- 307 (1) The commission shall:
- 308 (a) develop guiding standards and best practices with respect to government privacy
- 309 practices;
- 310 (b) develop educational and training materials that include information about:
- 311 (i) the privacy implications and civil liberties concerns of the privacy practices of
- 312 government entities;
- 313 (ii) best practices for government collection and retention policies regarding personal
- 314 data; and
- 315 (iii) best practices for government personal data security standards; and
- 316 (c) review the privacy implications and civil liberties concerns of government privacy
- 317 practices.
- 318 (2) The commission may:
- 319 (a) review specific government privacy practices as referred to the commission by the
- 320 [~~government operations~~] chief privacy officer described in Section 67-1-17 or the state privacy
- 321 officer described in Section 67-3-13; and
- 322 (b) develop recommendations for legislation regarding the guiding standards and best
- 323 practices the commission has developed in accordance with Subsection (1)(a).
- 324 (3) Annually, on or before October 1, the commission shall report to the Judiciary
- 325 Interim Committee:
- 326 (a) the results of any reviews the commission has conducted;
- 327 (b) the guiding standards and best practices described in Subsection (1)(a); and
- 328 (c) any recommendations for legislation the commission has developed in accordance
- 329 with Subsection (2)(b).
- 330 Section 9. Section **63G-2-103** is amended to read:
- 331 **63G-2-103. Definitions.**
- 332 As used in this chapter:
- 333 (1) "Audit" means:
- 334 (a) a systematic examination of financial, management, program, and related records
- 335 for the purpose of determining the fair presentation of financial statements, adequacy of
- 336 internal controls, or compliance with laws and regulations; or
- 337 (b) a systematic examination of program procedures and operations for the purpose of

338 determining their effectiveness, economy, efficiency, and compliance with statutes and  
339 regulations.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

365 (b) "Contractor" does not mean a private provider.

366 (6) "Controlled record" means a record containing data on individuals that is controlled  
367 as provided by Section [63G-2-304](#).

368 (7) "Designation," "designate," and their derivative forms mean indicating, based on a

369 governmental entity's familiarity with a record series or based on a governmental entity's  
370 review of a reasonable sample of a record series, the primary classification that a majority of  
371 records in a record series would be given if classified and the classification that other records  
372 typically present in the record series would be given if classified.

373 (8) "Elected official" means each person elected to a state office, county office,  
374 municipal office, school board or school district office, local district office, or special service  
375 district office, but does not include judges.

376 (9) "Explosive" means a chemical compound, device, or mixture:

377 (a) commonly used or intended for the purpose of producing an explosion; and

378 (b) that contains oxidizing or combustive units or other ingredients in proportions,  
379 quantities, or packing so that:

380 (i) an ignition by fire, friction, concussion, percussion, or detonator of any part of the  
381 compound or mixture may cause a sudden generation of highly heated gases; and

382 (ii) the resultant gaseous pressures are capable of:

383 (A) producing destructive effects on contiguous objects; or

384 (B) causing death or serious bodily injury.

385 (10) "Government audit agency" means any governmental entity that conducts an audit.

386 (11) (a) "Governmental entity" means:

387 (i) executive department agencies of the state, the offices of the governor, lieutenant  
388 governor, state auditor, attorney general, and state treasurer, the Board of Pardons and Parole,  
389 the Board of Examiners, the National Guard, the Career Service Review Office, the State  
390 Board of Education, the Utah Board of Higher Education, and the State Archives;

391 (ii) the Office of the Legislative Auditor General, Office of the Legislative Fiscal  
392 Analyst, Office of Legislative Research and General Counsel, the Legislature, and legislative  
393 committees, except any political party, group, caucus, or rules or sifting committee of the  
394 Legislature;

395 (iii) courts, the Judicial Council, the Administrative Office of the Courts, and similar  
396 administrative units in the judicial branch;

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

398 (v) any political subdivision of the state, but, if a political subdivision has adopted an  
399 ordinance or a policy relating to information practices pursuant to Section [63G-2-701](#), this

400 chapter shall apply to the political subdivision to the extent specified in Section 63G-2-701 or  
401 as specified in any other section of this chapter that specifically refers to political subdivisions.

402 (b) "Governmental entity" also means:

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

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

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

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

410 (v) the Utah Independent Redistricting Commission; and

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

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

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

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

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

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

425 (ii) names of victims;

426 (iii) the nature or general scope of the agency's initial actions taken in response to the  
427 incident;

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

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

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

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

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

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

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

442 (17) "Person" means:

443 (a) an individual;

444 (b) a nonprofit or profit corporation;

445 (c) a partnership;

446 (d) a sole proprietorship;

447 (e) other type of business organization; or

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

449 (18) "Personal identifying information" means the same as that term is defined in  
450 Section [63A-12-100.5](#).

451 (19) "Privacy annotation" means the same as that term is defined in Section  
452 [63A-12-100.5](#).

453 [~~(18)~~] (20) "Private provider" means any person who contracts with a governmental  
454 entity to provide services directly to the public.

455 [~~(19)~~] (21) "Private record" means a record containing data on individuals that is  
456 private as provided by Section [63G-2-302](#).

457 [~~(20)~~] (22) "Protected record" means a record that is classified protected as provided by  
458 Section [63G-2-305](#).

459 [~~(21)~~] (23) "Public record" means a record that is not private, controlled, or protected  
460 and that is not exempt from disclosure as provided in Subsection [63G-2-201](#)(3)(b).

461 [~~(22)~~] (24) (a) "Record" means a book, letter, document, paper, map, plan, photograph,

462 film, card, tape, recording, electronic data, or other documentary material regardless of physical  
463 form or characteristics:

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

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

468 (b) "Record" does not mean:

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

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

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

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

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

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

479 (v) proprietary software;

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

482 (vii) a book that is cataloged, indexed, or inventoried and contained in the collections  
483 of a library open to the public;

484 (viii) material that is cataloged, indexed, or inventoried and contained in the collections  
485 of a library open to the public, regardless of physical form or characteristics of the material;

486 (ix) a daily calendar or other personal note prepared by the originator for the  
487 originator's personal use or for the personal use of an individual for whom the originator is  
488 working;

489 (x) a computer program that is developed or purchased by or for any governmental  
490 entity for its own use;

491 (xi) a note or internal memorandum prepared as part of the deliberative process by:

492 (A) a member of the judiciary;



- 493 (B) an administrative law judge;
- 494 (C) a member of the Board of Pardons and Parole; or
- 495 (D) a member of any other body, other than an association or appeals panel as defined
- 496 in Section [53G-7-1101](#), charged by law with performing a quasi-judicial function;
- 497 (xii) a telephone number or similar code used to access a mobile communication
- 498 device that is used by an employee or officer of a governmental entity, provided that the
- 499 employee or officer of the governmental entity has designated at least one business telephone
- 500 number that is a public record as provided in Section [63G-2-301](#);
- 501 (xiii) information provided by the Public Employees' Benefit and Insurance Program,
- 502 created in Section [49-20-103](#), to a county to enable the county to calculate the amount to be
- 503 paid to a health care provider under Subsection [17-50-319\(2\)\(e\)\(ii\)](#);
- 504 (xiv) information that an owner of unimproved property provides to a local entity as
- 505 provided in Section [11-42-205](#);
- 506 (xv) a video or audio recording of an interview, or a transcript of the video or audio
- 507 recording, that is conducted at a Children's Justice Center established under Section [67-5b-102](#);
- 508 (xvi) child pornography, as defined by Section [76-5b-103](#);
- 509 (xvii) before final disposition of an ethics complaint occurs, a video or audio recording
- 510 of the closed portion of a meeting or hearing of:
- 511 (A) a Senate or House Ethics Committee;
- 512 (B) the Independent Legislative Ethics Commission;
- 513 (C) the Independent Executive Branch Ethics Commission, created in Section
- 514 [63A-14-202](#); or
- 515 (D) the Political Subdivisions Ethics Review Commission established in Section
- 516 [63A-15-201](#); or
- 517 (xviii) confidential communication described in Section [58-60-102](#), [58-61-102](#), or
- 518 [58-61-702](#).
- 519 ~~[(23)]~~ (25) "Record series" means a group of records that may be treated as a unit for
- 520 purposes of designation, description, management, or disposition.
- 521 ~~[(24)]~~ (26) "Records officer" means the individual appointed by the chief
- 522 administrative officer of each governmental entity, or the political subdivision to work with
- 523 state archives in the care, maintenance, scheduling, designation, classification, disposal, and

524 preservation of records.

525 ~~[(25)]~~ (27) "Schedule," "scheduling," and their derivative forms mean the process of  
526 specifying the length of time each record series should be retained by a governmental entity for  
527 administrative, legal, fiscal, or historical purposes and when each record series should be  
528 transferred to the state archives or destroyed.

529 ~~[(26)]~~ (28) "Sponsored research" means research, training, and other sponsored  
530 activities as defined by the federal Executive Office of the President, Office of Management  
531 and Budget:

532 (a) conducted:

533 (i) by an institution within the state system of higher education defined in Section  
534 [53B-1-102](#); and

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

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

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

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

540 ~~[(27)]~~ (29) "State archives" means the Division of Archives and Records Service  
541 created in Section [63A-12-101](#).

542 ~~[(28)]~~ (30) "State archivist" means the director of the state archives.

543 ~~[(29)]~~ (31) "State Records Committee" means the State Records Committee created in  
544 Section [63G-2-501](#).

545 ~~[(30)]~~ (32) "Summary data" means statistical records and compilations that contain  
546 data derived from private, controlled, or protected information but that do not disclose private,  
547 controlled, or protected information.

548 Section 10. Section **63G-2-107** is amended to read:

549 **63G-2-107. Disclosure of records subject to federal law or other provisions of**  
550 **state law.**

551 (1) (a) The disclosure of a record to which access is governed or limited pursuant to  
552 court rule, another state statute, federal statute, or federal regulation, including a record for  
553 which access is governed or limited as a condition of participation in a state or federal program  
554 or for receiving state or federal funds, is governed by the specific provisions of that statute,

555 rule, or regulation.

556 (b) Except as provided in Subsection (2) this chapter applies to records described in  
 557 Subsection (1)(a) to the extent that this chapter is not inconsistent with the statute, rule, or  
 558 regulation.

559 ~~[(1)]~~ (2) [Notwithstanding Subsection 63G-2-201(6), this] Except as provided in  
 560 Subsection (3), this chapter does not apply to a record containing protected health information  
 561 as defined in 45 C.F.R., Part 164, Standards for Privacy of Individually Identifiable Health  
 562 Information, if the record is:

563 (a) controlled or maintained by a governmental entity; and

564 (b) governed by 45 C.F.R., Parts 160 and 164, Standards for Privacy of Individually  
 565 Identifiable Health Information.

566 ~~[(2)]~~ (c) The disclosure of an education record as defined in the Family Educational  
 567 Rights and Privacy Act, 34 C.F.R. Part 99, that is controlled or maintained by a governmental  
 568 entity shall be governed by the Family Educational Rights and Privacy Act, 34 C.F.R. Part 99.

569 (3) This section does not exempt any record or record series from the provisions of  
 570 Subsection 63G-2-601(1)

571 Section 11. Section **63G-2-201** is amended to read:

572 **63G-2-201. Provisions relating to records -- Public records -- Private, controlled,**  
 573 **protected, and other restricted records -- Disclosure and nondisclosure of records --**  
 574 **Certified copy of record -- Limits on obligation to respond to record request.**

575 (1) (a) Except as provided in Subsection (1)(b), a person has the right to inspect a  
 576 public record free of charge, and the right to take a copy of a public record during normal  
 577 working hours, subject to Sections **63G-2-203** and **63G-2-204**.

578 (b) A right under Subsection (1)(a) does not apply with respect to a record:

579 (i) a copy of which the governmental entity has already provided to the person;

580 (ii) that is the subject of a records request that the governmental entity is not required  
 581 to fill under Subsection ~~[(8)(e)]~~ (7)(e); or

582 (iii) (A) that is accessible only by a computer or other electronic device owned or  
 583 controlled by the governmental entity;

584 (B) that is part of an electronic file that also contains a record that is private,  
 585 controlled, or protected; and

586 (C) that the governmental entity cannot readily segregate from the part of the electronic  
587 file that contains a private, controlled, or protected record.

588 (2) A record is public unless otherwise expressly provided by statute.

589 (3) The following records are not public:

590 (a) a record that is private, controlled, or protected under Sections 63G-2-302,  
591 63G-2-303, 63G-2-304, and 63G-2-305; and

592 (b) a record to which access is restricted pursuant to court rule, another state statute,  
593 federal statute, or federal regulation, including records for which access is governed or  
594 restricted as a condition of participation in a state or federal program or for receiving state or  
595 federal funds.

596 (4) Only a record specified in Section 63G-2-302, 63G-2-303, 63G-2-304, or  
597 63G-2-305 may be classified private, controlled, or protected.

598 (5) (a) A governmental entity may not disclose a record that is private, controlled, or  
599 protected to any person except as provided in Subsection (5)(b), Subsection (5)(c), Section  
600 63G-2-202, 63G-2-206, or 63G-2-303.

601 (b) A governmental entity may disclose a record that is private under Subsection  
602 63G-2-302(2) or protected under Section 63G-2-305 to persons other than those specified in  
603 Section 63G-2-202 or 63G-2-206 if the head of a governmental entity, or a designee,  
604 determines that:

605 (i) there is no interest in restricting access to the record; or

606 (ii) the interests favoring access are greater than or equal to the interest favoring  
607 restriction of access.

608 (c) In addition to the disclosure under Subsection (5)(b), a governmental entity may  
609 disclose a record that is protected under Subsection 63G-2-305(51) if:

610 (i) the head of the governmental entity, or a designee, determines that the disclosure:

611 (A) is mutually beneficial to:

612 (I) the subject of the record;

613 (II) the governmental entity; and

614 (III) the public; and

615 (B) serves a public purpose related to:

616 (I) public safety; or

617 (II) consumer protection; and  
618 (ii) the person who receives the record from the governmental entity agrees not to use  
619 or allow the use of the record for advertising or solicitation purposes.

620 ~~[(6) (a) The disclosure of a record to which access is governed or limited pursuant to~~  
621 ~~court rule, another state statute, federal statute, or federal regulation, including a record for~~  
622 ~~which access is governed or limited as a condition of participation in a state or federal program~~  
623 ~~or for receiving state or federal funds, is governed by the specific provisions of that statute,~~  
624 ~~rule, or regulation.]~~

625 ~~[(b) This chapter applies to records described in Subsection (6)(a) insofar as this~~  
626 ~~chapter is not inconsistent with the statute, rule, or regulation.]~~

627 ~~[(7)]~~ (6) A governmental entity shall provide a person with a certified copy of a record  
628 if:

- 629 (a) the person requesting the record has a right to inspect it;
- 630 (b) the person identifies the record with reasonable specificity; and
- 631 (c) the person pays the lawful fees.

632 ~~[(8)]~~ (7) In response to a request, a governmental entity is not required to:

- 633 (a) create a record;
- 634 (b) compile, format, manipulate, package, summarize, or tailor information;
- 635 (c) provide a record in a particular format, medium, or program not currently  
636 maintained by the governmental entity;
- 637 (d) fulfill a person's records request if the request unreasonably duplicates prior records  
638 requests from that person; or
- 639 (e) fill a person's records request if:
  - 640 (i) the record requested is:
    - 641 (A) publicly accessible online; or
    - 642 (B) included in a public publication or product produced by the governmental entity  
643 receiving the request; and
  - 644 (ii) the governmental entity:
    - 645 (A) specifies to the person requesting the record where the record is accessible online;
    - 646 or
    - 647 (B) provides the person requesting the record with the public publication or product

648 and specifies where the record can be found in the public publication or product.

649 ~~[(9)]~~ (8) (a) Although not required to do so, a governmental entity may, upon request  
650 from the person who submitted the records request, compile, format, manipulate, package,  
651 summarize, or tailor information or provide a record in a format, medium, or program not  
652 currently maintained by the governmental entity.

653 (b) In determining whether to fulfill a request described in Subsection ~~[(9)(a)]~~ (8)(a), a  
654 governmental entity may consider whether the governmental entity is able to fulfill the request  
655 without unreasonably interfering with the governmental entity's duties and responsibilities.

656 (c) A governmental entity may require a person who makes a request under Subsection  
657 ~~[(9)(a)]~~ (8)(a) to pay the governmental entity, in accordance with Section [63G-2-203](#), for  
658 providing the information or record as requested.

659 ~~[(10)]~~ (9) (a) Notwithstanding any other provision of this chapter, and subject to  
660 Subsection ~~[(10)(b)]~~ (9)(b), a governmental entity is not required to respond to, or provide a  
661 record in response to, a record request if the request is submitted by or in behalf of an  
662 individual who is confined in a jail or other correctional facility following the individual's  
663 conviction.

664 (b) Subsection ~~[(10)(a)]~~ (9)(a) does not apply to:

665 (i) the first five record requests submitted to the governmental entity by or in behalf of  
666 an individual described in Subsection ~~[(10)(a)]~~ (9)(a) during any calendar year requesting only  
667 a record that contains a specific reference to the individual; or

668 (ii) a record request that is submitted by an attorney of an individual described in  
669 Subsection ~~[(10)(a)]~~ (9)(a).

670 ~~[(11)]~~ (10) (a) A governmental entity may allow a person requesting more than 50  
671 pages of records to copy the records if:

672 (i) the records are contained in files that do not contain records that are exempt from  
673 disclosure, or the records may be segregated to remove private, protected, or controlled  
674 information from disclosure; and

675 (ii) the governmental entity provides reasonable safeguards to protect the public from  
676 the potential for loss of a public record.

677 (b) If the requirements of Subsection ~~[(11)(a)]~~ (10)(a) are met, the governmental entity  
678 may:

679 (i) provide the requester with the facilities for copying the requested records and  
680 require that the requester make the copies; or

681 (ii) allow the requester to provide the requester's own copying facilities and personnel  
682 to make the copies at the governmental entity's offices and waive the fees for copying the  
683 records.

684 ~~[(12)]~~ (11) (a) A governmental entity that owns an intellectual property right and that  
685 offers the intellectual property right for sale or license may control by ordinance or policy the  
686 duplication and distribution of the material based on terms the governmental entity considers to  
687 be in the public interest.

688 (b) Nothing in this chapter shall be construed to limit or impair the rights or protections  
689 granted to the governmental entity under federal copyright or patent law as a result of its  
690 ownership of the intellectual property right.

691 ~~[(13)]~~ (12) A governmental entity may not use the physical form, electronic or  
692 otherwise, in which a record is stored to deny, or unreasonably hinder the rights of a person to  
693 inspect and receive a copy of a record under this chapter.

694 ~~[(14)]~~ (13) Subject to the requirements of Subsection ~~[(8)]~~ (7), a governmental entity  
695 shall provide access to an electronic copy of a record in lieu of providing access to its paper  
696 equivalent if:

697 (a) the person making the request requests or states a preference for an electronic copy;

698 (b) the governmental entity currently maintains the record in an electronic format that  
699 is reproducible and may be provided without reformatting or conversion; and

700 (c) the electronic copy of the record:

701 (i) does not disclose other records that are exempt from disclosure; or

702 (ii) may be segregated to protect private, protected, or controlled information from  
703 disclosure without the undue expenditure of public resources or funds.

704 ~~[(15)]~~ (14) In determining whether a record is properly classified as private under  
705 Subsection 63G-2-302(2)(d), the governmental entity, State Records Committee, local appeals  
706 board, or court shall consider and weigh:

707 (a) any personal privacy interests, including those in images, that would be affected by  
708 disclosure of the records in question; and

709 (b) any public interests served by disclosure.

710 Section 12. Section **63G-2-204** is amended to read:

711 **63G-2-204. Record request -- Response -- Time for responding.**

712 (1) (a) A person making a request for a record shall submit to the governmental entity  
713 that retains the record a written request containing:

714 (i) the person's:

715 (A) name;

716 (B) mailing address;

717 (C) email address, if the person has an email address and is willing to accept

718 communications by email relating to the person's records request; and

719 (D) daytime telephone number; and

720 (ii) a description of the record requested that identifies the record with reasonable  
721 specificity.

722 (b) (i) A single record request may not be submitted to multiple governmental entities.

723 (ii) Subsection (1)(b)(i) may not be construed to prevent a person from submitting a  
724 separate record request to each of multiple governmental entities, even if each of the separate  
725 requests seeks access to the same record.

726 (2) (a) In response to a request for a record, a governmental entity may not provide a  
727 record that it has received under Section [63G-2-206](#) as a shared record.

728 (b) If a governmental entity is prohibited from providing a record under Subsection  
729 (2)(a), the governmental entity shall:

730 (i) deny the records request; and

731 (ii) inform the person making the request of the identity of the governmental entity  
732 from which the shared record was received.

733 (3) A governmental entity may make rules in accordance with Title 63G, Chapter 3,  
734 Utah Administrative Rulemaking Act, specifying where and to whom requests for access shall  
735 be directed.

736 (4) After receiving a request for a record, a governmental entity shall:

737 (a) review each request that seeks an expedited response and notify, within five  
738 business days after receiving the request, each requester that has not demonstrated that their  
739 record request benefits the public rather than the person that their response will not be  
740 expedited; and



741 (b) as soon as reasonably possible, but no later than 10 business days after receiving a  
742 written request, or five business days after receiving a written request if the requester  
743 demonstrates that expedited response to the record request benefits the public rather than the  
744 person:

745 (i) approve the request and provide a copy of the record;

746 (ii) deny the request in accordance with the procedures and requirements of Section  
747 63G-2-205;

748 (iii) notify the requester that it does not maintain the record requested and provide, if  
749 known, the name and address of the governmental entity that does maintain the record; or

750 (iv) notify the requester that because of one of the extraordinary circumstances listed in  
751 Subsection (6), it cannot immediately approve or deny the request, and include with the notice:

752 (A) a description of the circumstances that constitute the extraordinary circumstances;  
753 and

754 (B) the date when the records will be available, consistent with the requirements of  
755 Subsection (7).

756 (5) Any person who requests a record to obtain information for a story or report for  
757 publication or broadcast to the general public is presumed to be acting to benefit the public  
758 rather than a person.

759 (6) The following circumstances constitute "extraordinary circumstances" that allow a  
760 governmental entity to delay approval or denial by an additional period of time as specified in  
761 Subsection (7) if the governmental entity determines that due to the extraordinary  
762 circumstances it cannot respond within the time limits provided in Subsection (4):

763 (a) another governmental entity is using the record, in which case the originating  
764 governmental entity shall promptly request that the governmental entity currently in possession  
765 return the record;

766 (b) another governmental entity is using the record as part of an audit, and returning the  
767 record before the completion of the audit would impair the conduct of the audit;

768 (c) (i) the request is for a voluminous quantity of records or a record series containing a  
769 substantial number of records; or

770 (ii) the requester seeks a substantial number of records or records series in requests  
771 filed within five working days of each other;

772 (d) the governmental entity is currently processing a large number of records requests;

773 (e) the request requires the governmental entity to review a large number of records to  
774 locate the records requested;

775 (f) the decision to release a record involves legal issues that require the governmental  
776 entity to seek legal counsel for the analysis of statutes, rules, ordinances, regulations, or case  
777 law;

778 (g) segregating information that the requester is entitled to inspect from information  
779 that the requester is not entitled to inspect requires extensive editing; or

780 (h) segregating information that the requester is entitled to inspect from information  
781 that the requester is not entitled to inspect requires computer programming.

782 (7) If one of the extraordinary circumstances listed in Subsection (6) precludes  
783 approval or denial within the time specified in Subsection (4), the following time limits apply  
784 to the extraordinary circumstances:

785 (a) for claims under Subsection (6)(a), the governmental entity currently in possession  
786 of the record shall return the record to the originating entity within five business days of the  
787 request for the return unless returning the record would impair the holder's work;

788 (b) for claims under Subsection (6)(b), the originating governmental entity shall notify  
789 the requester when the record is available for inspection and copying;

790 (c) for claims under Subsections (6)(c), (d), and (e), the governmental entity shall:

791 (i) disclose the records that it has located which the requester is entitled to inspect;

792 (ii) provide the requester with an estimate of the amount of time it will take to finish  
793 the work required to respond to the request;

794 (iii) complete the work and disclose those records that the requester is entitled to  
795 inspect as soon as reasonably possible; and

796 (iv) for any person that does not establish a right to an expedited response as  
797 authorized by Subsection (4), a governmental entity may choose to:

798 (A) require the person to provide for copying of the records as provided in Subsection  
799 [~~63G-2-201(11)~~] 63G-2-201(10); or

800 (B) treat a request for multiple records as separate record requests, and respond  
801 sequentially to each request;

802 (d) for claims under Subsection (6)(f), the governmental entity shall either approve or

803 deny the request within five business days after the response time specified for the original  
804 request has expired;

805 (e) for claims under Subsection (6)(g), the governmental entity shall fulfill the request  
806 within 15 business days from the date of the original request; or

807 (f) for claims under Subsection (6)(h), the governmental entity shall complete its  
808 programming and disclose the requested records as soon as reasonably possible.

809 (8) (a) If a request for access is submitted to an office of a governmental entity other  
810 than that specified by rule in accordance with Subsection (3), the office shall promptly forward  
811 the request to the appropriate office.

812 (b) If the request is forwarded promptly, the time limit for response begins when the  
813 request is received by the office specified by rule.

814 (9) If the governmental entity fails to provide the requested records or issue a denial  
815 within the specified time period, that failure is considered the equivalent of a determination  
816 denying access to the record.

817 Section 13. Section **63G-2-307** is amended to read:

818 **63G-2-307. Duty to evaluate records and make designations, classifications, and**  
819 **annotations.**

820 (1) A governmental entity shall, for each record series that the governmental entity  
821 keeps, uses, or creates;

822 (a) evaluate all record series [~~that it uses or creates~~];

823 (b) designate [~~those~~] each record series as provided by this chapter and Title 63A,  
824 Chapter 12, Division of Archives and Records Service; and

825 (c) report [~~the designations of its record series~~] to the state archives;

826 (i) the designation described in Subsection (1)(b); and

827 (ii) if the governmental entity is an executive branch agency, as defined in Section  
828 63A-12-100.5, the privacy annotation.

829 (2) A governmental entity may classify a particular record, record series, or  
830 information within a record at any time, but is not required to classify a particular record,  
831 record series, or information until access to the record is requested.

832 (3) A governmental entity may redesignate a record series or reclassify a record or  
833 record series, or information within a record at any time.

834 Section 14. Section **63G-2-601** is amended to read:

835 **63G-2-601. Rights of individuals on whom data is maintained -- Classification**  
836 **and personal identifying information statement -- Notice to provider of information.**

837 (1) (a) Each governmental entity shall file with the state archivist a statement  
838 explaining, for each record series collected, maintained, or used by the governmental entity, the  
839 purposes for which [a record series that is designated as private or controlled is collected and]  
840 each private or controlled record in the record series is collected, maintained, or used by that  
841 governmental entity.

842 (b) Each executive branch agency, as defined in Section 63A-12-100.5, shall file with  
843 the state archivist a statement explaining, for each record series collected, maintained, or used  
844 by the executive branch agency, the purposes for which the personal identifying information in  
845 the record series is collected, maintained, or used by the executive branch agency.

846 ~~[(b)]~~ (c) The statement filed under Subsection (1)(a) or (b):

847 (i) shall, for each purpose described in Subsection (1)(a) or (b), identify the authority  
848 under which the governmental entity or executive branch agency collects the records or  
849 information included in the statement described in Subsection (1)(a) or (b); and

850 (ii) is a public record.

851 (2) (a) A governmental entity shall provide ~~[notice of the following]~~ the notice  
852 described in this Subsection (2) to a person that is asked to furnish information that could be  
853 classified as a private or controlled record~~[-]~~.

854 (b) An executive branch agency, as defined in Section 63A-12-100.5, shall provide the  
855 notice described in this Subsection (2) to a person that is asked to furnish personal identifying  
856 information.

857 (c) The notice required under Subsection (2)(a) or (b) shall:

858 (i) identify the record series that includes the information described in Subsection  
859 (2)(a) or (b);

860 ~~[(i)]~~ (ii) state the reasons the person is asked to furnish the information;

861 ~~[(ii)]~~ (iii) state the intended uses of the information;

862 ~~[(iii)]~~ (iv) state the consequences for refusing to provide the information; and

863 ~~[(iv)]~~ (v) disclose the classes of persons and the governmental entities that currently:

864 (A) share the information with the governmental entity; or

865 (B) receive the information from the governmental entity on a regular or contractual  
866 basis.

867 ~~[(b)]~~ (d) The ~~[notice shall be]~~ governmental entity shall:

868 (i) ~~[posted]~~ post the notice required under this Subsection (2) in a prominent place at  
869 all locations where the governmental entity collects the information; or

870 (ii) ~~[included]~~ include the notice required under this Subsection (2) as part of the  
871 documents or forms that are used by the governmental entity to collect the information.

872 (3) Upon request, each governmental entity shall, in relation to the information  
873 described in Subsection (2)(a) or (b), as applicable, explain to a person:

874 (a) the reasons the person is asked to furnish information ~~[that could be classified as a~~  
875 ~~private or controlled record]~~;

876 (b) the intended uses of the information ~~[referred to in Subsection (3)(a)]~~;

877 (c) the consequences for refusing to provide the information ~~[referred to in Subsection~~  
878 ~~(3)(a)]~~; and

879 (d) the reasons and circumstances under which the information ~~[referred to in~~  
880 ~~Subsection (3)(a)]~~ may be shared with<sub>2</sub> or provided to<sub>2</sub> other persons or governmental entities.

881 (4) A governmental entity may use ~~[private or controlled records]~~ the information that  
882 the governmental entity is required to disclose under Subsection (2)(a) or (b) only for those  
883 purposes:

884 (a) given in the statement filed with the state archivist under Subsection (1); or

885 (b) for which another governmental entity may use the record under Section  
886 [63G-2-206](#).

887 Section 15. Section [63G-2-604](#) is amended to read:

888 **[63G-2-604. Retention and disposition of records.](#)**

889 (1) (a) Except for a governmental entity that is permitted to maintain the governmental  
890 entity's own retention schedules under Part 7, Applicability to Political Subdivisions, the  
891 Judiciary, and the Legislature, each governmental entity shall file with the Records  
892 Management Committee created in Section [63A-12-112](#) a proposed schedule for the retention  
893 and disposition of each type of material that is defined as a record under this chapter.

894 (b) After a retention schedule is reviewed and approved by the Records Management  
895 Committee under Subsection [63A-12-113](#)(1)(b), the governmental entity shall maintain and

896 destroy records in accordance with the retention schedule.

897 (c) If a governmental entity subject to the provisions of this section has not received an  
898 approved retention schedule from the Records Management Committee for a specific type of  
899 material that is ~~[classified]~~ defined as a record under this chapter, the ~~[model]~~ general retention  
900 schedule maintained by the state archivist shall govern the retention and destruction of that type  
901 of material.

902 (2) A retention schedule that is filed with or approved by the Records Management  
903 Committee under the requirements of this section is a public record.

904 Section 16. Section **67-1-17** is amended to read:

905 **67-1-17. Chief privacy officer.**

906 (1) As used in this section:

907 (a) "Independent entity" means the same as that term is defined in Section [63E-1-102](#).

908 (b) (i) "Personal data" means any information relating to an identified or identifiable  
909 individual.

910 (ii) "Personal data" includes personally identifying information.

911 (c) (i) "Privacy practice" means the acquisition, use, storage, or disposal of personal  
912 data.

913 (ii) "Privacy practice" includes:

914 (A) a technology use related to personal data; and

915 (B) policies related to the protection, storage, sharing, and retention of personal data.

916 (d) (i) "State agency" means the following entities that are under the direct supervision  
917 and control of the governor or the lieutenant governor:

918 (A) a department;

919 (B) a commission;

920 (C) a board;

921 (D) a council;

922 (E) an institution;

923 (F) an officer;

924 (G) a corporation;

925 (H) a fund;

926 (I) a division;

- 927 (J) an office;
- 928 (K) a committee;
- 929 (L) an authority;
- 930 (M) a laboratory;
- 931 (N) a library;
- 932 (O) a bureau;
- 933 (P) a panel;
- 934 (Q) another administrative unit of the state; or
- 935 (R) an agent of an entity described in Subsections (A) through (Q).
- 936 (ii) "State agency" does not include:
  - 937 (A) the legislative branch;
  - 938 (B) the judicial branch;
  - 939 (C) an executive branch agency within the Office of the Attorney General, the state
  - 940 auditor, the state treasurer, or the State Board of Education; or
  - 941 (D) an independent entity.
- 942 (2) The governor [~~may~~] shall, with the advice and consent of the Senate, appoint a
- 943 [~~government operations~~] chief privacy officer.
- 944 (3) The [~~government operations~~] chief privacy officer shall:
  - 945 (a) compile information about the privacy practices of state agencies;
  - 946 (b) make public and maintain information about the privacy practices of state agencies
  - 947 on the governor's website;
  - 948 (c) provide state agencies with educational and training materials developed by the
  - 949 Personal Privacy Oversight Commission established in Section 63C-24-201 that include the
  - 950 information described in Subsection 63C-24-202(1)(b);
  - 951 (d) implement a process to analyze and respond to requests from individuals for the
  - 952 [~~government operations~~] chief privacy officer to review a state agency's privacy practice;
  - 953 (e) identify annually which state agencies' privacy practices pose the greatest risk to
  - 954 individual privacy and prioritize those privacy practices for review;
  - 955 (f) review each year, in as timely a manner as possible, the privacy practices that the
  - 956 [~~government operations~~] chief privacy officer identifies under Subsection (3)(d) or (e) as
  - 957 posing the greatest risk to individuals' privacy;

- 958 (g) when reviewing a state agency's privacy practice under Subsection (3)(f), analyze:
- 959 (i) details about the privacy practice;
- 960 (ii) information about the type of data being used;
- 961 (iii) information about how the data is obtained, shared, secured, stored, and disposed;
- 962 (iv) information about with which persons the state agency shares the information;
- 963 (v) information about whether an individual can or should be able to opt out of the
- 964 retention and sharing of the individual's data;
- 965 (vi) information about how the state agency de-identifies or anonymizes data;
- 966 (vii) a determination about the existence of alternative technology or improved
- 967 practices to protect privacy; and
- 968 (viii) a finding of whether the state agency's current privacy practice adequately
- 969 protects individual privacy; and
- 970 (h) after completing a review described in Subsections (3)(f) and (g), determine:
- 971 (i) each state agency's use of personal data, including the state agency's practices
- 972 regarding data:
- 973 (A) acquisition;
- 974 (B) storage;
- 975 (C) disposal;
- 976 (D) protection; and
- 977 (E) sharing;
- 978 (ii) the adequacy of the state agency's practices in each of the areas described in
- 979 Subsection (3)(h)(i); and
- 980 (iii) for each of the areas described in Subsection (3)(h)(i) that the ~~[government~~
- 981 ~~operations]~~ chief privacy officer determines require reform, provide recommendations to the
- 982 state agency for reform.
- 983 (4) The ~~[government operations]~~ chief privacy officer shall:
- 984 (a) quarterly report, to the Personal Privacy Oversight Commission:
- 985 (i) recommendations for privacy practices for the commission to review; and
- 986 (ii) the information described in Subsection (3)(h); and
- 987 (b) annually, on or before October 1, report to the Judiciary Interim Committee:
- 988 (i) the results of any reviews described in Subsection (3)(g), if any reviews have been



989 completed;

990 (ii) reforms, to the extent that the [~~government operations~~] chief privacy officer is  
991 aware of any reforms, that the state agency made in response to any reviews described in  
992 Subsection (3)(g);

993 (iii) the information described in Subsection (3)(h); and

994 (iv) recommendations for legislation based on the results of any reviews described in  
995 Subsection (3)(g).

996 (5) The chief privacy officer may make rules, in accordance with Title 63G, Chapter 3,  
997 Utah Administrative Rulemaking Act, that:

998 (a) establish requirements and standards for determining whether a state agency's  
999 privacy practice, in relation to the areas described in Subsection (3)(h)(i), is adequate or  
1000 requires reform; and

1001 (b) establish the training described in Subsections [63A-12-103\(2\)\(b\)\(v\)](#) and [\(3\)\(b\)\(ii\)](#).  
1002 Section 17. Section **67-3-13** is amended to read:

1003 **67-3-13. State privacy officer.**

1004 (1) As used in this section:

1005 (a) "Designated government entity" means a government entity that is not a state  
1006 agency.

1007 (b) "Independent entity" means the same as that term is defined in Section [63E-1-102](#).

1008 (c) (i) "Government entity" means the state, a county, a municipality, a higher  
1009 education institution, a local district, a special service district, a school district, an independent  
1010 entity, or any other political subdivision of the state or an administrative subunit of any  
1011 political subdivision, including a law enforcement entity.

1012 (ii) "Government entity" includes an agent of an entity described in Subsection  
1013 (1)(c)(i).

1014 (d) (i) "Personal data" means any information relating to an identified or identifiable  
1015 individual.

1016 (ii) "Personal data" includes personally identifying information.

1017 (e) (i) "Privacy practice" means the acquisition, use, storage, or disposal of personal  
1018 data.

1019 (ii) "Privacy practice" includes:

- 1020 (A) a technology use related to personal data; and
- 1021 (B) policies related to the protection, storage, sharing, and retention of personal data.
- 1022 (f) (i) "State agency" means the following entities that are under the direct supervision
- 1023 and control of the governor or the lieutenant governor:
- 1024 (A) a department;
- 1025 (B) a commission;
- 1026 (C) a board;
- 1027 (D) a council;
- 1028 (E) an institution;
- 1029 (F) an officer;
- 1030 (G) a corporation;
- 1031 (H) a fund;
- 1032 (I) a division;
- 1033 (J) an office;
- 1034 (K) a committee;
- 1035 (L) an authority;
- 1036 (M) a laboratory;
- 1037 (N) a library;
- 1038 (O) a bureau;
- 1039 (P) a panel;
- 1040 (Q) another administrative unit of the state; or
- 1041 (R) an agent of an entity described in Subsections (A) through (Q).
- 1042 (ii) "State agency" does not include:
- 1043 (A) the legislative branch;
- 1044 (B) the judicial branch;
- 1045 (C) an executive branch agency within the Office of the Attorney General, the state
- 1046 auditor, the state treasurer, or the State Board of Education; or
- 1047 (D) an independent entity.
- 1048 (2) The state privacy officer shall:
- 1049 (a) when completing the duties of this Subsection (2), focus on the privacy practices of
- 1050 designated government entities;

1051 (b) compile information about government privacy practices of designated government  
1052 entities;

1053 (c) make public and maintain information about government privacy practices on the  
1054 state auditor's website;

1055 (d) provide designated government entities with educational and training materials  
1056 developed by the Personal Privacy Oversight Commission established in Section 63C-24-201  
1057 that include the information described in Subsection 63C-24-202(1)(b);

1058 (e) implement a process to analyze and respond to requests from individuals for the  
1059 state privacy officer to review a designated government entity's privacy practice;

1060 (f) identify annually which designated government entities' privacy practices pose the  
1061 greatest risk to individual privacy and prioritize those privacy practices for review;

1062 (g) review each year, in as timely a manner as possible, the privacy practices that the  
1063 privacy officer identifies under Subsection (2)(e) or (2)(f) as posing the greatest risk to  
1064 individuals' privacy;

1065 (h) when reviewing a designated government entity's privacy practice under Subsection  
1066 (2)(g), analyze:

1067 (i) details about the technology or the policy and the technology's or the policy's  
1068 application;

1069 (ii) information about the type of data being used;

1070 (iii) information about how the data is obtained, stored, shared, secured, and disposed;

1071 (iv) information about with which persons the designated government entity shares the  
1072 information;

1073 (v) information about whether an individual can or should be able to opt out of the  
1074 retention and sharing of the individual's data;

1075 (vi) information about how the designated government entity de-identifies or  
1076 anonymizes data;

1077 (vii) a determination about the existence of alternative technology or improved  
1078 practices to protect privacy; and

1079 (viii) a finding of whether the designated government entity's current privacy practice  
1080 adequately protects individual privacy; and

1081 (i) after completing a review described in Subsections (2)(g) and (h), determine:

1082 (i) each designated government entity's use of personal data, including the designated  
1083 government entity's practices regarding data:

1084 (A) acquisition;

1085 (B) storage;

1086 (C) disposal;

1087 (D) protection; and

1088 (E) sharing;

1089 (ii) the adequacy of the designated government entity's practices in each of the areas  
1090 described in Subsection (2)(i)(i); and

1091 (iii) for each of the areas described in Subsection (2)(i)(i) that the state privacy officer  
1092 determines to require reform, provide recommendations for reform to the designated  
1093 government entity and the legislative body charged with regulating the designated government  
1094 entity.

1095 (3) (a) The legislative body charged with regulating a designated government entity  
1096 that receives a recommendation described in Subsection (2)(i)(iii) shall hold a public hearing  
1097 on the proposed reforms:

1098 (i) with a quorum of the legislative body present; and

1099 (ii) within 90 days after the day on which the legislative body receives the  
1100 recommendation.

1101 (b) (i) The legislative body shall provide notice of the hearing described in Subsection  
1102 (3)(a).

1103 (ii) Notice of the public hearing and the recommendations to be discussed shall be  
1104 posted on:

1105 (A) the Utah Public Notice Website created in Section [63A-16-601](#) for 30 days before  
1106 the day on which the legislative body will hold the public hearing; and

1107 (B) the website of the designated government entity that received a recommendation, if  
1108 the designated government entity has a website, for 30 days before the day on which the  
1109 legislative body will hold the public hearing.

1110 (iii) Each notice required under Subsection (3)(b)(i) shall:

1111 (A) identify the recommendations to be discussed; and

1112 (B) state the date, time, and location of the public hearing.

1113 (c) During the hearing described in Subsection (3)(a), the legislative body shall:

1114 (i) provide the public the opportunity to ask questions and obtain further information  
1115 about the recommendations; and

1116 (ii) provide any interested person an opportunity to address the legislative body with  
1117 concerns about the recommendations.

1118 (d) At the conclusion of the hearing, the legislative body shall determine whether the  
1119 legislative body shall adopt reforms to address the recommendations and any concerns raised  
1120 during the public hearing.

1121 (4) (a) Except as provided in Subsection (4)(b), if the [~~government operations~~] chief  
1122 privacy officer described in Section 67-1-17 is not conducting reviews of the privacy practices  
1123 of state agencies, the state privacy officer may review the privacy practices of a state agency in  
1124 accordance with the processes described in this section.

1125 (b) Subsection (3) does not apply to a state agency.

1126 (5) The state privacy officer shall:

1127 (a) quarterly report, to the Personal Privacy Oversight Commission:

1128 (i) recommendations for privacy practices for the commission to review; and

1129 (ii) the information provided in Subsection (2)(i); and

1130 (b) annually, on or before October 1, report to the Judiciary Interim Committee:

1131 (i) the results of any reviews described in Subsection (2)(g), if any reviews have been  
1132 completed;

1133 (ii) reforms, to the extent that the state privacy officer is aware of any reforms, that the  
1134 designated government entity made in response to any reviews described in Subsection (2)(g);

1135 (iii) the information described in Subsection (2)(i); and

1136 (iv) recommendations for legislation based on any results of a review described in  
1137 Subsection (2)(g).

1138 Section 18. Section 77-27-5 is amended to read:

1139 **77-27-5. Board of Pardons and Parole authority.**

1140 (1) (a) Subject to this chapter and other laws of the state, and except for a conviction  
1141 for treason or impeachment, the board shall determine by majority decision when and under  
1142 what conditions an offender's conviction may be pardoned or commuted.

1143 (b) The Board of Pardons and Parole shall determine by majority decision when and

1144 under what conditions an offender committed to serve a sentence at a penal or correctional  
1145 facility, which is under the jurisdiction of the department, may:

- 1146 (i) be released upon parole;
- 1147 (ii) have a fine or forfeiture remitted;
- 1148 (iii) have the offender's criminal accounts receivable remitted in accordance with  
1149 Section 77-32b-105 or 77-32b-106;

1150 (iv) have the offender's payment schedule modified in accordance with Section  
1151 77-32b-103; or

1152 (v) have the offender's sentence terminated.

1153 (c) (i) The board may sit together or in panels to conduct hearings.

1154 (ii) The chair shall appoint members to the panels in any combination and in  
1155 accordance with rules made in accordance with Title 63G, Chapter 3, Utah Administrative  
1156 Rulemaking Act, by the board.

1157 (iii) The chair may participate on any panel and when doing so is chair of the panel.

1158 (iv) The chair of the board may designate the chair for any other panel.

1159 (d) (i) Except after a hearing before the board, or the board's appointed examiner, in an  
1160 open session, the board may not:

1161 (A) remit a fine or forfeiture for an offender or the offender's criminal accounts  
1162 receivable;

1163 (B) release the offender on parole; or

1164 (C) commute, pardon, or terminate an offender's sentence.

1165 (ii) An action taken under this Subsection (1) other than by a majority of the board  
1166 shall be affirmed by a majority of the board.

1167 (e) A commutation or pardon may be granted only after a full hearing before the board.

1168 (2) (a) In the case of any hearings, timely prior notice of the time and location of the  
1169 hearing shall be given to the offender.

1170 (b) The county or district attorney's office responsible for prosecution of the case, the  
1171 sentencing court, and law enforcement officials responsible for the defendant's arrest and  
1172 conviction shall be notified of any board hearings through the board's website.

1173 (c) Whenever possible, the victim or the victim's representative, if designated, shall be  
1174 notified of original hearings and any hearing after that if notification is requested and current

1175 contact information has been provided to the board.

1176 (d) (i) Notice to the victim or the victim's representative shall include information  
1177 provided in Section [77-27-9.5](#), and any related rules made by the board under that section.

1178 (ii) The information under Subsection (2)(d)(i) shall be provided in terms that are  
1179 reasonable for the lay person to understand.

1180 (3) (a) A decision by the board is final and not subject for judicial review if the  
1181 decision is regarding:

1182 (i) a pardon, parole, commutation, or termination of an offender's sentence;

1183 (ii) the modification of an offender's payment schedule for restitution; or

1184 (iii) the remission of an offender's criminal accounts receivable or a fine or forfeiture.

1185 (b) Deliberative processes are not public and the board is exempt from Title 52,  
1186 Chapter 4, Open and Public Meetings Act, when the board is engaged in the board's  
1187 deliberative process.

1188 (c) Pursuant to Subsection [~~63G-2-103(22)(b)(xi)~~] [63G-2-103\(24\)\(b\)\(xi\)](#), records of  
1189 the deliberative process are exempt from Title 63G, Chapter 2, Government Records Access  
1190 and Management Act.

1191 (d) Unless it will interfere with a constitutional right, deliberative processes are not  
1192 subject to disclosure, including discovery.

1193 (e) Nothing in this section prevents the obtaining or enforcement of a civil judgment.

1194 (4) (a) This chapter may not be construed as a denial of or limitation of the governor's  
1195 power to grant respite or reprieves in all cases of convictions for offenses against the state,  
1196 except treason or conviction on impeachment.

1197 (b) Notwithstanding Subsection (4)(a), respites or reprieves may not extend beyond the  
1198 next session of the Board of Pardons and Parole.

1199 (c) At the next session of the board, the board:

1200 (i) shall continue or terminate the respite or reprieve; or

1201 (ii) may commute the punishment or pardon the offense as provided.

1202 (d) In the case of conviction for treason, the governor may suspend execution of the  
1203 sentence until the case is reported to the Legislature at the Legislature's next session.

1204 (e) The Legislature shall pardon or commute the sentence or direct the sentence's  
1205 execution.

1206 (5) (a) In determining when, where, and under what conditions an offender serving a  
1207 sentence may be paroled or pardoned, have a fine or forfeiture remitted, have the offender's  
1208 criminal accounts receivable remitted, or have the offender's sentence commuted or terminated,  
1209 the board shall:

1210 (i) consider whether the offender has made restitution ordered by the court under  
1211 Section [77-38b-205](#), or is prepared to pay restitution as a condition of any parole, pardon,  
1212 remission of a criminal accounts receivable or a fine or forfeiture, or a commutation or  
1213 termination of the offender's sentence;

1214 (ii) except as provided in Subsection (5)(b), develop and use a list of criteria for  
1215 making determinations under this Subsection (5);

1216 (iii) consider information provided by the Department of Corrections regarding an  
1217 offender's individual case action plan; and

1218 (iv) review an offender's status within 60 days after the day on which the board  
1219 receives notice from the Department of Corrections that the offender has completed all of the  
1220 offender's case action plan components that relate to activities that can be accomplished while  
1221 the offender is imprisoned.

1222 (b) The board shall determine whether to remit an offender's criminal accounts  
1223 receivable under this Subsection (5) in accordance with Section [77-32b-105](#) or [77-32b-106](#).

1224 (6) In determining whether parole may be terminated, the board shall consider:

1225 (a) the offense committed by the parolee; and

1226 (b) the parole period under Section [76-3-202](#), and in accordance with Section  
1227 [77-27-13](#).

1228 (7) For an offender placed on parole after December 31, 2018, the board shall  
1229 terminate parole in accordance with the supervision length guidelines established by the Utah  
1230 Sentencing Commission under Section [63M-7-404](#), to the extent the guidelines are consistent  
1231 with the requirements of the law.

1232 Section 19. **Repealer.**

1233 This bill repeals:

1234 Section [63A-12-100](#), Title.