

1 **PERSONAL IDENTIFYING INFORMATION IN**
2 **GOVERNMENT RECORDS**

3 2024 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Judy Weeks Rohner**

6 Senate Sponsor: _____

7
8 **LONG TITLE**

9 **General Description:**

10 This bill amends provisions of the Government Records Access and Management Act
11 to limit and govern the disclosure of personal identifying information.

12 **Highlighted Provisions:**

13 This bill:

- 14 ▶ defines personal identifying information;
- 15 ▶ except to the extent expressly provided in this bill, prohibits the disclosure of
16 personal identifying information;
- 17 ▶ requires a governmental entity to provide notice when personal identifying
18 information is, under certain circumstances, disclosed to a health care provider;
- 19 ▶ classifies a record that contains personal identifying information as a private record;
- 20 ▶ makes it a class A misdemeanor to intentionally and unlawfully disclose, or obtain
21 access to, personal identifying information; and
- 22 ▶ makes technical and conforming changes.

23 **Money Appropriated in this Bill:**

24 None

25 **Other Special Clauses:**

26 None

27 **Utah Code Sections Affected:**



28 AMENDS:

29 **63G-2-103**, as last amended by Laws of Utah 2023, Chapters 16, 173, 231, and 516

30 **63G-2-201**, as last amended by Laws of Utah 2023, Chapters 173, 516

31 **63G-2-202**, as last amended by Laws of Utah 2023, Chapter 329

32 **63G-2-302**, as last amended by Laws of Utah 2023, Chapters 329, 471

33 **63G-2-306**, as renumbered and amended by Laws of Utah 2008, Chapter 382

34 **63G-2-309**, as last amended by Laws of Utah 2023, Chapter 516

35 **63G-2-401**, as last amended by Laws of Utah 2019, Chapters 254, 334

36 **63G-2-403**, as last amended by Laws of Utah 2019, Chapter 254

37 **63G-2-404**, as last amended by Laws of Utah 2023, Chapter 516

38 **63G-2-801**, as last amended by Laws of Utah 2019, Chapter 254

39 ENACTS:

40 **63G-2-201.5**, Utah Code Annotated 1953



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

43 Section 1. Section **63G-2-103** is amended to read:

44 **63G-2-103. Definitions.**

45 As used in this chapter:

46 (1) "Audit" means:

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

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

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

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

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

58 (3) "Classification," "classify," and their derivative forms mean determining whether a

59 record series, record, or information within a record is public, private, controlled, protected, or
60 exempt from disclosure under Subsection [63G-2-201\(3\)\(b\)](#).

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

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

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

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

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

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

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

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

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

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

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

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

81 (7) "Designation," "designate," and their derivative forms mean indicating, based on a
82 governmental entity's familiarity with a record series or based on a governmental entity's
83 review of a reasonable sample of a record series, the primary classification that a majority of
84 records in a record series would be given if classified and the classification that other records
85 typically present in the record series would be given if classified.

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

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

- 90 (a) commonly used or intended for the purpose of producing an explosion; and
91 (b) that contains oxidizing or combustive units or other ingredients in proportions,
92 quantities, or packing so that:
- 93 (i) an ignition by fire, friction, concussion, percussion, or detonator of any part of the
94 compound or mixture may cause a sudden generation of highly heated gases; and
95 (ii) the resultant gaseous pressures are capable of:
- 96 (A) producing destructive effects on contiguous objects; or
97 (B) causing death or serious bodily injury.
- 98 (10) "Government audit agency" means any governmental entity that conducts an audit.
99 (11) (a) "Governmental entity" means:
- 100 (i) executive department agencies of the state, the offices of the governor, lieutenant
101 governor, state auditor, attorney general, and state treasurer, the Board of Pardons and Parole,
102 the Board of Examiners, the National Guard, the Career Service Review Office, the State
103 Board of Education, the Utah Board of Higher Education, and the State Archives;
104 (ii) the Office of the Legislative Auditor General, Office of the Legislative Fiscal
105 Analyst, Office of Legislative Research and General Counsel, the Legislature, and legislative
106 committees, except any political party, group, caucus, or rules or sifting committee of the
107 Legislature;
108 (iii) courts, the Judicial Council, the Administrative Office of the Courts, and similar
109 administrative units in the judicial branch;
110 (iv) any state-funded institution of higher education or public education; or
111 (v) any political subdivision of the state, but, if a political subdivision has adopted an
112 ordinance or a policy relating to information practices pursuant to Section 63G-2-701, this
113 chapter shall apply to the political subdivision to the extent specified in Section 63G-2-701 or
114 as specified in any other section of this chapter that specifically refers to political subdivisions.
- 115 (b) "Governmental entity" [~~also means~~] includes:
- 116 (i) every office, agency, board, bureau, committee, department, advisory board, or
117 commission of an entity listed in Subsection (11)(a) that is funded or established by the
118 government to carry out the public's business;
119 (ii) as defined in Section 11-13-103, an interlocal entity or joint or cooperative
120 undertaking;

- 121 (iii) as defined in Section 11-13a-102, a governmental nonprofit corporation;
- 122 (iv) an association as defined in Section 53G-7-1101;
- 123 (v) the Utah Independent Redistricting Commission; and
- 124 (vi) a law enforcement agency, as defined in Section 53-1-102, that employs one or
125 more law enforcement officers, as defined in Section 53-13-103.
- 126 (c) "Governmental entity" does not include the Utah Educational Savings Plan created
127 in Section 53B-8a-103.
- 128 (12) "Gross compensation" means every form of remuneration payable for a given
129 period to an individual for services provided including salaries, commissions, vacation pay,
130 severance pay, bonuses, and any board, rent, housing, lodging, payments in kind, and any
131 similar benefit received from the individual's employer.
- 132 (13) "Individual" means a human being.
- 133 (14) (a) "Initial contact report" means an initial written or recorded report, however
134 titled, prepared by peace officers engaged in public patrol or response duties describing official
135 actions initially taken in response to either a public complaint about or the discovery of an
136 apparent violation of law, which report may describe:
- 137 (i) the date, time, location, and nature of the complaint, the incident, or offense;
- 138 (ii) names of victims;
- 139 (iii) the nature or general scope of the agency's initial actions taken in response to the
140 incident;
- 141 (iv) the general nature of any injuries or estimate of damages sustained in the incident;
- 142 (v) the name, address, and other identifying information about any person arrested or
143 charged in connection with the incident; or
- 144 (vi) the identity of the public safety personnel, except undercover personnel, or
145 prosecuting attorney involved in responding to the initial incident.
- 146 (b) Initial contact reports do not include follow-up or investigative reports prepared
147 after the initial contact report. However, if the information specified in Subsection (14)(a)
148 appears in follow-up or investigative reports, it may only be treated confidentially if it is
149 private, controlled, protected, or exempt from disclosure under Subsection 63G-2-201(3)(b).
- 150 (c) Initial contact reports do not include accident reports, as that term is described in
151 Title 41, Chapter 6a, Part 4, Accident Responsibilities.

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

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

155 (17) "Person" means:

156 (a) an individual;

157 (b) a nonprofit or profit corporation;

158 (c) a partnership;

159 (d) a sole proprietorship;

160 (e) other type of business organization; or

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

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

164 (b) "Personal identifying information" includes an individual's:

165 (i) first name, middle name, middle initial, last name, maiden name, nickname, or other
166 name used to identify the individual in the present or past;

167 (ii) gender;

168 (iii) date or place of birth;

169 (iv) mother's maiden name;

170 (v) photograph or image;

171 (vi) description, based on personal characteristics;

172 (vii) address;

173 (viii) phone number;

174 (ix) social security number;

175 (x) driver license number;

176 (xi) passport number;

177 (xii) identification number;

178 (xiii) credit card number;

179 (xiv) financial account number;

180 (xv) medical or disability information, to the extent that the information identifies the
181 individual or to the extent that the information could be reasonably anticipated to identify the
182 individual; or

183 (xvi) DNA.

184 (19) "Privacy annotation" means the same as that term is defined in Section
185 [63A-12-100.5](#).

186 (20) "Private provider" means any person who contracts with a governmental entity to
187 provide services directly to the public.

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

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

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

194 (24) "Reasonable search" means a search that is:

195 (a) reasonable in scope and intensity; and

196 (b) not unreasonably burdensome for the government entity.

197 (25) (a) "Record" means a book, letter, document, paper, map, plan, photograph, film,
198 card, tape, recording, electronic data, or other documentary material regardless of physical form
199 or characteristics:

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

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

204 (b) "Record" does not mean:

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

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

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

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

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

213 (iv) material to which access is limited by the laws of copyright or patent unless the

214 copyright or patent is owned by a governmental entity or political subdivision;

215 (v) proprietary software;

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

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

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

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

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

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

228 (A) a member of the judiciary;

229 (B) an administrative law judge;

230 (C) a member of the Board of Pardons and Parole; or

231 (D) a member of any other body, other than an association or appeals panel as defined
232 in Section [53G-7-1101](#), charged by law with performing a quasi-judicial function;

233 (xii) a telephone number or similar code used to access a mobile communication
234 device that is used by an employee or officer of a governmental entity, provided that the
235 employee or officer of the governmental entity has designated at least one business telephone
236 number that is a public record as provided in Section [63G-2-301](#);

237 (xiii) information provided by the Public Employees' Benefit and Insurance Program,
238 created in Section [49-20-103](#), to a county to enable the county to calculate the amount to be
239 paid to a health care provider under Subsection [17-50-319\(2\)\(e\)\(ii\)](#);

240 (xiv) information that an owner of unimproved property provides to a local entity as
241 provided in Section [11-42-205](#);

242 (xv) a video or audio recording of an interview, or a transcript of the video or audio
243 recording, that is conducted at a Children's Justice Center established under Section [67-5b-102](#);

244 (xvi) child sexual abuse material, as defined by Section [76-5b-103](#);

245 (xvii) before final disposition of an ethics complaint occurs, a video or audio recording
246 of the closed portion of a meeting or hearing of:

247 (A) a Senate or House Ethics Committee;

248 (B) the Independent Legislative Ethics Commission;

249 (C) the Independent Executive Branch Ethics Commission, created in Section
250 [63A-14-202](#); or

251 (D) the Political Subdivisions Ethics Review Commission established in Section
252 [63A-15-201](#); or

253 (xviii) confidential communication described in Section [58-60-102](#), [58-61-102](#), or
254 [58-61-702](#).

255 (26) "Record series" means a group of records that may be treated as a unit for
256 purposes of designation, description, management, or disposition.

257 (27) "Records officer" means the individual appointed by the chief administrative
258 officer of each governmental entity, or the political subdivision to work with state archives in
259 the care, maintenance, scheduling, designation, classification, disposal, and preservation of
260 records.

261 (28) "Schedule," "scheduling," and their derivative forms mean the process of
262 specifying the length of time each record series should be retained by a governmental entity for
263 administrative, legal, fiscal, or historical purposes and when each record series should be
264 transferred to the state archives or destroyed.

265 (29) "Sponsored research" means research, training, and other sponsored activities as
266 defined by the federal Executive Office of the President, Office of Management and Budget:

267 (a) conducted:

268 (i) by an institution within the state system of higher education defined in Section
269 [53B-1-102](#); and

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

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

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

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

275 (30) "State archives" means the Division of Archives and Records Service created in

276 Section [63A-12-101](#).

277 (31) "State archivist" means the director of the state archives.

278 (32) "State Records Committee" means the State Records Committee created in
279 Section [63G-2-501](#).

280 (33) "Summary data" means statistical records and compilations that contain data
281 derived from private, controlled, or protected information but that do not disclose private,
282 controlled, or protected information.

283 Section 2. Section [63G-2-201](#) is amended to read:

284 **[63G-2-201. Provisions relating to records -- Public records -- Private, controlled,](#)**
285 **[protected, and other restricted records -- Disclosure and nondisclosure of records --](#)**
286 **[Certified copy of record -- Limits on obligation to respond to record request.](#)**

287 (1) (a) Except as provided in Subsection (1)(b), a person has the right to inspect a
288 public record free of charge, and the right to take a copy of a public record during normal
289 working hours, subject to Sections [63G-2-203](#) and [63G-2-204](#).

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

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

292 (ii) that is the subject of a records request that the governmental entity is not required
293 to fill under Subsection (7)(a)(v); or

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

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

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

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

301 (3) The following records are not public:

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

304 (b) a record to which access is restricted pursuant to court rule, another state statute,
305 federal statute, or federal regulation, including records for which access is governed or
306 restricted as a condition of participation in a state or federal program or for receiving state or

307 federal funds.

308 (4) Only a record specified in Section 63G-2-302, 63G-2-303, 63G-2-304, or
309 63G-2-305 may be classified private, controlled, or protected.

310 (5) (a) A governmental entity may not disclose a record that is private, controlled, or
311 protected to any person except as provided in Subsection (5)(b), Subsection (5)(c), Section
312 63G-2-202, 63G-2-206, or 63G-2-303.

313 (b) [A] Except as provided in Subsection (5)(d), a governmental entity may disclose a
314 record that is private under Subsection 63G-2-302(2) or protected under Section 63G-2-305 to
315 persons other than those specified in Section 63G-2-202 or 63G-2-206 if the head of a
316 governmental entity, or a designee, determines that:

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

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

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

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

323 (A) is mutually beneficial to:

324 (I) the subject of the record;

325 (II) the governmental entity; and

326 (III) the public; and

327 (B) serves a public purpose related to:

328 (I) public safety; or

329 (II) consumer protection; and

330 (ii) the person who receives the record from the governmental entity agrees not to use
331 or allow the use of the record for advertising or solicitation purposes.

332 (d) Except to the extent authorized under Section 63G-2-201.5, a governmental entity
333 may not disclose or authorize disclosure of personal identifying information under Subsection
334 (5)(b).

335 (6) A governmental entity shall provide a person with a certified copy of a record if:

336 (a) the person requesting the record has a right to inspect it;

337 (b) the person identifies the record with reasonable specificity; and

338 (c) the person pays the lawful fees.

339 (7) (a) In response to a request, a governmental entity is not required to:

340 (i) create a record;

341 (ii) compile, format, manipulate, package, summarize, or tailor information;

342 (iii) provide a record in a particular format, medium, or program not currently

343 maintained by the governmental entity;

344 (iv) fulfill a person's records request if the request unreasonably duplicates prior

345 records requests from that person;

346 (v) fill a person's records request if:

347 (A) the record requested is:

348 (I) publicly accessible online; or

349 (II) included in a public publication or product produced by the governmental entity

350 receiving the request; and

351 (B) the governmental entity:

352 (I) specifies to the person requesting the record where the record is accessible online;

353 or

354 (II) provides the person requesting the record with the public publication or product

355 and specifies where the record can be found in the public publication or product; or

356 (vi) fulfill a person's records request if:

357 (A) the person has been determined under Section [63G-2-209](#) to be a vexatious

358 requester;

359 (B) the State Records Committee order determining the person to be a vexatious

360 requester provides that the governmental entity is not required to fulfill a request from the

361 person for a period of time; and

362 (C) the period of time described in Subsection (7)(a)(vi)(B) has not expired.

363 (b) A governmental entity shall conduct a reasonable search for a requested record.

364 (8) (a) Although not required to do so, a governmental entity may, upon request from

365 the person who submitted the records request, compile, format, manipulate, package,

366 summarize, or tailor information or provide a record in a format, medium, or program not

367 currently maintained by the governmental entity.

368 (b) In determining whether to fulfill a request described in Subsection (8)(a), a

369 governmental entity may consider whether the governmental entity is able to fulfill the request
370 without unreasonably interfering with the governmental entity's duties and responsibilities.

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

374 (9) (a) Notwithstanding any other provision of this chapter, and subject to Subsection
375 (9)(b), a governmental entity is not required to respond to, or provide a record in response to, a
376 record request if the request is submitted by or in behalf of an individual who is confined in a
377 jail or other correctional facility following the individual's conviction.

378 (b) Subsection (9)(a) does not apply to:

379 (i) the first five record requests submitted to the governmental entity by or in behalf of
380 an individual described in Subsection (9)(a) during any calendar year requesting only a record
381 that contains a specific reference to the individual; or

382 (ii) a record request that is submitted by an attorney of an individual described in
383 Subsection (9)(a).

384 (10) (a) A governmental entity may allow a person requesting more than 50 pages of
385 records to copy the records if:

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

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

391 (b) If the requirements of Subsection (10)(a) are met, the governmental entity may:

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

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

397 (11) (a) A governmental entity that owns an intellectual property right and that offers
398 the intellectual property right for sale or license may control by ordinance or policy the
399 duplication and distribution of the material based on terms the governmental entity considers to

400 be in the public interest.

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

404 (12) A governmental entity may not use the physical form, electronic or otherwise, in
405 which a record is stored to deny, or unreasonably hinder the rights of a person to inspect and
406 receive a copy of a record under this chapter.

407 (13) Subject to the requirements of Subsection (7), a governmental entity shall provide
408 access to an electronic copy of a record in lieu of providing access to its paper equivalent if:

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

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

412 (c) the electronic copy of the record:

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

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

416 (14) In determining whether a record is properly classified as private under Subsection
417 [63G-2-302\(2\)\(d\)](#), the governmental entity, State Records Committee, local appeals board, or
418 court shall consider and weigh:

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

421 (b) any public interests served by disclosure.

422 Section 3. Section **63G-2-201.5** is enacted to read:

423 **63G-2-201.5. Disclosure of personal identifying information.**

424 Personal identifying information may not be used or disclosed for a purpose other than
425 the purpose for which the personal identifying information was submitted by or on behalf of
426 the individual to whom the personal identifying information relates, except to the extent that:

427 (1) the individual to whom the personal identifying information relates expressly
428 consents to the use or disclosure;

429 (2) the information is used by or disclosed to:

430 (a) a federal, state, or local law enforcement agency for a legitimate law enforcement

431 purpose or to respond to an emergency; or

432 (b) a governmental entity to enable the governmental entity to, in response to an
433 emergency, provide public safety services, fire suppression services, medical services, or other
434 public safety services;

435 (3) disclosure is required by law under:

436 (a) Subsection 63G-2-202(1)(a), (2)(a), or (4); or

437 (b) Section 63G-2-303;

438 (4) disclosure is permitted under:

439 (a) Section 35A-7-107;

440 (b) Subsection 63G-2-202(1)(b);

441 (c) Subsections 63G-2-206(1)(a) through (d);

442 (d) Subsection 63G-2-206(1)(e)(i)(A) or (B); or

443 (e) Subsection 63G-2-206(2)(a) or (5); or

444 (5) the personal identifying information is disclosed to, or used by, a legislative staff
445 member:

446 (a) acting at the request of the Legislature or a legislative committee; or

447 (b) in relation to the Legislature's duties, including the duties described in Subsection
448 63G-2-206(1)(e)(ii).

449 Section 4. Section **63G-2-202** is amended to read:

450 **63G-2-202. Access to private, controlled, and protected documents.**

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

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

453 (i) the subject of the record;

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

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

458 (iv) any other individual who:

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

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

462 ~~[(C)]~~ (v) a health care provider, as defined in Section 26B-8-501, if:
463 (A) the record is a medical record described in Subsection 63G-2-302(1)(b)~~[-is-a~~
464 ~~health care provider, as defined in Section 26B-8-501, if];~~
465 (B) releasing the record or information in the record is consistent with normal
466 professional practice and medical ethics; ~~[or];~~ and
467 (C) the governmental entity informs an individual described in Subsections (1)(a)(i)
468 through (iv) of the disclosure; or
469 ~~[(v)]~~ (vi) any person to whom the record must be provided pursuant to:
470 (A) court order as provided in Subsection (7); or
471 (B) a legislative subpoena as provided in Title 36, Chapter 14, Legislative Subpoena
472 Powers; and
473 (b) may disclose a private record described in Subsections 63G-2-302(1)(j) through
474 (m), without complying with Section 63G-2-206, to another governmental entity for a purpose
475 related to:
476 (i) voter registration; or
477 (ii) the administration of an election.
478 (2) (a) Upon request, a governmental entity shall disclose a controlled record to:
479 (i) a physician, physician assistant, psychologist, certified social worker, insurance
480 provider or producer, or a government public health agency upon submission of:
481 (A) a release from the subject of the record that is dated no more than 90 days prior to
482 the date the request is made; and
483 (B) a signed acknowledgment of the terms of disclosure of controlled information as
484 provided by Subsection (2)(b); and
485 (ii) any person to whom the record must be disclosed pursuant to:
486 (A) a court order as provided in Subsection (7); or
487 (B) a legislative subpoena as provided in Title 36, Chapter 14, Legislative Subpoena
488 Powers.
489 (b) A person who receives a record from a governmental entity in accordance with
490 Subsection (2)(a)(i) may not disclose controlled information from that record to any person,
491 including the subject of the record.
492 (3) If there is more than one subject of a private or controlled record, the portion of the

493 record that pertains to another subject shall be segregated from the portion that the requester is
494 entitled to inspect.

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

497 (a) the person that submitted the record;

498 (b) any other individual who:

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

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

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

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

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

508 (d) the owner of a mobile home park, to the extent permitted by, and subject to the
509 conditions of, Subsection [41-1a-116\(5\)](#).

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

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

515 (7) (a) ~~[A]~~ Except as provided in subsection (7)(b), a governmental entity shall disclose
516 a record pursuant to the terms of a court order signed by a judge from a court of competent
517 jurisdiction, ~~[provided that]~~ if:

518 ~~[(a)]~~ (i) the record deals with a matter in controversy over which the court has
519 jurisdiction;

520 ~~[(b)]~~ (ii) the court has considered the merits of the request for access to the record;

521 ~~[(c)]~~ (iii) the court has considered and, where appropriate, limited the requester's use
522 and further disclosure of the record in order to protect:

523 ~~[(d)]~~ (A) privacy interests in the case of private or controlled records;

524 [(i)] (B) business confidentiality interests in the case of records protected under
525 Subsection [63G-2-305](#)(1), (2), (40)(a)(ii), or (40)(a)(vi); and
526 [(iii)] (C) privacy interests or the public interest in the case of other protected records;
527 [(d)] (iv) to the extent the record is properly classified private, controlled, or protected,
528 the interests favoring access, considering limitations thereon, are greater than or equal to the
529 interests favoring restriction of access; and
530 [(e)] (v) where access is restricted by a rule, statute, or regulation referred to in
531 Subsection [63G-2-201](#)(3)(b), the court has authority independent of this chapter to order
532 disclosure.

533 (b) Except to the extent authorized under Section [63G-2-201.5](#), a governmental entity
534 may not disclose or authorize disclosure of personal identifying information under Subsection
535 (7)(a).

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

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

541 (ii) determines that:

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

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

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

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

549 (iv) prohibits the researcher from:

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

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

554 (v) secures from the researcher a written statement of the researcher's understanding of

555 and agreement to the conditions of this Subsection (8) and the researcher's understanding that
556 violation of the terms of this Subsection (8) may subject the researcher to criminal prosecution
557 under Section 63G-2-801.

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

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

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

567 (e) Except to the extent authorized under Section 63G-2-201.5, a governmental entity
568 may not disclose or authorize disclosure of personal identifying information for research
569 purposes.

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

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

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

575 (b) Under Subsection 63G-2-403(11)(b), the State Records Committee may, except to
576 the extent the records contain personal identifying information, require the disclosure to
577 persons other than those specified in this section of records that are:

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

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

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

582 (c) Under Subsection 63G-2-404(7), the court may, except to the extent that the records
583 contain personal identifying information, require the disclosure of records that are private
584 under Section 63G-2-302, controlled under Section 63G-2-304, or protected under Section
585 63G-2-305 to persons other than those specified in this section.

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

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

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

592 (i) Subsections 26B-1-506(1)(b), (2), and (4)(c); and

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

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

596 Section 5. Section 63G-2-302 is amended to read:

597 **63G-2-302. Private records.**

598 (1) The following records are private:

599 (a) records concerning an individual's eligibility for unemployment insurance benefits,
600 social services, welfare benefits, or the determination of benefit levels;

601 (b) records containing data on individuals describing medical history, diagnosis,
602 condition, treatment, evaluation, or similar medical data;

603 (c) records of publicly funded libraries that when examined alone or with other records
604 identify a patron;

605 (d) records received by or generated by or for:

606 (i) the Independent Legislative Ethics Commission, except for:

607 (A) the commission's summary data report that is required under legislative rule; and

608 (B) any other document that is classified as public under legislative rule; or

609 (ii) a Senate or House Ethics Committee in relation to the review of ethics complaints,
610 unless the record is classified as public under legislative rule;

611 (e) records received by, or generated by or for, the Independent Executive Branch
612 Ethics Commission, except as otherwise expressly provided in Title 63A, Chapter 14, Review
613 of Executive Branch Ethics Complaints;

614 (f) records received or generated for a Senate confirmation committee concerning
615 character, professional competence, or physical or mental health of an individual:

616 (i) if, prior to the meeting, the chair of the committee determines release of the records:

- 617 (A) reasonably could be expected to interfere with the investigation undertaken by the
618 committee; or
- 619 (B) would create a danger of depriving a person of a right to a fair proceeding or
620 impartial hearing; and
- 621 (ii) after the meeting, if the meeting was closed to the public;
- 622 (g) employment records concerning a current or former employee of, or applicant for
623 employment with, a governmental entity that would disclose that individual's home address,
624 home telephone number, social security number, insurance coverage, marital status, or payroll
625 deductions;
- 626 (h) records or parts of records under Section 63G-2-303 that a current or former
627 employee identifies as private according to the requirements of that section;
- 628 (i) that part of a record indicating a person's social security number or federal employer
629 identification number if provided under Section 31A-23a-104, 31A-25-202, 31A-26-202,
630 58-1-301, 58-55-302, 61-1-4, or 61-2f-203;
- 631 (j) that part of a voter registration record identifying a voter's:
- 632 (i) driver license or identification card number;
- 633 (ii) social security number, or last four digits of the social security number;
- 634 (iii) email address;
- 635 (iv) date of birth; or
- 636 (v) phone number;
- 637 (k) a voter registration record that is classified as a private record by the lieutenant
638 governor or a county clerk under Subsection 20A-2-101.1(5)(a), 20A-2-104(4)(h), or
639 20A-2-204(4)(b);
- 640 (l) a voter registration record that is withheld under Subsection 20A-2-104(7);
- 641 (m) a withholding request form described in Subsections 20A-2-104(7) and (8) and any
642 verification submitted in support of the form;
- 643 (n) a record that:
- 644 (i) contains information about an individual;
- 645 (ii) is voluntarily provided by the individual; and
- 646 (iii) goes into an electronic database that:
- 647 (A) is designated by and administered under the authority of the Chief Information

648 Officer; and

649 (B) acts as a repository of information about the individual that can be electronically
650 retrieved and used to facilitate the individual's online interaction with a state agency;

651 (o) information provided to the Commissioner of Insurance under:

652 (i) Subsection 31A-23a-115(3)(a);

653 (ii) Subsection 31A-23a-302(4); or

654 (iii) Subsection 31A-26-210(4);

655 (p) information obtained through a criminal background check under Title 11, Chapter
656 40, Criminal Background Checks by Political Subdivisions Operating Water Systems;

657 (q) information provided by an offender that is:

658 (i) required by the registration requirements of Title 77, Chapter 41, Sex and Kidnap
659 Offender Registry or Title 77, Chapter 43, Child Abuse Offender Registry; and

660 (ii) not required to be made available to the public under Subsection 77-41-110(4) or
661 77-43-108(4);

662 (r) a statement and any supporting documentation filed with the attorney general in
663 accordance with Section 34-45-107, if the federal law or action supporting the filing involves
664 homeland security;

665 (s) electronic toll collection customer account information received or collected under
666 Section 72-6-118 and customer information described in Section 17B-2a-815 received or
667 collected by a public transit district, including contact and payment information and customer
668 travel data;

669 (t) an email address provided by a military or overseas voter under Section
670 20A-16-501;

671 (u) a completed military-overseas ballot that is electronically transmitted under Title
672 20A, Chapter 16, Uniform Military and Overseas Voters Act;

673 (v) records received by or generated by or for the Political Subdivisions Ethics Review
674 Commission established in Section 63A-15-201, except for:

675 (i) the commission's summary data report that is required in Section 63A-15-202; and
676 (ii) any other document that is classified as public in accordance with Title 63A,
677 Chapter 15, Political Subdivisions Ethics Review Commission;

678 (w) a record described in Section 53G-9-604 that verifies that a parent was notified of

679 an incident or threat;

680 (x) a criminal background check or credit history report conducted in accordance with

681 Section [63A-3-201](#);

682 (y) a record described in Subsection [53-5a-104\(7\)](#);

683 (z) on a record maintained by a county for the purpose of administering property taxes,

684 an individual's:

685 (i) email address;

686 (ii) phone number; or

687 (iii) personal financial information related to a person's payment method;

688 (aa) a record submitted by a taxpayer to establish the taxpayer's eligibility for an

689 exemption, deferral, abatement, or relief under:

690 (i) Title 59, Chapter 2, Part 11, Exemptions;

691 (ii) Title 59, Chapter 2, Part 12, Property Tax Relief;

692 (iii) Title 59, Chapter 2, Part 18, Tax Deferral and Tax Abatement; or

693 (iv) Title 59, Chapter 2, Part 19, Armed Forces Exemptions;

694 (bb) a record provided by the State Tax Commission in response to a request under

695 Subsection [59-1-403\(4\)\(y\)\(iii\)](#);

696 (cc) a record of the Child Welfare Legislative Oversight Panel regarding an individual

697 child welfare case, as described in Subsection [36-33-103\(3\)](#); ~~[and]~~

698 (dd) a record relating to drug or alcohol testing of a state employee under Section

699 ~~[63A-17-1004](#)~~; and

700 (ee) a record that includes personal identifying information.

701 (2) The following records are private if properly classified by a governmental entity:

702 (a) records concerning a current or former employee of, or applicant for employment

703 with a governmental entity, including performance evaluations and personal status information

704 such as race, religion, or disabilities, but not including records that are public under Subsection

705 [63G-2-301\(2\)\(b\)](#) or [63G-2-301\(3\)\(o\)](#) or private under Subsection (1)(b);

706 (b) records describing an individual's finances, except that the following are public:

707 (i) records described in Subsection [63G-2-301\(2\)](#);

708 (ii) information provided to the governmental entity for the purpose of complying with

709 a financial assurance requirement; or

- 710 (iii) records that must be disclosed in accordance with another statute;
- 711 (c) records of independent state agencies if the disclosure of those records would
- 712 conflict with the fiduciary obligations of the agency;
- 713 (d) other records containing data on individuals the disclosure of which constitutes a
- 714 clearly unwarranted invasion of personal privacy;
- 715 (e) records provided by the United States or by a government entity outside the state
- 716 that are given with the requirement that the records be managed as private records, if the
- 717 providing entity states in writing that the record would not be subject to public disclosure if
- 718 retained by it;
- 719 (f) any portion of a record in the custody of the Division of Aging and Adult Services,
- 720 created in Section [26B-6-102](#), that may disclose, or lead to the discovery of, the identity of a
- 721 person who made a report of alleged abuse, neglect, or exploitation of a vulnerable adult; and
- 722 (g) audio and video recordings created by a body-worn camera, as defined in Section
- 723 [77-7a-103](#), that record sound or images inside a home or residence except for recordings that:
- 724 (i) depict the commission of an alleged crime;
- 725 (ii) record any encounter between a law enforcement officer and a person that results in
- 726 death or bodily injury, or includes an instance when an officer fires a weapon;
- 727 (iii) record any encounter that is the subject of a complaint or a legal proceeding
- 728 against a law enforcement officer or law enforcement agency;
- 729 (iv) contain an officer involved critical incident as defined in Subsection
- 730 [76-2-408\(1\)\(f\)](#); or
- 731 (v) have been requested for reclassification as a public record by a subject or
- 732 authorized agent of a subject featured in the recording.
- 733 (3) (a) As used in this Subsection (3), "medical records" means medical reports,
- 734 records, statements, history, diagnosis, condition, treatment, and evaluation.
- 735 (b) Medical records in the possession of the University of Utah Hospital, its clinics,
- 736 doctors, or affiliated entities are not private records or controlled records under Section
- 737 [63G-2-304](#) when the records are sought:
- 738 (i) in connection with any legal or administrative proceeding in which the patient's
- 739 physical, mental, or emotional condition is an element of any claim or defense; or
- 740 (ii) after a patient's death, in any legal or administrative proceeding in which any party

741 relies upon the condition as an element of the claim or defense.

742 (c) Medical records are subject to production in a legal or administrative proceeding
743 according to state or federal statutes or rules of procedure and evidence as if the medical
744 records were in the possession of a nongovernmental medical care provider.

745 Section 6. Section **63G-2-306** is amended to read:

746 **63G-2-306. Procedure to determine classification.**

747 (1) [Hf] Except as provided in Subsection (3), if more than one provision of this chapter
748 could govern the classification of a record, the governmental entity shall classify the record by
749 considering the nature of the interests intended to be protected and the specificity of the
750 competing provisions.

751 (2) Nothing in Subsection **63G-2-302**(2), Section **63G-2-304**, or **63G-2-305** requires a
752 governmental entity to classify a record as private, controlled, or protected.

753 (3) Classification of a record as private under Subsection **63G-2-302**(1)(ee) takes
754 precedence over a less restrictive classification.

755 Section 7. Section **63G-2-309** is amended to read:

756 **63G-2-309. Confidentiality claims.**

757 (1) (a) (i) Any person who provides to a governmental entity a record that the person
758 believes should be protected under Subsection **63G-2-305**(1) or (2) or both Subsections
759 **63G-2-305**(1) and (2) shall provide with the record:

760 (A) a written claim of business confidentiality; and

761 (B) a concise statement of reasons supporting the claim of business confidentiality.

762 (ii) Any of the following who provides to an institution within the state system of
763 higher education defined in Section **53B-1-102** a record that the person or governmental entity
764 believes should be protected under Subsection **63G-2-305**(40)(a)(ii) or (vi) or both Subsections
765 **63G-2-305**(40)(a)(ii) and (vi) shall provide the institution within the state system of higher
766 education a written claim of business confidentiality in accordance with Section **53B-16-304**:

767 (A) a person;

768 (B) a federal governmental entity;

769 (C) a state governmental entity; or

770 (D) a local governmental entity.

771 (b) A person or governmental entity who complies with this Subsection (1) shall be

772 notified by the governmental entity to whom the request for a record is made if:

773 (i) a record claimed to be protected under one of the following is classified public:

774 (A) Subsection 63G-2-305(1);

775 (B) Subsection 63G-2-305(2);

776 (C) Subsection 63G-2-305(40)(a)(ii);

777 (D) Subsection 63G-2-305(40)(a)(vi); or

778 (E) a combination of the provisions described in Subsections (1)(b)(i)(A) through (D);

779 or

780 (ii) except as provided in Subsection (1)(d), the governmental entity to whom the
781 request for a record is made determines that the record claimed to be protected under a
782 provision listed in Subsection (1)(b)(i) should be released after balancing interests under
783 Subsection 63G-2-201(5)(b) or 63G-2-401(6).

784 (c) A person who makes a claim of business confidentiality under this Subsection (1)
785 shall protect, defend, and indemnify the governmental entity that retains the record, and all staff
786 and employees of the governmental entity from and against any claims, liability, or damages
787 resulting from or arising from a denial of access to the record as a protected record based on the
788 claim of business confidentiality.

789 (d) Except to the extent authorized under Section 63G-2-201.5, a governmental entity
790 may not disclose or authorize disclosure of personal identifying information under Subsection
791 (1)(b)(ii).

792 (2) (a) Except as provided in Subsection (2)(b) or by court order, the governmental
793 entity to whom the request for a record is made may not disclose a record claimed to be
794 protected under a provision listed in Subsection (1)(b)(i) but which the governmental entity or
795 State Records Committee determines should be disclosed until the period in which to bring an
796 appeal expires or the end of the appeals process, including judicial appeal.

797 (b) Subsection (2)(a) does not apply where the claimant, after notice, has waived the
798 claim by not appealing or intervening before the State Records Committee.

799 (3) Disclosure or acquisition of information under this chapter does not constitute
800 misappropriation under Subsection 13-24-2(2).

801 Section 8. Section 63G-2-401 is amended to read:

802 **63G-2-401. Appeal to chief administrative officer -- Notice of the decision of the**

803 **appeal.**

804 (1) (a) A requester or interested party may appeal an access denial to the chief
805 administrative officer of the governmental entity by filing a notice of appeal with the chief
806 administrative officer within 30 days after:

807 (i) the governmental entity sends a notice of denial under Section 63G-2-205, if the
808 governmental entity denies a record request under Subsection 63G-2-205(1); or

809 (ii) the record request is considered denied under Subsection 63G-2-204(9), if that
810 subsection applies.

811 (b) If a governmental entity claims extraordinary circumstances and specifies the date
812 when the records will be available under Subsection 63G-2-204(4), and, if the requester
813 believes the extraordinary circumstances do not exist or that the date specified is unreasonable,
814 the requester may appeal the governmental entity's claim of extraordinary circumstances or date
815 for compliance to the chief administrative officer by filing a notice of appeal with the chief
816 administrative officer within 30 days after notification of a claim of extraordinary
817 circumstances by the governmental entity, despite the lack of a "determination" or its
818 equivalent under Subsection 63G-2-204(9).

819 (2) A notice of appeal shall contain:

820 (a) the name, mailing address, and daytime telephone number of the requester or
821 interested party; and

822 (b) the relief sought.

823 (3) The requester or interested party may file a short statement of facts, reasons, and
824 legal authority in support of the appeal.

825 (4) (a) If the appeal involves a record that is the subject of a business confidentiality
826 claim under Section 63G-2-309, the chief administrative officer shall:

827 (i) send notice of the appeal to the business confidentiality claimant within three
828 business days after receiving notice, except that if notice under this section must be given to
829 more than 35 persons, it shall be given as soon as reasonably possible; and

830 (ii) send notice of the business confidentiality claim and the schedule for the chief
831 administrative officer's determination to the requester or interested party within three business
832 days after receiving notice of the appeal.

833 (b) The business confidentiality claimant shall have seven business days after notice is

834 sent by the administrative officer to submit further support for the claim of business
835 confidentiality.

836 (5) (a) The chief administrative officer shall make a decision on the appeal within:

837 (i) (A) 10 business days after the chief administrative officer's receipt of the notice of
838 appeal; or

839 (B) five business days after the chief administrative officer's receipt of the notice of
840 appeal, if the requester or interested party demonstrates that an expedited decision benefits the
841 public rather than the requester or interested party; or

842 (ii) 12 business days after the governmental entity sends the notice of appeal to a
843 person who submitted a claim of business confidentiality.

844 (b) (i) If the chief administrative officer fails to make a decision on an appeal of an
845 access denial within the time specified in Subsection (5)(a), the failure is the equivalent of a
846 decision affirming the access denial.

847 (ii) If the chief administrative officer fails to make a decision on an appeal under
848 Subsection (1)(b) within the time specified in Subsection (5)(a), the failure is the equivalent of
849 a decision affirming the claim of extraordinary circumstances or the reasonableness of the date
850 specified when the records will be available.

851 (c) The provisions of this section notwithstanding, the parties participating in the
852 proceeding may, by agreement, extend the time periods specified in this section.

853 (6) (a) Except as provided in Subsection (6)(b) or Section 63G-2-406, the chief
854 administrative officer may, upon consideration and weighing of the various interests and public
855 policies pertinent to the classification and disclosure or nondisclosure, order the disclosure of
856 information properly classified as private under Subsection 63G-2-302(2) or protected under
857 Section 63G-2-305 if the interests favoring access are greater than or equal to the interests
858 favoring restriction of access.

859 (b) Except to the extent authorized under Section 63G-2-201.5, a chief administrative
860 officer or a delegate of a chief administrative officer may not disclose personal identifying
861 information under Subsection (6)(a).

862 (7) (a) The governmental entity shall send written notice of the chief administrative
863 officer's decision to all participants.

864 (b) If the chief administrative officer's decision is to affirm the access denial in whole

865 or in part, the notice under Subsection (7)(a) shall include:

866 (i) a statement that the requester or interested party has the right to appeal the decision,
867 as provided in Section 63G-2-402, to:

868 (A) the State Records Committee or district court; or

869 (B) the local appeals board, if the governmental entity is a political subdivision and the
870 governmental entity has established a local appeals board;

871 (ii) the time limits for filing an appeal; and

872 (iii) the name and business address of:

873 (A) the executive secretary of the State Records Committee; and

874 (B) the individual designated as the contact individual for the appeals board, if the
875 governmental entity is a political subdivision that has established an appeals board under
876 Subsection 63G-2-701(5)(c).

877 (8) A person aggrieved by a governmental entity's classification or designation
878 determination under this chapter, but who is not requesting access to the records, may appeal
879 that determination using the procedures provided in this section. If a nonrequester is the only
880 appellant, the procedures provided in this section shall apply, except that the decision on the
881 appeal shall be made within 30 days after receiving the notice of appeal.

882 (9) The duties of the chief administrative officer under this section may be delegated.

883 Section 9. Section 63G-2-403 is amended to read:

884 **63G-2-403. Appeals to the State Records Committee.**

885 (1) (a) A records committee appellant appeals to the State Records Committee by filing
886 a notice of appeal with the executive secretary of the State Records Committee no later than 30
887 days after the date of issuance of the decision being appealed.

888 (b) Notwithstanding Subsection (1)(a), a requester may file a notice of appeal with the
889 executive secretary of the State Records Committee no later than 45 days after the day on
890 which the record request is made if:

891 (i) the circumstances described in Subsection 63G-2-401(1)(b) occur; and

892 (ii) the chief administrative officer fails to make a decision under Section 63G-2-401.

893 (2) The notice of appeal shall:

894 (a) contain the name, mailing address, and daytime telephone number of the records
895 committee appellant;

896 (b) be accompanied by a copy of the decision being appealed; and
897 (c) state the relief sought.
898 (3) The records committee appellant:
899 (a) shall, on the day on which the notice of appeal is filed with the State Records
900 Committee, serve a copy of the notice of appeal on:
901 (i) the governmental entity whose access denial is the subject of the appeal, if the
902 records committee appellant is a requester or interested party; or
903 (ii) the requester or interested party who is a party to the local appeals board
904 proceeding that resulted in the decision that the political subdivision is appealing to the
905 committee, if the records committee appellant is a political subdivision; and
906 (b) may file a short statement of facts, reasons, and legal authority in support of the
907 appeal.
908 (4) (a) Except as provided in Subsections (4)(b) and (c), no later than seven business
909 days after receiving a notice of appeal, the executive secretary of the State Records Committee
910 shall:
911 (i) schedule a hearing for the State Records Committee to discuss the appeal at the next
912 regularly scheduled committee meeting falling at least 16 days after the date the notice of
913 appeal is filed but no longer than 64 calendar days after the date the notice of appeal was filed
914 except that the committee may schedule an expedited hearing upon application of the records
915 committee appellant and good cause shown;
916 (ii) send a copy of the notice of hearing to the records committee appellant; and
917 (iii) send a copy of the notice of appeal, supporting statement, and a notice of hearing
918 to:
919 (A) each member of the State Records Committee;
920 (B) the records officer and the chief administrative officer of the governmental entity
921 whose access denial is the subject of the appeal, if the records committee appellant is a
922 requester or interested party;
923 (C) any person who made a business confidentiality claim under Section [63G-2-309](#) for
924 a record that is the subject of the appeal; and
925 (D) all persons who participated in the proceedings before the governmental entity's
926 chief administrative officer, if the appeal is of the chief administrative officer's decision

927 affirming an access denial.

928 (b) (i) The executive secretary of the State Records Committee may decline to schedule
929 a hearing if the record series that is the subject of the appeal has been found by the committee
930 in a previous hearing involving the same governmental entity to be appropriately classified as
931 private, controlled, or protected.

932 (ii) (A) If the executive secretary of the State Records Committee declines to schedule
933 a hearing, the executive secretary shall send a notice to the records committee appellant
934 indicating that the request for hearing has been denied and the reason for the denial.

935 (B) The State Records Committee shall make rules to implement this section as
936 provided by Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

937 (c) The executive secretary of the State Records Committee may schedule a hearing on
938 an appeal to the State Records Committee at a regularly scheduled State Records Committee
939 meeting that is later than the period described in Subsection (4)(a)(i) if that committee meeting
940 is the first regularly scheduled State Records Committee meeting at which there are fewer than
941 10 appeals scheduled to be heard.

942 (5) (a) No later than five business days before the hearing, a governmental entity shall
943 submit to the executive secretary of the State Records Committee a written statement of facts,
944 reasons, and legal authority in support of the governmental entity's position.

945 (b) The governmental entity shall send a copy of the written statement by first class
946 mail, postage prepaid, to the requester or interested party involved in the appeal. The executive
947 secretary shall forward a copy of the written statement to each member of the State Records
948 Committee.

949 (6) (a) No later than 10 business days after the day on which the executive secretary
950 sends the notice of appeal, a person whose legal interests may be substantially affected by the
951 proceeding may file a request for intervention with the State Records Committee.

952 (b) Any written statement of facts, reasons, and legal authority in support of the
953 intervener's position shall be filed with the request for intervention.

954 (c) The person seeking intervention shall provide copies of the statement described in
955 Subsection (6)(b) to all parties to the proceedings before the State Records Committee.

956 (7) The State Records Committee shall hold a hearing within the period of time
957 described in Subsection (4).

958 (8) At the hearing, the State Records Committee shall allow the parties to testify,
959 present evidence, and comment on the issues. The committee may allow other interested
960 persons to comment on the issues.

961 (9) (a) (i) The State Records Committee:

962 (A) may review the disputed records; and

963 (B) shall review the disputed records, if the committee is weighing the various interests
964 under Subsection (11).

965 (ii) A review of the disputed records under Subsection (9)(a)(i) shall be in camera.

966 (b) Members of the State Records Committee may not disclose any information or
967 record reviewed by the committee in camera unless the disclosure is otherwise authorized by
968 this chapter.

969 (10) (a) Discovery is prohibited, but the State Records Committee may issue subpoenas
970 or other orders to compel production of necessary evidence.

971 (b) When the subject of a State Records Committee subpoena disobeys or fails to
972 comply with the subpoena, the committee may file a motion for an order to compel obedience
973 to the subpoena with the district court.

974 (c) (i) The State Records Committee's review shall be de novo, if the appeal is an
975 appeal from a decision of a chief administrative officer:

976 (A) issued under Section 63G-2-401; or

977 (B) issued by a chief administrative officer of a political subdivision that has not
978 established a local appeals board.

979 (ii) For an appeal from a decision of a local appeals board, the State Records
980 Committee shall review and consider the decision of the local appeals board.

981 (11) (a) ~~[No later than seven business days after the hearing]~~ Except as provided in
982 Subsection (11)(d), the State Records Committee shall, no later than seven business days after
983 the day on which the hearing concludes, issue a signed order:

984 (i) granting the relief sought, in whole or in part; or

985 (ii) upholding the governmental entity's access denial, in whole or in part.

986 (b) Except as provided in Subsection (11)(d) or Section 63G-2-406, the State Records
987 Committee may, upon consideration and weighing of the various interests and public policies
988 pertinent to the classification and disclosure or nondisclosure, order the disclosure of

989 information properly classified as private, controlled, or protected if the public interest favoring
990 access is greater than or equal to the interest favoring restriction of access.

991 (c) In making a determination under Subsection (11)(b), the State Records Committee
992 shall consider and, where appropriate, limit the requester's or interested party's use and further
993 disclosure of the record in order to protect:

994 (i) privacy interests in the case of a private or controlled record;

995 (ii) business confidentiality interests in the case of a record protected under Subsection
996 [63G-2-305](#)(1), (2), (40)(a)(ii), or (40)(a)(vi); and

997 (iii) privacy interests or the public interest in the case of other protected records.

998 (d) Except to the extent authorized under Section [63G-2-201.5](#), the State Records
999 Committee may not disclose personal identifying information under this Subsection (11).

1000 (12) The order of the State Records Committee shall include:

1001 (a) a statement of reasons for the decision, including citations to this chapter, court rule
1002 or order, another state statute, federal statute, or federal regulation that governs disclosure of
1003 the record, if the citations do not disclose private, controlled, or protected information;

1004 (b) a description of the record or portions of the record to which access was ordered or
1005 denied, if the description does not disclose private, controlled, or protected information or
1006 information exempt from disclosure under Subsection [63G-2-201](#)(3)(b);

1007 (c) a statement that any party to the proceeding before the State Records Committee
1008 may appeal the committee's decision to district court; and

1009 (d) a brief summary of the appeals process, the time limits for filing an appeal, and a
1010 notice that in order to protect its rights on appeal, the party may wish to seek advice from an
1011 attorney.

1012 (13) If the State Records Committee fails to issue a decision within 73 calendar days of
1013 the filing of the notice of appeal, that failure is the equivalent of an order denying the appeal. A
1014 records committee appellant shall notify the State Records Committee in writing if the records
1015 committee appellant considers the appeal denied.

1016 (14) (a) A party to a proceeding before the State Records Committee may seek judicial
1017 review in district court of a State Records Committee order by filing a petition for review of the
1018 order as provided in Section [63G-2-404](#).

1019 (b) Except to the extent authorized under Section [63G-2-201.5](#), a court may not permit

1020 disclosure of personal identifying information under this section.

1021 (15) (a) Unless a notice of intent to appeal is filed under Subsection (15)(b), each party
1022 to the proceeding shall comply with the order of the State Records Committee.

1023 (b) If a party disagrees with the order of the State Records Committee, that party may
1024 file a notice of intent to appeal the order.

1025 (c) If the State Records Committee orders the governmental entity to produce a record
1026 and no appeal is filed, or if, as a result of the appeal, the governmental entity is required to
1027 produce a record, the governmental entity shall:

1028 (i) produce the record; and

1029 (ii) file a notice of compliance with the committee.

1030 (d) (i) If the governmental entity that is ordered to produce a record fails to file a notice
1031 of compliance or a notice of intent to appeal, the State Records Committee may do either or
1032 both of the following:

1033 (A) impose a civil penalty of up to \$500 for each day of continuing noncompliance; or

1034 (B) send written notice of the governmental entity's noncompliance to the governor.

1035 (ii) In imposing a civil penalty, the State Records Committee shall consider the gravity
1036 and circumstances of the violation, including whether the failure to comply was due to neglect
1037 or was willful or intentional.

1038 Section 10. Section **63G-2-404** is amended to read:

1039 **63G-2-404. Judicial review.**

1040 (1) (a) A petition for judicial review of an order or decision, as allowed under this part,
1041 in Section **63G-2-209**, or in Subsection **63G-2-701**(6)(a)(ii), shall be filed no later than 30 days
1042 after the date of the order or decision.

1043 (b) The State Records Committee is a necessary party to a petition for judicial review
1044 of a State Records Committee order.

1045 (c) The executive secretary of the State Records Committee shall be served with notice
1046 of a petition for judicial review of a State Records Committee order, in accordance with the
1047 Utah Rules of Civil Procedure.

1048 (2) (a) A petition for judicial review is a complaint governed by the Utah Rules of Civil
1049 Procedure and shall contain:

1050 (i) the petitioner's name and mailing address;

1051 (ii) a copy of the State Records Committee order from which the appeal is taken, if the
1052 petitioner is seeking judicial review of an order of the State Records Committee;

1053 (iii) the name and mailing address of the governmental entity that issued the initial
1054 determination with a copy of that determination;

1055 (iv) a request for relief specifying the type and extent of relief requested; and

1056 (v) a statement of the reasons why the petitioner is entitled to relief.

1057 (b) Except in exceptional circumstances, a petition for judicial review may not raise an
1058 issue that was not raised in the underlying appeal and order.

1059 (3) If the appeal is based on the denial of access to a protected record based on a claim
1060 of business confidentiality, the court shall allow the claimant of business confidentiality to
1061 provide to the court the reasons for the claim of business confidentiality.

1062 (4) All additional pleadings and proceedings in the district court are governed by the
1063 Utah Rules of Civil Procedure.

1064 (5) The district court may review the disputed records. The review shall be in camera.

1065 (6) (a) The court shall:

1066 (i) make the court's decision de novo, but, for a petition seeking judicial review of a
1067 State Records Committee order, allow introduction of evidence presented to the State Records
1068 Committee;

1069 (ii) determine all questions of fact and law without a jury; and

1070 (iii) decide the issue at the earliest practical opportunity.

1071 (b) A court may remand a petition for judicial review to the State Records Committee
1072 if:

1073 (i) the remand is to allow the State Records Committee to decide an issue that:

1074 (A) involves access to a record; and

1075 (B) the State Records Committee has not previously addressed in the proceeding that
1076 led to the petition for judicial review; and

1077 (ii) the court determines that remanding to the State Records Committee is in the best
1078 interests of justice.

1079 (7) (a) Except as provided in Subsection (8) or Section [63G-2-406](#), the court may, upon
1080 consideration and weighing of the various interests and public policies pertinent to the
1081 classification and disclosure or nondisclosure, order the disclosure of information properly

1082 classified as private, controlled, or protected if the interest favoring access is greater than or
1083 equal to the interest favoring restriction of access.

1084 (b) The court shall consider and, where appropriate, limit the requester's use and
1085 further disclosure of the record in order to protect privacy interests in the case of private or
1086 controlled records, business confidentiality interests in the case of records protected under
1087 Subsections [63G-2-305](#)(1) and (2), and privacy interests or the public interest in the case of
1088 other protected records.

1089 (8) Except to the extent authorized under Section [63G-2-201.5](#), a court may not permit
1090 disclosure of personal identifying information under this section.

1091 Section 11. Section **63G-2-801** is amended to read:

1092 **63G-2-801. Criminal penalties.**

1093 (1) (a) [~~A~~] Except as provided in Subsection (1)(b), a public employee or other person
1094 who has lawful access to [~~any~~] a private, controlled, or protected record under this chapter, and
1095 who intentionally discloses, provides a copy of, or improperly uses a private, controlled, or
1096 protected record knowing that the disclosure or use is prohibited under this chapter, is, except
1097 as provided in Subsection [~~53-5-708(1)(c)] [53-5-708](#)(1)(d), guilty of a class B misdemeanor.~~

1098 (b) A public employee or other person who has lawful access to a record that is
1099 classified as private under Subsection [63G-2-302](#)(1)(ee), and who intentionally discloses,
1100 provides a copy of, or improperly uses the record or the personal identifying information
1101 contained in the record, knowing that the disclosure or use is prohibited under this chapter, is
1102 guilty of a class A misdemeanor.

1103 [~~(b)~~] (c) It is a defense to prosecution under Subsection (1)(a) or (b) that the actor used
1104 or released private, controlled, or protected information in the reasonable belief that the use or
1105 disclosure of the information was necessary to expose a violation of law involving government
1106 corruption, abuse of office, or misappropriation of public funds or property.

1107 [~~(c)~~] (d) It is a defense to prosecution under Subsection (1)(a) or (b) that the record
1108 could have lawfully been released to the recipient if it had been properly classified.

1109 [~~(d)~~] (e) It is a defense to prosecution under Subsection (1)(a) or (b) that the public
1110 employee or other person disclosed, provided, or used the record based on a good faith belief
1111 that the disclosure, provision, or use was in accordance with the law.

1112 (2) (a) [~~A~~] Except as provided in Subsection (2)(b), a person who by false pretenses,

1113 bribery, or theft, gains access to or obtains a copy of any private, controlled, or protected record
1114 to which the person is not legally entitled is guilty of a class B misdemeanor.

1115 (b) A person who by false pretenses, bribery, or theft, gains access to or obtains a copy
1116 of a record that is classified as private under Subsection 63G-2-302(1)(ee) to which the person
1117 is not legally entitled is guilty of a class A misdemeanor.

1118 ~~[(b)]~~ (c) ~~[No person shall be]~~ A person is not guilty under Subsection (2)(a) ~~[who]~~ or
1119 (b) if the person receives the record, information, or copy after the fact and without prior
1120 knowledge of or participation in the false pretenses, bribery, or theft.

1121 (3) (a) A public employee who intentionally refuses to release a record, the disclosure
1122 of which the employee knows is required by law, is guilty of a class B misdemeanor.

1123 (b) It is a defense to prosecution under Subsection (3)(a) that the public employee's
1124 failure to release the record was based on a good faith belief that the public employee was
1125 acting in accordance with the requirements of law.

1126 (c) A public employee who intentionally refuses to release a record, the disclosure of
1127 which the employee knows is required by a final unappealed order from a government entity,
1128 the State Records Committee, or a court is guilty of a class B misdemeanor.

1129 Section 12. **Effective date.**

1130 This bill takes effect on May 1, 2024.