

PERSONAL IDENTITY PROTECTION AMENDMENTS

2013 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Brian M. Greene

Senate Sponsor: _____

LONG TITLE

General Description:

This bill enacts language related to a private record.

Highlighted Provisions:

This bill:

- ▶ identifies a person's date of birth as a private record; and
- ▶ makes technical corrections.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63G-2-302, as last amended by Laws of Utah 2012, Chapters 74, 145, and 202

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

Section 1. Section **63G-2-302** is amended to read:

63G-2-302. Private records.

(1) The following records are private:

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



- 28 (b) records containing data on individuals describing medical history, diagnosis,
29 condition, treatment, evaluation, or similar medical data;
- 30 (c) records of publicly funded libraries that when examined alone or with other records
31 identify a patron;
- 32 (d) records received by or generated by or for:
 - 33 (i) the Independent Legislative Ethics Commission, except for:
 - 34 (A) the commission's summary data report that is required under legislative rule; and
 - 35 (B) any other document that is classified as public under legislative rule; or
 - 36 (ii) a Senate or House Ethics Committee in relation to the review of ethics complaints,
37 unless the record is classified as public under legislative rule;
- 38 (e) records received or generated for a Senate confirmation committee concerning
39 character, professional competence, or physical or mental health of an individual:
 - 40 (i) if prior to the meeting, the chair of the committee determines release of the records:
 - 41 (A) reasonably could be expected to interfere with the investigation undertaken by the
42 committee; or
 - 43 (B) would create a danger of depriving a person of a right to a fair proceeding or
44 impartial hearing; and
 - 45 (ii) after the meeting, if the meeting was closed to the public;
- 46 (f) employment records concerning a current or former employee of, or applicant for
47 employment with, a governmental entity that would disclose that individual's home address,
48 home telephone number, Social Security number, insurance coverage, marital status, or payroll
49 deductions;
- 50 (g) records or parts of records under Section 63G-2-303 that a current or former
51 employee identifies as private according to the requirements of that section;
- 52 (h) that part of a record indicating a person's Social Security number or federal
53 employer identification number if provided under Section 31A-23a-104, 31A-25-202,
54 31A-26-202, 58-1-301, 58-55-302, 61-1-4, or 61-2f-203;
 - 55 (i) that part of a voter registration record identifying a voter's:
 - 56 (i) driver license or identification card number;
 - 57 (ii) Social Security number, or last four digits of the Social Security number; or
 - 58 (iii) email address;

- 59 (j) a record that:
- 60 (i) contains information about an individual;
- 61 (ii) is voluntarily provided by the individual; and
- 62 (iii) goes into an electronic database that:
 - 63 (A) is designated by and administered under the authority of the Chief Information
 - 64 Officer; and
 - 65 (B) acts as a repository of information about the individual that can be electronically
 - 66 retrieved and used to facilitate the individual's online interaction with a state agency;
 - 67 (k) information provided to the Commissioner of Insurance under:
 - 68 (i) Subsection 31A-23a-115(2)(a);
 - 69 (ii) Subsection 31A-23a-302(3); or
 - 70 (iii) Subsection 31A-26-210(3);
 - 71 (l) information obtained through a criminal background check under Title 11, Chapter
 - 72 40, Criminal Background Checks by Political Subdivisions Operating Water Systems;
 - 73 (m) information provided by an offender that is:
 - 74 (i) required by the registration requirements of Title 77, Chapter 41, Sex and Kidnap
 - 75 Offender Registry; and
 - 76 (ii) not required to be made available to the public under Subsection 77-41-110(4);
 - 77 (n) a statement and any supporting documentation filed with the attorney general in
 - 78 accordance with Section 34-45-107, if the federal law or action supporting the filing involves
 - 79 homeland security;
 - 80 (o) electronic toll collection customer account information received or collected under
 - 81 Section 72-6-118, including contact and payment information and customer travel data;
 - 82 (p) an email address provided by a military or overseas voter under Section
 - 83 20A-16-501;
 - 84 (q) a completed military-overseas ballot that is electronically transmitted under Title
 - 85 20A, Chapter 16, Uniform Military and Overseas Voters Act; [~~and~~]
 - 86 (r) records received by or generated by or for the Political Subdivisions Ethics Review
 - 87 Commission established in Section 11-49-201, except for:
 - 88 (i) the commission's summary data report that is required in Section 11-49-202; and
 - 89 (ii) any other document that is classified as public in accordance with Title 11, Chapter

90 49, Political Subdivisions Ethics Review Commission[-]; and
91 (s) that part of a record indicating a person's month, day, and year of birth.
92 (2) The following records are private if properly classified by a governmental entity:
93 (a) records concerning a current or former employee of, or applicant for employment
94 with a governmental entity, including performance evaluations and personal status information
95 such as race, religion, or disabilities, but not including records that are public under Subsection
96 63G-2-301(2)(b) or 63G-2-301(3)(o), or private under Subsection (1)(b);
97 (b) records describing an individual's finances, except that the following are public:
98 (i) records described in Subsection 63G-2-301(2);
99 (ii) information provided to the governmental entity for the purpose of complying with
100 a financial assurance requirement; or
101 (iii) records that must be disclosed in accordance with another statute;
102 (c) records of independent state agencies if the disclosure of those records would
103 conflict with the fiduciary obligations of the agency;
104 (d) other records containing data on individuals the disclosure of which constitutes a
105 clearly unwarranted invasion of personal privacy;
106 (e) records provided by the United States or by a government entity outside the state
107 that are given with the requirement that the records be managed as private records, if the
108 providing entity states in writing that the record would not be subject to public disclosure if
109 retained by it; and
110 (f) any portion of a record in the custody of the Division of Aging and Adult Services,
111 created in Section 62A-3-102, that may disclose, or lead to the discovery of, the identity of a
112 person who made a report of alleged abuse, neglect, or exploitation of a vulnerable adult.
113 (3) (a) As used in this Subsection (3), "medical records" means medical reports,
114 records, statements, history, diagnosis, condition, treatment, and evaluation.
115 (b) Medical records in the possession of the University of Utah Hospital, its clinics,
116 doctors, or affiliated entities are not private records or controlled records under Section
117 63G-2-304 when the records are sought:
118 (i) in connection with any legal or administrative proceeding in which the patient's
119 physical, mental, or emotional condition is an element of any claim or defense; or
120 (ii) after a patient's death, in any legal or administrative proceeding in which any party

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

122 (c) Medical records are subject to production in a legal or administrative proceeding

123 according to state or federal statutes or rules of procedure and evidence as if the medical

124 records were in the possession of a nongovernmental medical care provider.

Legislative Review Note

as of 2-22-13 9:32 AM

Office of Legislative Research and General Counsel