

ACCIDENT REPORTS AMENDMENTS

2021 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Curtis S. Bramble

House Sponsor: _____

LONG TITLE

General Description:

This bill amends provisions related to the disclosure of accident reports.

Highlighted Provisions:

This bill:

- ▶ amends the definition of "initial contact report";
- ▶ limits a relevant law enforcement entity from disclosing an accident report to a licensed private investigator to circumstances in which the license private investigator represents certain individuals involved or affected by the accident that is the subject of the accident report; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

41-6a-404, as last amended by Laws of Utah 2018, Chapter 162

53-9-107, as last amended by Laws of Utah 2011, Chapter 432

63G-2-103, as last amended by Laws of Utah 2020, Chapter 365



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

29 Section 1. Section **41-6a-404** is amended to read:

30 **41-6a-404. Accident reports -- When confidential -- Insurance policy information**
31 **-- Use as evidence -- Penalty for false information.**

32 (1) As used in this section:

33 (a) "Accompanying data" means all materials gathered by the investigating peace
34 officer in an accident investigation including:

35 (i) the identity of witnesses and, if known, contact information;

36 (ii) witness statements;

37 (iii) photographs and videotapes;

38 (iv) diagrams; and

39 (v) field notes.

40 (b) "Agent" means:

41 (i) a person's attorney;

42 (ii) a person's insurer;

43 (iii) a general acute hospital, as defined in Section [26-21-2](#), that:

44 (A) has an emergency room; and

45 (B) is providing or has provided emergency services to the person in relation to the
46 accident; or

47 (iv) any other individual or entity with signed permission from the person to receive
48 the person's accident report.

49 (2) (a) Except as provided in Subsections (3) and (7), all accident reports required in
50 this part to be filed with the department:

51 (i) are without prejudice to the reporting individual;

52 (ii) are protected and for the confidential use of the department or other state, local, or
53 federal agencies having use for the records for official governmental statistical, investigative,
54 and accident prevention purposes; and

55 (iii) may be disclosed only in a statistical form that protects the privacy of any person
56 involved in the accident.

57 (b) An investigating peace officer shall include in an accident report an indication as to
58 whether the accident occurred on a highway designated as a livestock highway in accordance

59 with Section 72-3-112 if the accident resulted in the injury or death of livestock.

60 (3) (a) Subject to the provisions of this section, the department or the responsible law
61 enforcement agency employing the peace officer that investigated the accident shall disclose an
62 accident report to:

63 (i) a person involved in the accident, excluding a witness to the accident;

64 (ii) a person suffering loss or injury in the accident;

65 (iii) an agent, parent, or legal guardian of a person described in Subsections (3)(a)(i)
66 and (ii);

67 (iv) subject to Subsection (3)(d), a member of the press or broadcast news media;

68 (v) a state, local, or federal agency that uses the records for official governmental,
69 investigative, or accident prevention purposes;

70 (vi) law enforcement personnel when acting in their official governmental capacity;

71 and

72 (vii) a licensed private investigator who:

73 (A) represents an individual described in Subsections (3)(a)(i) through (iii); and

74 (B) demonstrates that the representation of the individual described in Subsections
75 (3)(a)(i) through (iii) is directly related to the accident that is the subject of the accident report.

76 (b) The responsible law enforcement agency employing the peace officer that
77 investigated the accident:

78 (i) shall in compliance with Subsection (3)(a):

79 (A) disclose an accident report; or

80 (B) upon written request disclose an accident report and its accompanying data within
81 10 business days from receipt of a written request for disclosure; or

82 (ii) may withhold an accident report, and any of its accompanying data if disclosure
83 would jeopardize an ongoing criminal investigation or criminal prosecution.

84 (c) In accordance with Subsection (3)(a), the department or the responsible law
85 enforcement agency employing the investigating peace officer shall disclose whether any
86 person or vehicle involved in an accident reported under this section was covered by a vehicle
87 insurance policy, and the name of the insurer.

88 (d) Information provided to a member of the press or broadcast news media under
89 Subsection (3)(a)(iv) may only include:

- 90 (i) the name, age, sex, and city of residence of each person involved in the accident;
- 91 (ii) the make and model year of each vehicle involved in the accident;
- 92 (iii) whether or not each person involved in the accident was covered by a vehicle
93 insurance policy;
- 94 (iv) the location of the accident; and
- 95 (v) a description of the accident that excludes personal identifying information not
96 listed in Subsection (3)(d)(i).

97 (e) The department shall disclose to any requesting person the following vehicle
98 accident history information, excluding personal identifying information, in bulk electronic
99 form:

- 100 (i) any vehicle identifying information that is electronically available, including the
101 make, model year, and vehicle identification number of each vehicle involved in an accident;
- 102 (ii) the date of the accident; and
- 103 (iii) any electronically available data which describes the accident, including a
104 description of any physical damage to the vehicle.

105 (f) The department may establish a fee under Section [63J-1-504](#) based on the fair
106 market value of the information for providing bulk vehicle accident history information under
107 Subsection (3)(e).

108 (4) (a) Except as provided in Subsection (4)(b), accident reports filed under this section
109 may not be used as evidence in any civil or criminal trial arising out of an accident.

110 (b) (i) Upon demand of any party to the trial or upon demand of any court, the
111 department shall furnish a certificate showing that a specified accident report has or has not
112 been made to the department in compliance with law.

113 (ii) If the report has been made, the certificate furnished by the department shall show:

- 114 (A) the date, time, and location of the accident;
- 115 (B) the names and addresses of the drivers;
- 116 (C) the owners of the vehicles involved; and
- 117 (D) the investigating peace officers.

118 (iii) The reports may be used as evidence when necessary to prosecute charges filed in
119 connection with a violation of Subsection (5).

120 (5) A person who gives information in reports as required in this part knowing or

121 having reason to believe that the information is false is guilty of a class A misdemeanor.

122 (6) The department and the responsible law enforcement agency employing the
123 investigating peace officer may charge a reasonable fee determined by the department under
124 Section 63J-1-504 for the cost incurred in disclosing an accident report or an accident report
125 and any of its accompanying data under Subsections (3)(a) and (b).

126 (7) (a) The Office of State Debt Collection may, in the performance of its regular
127 duties, disclose an accident report to:

- 128 (i) a person involved in the accident, excluding a witness to the accident;
- 129 (ii) an owner of a vehicle involved in the accident; or
- 130 (iii) an agent, parent, or legal guardian of a person described in Subsection (7)(a)(i) or
131 (ii).

132 (b) A disclosure under Subsection (7)(a) does not change the classification of the
133 record as a protected record under Section 63G-2-305.

134 Section 2. Section 53-9-107 is amended to read:

135 **53-9-107. Classification of licenses -- License required to act.**

136 (1) Every person applying for a license under this chapter shall indicate on the
137 application which of the following licenses the applicant is applying for:

138 (a) an agency license shall be issued to an applicant who meets the agency
139 requirements of Sections 53-9-108 and 53-9-109;

140 (b) a registrant license shall be issued to an applicant who meets the registrant
141 requirements of Sections 53-9-108 and 53-9-110; or

142 (c) an apprentice license shall be issued to an applicant who meets the apprentice
143 requirements of Sections 53-9-108 and 53-9-110.

144 (2) Unless licensed under this chapter, a person may not:

145 (a) act or assume to act as, or represent himself to be:

146 (i) a licensee; or

147 (ii) a private investigator or private detective as defined in [~~Subsection 53-9-102(16)]~~

148 Section 53-9-102 or conduct any investigation as [~~provided in Subsection 53-9-102(16)]~~

149 described in the definition of private investigator or private detective; or

150 (b) falsely represent to be employed by or for an independent contractor for an agency.

151 (3) A licensed registrant, as defined in Section 53-9-102, may only work as an

152 employee of, or as an independent contractor for, an agency licensed under this chapter, and
153 may not:

154 (a) advertise the licensed registrant's services or conduct investigations for the general
155 public; or

156 (b) employ other private investigators or hire them as independent contractors.

157 (4) (a) A licensed apprentice, as defined in Section 53-9-102, may only work under the
158 direct supervision and guidance of an agency licensed under this chapter, and may not:

159 (i) advertise the licensed apprentice's services or conduct investigations for the general
160 public;

161 (ii) employ other private investigators; or

162 (iii) obtain information from the Utah State Tax Commission Motor Vehicle Division
163 or Driver License Division within the Department of Public Safety, except the apprentice may
164 utilize information from these agencies for a legitimate business need and under the direct
165 supervision and guidance of a licensed agency.

166 (b) A registrant or apprentice whose license has been suspended or revoked shall
167 immediately notify the agency which supervises the registrant or apprentice of the action.

168 Section 3. Section 63G-2-103 is amended to read:

169 **63G-2-103. Definitions.**

170 As used in this chapter:

171 (1) "Audit" means:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- 214 (9) "Explosive" means a chemical compound, device, or mixture:
215 (a) commonly used or intended for the purpose of producing an explosion; and
216 (b) that contains oxidizing or combustive units or other ingredients in proportions,
217 quantities, or packing so that:
218 (i) an ignition by fire, friction, concussion, percussion, or detonator of any part of the
219 compound or mixture may cause a sudden generation of highly heated gases; and
220 (ii) the resultant gaseous pressures are capable of:
221 (A) producing destructive effects on contiguous objects; or
222 (B) causing death or serious bodily injury.
- 223 (10) "Government audit agency" means any governmental entity that conducts an audit.
224 (11) (a) "Governmental entity" means:
225 (i) executive department agencies of the state, the offices of the governor, lieutenant
226 governor, state auditor, attorney general, and state treasurer, the Board of Pardons and Parole,
227 the Board of Examiners, the National Guard, the Career Service Review Office, the State
228 Board of Education, the Utah Board of Higher Education, and the State Archives;
229 (ii) the Office of the Legislative Auditor General, Office of the Legislative Fiscal
230 Analyst, Office of Legislative Research and General Counsel, the Legislature, and legislative
231 committees, except any political party, group, caucus, or rules or sifting committee of the
232 Legislature;
233 (iii) courts, the Judicial Council, the Administrative Office of the Courts, and similar
234 administrative units in the judicial branch;
235 (iv) any state-funded institution of higher education or public education; or
236 (v) any political subdivision of the state, but, if a political subdivision has adopted an
237 ordinance or a policy relating to information practices pursuant to Section 63G-2-701, this
238 chapter shall apply to the political subdivision to the extent specified in Section 63G-2-701 or
239 as specified in any other section of this chapter that specifically refers to political subdivisions.
- 240 (b) "Governmental entity" also means:
241 (i) every office, agency, board, bureau, committee, department, advisory board, or
242 commission of an entity listed in Subsection (11)(a) that is funded or established by the
243 government to carry out the public's business;
244 (ii) as defined in Section 11-13-103, an interlocal entity or joint or cooperative

245 undertaking;

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

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

248 (v) the Utah Independent Redistricting Commission; and

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

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

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

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

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

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

263 (ii) names of victims;

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

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

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

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

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

275 (c) Initial contact reports do not include accident reports, as that term is described in

276 Title 41, Chapter 6a, Part 4, Accident Responsibilities.

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

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

280 (17) "Person" means:

281 (a) an individual;

282 (b) a nonprofit or profit corporation;

283 (c) a partnership;

284 (d) a sole proprietorship;

285 (e) other type of business organization; or

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

287 (18) "Private provider" means any person who contracts with a governmental entity to
288 provide services directly to the public.

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

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

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

295 (22) (a) "Record" means a book, letter, document, paper, map, plan, photograph, film,
296 card, tape, recording, electronic data, or other documentary material regardless of physical form
297 or characteristics:

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

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

302 (b) "Record" does not mean:

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

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

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

- 307 (ii) a temporary draft or similar material prepared for the originator's personal use or
308 prepared by the originator for the personal use of an individual for whom the originator is
309 working;
- 310 (iii) material that is legally owned by an individual in the individual's private capacity;
311 (iv) material to which access is limited by the laws of copyright or patent unless the
312 copyright or patent is owned by a governmental entity or political subdivision;
- 313 (v) proprietary software;
- 314 (vi) junk mail or a commercial publication received by a governmental entity or an
315 official or employee of a governmental entity;
- 316 (vii) a book that is cataloged, indexed, or inventoried and contained in the collections
317 of a library open to the public;
- 318 (viii) material that is cataloged, indexed, or inventoried and contained in the collections
319 of a library open to the public, regardless of physical form or characteristics of the material;
- 320 (ix) a daily calendar or other personal note prepared by the originator for the
321 originator's personal use or for the personal use of an individual for whom the originator is
322 working;
- 323 (x) a computer program that is developed or purchased by or for any governmental
324 entity for its own use;
- 325 (xi) a note or internal memorandum prepared as part of the deliberative process by:
326 (A) a member of the judiciary;
327 (B) an administrative law judge;
328 (C) a member of the Board of Pardons and Parole; or
329 (D) a member of any other body, other than an association or appeals panel as defined
330 in Section [53G-7-1101](#), charged by law with performing a quasi-judicial function;
- 331 (xii) a telephone number or similar code used to access a mobile communication
332 device that is used by an employee or officer of a governmental entity, provided that the
333 employee or officer of the governmental entity has designated at least one business telephone
334 number that is a public record as provided in Section [63G-2-301](#);
- 335 (xiii) information provided by the Public Employees' Benefit and Insurance Program,
336 created in Section [49-20-103](#), to a county to enable the county to calculate the amount to be
337 paid to a health care provider under Subsection [17-50-319\(2\)\(e\)\(ii\)](#);

338 (xiv) information that an owner of unimproved property provides to a local entity as
339 provided in Section 11-42-205;

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

342 (xvi) child pornography, as defined by Section 76-5b-103; or

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

345 (A) a Senate or House Ethics Committee;

346 (B) the Independent Legislative Ethics Commission;

347 (C) the Independent Executive Branch Ethics Commission, created in Section
348 63A-14-202; or

349 (D) the Political Subdivisions Ethics Review Commission established in Section
350 63A-15-201.

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

353 (24) "Records officer" means the individual appointed by the chief administrative
354 officer of each governmental entity, or the political subdivision to work with state archives in
355 the care, maintenance, scheduling, designation, classification, disposal, and preservation of
356 records.

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

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

363 (a) conducted:

364 (i) by an institution within the state system of higher education defined in Section
365 53B-1-102; and

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

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

368 (i) person that is not created or controlled by the institution within the state system of

369 higher education; or

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

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

373 (28) "State archivist" means the director of the state archives.

374 (29) "State Records Committee" means the State Records Committee created in
375 Section [63G-2-501](#).

376 (30) "Summary data" means statistical records and compilations that contain data
377 derived from private, controlled, or protected information but that do not disclose private,
378 controlled, or protected information.