

Senator Deidre M. Henderson proposes the following substitute bill:

VOTER REGISTRATION REVISIONS

2018 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Deidre M. Henderson

House Sponsor: Stephen G. Handy

LONG TITLE

General Description:

This bill amends provisions related to voter registration.

Highlighted Provisions:

This bill:

- ▶ amends definitions;
- ▶ provides that an individual who applies for or renews the individual's driver license or state identification card will be registered to vote unless the individual opts out;
- ▶ allows certain information in a driver license or state identification card application form to be used for voter registration purposes;
- ▶ requires a county clerk to send certain information to an individual who registers to vote;
- ▶ provides that an individual is not guilty of fraudulent registration if the individual is ineligible to register to vote but is inadvertently registered to vote under this bill;
- ▶ amends provisions relating to the process by which a voter may request that the voter's voter registration record be classified as a private record; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None



26 **Other Special Clauses:**

27 None

28 **Utah Code Sections Affected:**

29 AMENDS:

30 **20A-2-108**, as last amended by Laws of Utah 2015, Chapter 130

31 **20A-2-204**, as last amended by Laws of Utah 2015, Chapter 130

32 **20A-2-304**, as last amended by Laws of Utah 2017, Chapter 91

33 **20A-2-401**, as last amended by Laws of Utah 2015, Chapter 130

34 **63G-2-302**, as last amended by Laws of Utah 2017, Chapters 168 and 282



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

37 Section 1. Section **20A-2-108** is amended to read:

38 **20A-2-108. Driver license or state identification card registration form --**

39 **Transmittal of information.**

40 (1) As used in this section, "qualifying form" means:

41 (a) a driver license application form; or

42 (b) a state identification card application form.

43 ~~[(+)]~~ (2) The lieutenant governor and the Driver License Division shall design ~~[the~~
44 ~~driver license application and renewal forms to include the following questions:]~~ each
45 qualifying form to include the following statements:

46 (a) "If you are qualified to register or preregister to vote, the information on this form
47 will be used for voter registration purposes, unless you indicate otherwise by marking here:

48 No, I do not authorize the use of the information in this form for voter registration purposes.";
49 and

50 (b) "If you believe that disclosure of any information contained in your voter
51 registration form to a person other than a government official or government employee is likely
52 to put you or a member of your household's life or safety at risk, or to put you or a member of
53 your household at risk of being stalked or harassed, you may request that your voter registration
54 record be temporarily classified as a private record by indicating below.

55 If you request that your voter registration record be temporarily classified as a private
56 record, you will be required to provide evidence to the lieutenant governor of the risks

57 described above. You will be contacted with further instruction on how to submit this
58 evidence.

59 If you agree to the conditions described above, you may request that your voter
60 registration record be temporarily classified as a private record by marking here: _____."

61 ~~[(a) "If you are not registered to vote where you live now, would you like to register to~~
62 ~~vote today?"; and]~~

63 ~~[(b) "If you are 16 or 17 years of age, and will not be 18 years of age before the date of~~
64 ~~the next election, would you like to preregister to vote today?"]~~

65 ~~[(2) (a) The lieutenant governor and the Driver License Division shall design a motor~~
66 ~~voter registration form to be used in conjunction with driver license application and renewal~~
67 ~~forms.]~~

68 ~~[(b) Each driver license application and renewal form shall contain:]~~

69 ~~[(i) a place for the applicant to decline to register or preregister to vote;]~~

70 ~~[(ii) an eligibility statement in substantially the following form:]~~

71 ~~["I do swear (or affirm), subject to penalty of law for false statements, that the~~
72 ~~information contained in this form is true, and that I am a citizen of the United States and a~~
73 ~~resident of the state of Utah, residing at the above address. Unless I have indicated above that I~~
74 ~~am preregistering to vote in a later election, I will be at least 18 years of age and will have~~
75 ~~resided in Utah for 30 days immediately before the next election.]~~

76 ~~[Signed and sworn]~~

77 ~~[_____]~~

78 ~~[Voter's Signature]~~

79 ~~[_____(month\day\year)";]~~

80 ~~[(iii) a citizenship affidavit in substantially the following form:]~~

81 ~~["CITIZENSHIP AFFIDAVIT]~~

82 ~~[Name:]~~

83 ~~[Name at birth, if different:]~~

84 ~~[Place of birth:]~~

85 ~~[Date of birth:]~~

86 ~~[Date and place of naturalization (if applicable):]~~

87 ~~[I hereby swear and affirm, under penalties for voting fraud set forth below, that I am a~~

88 citizen and that to the best of my knowledge and belief the information above is true and
89 correct.]

90 [_____]

91 [Signature of Applicant]

92 [In accordance with Section ~~20A-2-401~~, the penalty for willfully causing, procuring, or
93 allowing yourself to be registered or preregistered to vote if you know you are not entitled to
94 register or preregister to vote is up to one year in jail and a fine of up to \$2,500";]

95 (3) The lieutenant governor and the Driver License Division shall ensure that a
96 qualifying form contains:

97 (a) a place for an individual to affirm the individual's citizenship, voting eligibility, and
98 Utah residency, and that the information provided in the form is true;

99 (b) a records disclosure that is similar to the records disclosure on a voter registration
100 form described in Section ~~20A-2-104~~;

101 ~~[(iv)]~~ (c) a statement that if an applicant declines to register or preregister to vote, the
102 fact that the applicant has declined to register or preregister will remain confidential and will be
103 used only for voter registration purposes;

104 ~~[(v)]~~ (d) a statement that if an applicant does register or preregister to vote, the office at
105 which the applicant submits a voter registration application will remain confidential and will be
106 used only for voter registration purposes; and

107 (e) a space where an individual may, if desired:

108 (i) indicate the individual's desired political affiliation from a listing of each registered
109 political party, as defined in Section ~~20A-8-101~~;

110 (ii) specify a political party that is not listed under Subsection (3)(e)(i) with which the
111 individual desires to affiliate; or

112 (iii) indicate that the individual does not wish to affiliate with a political party.

113 ~~[(vi)]~~ the following statement:]

114 ["The portion of a voter registration form that lists a person's driver license or
115 identification card number, Social Security number, and email address is a private record. The
116 portion of a voter registration form that lists a person's date of birth is a private record, the use
117 of which is restricted to government officials, government employees, political parties, or
118 certain other persons.]

119 ~~[If you believe that disclosure of any information contained in this voter registration~~
 120 ~~form to a person other than a government official or government employee is likely to put you~~
 121 ~~or a member of your household's life or safety at risk, or to put you or a member of your~~
 122 ~~household at risk of being stalked or harassed, you may apply to the lieutenant governor or your~~
 123 ~~county clerk to have your entire voter registration record classified as private."]~~

124 ~~[(3) Upon receipt of a voter registration form from an applicant, the county clerk or the~~
 125 ~~clerk's designee shall:]~~

126 ~~[(a) review the voter registration form for completeness and accuracy; and]~~

127 ~~[(b) if the county clerk believes, based upon a review of the form, that a person may be~~
 128 ~~seeking to register or preregister to vote who is not legally entitled to register or preregister to~~
 129 ~~vote, refer the form to the county attorney for investigation and possible prosecution.]]~~

130 Section 2. Section **20A-2-204** is amended to read:

131 **20A-2-204. Registering to vote when applying for or renewing a driver license.**

132 (1) As used in this section, "voter registration form" means ~~[the driver license~~
 133 ~~application/voter registration form and the driver license renewal/voter registration form~~
 134 ~~required by Section 20A-2-108]~~ the information on a qualifying form, as defined in Section
 135 20A-2-108, that can be used for voter registration purposes if the individual named on the form
 136 does not indicate otherwise under Subsection 20A-2-108(2).

137 (2) ~~[Any]~~ A citizen who is qualified to vote ~~[may register]~~ and who completes a voter
 138 registration form under this section shall be registered to vote, and ~~[any]~~ a citizen who is
 139 qualified to preregister to vote ~~[may preregister]~~ and who completes a voter registration form
 140 under this section shall be preregistered to vote ~~[, by completing the voter registration form].~~

141 (3) The Driver License Division shall:

142 (a) assist ~~[applicants]~~ an individual in completing the voter registration form unless the
 143 ~~[applicant]~~ individual refuses assistance;

144 ~~[(b) accept a completed voter registration form and transmit the form to the county~~
 145 ~~clerk of the county in which the applicant resides within five days after the day on which the~~
 146 ~~division receives the form;]~~

147 ~~[(c)]~~ (b) electronically transmit each address change to the lieutenant governor within
 148 five days after the day on which the division receives the address change; and

149 ~~[(d) transmit electronically to the lieutenant governor's office the name, address, birth~~

150 ~~date, and driver license number of each individual who answers "yes" to a question described~~
151 ~~in Subsection 20A-2-108(1), and indicate whether the individual is registering or preregistering~~
152 ~~to vote.]~~

153 ~~[(4) (a) Upon receipt of a correctly completed voter registration form from an~~
154 ~~individual who is registering to vote, the county clerk shall:]~~

155 ~~[(i) enter the applicant's name on the list of registered voters for the voting precinct in~~
156 ~~which the applicant resides; and]~~

157 ~~[(ii) notify the applicant of registration.]~~

158 ~~[(b) Upon receipt of a correctly completed voter registration form from an individual~~
159 ~~who is preregistering to vote, the county clerk shall]~~

160 ~~(c) within five days after the day on which the division receives a voter registration~~
161 ~~form, electronically transmit the form to the Office of the Lieutenant Governor, including the~~
162 ~~following for the individual named on the form:~~

163 ~~(i) the name, date of birth, driver license or state identification card number, last four~~
164 ~~digits of the social security number, Utah residential address, place of birth, and signature;~~

165 ~~(ii) a mailing address, if different from the individual's Utah residential address; and~~

166 ~~(iii) an email address and phone number, if available;~~

167 ~~(iv) the desired political affiliation, if indicated; and~~

168 ~~(v) an indication of whether the individual requested that the individual's voter~~
169 ~~registration record be classified as a private record under Subsection 20A-2-108(2)(b).~~

170 ~~(4) Upon receipt of an individual's voter registration form from the Driver License~~
171 ~~Division under Subsection (3), the lieutenant governor shall:~~

172 ~~(a) enter the information into the statewide voter registration database; and~~

173 ~~(b) if the individual requests on the individual's voter registration form that the~~
174 ~~individual's voter registration record be classified as a private record:~~

175 ~~(i) temporarily classify the individual's voter registration record as a private record;~~

176 ~~(ii) immediately send a notice to the individual that:~~

177 ~~(A) explains that the lieutenant governor has temporarily classified the individual's~~
178 ~~voter registration record as a private record;~~

179 ~~(B) explains that, in order for the individual's voter registration record to be~~
180 ~~permanently classified as a private record, the individual is required to submit an application~~

181 described in Subsection 20A-2-104(4)(f)(i) and provide evidence to the lieutenant governor
182 establishing that release of the information on the voter's voter registration record is likely to
183 put the voter or a member of the voter's household's life or safety at risk, or to put the voter or a
184 member of the voter's household at risk of being stalked or harassed;

185 (C) lists types of evidence that may be sufficient to comply with the requirements
186 described in Subsection (4)(b)(ii)(B), including the types of evidence described in Subsection
187 20A-2-104(4)(g);

188 (D) includes an application described in Subsection 20A-2-104(4)(f)(i);

189 (E) specifies the deadline described in Subsection (5) by which the individual is
190 required to submit the application and evidence described in Subsection (4)(b)(ii)(B);

191 (F) includes instructions on how the individual may submit the application and
192 evidence to the lieutenant governor; and

193 (G) explains that, if the individual does not submit the application and evidence before
194 the deadline described in Subsection (4)(b)(ii)(E), the lieutenant governor will classify the
195 individual's voter registration record as a public record; and

196 (iii) (A) if the individual submits the application and evidence described in Subsection
197 (4)(b)(ii)(B) before the deadline described in Subsection (4)(b)(ii)(E), permanently classify the
198 individual's voter registration record as a private record; or

199 (B) if the individual does not submit the evidence described in Subsection (4)(b)(ii)(B)
200 before the deadline described in Subsection (4)(b)(ii)(E), classify the individual's voter
201 registration record as a public record.

202 (5) An individual shall submit the application and evidence described in Subsection
203 (4)(b)(ii)(B) within 30 days after the day on which the lieutenant governor sends the notice
204 described in Subsection (4)(b)(ii).

205 (6) The county clerk for an individual whose information is entered into the statewide
206 voter registration database under Subsection (4) shall:

207 (a) (i) ensure that the individual meets the qualifications to be registered or
208 preregistered to vote; and

209 (ii) if the individual meets the qualifications to be registered to vote:

210 (A) ensure that the individual is assigned to the proper voting precinct; and

211 (B) send the individual the notice described in Section 20A-2-304; or

212 (b) if the individual meets the qualifications to be preregistered to vote, process the
 213 form in accordance with the requirements of Section 20A-2-101.1.

214 ~~[(5)]~~ (7) (a) If the county clerk receives a correctly completed voter registration form
 215 under this section that is dated after the voter registration deadline, the county clerk shall,
 216 unless the individual named in the form is preregistering to vote:

217 (i) register the ~~[applicant]~~ individual after the next election; and

218 (ii) if possible, promptly phone or mail a notice to the ~~[applicant]~~ individual before the
 219 election~~;~~ informing the ~~[applicant]~~ individual that ~~[his]~~ the individual's registration will not be
 220 effective until after the election.

221 (b) When the county clerk receives a correctly completed voter registration form at
 222 least seven days before an election that is dated on or before the voter registration deadline, the
 223 county clerk shall, unless the individual named in the form is preregistering to vote:

224 (i) process the voter registration form; and

225 (ii) record the ~~[new voter]~~ individual in the official register.

226 ~~[(6)]~~ (8) (a) If the county clerk determines that ~~[a]~~ an individual's voter registration
 227 form received from the Driver License Division is incorrect because of an error ~~[or]~~, because
 228 ~~[it]~~ the form is incomplete, or because the individual does not meet the qualifications to be
 229 registered to vote, the county clerk shall mail notice to the individual ~~[attempting to register or~~
 230 ~~preregister to vote,]~~ stating that the individual has not been registered or preregistered because
 231 of an error ~~[or]~~, because the form is incomplete, or because the individual does not meet the
 232 qualifications to be registered or preregistered to vote.

233 (b) If a county clerk believes, based upon a review of a voter registration form, that an
 234 individual, who knows that the individual is not legally entitled to register or preregister to
 235 vote, may be intentionally seeking to register or preregister to vote, the county clerk may refer
 236 the form to the county attorney for investigation and possible prosecution.

237 Section 3. Section **20A-2-304** is amended to read:

238 **20A-2-304. County clerk's responsibilities -- Notice of disposition.**

239 Each county clerk shall:

240 (1) register to vote each ~~[applicant for registration]~~ individual who meets the
 241 requirements for registration and who:

242 (a) submits a completed voter registration form to the county clerk ~~[on or before the~~

243 ~~voter registration deadline~~];

244 (b) submits a completed voter registration form, as defined in Section 20A-2-204, to
245 the Driver License Division~~;~~];

246 (c) submits a completed voter registration form to a public assistance agency~~;~~ or a
247 discretionary voter registration agency ~~[on or before the voter registration deadline]~~; or

248 ~~[(c)]~~ (d) mails a completed by-mail voter registration form to the county clerk ~~[on or~~
249 ~~before the voter registration deadline]~~; and

250 (2) within 30 days after the day on which the county clerk processes a voter registration
251 ~~[application] form~~, send a notice to the individual who submits the ~~[application] form~~ that:

252 (a) (i) informs the individual that the individual's ~~[application for]~~ voter registration
253 form has been accepted and that the individual is registered to vote;

254 (ii) informs the individual of the procedure for designating or changing the individual's
255 political affiliation;

256 (iii) informs the individual of the procedure to cancel a voter registration; and

257 (iv) if the voter registration form was submitted under Subsection (1) after the voter
258 registration deadline and before the election to which the deadline pertains, informs the
259 individual that the individual's voter registration will not be effective until after the election;

260 (b) informs the individual that the individual's ~~[application for]~~ voter registration form
261 has been rejected and the reason for the rejection; or

262 (c) (i) informs the individual that the ~~[application for]~~ individual's voter registration
263 form is being returned to the individual for further action because the ~~[application] form~~ is
264 incomplete; and

265 (ii) gives instructions to the individual on how to properly complete the ~~[application]~~
266 form.

267 Section 4. Section **20A-2-401** is amended to read:

268 **20A-2-401. Fraudulent registration -- Penalty.**

269 (1) (a) An individual may not willfully register to vote, or cause, procure, or allow
270 himself or herself to be registered to vote, knowing that the individual is not eligible to register
271 to vote under Section 20A-2-101.

272 (b) A person may not willfully cause, procure, advise, encourage, or assist any
273 individual to be registered to vote, knowing or believing that the individual is not eligible to

274 register to vote under Section [20A-2-101](#).

275 (2) (a) An individual may not willfully preregister to vote, or allow himself or herself
276 to be preregistered to vote, knowing that the individual is not eligible to preregister to vote
277 under Section [20A-2-101.1](#).

278 (b) A person may not willfully cause, advise, encourage, or assist an individual to
279 preregister to vote, knowing or believing that the individual is not eligible to preregister to vote
280 under Section [20A-2-101.1](#).

281 (3) A person is not guilty of violating this section if:

282 (a) the individual who is ineligible to vote becomes registered to vote under Section
283 [20A-2-204](#); and

284 (b) the person did not:

285 (i) provide false information; or

286 (ii) take other action intended to cause the registration of an individual who is
287 ineligible to vote.

288 [~~(3)~~] (4) A person who violates this section is guilty of a class A misdemeanor.

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

290 **63G-2-302. Private records.**

291 (1) The following records are private:

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

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

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

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

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

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

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

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

304 (e) records received by, or generated by or for, the Independent Executive Branch

305 Ethics Commission, except as otherwise expressly provided in Title 63A, Chapter 14, Review
306 of Executive Branch Ethics Complaints;

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

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

310 (A) reasonably could be expected to interfere with the investigation undertaken by the
311 committee; or

312 (B) would create a danger of depriving a person of a right to a fair proceeding or
313 impartial hearing; and

314 (ii) after the meeting, if the meeting was closed to the public;

315 (g) employment records concerning a current or former employee of, or applicant for
316 employment with, a governmental entity that would disclose that individual's home address,
317 home telephone number, social security number, insurance coverage, marital status, or payroll
318 deductions;

319 (h) records or parts of records under Section [63G-2-303](#) that a current or former
320 employee identifies as private according to the requirements of that section;

321 (i) that part of a record indicating a person's social security number or federal employer
322 identification number if provided under Section [31A-23a-104](#), [31A-25-202](#), [31A-26-202](#),
323 [58-1-301](#), [58-55-302](#), [61-1-4](#), or [61-2f-203](#);

324 (j) that part of a voter registration record identifying a voter's:

325 (i) driver license or identification card number;

326 (ii) Social Security number, or last four digits of the Social Security number;

327 (iii) email address; or

328 (iv) date of birth;

329 (k) a voter registration record that is classified as a private record by the lieutenant
330 governor or a county clerk under Subsection [20A-2-104\(4\)\(f\)](#) [~~or~~], [20A-2-101.1\(5\)\(a\)](#), or
331 [20A-2-204\(4\)\(b\)](#);

332 (l) a record that:

333 (i) contains information about an individual;

334 (ii) is voluntarily provided by the individual; and

335 (iii) goes into an electronic database that:

336 (A) is designated by and administered under the authority of the Chief Information
337 Officer; and

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

340 (m) information provided to the Commissioner of Insurance under:

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

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

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

344 (n) information obtained through a criminal background check under Title 11, Chapter
345 40, Criminal Background Checks by Political Subdivisions Operating Water Systems;

346 (o) information provided by an offender that is:

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

349 (ii) not required to be made available to the public under Subsection 77-41-110(4) or
350 77-43-108(4);

351 (p) a statement and any supporting documentation filed with the attorney general in
352 accordance with Section 34-45-107, if the federal law or action supporting the filing involves
353 homeland security;

354 (q) electronic toll collection customer account information received or collected under
355 Section 72-6-118 and customer information described in Section 17B-2a-815 received or
356 collected by a public transit district, including contact and payment information and customer
357 travel data;

358 (r) an email address provided by a military or overseas voter under Section
359 20A-16-501;

360 (s) a completed military-overseas ballot that is electronically transmitted under Title
361 20A, Chapter 16, Uniform Military and Overseas Voters Act;

362 (t) records received by or generated by or for the Political Subdivisions Ethics Review
363 Commission established in Section 11-49-201, except for:

364 (i) the commission's summary data report that is required in Section 11-49-202; and

365 (ii) any other document that is classified as public in accordance with Title 11, Chapter
366 49, Political Subdivisions Ethics Review Commission;

367 (u) a record described in Subsection 53A-11a-203(3) that verifies that a parent was
368 notified of an incident or threat; and

369 (v) a criminal background check or credit history report conducted in accordance with
370 Section 63A-3-201.

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

372 (a) records concerning a current or former employee of, or applicant for employment
373 with a governmental entity, including performance evaluations and personal status information
374 such as race, religion, or disabilities, but not including records that are public under Subsection
375 63G-2-301(2)(b) or 63G-2-301(3)(o) or private under Subsection (1)(b);

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

377 (i) records described in Subsection 63G-2-301(2);

378 (ii) information provided to the governmental entity for the purpose of complying with
379 a financial assurance requirement; or

380 (iii) records that must be disclosed in accordance with another statute;

381 (c) records of independent state agencies if the disclosure of those records would
382 conflict with the fiduciary obligations of the agency;

383 (d) other records containing data on individuals the disclosure of which constitutes a
384 clearly unwarranted invasion of personal privacy;

385 (e) records provided by the United States or by a government entity outside the state
386 that are given with the requirement that the records be managed as private records, if the
387 providing entity states in writing that the record would not be subject to public disclosure if
388 retained by it;

389 (f) any portion of a record in the custody of the Division of Aging and Adult Services,
390 created in Section 62A-3-102, that may disclose, or lead to the discovery of, the identity of a
391 person who made a report of alleged abuse, neglect, or exploitation of a vulnerable adult; and

392 (g) audio and video recordings created by a body-worn camera, as defined in Section
393 77-7a-103, that record sound or images inside a home or residence except for recordings that:

394 (i) depict the commission of an alleged crime;

395 (ii) record any encounter between a law enforcement officer and a person that results in
396 death or bodily injury, or includes an instance when an officer fires a weapon;

397 (iii) record any encounter that is the subject of a complaint or a legal proceeding

398 against a law enforcement officer or law enforcement agency;

399 (iv) contain an officer involved critical incident as defined in Section 76-2-408(1)(d);

400 or

401 (v) have been requested for reclassification as a public record by a subject or

402 authorized agent of a subject featured in the recording.

403 (3) (a) As used in this Subsection (3), "medical records" means medical reports,

404 records, statements, history, diagnosis, condition, treatment, and evaluation.

405 (b) Medical records in the possession of the University of Utah Hospital, its clinics,

406 doctors, or affiliated entities are not private records or controlled records under Section

407 63G-2-304 when the records are sought:

408 (i) in connection with any legal or administrative proceeding in which the patient's

409 physical, mental, or emotional condition is an element of any claim or defense; or

410 (ii) after a patient's death, in any legal or administrative proceeding in which any party

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

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

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

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