

FATALITY REVIEW AMENDMENTS

2024 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Christine F. Watkins

Senate Sponsor: Michael S. Kennedy

LONG TITLE

Committee Note:

The Health and Human Services Interim Committee recommended this bill.

Legislative Vote: 16 voting for 0 voting against 3 absent

General Description:

This bill amends provisions relating to fatality reviews.

Highlighted Provisions:

This bill:

- ▶ amends definitions;
- ▶ consolidates and streamlines certain notice requirements in the fatality review process;
- ▶ updates language to reflect the electronic storage of certain records;
- ▶ amends certain deadlines related to the fatality review process; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

26B-1-501, as renumbered and amended by Laws of Utah 2023, Chapter 305



- 28 **26B-1-502**, as renumbered and amended by Laws of Utah 2023, Chapter 305
- 29 **26B-1-505**, as renumbered and amended by Laws of Utah 2023, Chapter 305
- 30 **26B-1-506**, as renumbered and amended by Laws of Utah 2023, Chapter 305
- 31 **26B-1-507**, as renumbered and amended by Laws of Utah 2023, Chapter 305
- 32 **52-4-205**, as last amended by Laws of Utah 2023, Chapters 263, 328, 374, and 521
- 33 **63G-2-202**, as last amended by Laws of Utah 2023, Chapter 329

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

36 Section 1. Section **26B-1-501** is amended to read:

37 **26B-1-501. Definitions.**

38 As used in this part:

- 39 (1) "Abuse" means the same as that term is defined in Section **80-1-102**.
- 40 (2) "Child" means the same as that term is defined in Section **80-1-102**.
- 41 (3) "Committee" means a fatality review committee that is formed under Section
- 42 **26B-1-503** or **26B-1-504**.
- 43 (4) "Dependency" means the same as that term is defined in Section **80-1-102**.
- 44 (5) "Formal review" means a review of a death or a near fatality that is ordered under
- 45 Subsection [~~**26B-1-502(6)**~~ **26B-1-502(5)**].
- 46 (6) "Near fatality" means alleged abuse or neglect that, as certified by a physician,
- 47 places a child in serious or critical condition.
- 48 (7) "Qualified individual" means an individual who:
- 49 (a) at the time that the individual dies, is a resident of a facility or program that is
- 50 owned or operated by the department or a division of the department;
- 51 (b) (i) is in the custody of the department or a division of the department; and
- 52 (ii) is placed in a residential placement by the department or a division of the
- 53 department;
- 54 (c) at the time that the individual dies, has an open case for the receipt of child welfare
- 55 services, including:
- 56 (i) an investigation for abuse, neglect, or dependency;
- 57 (ii) foster care;
- 58 (iii) in-home services; or

- 59 (iv) substitute care;
- 60 (d) had an open case for the receipt of child welfare services within one year before the
61 day on which the individual dies;
- 62 (e) was the subject of an accepted referral received by Adult Protective Services within
63 one year before the day on which the individual dies, if:
- 64 (i) the department or a division of the department is aware of the death; and
- 65 (ii) the death is reported as a homicide, suicide, or an undetermined cause;
- 66 (f) received services from, or under the direction of, the Division of Services for People
67 with Disabilities within one year before the day on which the individual dies~~[-unless the
68 individual];~~
- 69 ~~[(i) lived in the individual's home at the time of death; and]~~
- 70 ~~[(ii) the director of the Division of Continuous Quality and Improvement determines
71 that the death was not in any way related to services that were provided by, or under the
72 direction of, the department or a division of the department;]~~
- 73 (g) dies within 60 days after the day on which the individual is discharged from the
74 Utah State Hospital, if the department is aware of the death;
- 75 (h) is a child who:
- 76 (i) suffers a near fatality; and
- 77 (ii) is the subject of an open case for the receipt of child welfare services within one
78 year before the day on which the child suffered the near fatality, including:
- 79 (A) an investigation for abuse, neglect, or dependency;
- 80 (B) foster care;
- 81 (C) in-home services; or
- 82 (D) substitute care; or
- 83 (i) is designated as a qualified individual by the executive director.
- 84 (8) "Neglect" means the same as that term is defined in Section 80-1-102.
- 85 (9) "Substitute care" means the same as that term is defined in Section 80-1-102.
- 86 Section 2. Section **26B-1-502** is amended to read:
- 87 **26B-1-502. Initial review.**
- 88 (1) Within seven days after the day on which the department knows that a qualified
89 individual has died or is an individual described in Subsection 26B-1-501(7)(h), a person

90 designated by the department shall:

91 (a) (i) for a death, complete a deceased client report form, created by the department; or

92 (ii) for an individual described in Subsection 26B-1-501(7)(h), complete a near fatality
93 client report form, created by the department; and

94 (b) forward the completed client report form to:

95 (i) the director of the office or division that has jurisdiction over the region or
96 facility[-];

97 (ii) the executive director;

98 (iii) the director of the Division of Continuous Quality and Improvement; and

99 (iv) the fatality review coordinator, or the fatality review coordinator's designee.

100 [~~(2)~~] The director of the office or division described in Subsection (1) shall, upon
101 receipt of a near fatality client report form or a deceased client report form, immediately
102 provide a copy of the form to:]

103 [~~(a)~~] the executive director; and]

104 [~~(b)~~] the fatality review coordinator or the fatality review coordinator's designee.]

105 [~~(3)~~] (2) Within 10 days after the day on which the fatality review coordinator or the
106 fatality review coordinator's designee receives a copy of the near fatality client report form or
107 the deceased client report form, the fatality review coordinator or the fatality review
108 coordinator's designee shall request a copy of all relevant department case records, or electronic
109 access to all relevant department case records, regarding the individual who is the subject of
110 the client report form.

111 [~~(4)~~] (3) Each person who receives a request for a record described in Subsection [~~(3)~~]
112 (2) shall provide a copy of the record, or electronic access to the record, to the fatality review
113 coordinator or the fatality review coordinator's designee, by a secure method, within seven days
114 after the day on which the request is made.

115 [~~(5)~~] (4) Within 30 days after the day on which the fatality review coordinator or the
116 fatality review coordinator's designee receives the case records requested under Subsection
117 [~~(3)~~] (2), the fatality review coordinator, or the fatality review coordinator's designee, shall:

118 (a) review the client report form, the case files, and other relevant information received
119 by the fatality review coordinator; and

120 (b) make a recommendation to the director of the Division of Continuous Quality and

121 Improvement regarding whether a formal review of the death or near fatality should be
122 conducted.

123 ~~[(6)]~~ (5) (a) In accordance with Subsection ~~[(6)(b)]~~ (5)(b), within ~~[seven]~~ 14 days after
124 the day on which the fatality review coordinator or the fatality review coordinator's designee
125 makes the recommendation described in Subsection ~~[(5)(b)]~~ (4)(b), the director of the Division
126 of Continuous Quality and Improvement or the director's designee shall determine whether to
127 order that a review of the death or near fatality be conducted.

128 (b) The director of the Division of Continuous Quality and Improvement or the
129 director's designee shall order that a formal review of the death or near fatality be conducted if:

130 (i) at the time of the near fatality or the death, the qualified individual is:

131 (A) an individual described in ~~H→ [Subsection] ←H~~ ~~[26B-1-501(6)(a) or (b)]~~ Subsections
132 26B-1-501(7)(a) through (h), unless:

133 (I) the near fatality or the death is due to a natural cause; or

134 (II) the director of the Division of Continuous Quality and Improvement or the
135 director's designee determines that the near fatality or the death was not in any way related to
136 services that were provided by, or under the direction of, the department or a division of the
137 department; or

138 (B) a child in foster care or substitute care, unless the near fatality or the death is due
139 to:

140 (I) a natural cause; or

141 (II) an accident;

142 (ii) it appears, based on the information provided to the director of the Division of
143 Continuous Quality and Improvement or the director's designee, that:

144 (A) a provision of law, rule, policy, or procedure relating to the qualified individual or
145 the individual's family may not have been complied with;

146 (B) the near fatality or the fatality was not responded to properly;

147 (C) a law, rule, policy, or procedure may need to be changed; or

148 (D) additional training is needed;

149 (iii) (A) the death is caused by suicide; or

150 (B) the near fatality is caused by attempted suicide; or

151 (iv) the director of the Division of Continuous Quality and Improvement or the

152 director's designee determines that another reason exists to order that a review of the near
153 fatality or the death be conducted.

154 Section 3. Section **26B-1-505** is amended to read:

155 **26B-1-505. Fatality review committee proceedings.**

156 (1) A majority vote of committee members present constitutes the action of the
157 committee.

158 (2) The department shall give the committee access to all reports, records, and other
159 documents that are relevant to the near fatality or the death under investigation, including:

160 (a) narrative reports;

161 (b) case files;

162 (c) autopsy reports; and

163 (d) police reports, unless the report is protected from disclosure under Subsection
164 [63G-2-305](#)(10) or (11).

165 (3) The Utah State Hospital and the Utah State Developmental Center shall provide
166 protected health information to the committee if requested by a fatality review coordinator.

167 (4) A committee shall convene [~~its first meeting within 14 days after the day on which~~
168 ~~a formal review is ordered~~] monthly, unless this time is extended, for good cause, by the
169 director of the Division of Continuous Quality and Improvement.

170 (5) A committee may interview a staff member, a provider, or any other person who
171 may have knowledge or expertise that is relevant to the formal review.

172 (6) A committee shall render an advisory opinion regarding:

173 (a) whether the provisions of law, rule, policy, and procedure relating to the qualified
174 individual and the individual's family were complied with;

175 (b) whether the near fatality or the death was responded to properly;

176 (c) whether to recommend that a law, rule, policy, or procedure be changed; and

177 (d) whether additional training is needed.

178 Section 4. Section **26B-1-506** is amended to read:

179 **26B-1-506. Fatality review committee report -- Response to report.**

180 (1) Within 20 days after the day on which the committee proceedings described in
181 Section [26B-1-505](#) end, the committee shall submit:

182 (a) a written report to the executive director that includes:

183 (i) the advisory opinions made under Subsection 26B-1-505(6); and
184 (ii) any recommendations regarding action that should be taken in relation to an
185 employee of the department or a person who contracts with the department; and
186 (b) a copy of the report described in Subsection (1)(a) to:
187 (i) the director, or the director's designee, of the office or division to which the near
188 fatality or the death relates; and
189 (ii) the regional director, or the regional director's designee, of the region to which the
190 near fatality or the death relates~~;~~ and].
191 ~~[(c) a copy of the report described in Subsection (1)(a), with only identifying~~
192 ~~information redacted, to the Office of Legislative Research and General Counsel.]~~
193 (2) Within ~~[20]~~ 60 days after the day on which the director described in Subsection
194 (1)(b)(i) receives a copy of the report described in Subsection (1)(a), the ~~[director]~~ department
195 shall provide a written response ~~[to the director of the Division of Continuous Quality and~~
196 ~~Improvement and a copy of the response]~~, with only identifying information redacted, to the
197 Office of Legislative Research and General Counsel, if the report:
198 (a) indicates that a law, rule, policy, or procedure was not complied with;
199 (b) indicates that the near fatality or the death was not responded to properly;
200 (c) recommends that a law, rule, policy, or procedure be changed; or
201 (d) indicates that additional training is needed.
202 (3) The response described in Subsection (2) shall include:
203 (a) a plan of action to implement any recommended improvements within the [office or
204 division] department; and
205 (b) the approval of the executive director or the executive director's designee for the
206 plan described in Subsection (3)(a).
207 ~~[(4) Within 30 days after the day on which the executive director receives the response~~
208 ~~described in Subsection (2), the executive director, or the executive director's designee shall:]~~
209 ~~[(a) review the plan of action described in Subsection (3);]~~
210 ~~[(b) make any written response that the executive director or the executive director's~~
211 ~~designee determines is necessary;]~~
212 ~~[(c) provide a copy of the written response described in Subsection (4)(b), with only~~
213 ~~identifying information redacted, to the Office of Legislative Research and General Counsel;~~

214 and]

215 [~~(d)~~ provide an unredacted copy of the response described in Subsection (4)(b) to the
216 director of the Division of Continuous Quality and Improvement.]

217 [~~(5)~~] (4) A report described in Subsection (1) and [~~each~~] the response described in [~~this~~
218 ~~section~~] Subsection (2) is a protected record.

219 [~~(6)~~] (5) (a) As used in this Subsection [~~(6)~~] (5), "fatality review document" means any
220 document created in connection with, or as a result of, a formal review of a near fatality or a
221 death, or a decision whether to conduct a formal review of a near fatality or a death, including:

222 (i) a report described in Subsection (1);

223 (ii) a response described in [~~this section~~] Subsection (2);

224 (iii) a recommendation regarding whether a formal review should be conducted;

225 (iv) a decision to conduct a formal review;

226 (v) notes of a person who participates in a formal review;

227 (vi) notes of a person who reviews a formal review report;

228 (vii) minutes of a formal review;

229 (viii) minutes of a meeting where a formal review report is reviewed; and

230 (ix) minutes of, documents received in relation to, and documents generated in relation
231 to, the portion of a meeting of the Health and Human Services Interim Committee or the Child
232 Welfare Legislative Oversight Panel that a formal review report or a document described in this
233 Subsection [~~(6)(a)~~] (5)(a) is reviewed or discussed.

234 (b) A fatality review document is not subject to discovery, subpoena, or similar
235 compulsory process in any civil, judicial, or administrative proceeding, nor shall any individual
236 or organization with lawful access to the data be compelled to testify with regard to a report
237 described in Subsection (1) or a response described in [~~this section~~] Subsection (2).

238 (c) The following are not admissible as evidence in a civil, judicial, or administrative
239 proceeding:

240 (i) a fatality review document; and

241 (ii) an executive summary described in Subsection [26B-1-507\(4\)](#).

242 Section 5. Section **26B-1-507** is amended to read:

243 **26B-1-507. Reporting to, and review by, legislative committees.**

244 (1) [~~The Office of Legislative Research and General Counsel~~] On or before September

245 1 of each year, the department shall provide, with only identifying information redacted, a copy
 246 of the report described in Subsection [26B-1-506(1)(c)] 26B-1-506(1)(b), and the [responses]
 247 response described in [Subsections 26B-1-506(2) and (4)(c)] Subsection 26B-1-506(2) to the
 248 Office of Legislative Research and General Counsel and the chairs of:

249 (a) the Health and Human Services Interim Committee; or

250 (b) if the qualified individual who is the subject of the report is an individual described
 251 in Subsection 26B-1-501(7)(c), (d), or (h), the Child Welfare Legislative Oversight Panel.

252 (2) (a) The Health and Human Services Interim Committee may, in a closed meeting,
 253 review a report described in Subsection 26B-1-506(1)(b).

254 (b) The Child Welfare Legislative Oversight Panel shall, in a closed meeting, review a
 255 report described in Subsection (1)(b).

256 (3) (a) The Health and Human Services Interim Committee and the Child Welfare
 257 Legislative Oversight Panel may not interfere with, or make recommendations regarding, the
 258 resolution of a particular case.

259 (b) The purpose of a review described in Subsection (2) is to assist a committee or
 260 panel described in Subsection (2) in determining whether to recommend a change in the law.

261 (c) Any recommendation, described in Subsection (3)(b), by a committee or panel for a
 262 change in the law shall be made in an open meeting.

263 (4) ~~[(a)]~~ On or before September 1 of each year, the department shall provide an
 264 executive summary of all formal review reports for the preceding state fiscal year to ~~[the Office~~
 265 ~~of Legislative Research and General Counsel.];~~

266 ~~[(b)]~~ (a) ~~[The]~~ the Office of Legislative Research and General Counsel ~~[shall forward a~~
 267 ~~copy of the executive summary described in Subsection (4)(a) to:];~~

268 ~~[(i)]~~ (b) the Health and Human Services Interim Committee; and

269 ~~[(ii)]~~ (c) the Child Welfare Legislative Oversight Panel.

270 (5) The executive summary described in Subsection (4):

271 (a) may not include any names or identifying information;

272 (b) shall include:

273 (i) all recommendations regarding changes to the law that were made during the
 274 preceding fiscal year under Subsection 26B-1-505(6);

275 (ii) all changes made, or in the process of being made, to a law, rule, policy, or

276 procedure in response to a formal review that occurred during the preceding fiscal year;
277 (iii) a description of the training that has been completed in response to a formal
278 review that occurred during the preceding fiscal year;
279 (iv) statistics for the preceding fiscal year regarding:
280 (A) the number of qualified individuals and the type of deaths and near fatalities that
281 are known to the department;
282 (B) the number of formal reviews conducted;
283 (C) the categories described in Subsection 26B-1-501(7) of qualified individuals;
284 (D) the gender, age, race, and other significant categories of qualified individuals; and
285 (E) the number of fatalities of qualified individuals known to the department that are
286 identified as suicides; and
287 (v) action taken by the Division of Licensing and Background Checks [~~and the Bureau~~
288 ~~of Internal Review and Audits~~] in response to the near fatality or the death of a qualified
289 individual; and

290 (c) is a public document.

291 (6) The Division of Child and Family Services shall, to the extent required by the
292 federal Child Abuse Prevention and Treatment Act of 1988, Pub. L. No. 93-247, as amended,
293 allow public disclosure of the findings or information relating to a case of child abuse or
294 neglect that results in a child fatality or a near fatality.

295 Section 6. Section 52-4-205 is amended to read:

296 **52-4-205. Purposes of closed meetings -- Certain issues prohibited in closed**
297 **meetings.**

298 (1) A closed meeting described under Section 52-4-204 may only be held for:

299 (a) except as provided in Subsection (3), discussion of the character, professional
300 competence, or physical or mental health of an individual;

301 (b) strategy sessions to discuss collective bargaining;

302 (c) strategy sessions to discuss pending or reasonably imminent litigation;

303 (d) strategy sessions to discuss the purchase, exchange, or lease of real property,
304 including any form of a water right or water shares, or to discuss a proposed development
305 agreement, project proposal, or financing proposal related to the development of land owned by
306 the state, if public discussion would:

- 307 (i) disclose the appraisal or estimated value of the property under consideration; or
308 (ii) prevent the public body from completing the transaction on the best possible terms;
309 (e) strategy sessions to discuss the sale of real property, including any form of a water
310 right or water shares, if:
- 311 (i) public discussion of the transaction would:
- 312 (A) disclose the appraisal or estimated value of the property under consideration; or
313 (B) prevent the public body from completing the transaction on the best possible terms;
314 (ii) the public body previously gave public notice that the property would be offered for
315 sale; and
- 316 (iii) the terms of the sale are publicly disclosed before the public body approves the
317 sale;
- 318 (f) discussion regarding deployment of security personnel, devices, or systems;
319 (g) investigative proceedings regarding allegations of criminal misconduct;
320 (h) as relates to the Independent Legislative Ethics Commission, conducting business
321 relating to the receipt or review of ethics complaints;
- 322 (i) as relates to an ethics committee of the Legislature, a purpose permitted under
323 Subsection [52-4-204\(1\)\(a\)\(iii\)\(C\)](#);
- 324 (j) as relates to the Independent Executive Branch Ethics Commission created in
325 Section [63A-14-202](#), conducting business relating to an ethics complaint;
- 326 (k) as relates to a county legislative body, discussing commercial information as
327 defined in Section [59-1-404](#);
- 328 (l) as relates to the Utah Higher Education Savings Board of Trustees and its appointed
329 board of directors, discussing fiduciary or commercial information;
- 330 (m) deliberations, not including any information gathering activities, of a public body
331 acting in the capacity of:
- 332 (i) an evaluation committee under Title 63G, Chapter 6a, Utah Procurement Code,
333 during the process of evaluating responses to a solicitation, as defined in Section [63G-6a-103](#);
- 334 (ii) a protest officer, defined in Section [63G-6a-103](#), during the process of making a
335 decision on a protest under Title 63G, Chapter 6a, Part 16, Protests; or
- 336 (iii) a procurement appeals panel under Title 63G, Chapter 6a, Utah Procurement
337 Code, during the process of deciding an appeal under Title 63G, Chapter 6a, Part 17,

338 Procurement Appeals Board;

339 (n) the purpose of considering information that is designated as a trade secret, as
340 defined in Section 13-24-2, if the public body's consideration of the information is necessary to
341 properly conduct a procurement under Title 63G, Chapter 6a, Utah Procurement Code;

342 (o) the purpose of discussing information provided to the public body during the
343 procurement process under Title 63G, Chapter 6a, Utah Procurement Code, if, at the time of
344 the meeting:

345 (i) the information may not, under Title 63G, Chapter 6a, Utah Procurement Code, be
346 disclosed to a member of the public or to a participant in the procurement process; and

347 (ii) the public body needs to review or discuss the information to properly fulfill its
348 role and responsibilities in the procurement process;

349 (p) as relates to the governing board of a governmental nonprofit corporation, as that
350 term is defined in Section 11-13a-102, the purpose of discussing information that is designated
351 as a trade secret, as that term is defined in Section 13-24-2, if:

352 (i) public knowledge of the discussion would reasonably be expected to result in injury
353 to the owner of the trade secret; and

354 (ii) discussion of the information is necessary for the governing board to properly
355 discharge the board's duties and conduct the board's business;

356 (q) as it relates to the Cannabis Production Establishment Licensing Advisory Board,
357 to review confidential information regarding violations and security requirements in relation to
358 the operation of cannabis production establishments;

359 (r) considering a loan application, if public discussion of the loan application would
360 disclose:

361 (i) nonpublic personal financial information; or

362 (ii) a nonpublic trade secret, as defined in Section 13-24-2, or nonpublic business
363 financial information the disclosure of which would reasonably be expected to result in unfair
364 competitive injury to the person submitting the information;

365 (s) a discussion of the board of the Point of the Mountain State Land Authority, created
366 in Section 11-59-201, regarding a potential tenant of point of the mountain state land, as
367 defined in Section 11-59-102; or

368 (t) a purpose for which a meeting is required to be closed under Subsection (2).

- 369 (2) The following meetings shall be closed:
- 370 (a) a meeting of the Health and Human Services Interim Committee to review a report
371 described in Subsection 26B-1-506(1)(a), and ~~[the responses]~~ a response to the report described
372 in ~~[Subsections 26B-1-506(2) and (4)]~~ Subsection 26B-1-506(2);
- 373 (b) a meeting of the Child Welfare Legislative Oversight Panel to:
- 374 (i) review a report described in Subsection 26B-1-506(1)(a), and ~~[the responses]~~ a
375 response to the report described in ~~[Subsections 26B-1-506(2) and (4)]~~ Subsection
376 26B-1-506(2); or
- 377 (ii) review and discuss an individual case, as described in Subsection 36-33-103(2);
- 378 (c) a meeting of the Opioid and Overdose Fatality Review Committee, created in
379 Section 26B-1-403, to review and discuss an individual case, as described in Subsection
380 26B-1-403(10);
- 381 (d) a meeting of a conservation district as defined in Section 17D-3-102 for the
382 purpose of advising the Natural Resource Conservation Service of the United States
383 Department of Agriculture on a farm improvement project if the discussed information is
384 protected information under federal law;
- 385 (e) a meeting of the Compassionate Use Board established in Section 26B-1-421 for
386 the purpose of reviewing petitions for a medical cannabis card in accordance with Section
387 26B-1-421;
- 388 (f) a meeting of the Colorado River Authority of Utah if:
- 389 (i) the purpose of the meeting is to discuss an interstate claim to the use of the water in
390 the Colorado River system; and
- 391 (ii) failing to close the meeting would:
- 392 (A) reveal the contents of a record classified as protected under Subsection
393 63G-2-305(82);
- 394 (B) reveal a legal strategy relating to the state's claim to the use of the water in the
395 Colorado River system;
- 396 (C) harm the ability of the Colorado River Authority of Utah or river commissioner to
397 negotiate the best terms and conditions regarding the use of water in the Colorado River
398 system; or
- 399 (D) give an advantage to another state or to the federal government in negotiations

400 regarding the use of water in the Colorado River system;

401 (g) a meeting of the General Regulatory Sandbox Program Advisory Committee if:

402 (i) the purpose of the meeting is to discuss an application for participation in the

403 regulatory sandbox as defined in Section 63N-16-102; and

404 (ii) failing to close the meeting would reveal the contents of a record classified as

405 protected under Subsection 63G-2-305(83);

406 (h) a meeting of a project entity if:

407 (i) the purpose of the meeting is to conduct a strategy session to discuss market

408 conditions relevant to a business decision regarding the value of a project entity asset if the

409 terms of the business decision are publicly disclosed before the decision is finalized and a

410 public discussion would:

411 (A) disclose the appraisal or estimated value of the project entity asset under

412 consideration; or

413 (B) prevent the project entity from completing on the best possible terms a

414 contemplated transaction concerning the project entity asset;

415 (ii) the purpose of the meeting is to discuss a record, the disclosure of which could

416 cause commercial injury to, or confer a competitive advantage upon a potential or actual

417 competitor of, the project entity;

418 (iii) the purpose of the meeting is to discuss a business decision, the disclosure of

419 which could cause commercial injury to, or confer a competitive advantage upon a potential or

420 actual competitor of, the project entity; or

421 (iv) failing to close the meeting would prevent the project entity from getting the best

422 price on the market; and

423 (i) a meeting of the School Activity Eligibility Commission, described in Section

424 53G-6-1003, if the commission is in effect in accordance with Section 53G-6-1002, to

425 consider, discuss, or determine, in accordance with Section 53G-6-1004, an individual student's

426 eligibility to participate in an interscholastic activity, as that term is defined in Section

427 53G-6-1001, including the commission's determinative vote on the student's eligibility.

428 (3) In a closed meeting, a public body may not:

429 (a) interview a person applying to fill an elected position;

430 (b) discuss filling a midterm vacancy or temporary absence governed by Title 20A,

431 Chapter 1, Part 5, Candidate Vacancy and Vacancy and Temporary Absence in Elected Office;
432 or

433 (c) discuss the character, professional competence, or physical or mental health of the
434 person whose name was submitted for consideration to fill a midterm vacancy or temporary
435 absence governed by Title 20A, Chapter 1, Part 5, Candidate Vacancy and Vacancy and
436 Temporary Absence in Elected Office.

437 Section 7. Section **63G-2-202** is amended to read:

438 **63G-2-202. Access to private, controlled, and protected documents.**

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

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

441 (i) the subject of the record;

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

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

446 (iv) any other individual who:

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

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

450 (C) if the record is a medical record described in Subsection **63G-2-302(1)(b)**, is a
451 health care provider, as defined in Section **26B-8-501**, if releasing the record or information in
452 the record is consistent with normal professional practice and medical ethics; or

453 (v) any person to whom the record must be provided pursuant to:

454 (A) court order as provided in Subsection (7); or

455 (B) a legislative subpoena as provided in Title 36, Chapter 14, Legislative Subpoena
456 Powers; and

457 (b) may disclose a private record described in Subsections **63G-2-302(1)(j)** through
458 (m), without complying with Section **63G-2-206**, to another governmental entity for a purpose
459 related to:

460 (i) voter registration; or

461 (ii) the administration of an election.

462 (2) (a) Upon request, a governmental entity shall disclose a controlled record to:

463 (i) a physician, physician assistant, psychologist, certified social worker, insurance
464 provider or producer, or a government public health agency upon submission of:

465 (A) a release from the subject of the record that is dated no more than 90 days prior to
466 the date the request is made; and

467 (B) a signed acknowledgment of the terms of disclosure of controlled information as
468 provided by Subsection (2)(b); and

469 (ii) any person to whom the record must be disclosed pursuant to:

470 (A) 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.

473 (b) A person who receives a record from a governmental entity in accordance with
474 Subsection (2)(a)(i) may not disclose controlled information from that record to any person,
475 including the subject of the record.

476 (3) If there is more than one subject of a private or controlled record, the portion of the
477 record that pertains to another subject shall be segregated from the portion that the requester is
478 entitled to inspect.

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

481 (a) the person that submitted the record;

482 (b) any other individual who:

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

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

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

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

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

492 (d) the owner of a mobile home park, subject to the conditions of Subsection

493 41-1a-116(5).

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

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

499 (7) A governmental entity shall disclose a record pursuant to the terms of a court order
500 signed by a judge from a court of competent jurisdiction, provided that:

501 (a) the record deals with a matter in controversy over which the court has jurisdiction;

502 (b) the court has considered the merits of the request for access to the record;

503 (c) the court has considered and, where appropriate, limited the requester's use and
504 further disclosure of the record in order to protect:

505 (i) privacy interests in the case of private or controlled records;

506 (ii) business confidentiality interests in the case of records protected under Subsection
507 63G-2-305(1), (2), (40)(a)(ii), or (40)(a)(vi); and

508 (iii) privacy interests or the public interest in the case of other protected records;

509 (d) to the extent the record is properly classified private, controlled, or protected, the
510 interests favoring access, considering limitations thereon, are greater than or equal to the
511 interests favoring restriction of access; and

512 (e) where access is restricted by a rule, statute, or regulation referred to in Subsection
513 63G-2-201(3)(b), the court has authority independent of this chapter to order disclosure.

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

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

519 (ii) determines that:

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

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

523 (iii) (A) requires the researcher to assure the integrity, confidentiality, and security of

524 the records; and

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

527 (iv) prohibits the researcher from:

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

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

532 (v) secures from the researcher a written statement of the researcher's understanding of
533 and agreement to the conditions of this Subsection (8) and the researcher's understanding that
534 violation of the terms of this Subsection (8) may subject the researcher to criminal prosecution
535 under Section [63G-2-801](#).

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

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

542 (d) A governmental entity may not disclose or authorize disclosure of a private record
543 for research purposes as described in this Subsection (8) if the private record is a record
544 described in Subsection [63G-2-302\(1\)\(w\)](#).

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

547 (i) private under Section [63G-2-302](#); or

548 (ii) protected under Section [63G-2-305](#), subject to Section [63G-2-309](#) if a claim for
549 business confidentiality has been made under Section [63G-2-309](#).

550 (b) Under Subsection [63G-2-403\(11\)\(b\)](#), the State Records Committee may require the
551 disclosure to persons other than those specified in this section of records that are:

552 (i) private under Section [63G-2-302](#);

553 (ii) controlled under Section [63G-2-304](#); or

554 (iii) protected under Section [63G-2-305](#), subject to Section [63G-2-309](#) if a claim for

555 business confidentiality has been made under Section 63G-2-309.

556 (c) Under Subsection 63G-2-404(7), the court may require the disclosure of records
557 that are private under Section 63G-2-302, controlled under Section 63G-2-304, or protected
558 under Section 63G-2-305 to persons other than those specified in this section.

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

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

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

565 (i) Subsections 26B-1-506(1)(b)[;] and (2)[; ~~and (4)(c)~~]; and

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

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

569 Section 8. **Effective date.**

570 This bill takes effect on May 1, 2024.