

VOTING RECORDS AMENDMENTS

2014 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Lee B. Perry

Senate Sponsor: _____

LONG TITLE

General Description:

This bill makes a voter's age a public record and makes a voter's date of birth a private record.

Highlighted Provisions:

This bill:

- ▶ makes a voter's age a public record; and
- ▶ makes a voter's date of birth a private record.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63G-2-301, as last amended by Laws of Utah 2013, Chapters 231, 296, 426, and 445

63G-2-302, as last amended by Laws of Utah 2013, Chapters 216, 335, and 426

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

Section 1. Section **63G-2-301** is amended to read:

63G-2-301. Public records.

(1) As used in this section:



28 (a) "Business address" means a single address of a governmental agency designated for
29 the public to contact an employee or officer of the governmental agency.

30 (b) "Business email address" means a single email address of a governmental agency
31 designated for the public to contact an employee or officer of the governmental agency.

32 (c) "Business telephone number" means a single telephone number of a governmental
33 agency designated for the public to contact an employee or officer of the governmental agency.

34 (2) The following records are public except to the extent they contain information
35 expressly permitted to be treated confidentially under the provisions of Subsections

36 [63G-2-201](#)(3)(b) and (6)(a):

37 (a) laws;

38 (b) the name, gender, gross compensation, job title, job description, business address,
39 business email address, business telephone number, number of hours worked per pay period,
40 dates of employment, and relevant education, previous employment, and similar job
41 qualifications of a current or former employee or officer of the governmental entity, excluding:

42 (i) undercover law enforcement personnel; and

43 (ii) investigative personnel if disclosure could reasonably be expected to impair the
44 effectiveness of investigations or endanger any individual's safety;

45 (c) final opinions, including concurring and dissenting opinions, and orders that are
46 made by a governmental entity in an administrative, adjudicative, or judicial proceeding except
47 that if the proceedings were properly closed to the public, the opinion and order may be
48 withheld to the extent that they contain information that is private, controlled, or protected;

49 (d) final interpretations of statutes or rules by a governmental entity unless classified as
50 protected as provided in Subsection [63G-2-305](#) (17) or (18);

51 (e) information contained in or compiled from a transcript, minutes, or report of the
52 open portions of a meeting of a governmental entity as provided by Title 52, Chapter 4, Open
53 and Public Meetings Act, including the records of all votes of each member of the
54 governmental entity;

55 (f) judicial records unless a court orders the records to be restricted under the rules of
56 civil or criminal procedure or unless the records are private under this chapter;

57 (g) unless otherwise classified as private under Section [63G-2-303](#), records or parts of
58 records filed with or maintained by county recorders, clerks, treasurers, surveyors, zoning

59 commissions, the Division of Forestry, Fire, and State Lands, the School and Institutional Trust
60 Lands Administration, the Division of Oil, Gas, and Mining, the Division of Water Rights, or
61 other governmental entities that give public notice of:

62 (i) titles or encumbrances to real property;

63 (ii) restrictions on the use of real property;

64 (iii) the capacity of persons to take or convey title to real property; or

65 (iv) tax status for real and personal property;

66 (h) records of the Department of Commerce that evidence incorporations, mergers,

67 name changes, and uniform commercial code filings;

68 (i) data on individuals that would otherwise be private under this chapter if the

69 individual who is the subject of the record has given the governmental entity written

70 permission to make the records available to the public;

71 (j) documentation of the compensation that a governmental entity pays to a contractor

72 or private provider;

73 (k) summary data;

74 (l) voter registration records, including an individual's voting history and an

75 individual's age, except for those parts of the record that are classified as private in Subsection

76 [63G-2-302\(1\)\(j\)](#);

77 (m) for an elected official, as defined in Section [11-47-102](#), a telephone number, if

78 available, and email address, if available, where that elected official may be reached as required

79 in Title 11, Chapter 47, Access to Elected Officials;

80 (n) for a school community council member, a telephone number, if available, and

81 email address, if available, where that elected official may be reached directly as required in

82 Section [53A-1a-108.1](#);

83 (o) annual audited financial statements of the Utah Educational Savings Plan described

84 in Section [53B-8a-111](#); and

85 (p) an initiative packet, as defined in Section [20A-7-101](#), and a referendum packet, as

86 defined in Section [20A-7-101](#), after the packet is submitted to a county clerk.

87 (3) The following records are normally public, but to the extent that a record is

88 expressly exempt from disclosure, access may be restricted under Subsection [63G-2-201\(3\)\(b\)](#),

89 Section [63G-2-302](#), [63G-2-304](#), or [63G-2-305](#):

- 90 (a) administrative staff manuals, instructions to staff, and statements of policy;
- 91 (b) records documenting a contractor's or private provider's compliance with the terms
92 of a contract with a governmental entity;
- 93 (c) records documenting the services provided by a contractor or a private provider to
94 the extent the records would be public if prepared by the governmental entity;
- 95 (d) contracts entered into by a governmental entity;
- 96 (e) any account, voucher, or contract that deals with the receipt or expenditure of funds
97 by a governmental entity;
- 98 (f) records relating to government assistance or incentives publicly disclosed,
99 contracted for, or given by a governmental entity, encouraging a person to expand or relocate a
100 business in Utah, except as provided in Subsection [63G-2-305\(35\)](#);
- 101 (g) chronological logs and initial contact reports;
- 102 (h) correspondence by and with a governmental entity in which the governmental entity
103 determines or states an opinion upon the rights of the state, a political subdivision, the public,
104 or any person;
- 105 (i) empirical data contained in drafts if:
106 (i) the empirical data is not reasonably available to the requester elsewhere in similar
107 form; and
108 (ii) the governmental entity is given a reasonable opportunity to correct any errors or
109 make nonsubstantive changes before release;
- 110 (j) drafts that are circulated to anyone other than:
111 (i) a governmental entity;
112 (ii) a political subdivision;
113 (iii) a federal agency if the governmental entity and the federal agency are jointly
114 responsible for implementation of a program or project that has been legislatively approved;
- 115 (iv) a government-managed corporation; or
116 (v) a contractor or private provider;
- 117 (k) drafts that have never been finalized but were relied upon by the governmental
118 entity in carrying out action or policy;
- 119 (l) original data in a computer program if the governmental entity chooses not to
120 disclose the program;

121 (m) arrest warrants after issuance, except that, for good cause, a court may order
122 restricted access to arrest warrants prior to service;

123 (n) search warrants after execution and filing of the return, except that a court, for good
124 cause, may order restricted access to search warrants prior to trial;

125 (o) records that would disclose information relating to formal charges or disciplinary
126 actions against a past or present governmental entity employee if:

127 (i) the disciplinary action has been completed and all time periods for administrative
128 appeal have expired; and

129 (ii) the charges on which the disciplinary action was based were sustained;

130 (p) records maintained by the Division of Forestry, Fire, and State Lands, the School
131 and Institutional Trust Lands Administration, or the Division of Oil, Gas, and Mining that
132 evidence mineral production on government lands;

133 (q) final audit reports;

134 (r) occupational and professional licenses;

135 (s) business licenses; and

136 (t) a notice of violation, a notice of agency action under Section [63G-4-201](#), or similar
137 records used to initiate proceedings for discipline or sanctions against persons regulated by a
138 governmental entity, but not including records that initiate employee discipline.

139 (4) The list of public records in this section is not exhaustive and should not be used to
140 limit access to records.

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

142 **63G-2-302. Private records.**

143 (1) The following records are private:

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

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

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

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

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

- 152 (A) the commission's summary data report that is required under legislative rule; and
- 153 (B) any other document that is classified as public under legislative rule; or
- 154 (ii) a Senate or House Ethics Committee in relation to the review of ethics complaints,
- 155 unless the record is classified as public under legislative rule;
- 156 (e) records received by, or generated by or for, the Independent Executive Branch
- 157 Ethics Commission, except as otherwise expressly provided in Title 63A, Chapter 14, Review
- 158 of Executive Branch Ethics Complaints;
- 159 (f) records received or generated for a Senate confirmation committee concerning
- 160 character, professional competence, or physical or mental health of an individual:
- 161 (i) if, prior to the meeting, the chair of the committee determines release of the records:
- 162 (A) reasonably could be expected to interfere with the investigation undertaken by the
- 163 committee; or
- 164 (B) would create a danger of depriving a person of a right to a fair proceeding or
- 165 impartial hearing; and
- 166 (ii) after the meeting, if the meeting was closed to the public;
- 167 (g) employment records concerning a current or former employee of, or applicant for
- 168 employment with, a governmental entity that would disclose that individual's home address,
- 169 home telephone number, Social Security number, insurance coverage, marital status, or payroll
- 170 deductions;
- 171 (h) records or parts of records under Section 63G-2-303 that a current or former
- 172 employee identifies as private according to the requirements of that section;
- 173 (i) that part of a record indicating a person's Social Security number or federal
- 174 employer identification number if provided under Section 31A-23a-104, 31A-25-202,
- 175 31A-26-202, 58-1-301, 58-55-302, 61-1-4, or 61-2f-203;
- 176 (j) that part of a voter registration record identifying a voter's:
- 177 (i) driver license or identification card number;
- 178 (ii) Social Security number, or last four digits of the Social Security number; ~~or~~
- 179 (iii) email address; or
- 180 (iv) date of birth;
- 181 (k) a record that:
- 182 (i) contains information about an individual;

- 183 (ii) is voluntarily provided by the individual; and
184 (iii) goes into an electronic database that:
185 (A) is designated by and administered under the authority of the Chief Information
186 Officer; and
187 (B) acts as a repository of information about the individual that can be electronically
188 retrieved and used to facilitate the individual's online interaction with a state agency;
189 (l) information provided to the Commissioner of Insurance under:
190 (i) Subsection 31A-23a-115(2)(a);
191 (ii) Subsection 31A-23a-302(3); or
192 (iii) Subsection 31A-26-210(3);
193 (m) information obtained through a criminal background check under Title 11, Chapter
194 40, Criminal Background Checks by Political Subdivisions Operating Water Systems;
195 (n) information provided by an offender that is:
196 (i) required by the registration requirements of Title 77, Chapter 41, Sex and Kidnap
197 Offender Registry; and
198 (ii) not required to be made available to the public under Subsection 77-41-110(4);
199 (o) a statement and any supporting documentation filed with the attorney general in
200 accordance with Section 34-45-107, if the federal law or action supporting the filing involves
201 homeland security;
202 (p) electronic toll collection customer account information received or collected under
203 Section 72-6-118 and customer information described in Section 17B-2a-815 received or
204 collected by a public transit district, including contact and payment information and customer
205 travel data;
206 (q) an email address provided by a military or overseas voter under Section
207 20A-16-501;
208 (r) a completed military-overseas ballot that is electronically transmitted under Title
209 20A, Chapter 16, Uniform Military and Overseas Voters Act;
210 (s) records received by or generated by or for the Political Subdivisions Ethics Review
211 Commission established in Section 11-49-201, except for:
212 (i) the commission's summary data report that is required in Section 11-49-202; and
213 (ii) any other document that is classified as public in accordance with Title 11, Chapter

214 49, Political Subdivisions Ethics Review Commission; and

215 (t) a record described in Subsection 53A-11a-203(3) that verifies that a parent was
216 notified of an incident or threat.

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

218 (a) records concerning a current or former employee of, or applicant for employment
219 with a governmental entity, including performance evaluations and personal status information
220 such as race, religion, or disabilities, but not including records that are public under Subsection
221 63G-2-301(2)(b) or 63G-2-301(3)(o) or private under Subsection (1)(b);

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

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

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

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

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

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

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

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

238 (3) (a) As used in this Subsection (3), "medical records" means medical reports,
239 records, statements, history, diagnosis, condition, treatment, and evaluation.

240 (b) Medical records in the possession of the University of Utah Hospital, its clinics,
241 doctors, or affiliated entities are not private records or controlled records under Section
242 63G-2-304 when the records are sought:

243 (i) in connection with any legal or administrative proceeding in which the patient's
244 physical, mental, or emotional condition is an element of any claim or defense; or

245 (ii) after a patient's death, in any legal or administrative proceeding in which any party
246 relies upon the condition as an element of the claim or defense.

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

Legislative Review Note
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Office of Legislative Research and General Counsel