

1 **Prosecutorial Misconduct Amendments**

2025 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Todd Weiler**

House Sponsor:

---

3 **LONG TITLE**

4 **General Description:**

5 This bill creates the Prosecutorial Misconduct Commission.

6 **Highlighted Provisions:**

7 This bill:

- 8 ▶ defines terms;
- 9 ▶ provides that certain records of the Prosecutorial Misconduct Commission are protected;
- 10 ▶ creates an independent commission called the Prosecutorial Misconduct Commission
- 11 (commission);
- 12 ▶ provides the membership of the commission;
- 13 ▶ addresses terms, vacancies, and compensation for members of the commission;
- 14 ▶ allows the commission to select a chair and vice chair for a two-year term;
- 15 ▶ addresses staff and expenses for the commission;
- 16 ▶ addresses the duties and functions of the commission;
- 17 ▶ addresses the complaint and investigation process for the commission;
- 18 ▶ allows the commission to hold a hearing on a complaint;
- 19 ▶ provides the action that the commission may take upon a determination that prosecutorial
- 20 misconduct occurred;
- 21 ▶ addresses the confidentiality of records of the commission; and
- 22 ▶ makes technical and conforming changes.

23 **Money Appropriated in this Bill:**

24 None

25 **Other Special Clauses:**

26 None

27 **Utah Code Sections Affected:**

28 AMENDS:

29 **63G-2-305**, as last amended by Laws of Utah 2024, Chapters 18, 101, 135, 267, 344, and  
 30 522

31 ENACTS:

32 **78A-9-201**, Utah Code Annotated 1953

33 **78A-9-202**, Utah Code Annotated 1953

34 **78A-9-203**, Utah Code Annotated 1953

35 **78A-9-204**, Utah Code Annotated 1953

36 **78A-9-205**, Utah Code Annotated 1953

37 **78A-9-206**, Utah Code Annotated 1953

38 **78A-9-207**, Utah Code Annotated 1953

39

---

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

41 Section 1. Section **63G-2-305** is amended to read:

42 **63G-2-305 . Protected records.**

43 The following records are protected if properly classified by a governmental entity:

- 44 (1) trade secrets as defined in Section 13-24-2 if the person submitting the trade secret has  
 45 provided the governmental entity with the information specified in Section 63G-2-309;
- 46 (2) commercial information or nonindividual financial information obtained from a person  
 47 if:  
 48 (a) disclosure of the information could reasonably be expected to result in unfair  
 49 competitive injury to the person submitting the information or would impair the  
 50 ability of the governmental entity to obtain necessary information in the future;
- 51 (b) the person submitting the information has a greater interest in prohibiting access than  
 52 the public in obtaining access; and
- 53 (c) the person submitting the information has provided the governmental entity with the  
 54 information specified in Section 63G-2-309;
- 55 (3) commercial or financial information acquired or prepared by a governmental entity to  
 56 the extent that disclosure would lead to financial speculations in currencies, securities, or  
 57 commodities that will interfere with a planned transaction by the governmental entity or  
 58 cause substantial financial injury to the governmental entity or state economy;
- 59 (4) records, the disclosure of which could cause commercial injury to, or confer a  
 60 competitive advantage upon a potential or actual competitor of, a commercial project  
 61 entity as defined in Subsection 11-13-103(4);
- 62 (5) test questions and answers to be used in future license, certification, registration,  
 63 employment, or academic examinations;
- 64 (6) records, the disclosure of which would impair governmental procurement proceedings

65 or give an unfair advantage to any person proposing to enter into a contract or agreement  
66 with a governmental entity, except, subject to Subsections (1) and (2), that this  
67 Subsection (6) does not restrict the right of a person to have access to, after the contract  
68 or grant has been awarded and signed by all parties:

69 (a) a bid, proposal, application, or other information submitted to or by a governmental  
70 entity in response to:

71 (i) an invitation for bids;

72 (ii) a request for proposals;

73 (iii) a request for quotes;

74 (iv) a grant; or

75 (v) other similar document; or

76 (b) an unsolicited proposal, as defined in Section 63G-6a-712;

77 (7) information submitted to or by a governmental entity in response to a request for  
78 information, except, subject to Subsections (1) and (2), that this Subsection (7) does not  
79 restrict the right of a person to have access to the information, after:

80 (a) a contract directly relating to the subject of the request for information has been  
81 awarded and signed by all parties; or

82 (b)(i) a final determination is made not to enter into a contract that relates to the  
83 subject of the request for information; and

84 (ii) at least two years have passed after the day on which the request for information  
85 is issued;

86 (8) records that would identify real property or the appraisal or estimated value of real or  
87 personal property, including intellectual property, under consideration for public  
88 acquisition before any rights to the property are acquired unless:

89 (a) public interest in obtaining access to the information is greater than or equal to the  
90 governmental entity's need to acquire the property on the best terms possible;

91 (b) the information has already been disclosed to persons not employed by or under a  
92 duty of confidentiality to the entity;

93 (c) in the case of records that would identify property, potential sellers of the described  
94 property have already learned of the governmental entity's plans to acquire the  
95 property;

96 (d) in the case of records that would identify the appraisal or estimated value of  
97 property, the potential sellers have already learned of the governmental entity's  
98 estimated value of the property; or

- 99 (e) the property under consideration for public acquisition is a single family residence  
100 and the governmental entity seeking to acquire the property has initiated negotiations  
101 to acquire the property as required under Section 78B-6-505;
- 102 (9) records prepared in contemplation of sale, exchange, lease, rental, or other compensated  
103 transaction of real or personal property including intellectual property, which, if  
104 disclosed prior to completion of the transaction, would reveal the appraisal or estimated  
105 value of the subject property, unless:
- 106 (a) the public interest in access is greater than or equal to the interests in restricting  
107 access, including the governmental entity's interest in maximizing the financial  
108 benefit of the transaction; or
- 109 (b) when prepared by or on behalf of a governmental entity, appraisals or estimates of  
110 the value of the subject property have already been disclosed to persons not  
111 employed by or under a duty of confidentiality to the entity;
- 112 (10) records created or maintained for civil, criminal, or administrative enforcement  
113 purposes or audit purposes, or for discipline, licensing, certification, or registration  
114 purposes, if release of the records:
- 115 (a) reasonably could be expected to interfere with investigations undertaken for  
116 enforcement, discipline, licensing, certification, or registration purposes;
- 117 (b) reasonably could be expected to interfere with audits, disciplinary, or enforcement  
118 proceedings;
- 119 (c) would create a danger of depriving a person of a right to a fair trial or impartial  
120 hearing;
- 121 (d) reasonably could be expected to disclose the identity of a source who is not generally  
122 known outside of government and, in the case of a record compiled in the course of  
123 an investigation, disclose information furnished by a source not generally known  
124 outside of government if disclosure would compromise the source; or
- 125 (e) reasonably could be expected to disclose investigative or audit techniques,  
126 procedures, policies, or orders not generally known outside of government if  
127 disclosure would interfere with enforcement or audit efforts;
- 128 (11) records the disclosure of which would jeopardize the life or safety of an individual;
- 129 (12) records the disclosure of which would jeopardize the security of governmental  
130 property, governmental programs, or governmental recordkeeping systems from  
131 damage, theft, or other appropriation or use contrary to law or public policy;
- 132 (13) records that, if disclosed, would jeopardize the security or safety of a correctional

- 133 facility, or records relating to incarceration, treatment, probation, or parole, that would  
134 interfere with the control and supervision of an offender's incarceration, treatment,  
135 probation, or parole;
- 136 (14) records that, if disclosed, would reveal recommendations made to the Board of  
137 Pardons and Parole by an employee of or contractor for the Department of Corrections,  
138 the Board of Pardons and Parole, or the Department of Health and Human Services that  
139 are based on the employee's or contractor's supervision, diagnosis, or treatment of any  
140 person within the board's jurisdiction;
- 141 (15) records and audit workpapers that identify audit, collection, and operational procedures  
142 and methods used by the State Tax Commission, if disclosure would interfere with  
143 audits or collections;
- 144 (16) records of a governmental audit agency relating to an ongoing or planned audit until  
145 the final audit is released;
- 146 (17) records that are subject to the attorney client privilege;
- 147 (18) records prepared for or by an attorney, consultant, surety, indemnitor, insurer,  
148 employee, or agent of a governmental entity for, or in anticipation of, litigation or a  
149 judicial, quasi-judicial, or administrative proceeding;
- 150 (19)(a)(i) personal files of a state legislator, including personal correspondence to or  
151 from a member of the Legislature; and
- 152 (ii) notwithstanding Subsection (19)(a)(i), correspondence that gives notice of  
153 legislative action or policy may not be classified as protected under this section;  
154 and
- 155 (b)(i) an internal communication that is part of the deliberative process in connection  
156 with the preparation of legislation between:
- 157 (A) members of a legislative body;
- 158 (B) a member of a legislative body and a member of the legislative body's staff; or
- 159 (C) members of a legislative body's staff; and
- 160 (ii) notwithstanding Subsection (19)(b)(i), a communication that gives notice of  
161 legislative action or policy may not be classified as protected under this section;
- 162 (20)(a) records in the custody or control of the Office of Legislative Research and  
163 General Counsel, that, if disclosed, would reveal a particular legislator's  
164 contemplated legislation or contemplated course of action before the legislator has  
165 elected to support the legislation or course of action, or made the legislation or course  
166 of action public; and

- 167 (b) notwithstanding Subsection (20)(a), the form to request legislation submitted to the  
168 Office of Legislative Research and General Counsel is a public document unless a  
169 legislator asks that the records requesting the legislation be maintained as protected  
170 records until such time as the legislator elects to make the legislation or course of  
171 action public;
- 172 (21) a research request from a legislator to a legislative staff member and research findings  
173 prepared in response to the request;
- 174 (22) drafts, unless otherwise classified as public;
- 175 (23) records concerning a governmental entity's strategy about:
- 176 (a) collective bargaining; or  
177 (b) imminent or pending litigation;
- 178 (24) records of investigations of loss occurrences and analyses of loss occurrences that may  
179 be covered by the Risk Management Fund, the Employers' Reinsurance Fund, the  
180 Uninsured Employers' Fund, or similar divisions in other governmental entities;
- 181 (25) records, other than personnel evaluations, that contain a personal recommendation  
182 concerning an individual if disclosure would constitute a clearly unwarranted invasion  
183 of personal privacy, or disclosure is not in the public interest;
- 184 (26) records that reveal the location of historic, prehistoric, paleontological, or biological  
185 resources that if known would jeopardize the security of those resources or of valuable  
186 historic, scientific, educational, or cultural information;
- 187 (27) records of independent state agencies if the disclosure of the records would conflict  
188 with the fiduciary obligations of the agency;
- 189 (28) records of an institution within the state system of higher education defined in Section  
190 53B-1-102 regarding tenure evaluations, appointments, applications for admissions,  
191 retention decisions, and promotions, which could be properly discussed in a meeting  
192 closed in accordance with Title 52, Chapter 4, Open and Public Meetings Act, provided  
193 that records of the final decisions about tenure, appointments, retention, promotions, or  
194 those students admitted, may not be classified as protected under this section;
- 195 (29) records of the governor's office, including budget recommendations, legislative  
196 proposals, and policy statements, that if disclosed would reveal the governor's  
197 contemplated policies or contemplated courses of action before the governor has  
198 implemented or rejected those policies or courses of action or made them public;
- 199 (30) records of the Office of the Legislative Fiscal Analyst relating to budget analysis,  
200 revenue estimates, and fiscal notes of proposed legislation before issuance of the final

- 201 recommendations in these areas;
- 202 (31) records provided by the United States or by a government entity outside the state that  
203 are given to the governmental entity with a requirement that they be managed as  
204 protected records if the providing entity certifies that the record would not be subject to  
205 public disclosure if retained by it;
- 206 (32) transcripts, minutes, recordings, or reports of the closed portion of a meeting of a  
207 public body except as provided in Section 52-4-206;
- 208 (33) records that would reveal the contents of settlement negotiations but not including final  
209 settlements or empirical data to the extent that they are not otherwise exempt from  
210 disclosure;
- 211 (34) memoranda prepared by staff and used in the decision-making process by an  
212 administrative law judge, a member of the Board of Pardons and Parole, or a member of  
213 any other body charged by law with performing a quasi-judicial function;
- 214 (35) records that would reveal negotiations regarding assistance or incentives offered by or  
215 requested from a governmental entity for the purpose of encouraging a person to expand  
216 or locate a business in Utah, but only if disclosure would result in actual economic harm  
217 to the person or place the governmental entity at a competitive disadvantage, but this  
218 section may not be used to restrict access to a record evidencing a final contract;
- 219 (36) materials to which access must be limited for purposes of securing or maintaining the  
220 governmental entity's proprietary protection of intellectual property rights including  
221 patents, copyrights, and trade secrets;
- 222 (37) the name of a donor or a prospective donor to a governmental entity, including an  
223 institution within the state system of higher education defined in Section 53B-1-102, and  
224 other information concerning the donation that could reasonably be expected to reveal  
225 the identity of the donor, provided that:
- 226 (a) the donor requests anonymity in writing;
- 227 (b) any terms, conditions, restrictions, or privileges relating to the donation may not be  
228 classified protected by the governmental entity under this Subsection (37); and
- 229 (c) except for an institution within the state system of higher education defined in  
230 Section 53B-1-102, the governmental unit to which the donation is made is primarily  
231 engaged in educational, charitable, or artistic endeavors, and has no regulatory or  
232 legislative authority over the donor, a member of the donor's immediate family, or  
233 any entity owned or controlled by the donor or the donor's immediate family;
- 234 (38) accident reports, except as provided in Sections 41-6a-404, 41-12a-202, and 73-18-13;

- 235 (39) a notification of workers' compensation insurance coverage described in Section  
236 34A-2-205;
- 237 (40)(a) the following records of an institution within the state system of higher education  
238 defined in Section 53B-1-102, which have been developed, discovered, disclosed to,  
239 or received by or on behalf of faculty, staff, employees, or students of the institution:
- 240 (i) unpublished lecture notes;
  - 241 (ii) unpublished notes, data, and information:
    - 242 (A) relating to research; and
    - 243 (B) of:
      - 244 (I) the institution within the state system of higher education defined in Section  
245 53B-1-102; or
      - 246 (II) a sponsor of sponsored research;
    - 247 (iii) unpublished manuscripts;
    - 248 (iv) creative works in process;
    - 249 (v) scholarly correspondence; and
    - 250 (vi) confidential information contained in research proposals;
  - 251 (b) Subsection (40)(a) may not be construed to prohibit disclosure of public information  
252 required pursuant to Subsection 53B-16-302(2)(a) or (b); and
  - 253 (c) Subsection (40)(a) may not be construed to affect the ownership of a record;
- 254 (41)(a) records in the custody or control of the Office of the Legislative Auditor General  
255 that would reveal the name of a particular legislator who requests a legislative audit  
256 prior to the date that audit is completed and made public; and
- 257 (b) notwithstanding Subsection (41)(a), a request for a legislative audit submitted to the  
258 Office of the Legislative Auditor General is a public document unless the legislator  
259 asks that the records in the custody or control of the Office of the Legislative Auditor  
260 General that would reveal the name of a particular legislator who requests a  
261 legislative audit be maintained as protected records until the audit is completed and  
262 made public;
- 263 (42) records that provide detail as to the location of an explosive, including a map or other  
264 document that indicates the location of:
- 265 (a) a production facility; or
  - 266 (b) a magazine;
- 267 (43) information contained in the statewide database of the Division of Aging and Adult  
268 Services created by Section 26B-6-210;

- 269 (44) information contained in the Licensing Information System described in Title 80,  
270 Chapter 2, Child Welfare Services;
- 271 (45) information regarding National Guard operations or activities in support of the  
272 National Guard's federal mission;
- 273 (46) records provided by any pawn or secondhand business to a law enforcement agency or  
274 to the central database in compliance with Title 13, Chapter 32a, Pawnshop, Secondhand  
275 Merchandise, and Catalytic Converter Transaction Information Act;
- 276 (47) information regarding food security, risk, and vulnerability assessments performed by  
277 the Department of Agriculture and Food;
- 278 (48) except to the extent that the record is exempt from this chapter pursuant to Section  
279 63G-2-106, records related to an emergency plan or program, a copy of which is  
280 provided to or prepared or maintained by the Division of Emergency Management, and  
281 the disclosure of which would jeopardize:
- 282 (a) the safety of the general public; or  
283 (b) the security of:
- 284 (i) governmental property;  
285 (ii) governmental programs; or  
286 (iii) the property of a private person who provides the Division of Emergency  
287 Management information;
- 288 (49) records of the Department of Agriculture and Food that provides for the identification,  
289 tracing, or control of livestock diseases, including any program established under Title  
290 4, Chapter 24, Utah Livestock Brand and Anti-Theft Act, or Title 4, Chapter 31, Control  
291 of Animal Disease;
- 292 (50) as provided in Section 26B-2-709:
- 293 (a) information or records held by the Department of Health and Human Services related  
294 to a complaint regarding a provider, program, or facility which the department is  
295 unable to substantiate; and  
296 (b) information or records related to a complaint received by the Department of Health  
297 and Human Services from an anonymous complainant regarding a provider, program,  
298 or facility;
- 299 (51) unless otherwise classified as public under Section 63G-2-301 and except as provided  
300 under Section 41-1a-116, an individual's home address, home telephone number, or  
301 personal mobile phone number, if:
- 302 (a) the individual is required to provide the information in order to comply with a law,

- 303 ordinance, rule, or order of a government entity; and
- 304 (b) the subject of the record has a reasonable expectation that this information will be  
305 kept confidential due to:
- 306 (i) the nature of the law, ordinance, rule, or order; and
- 307 (ii) the individual complying with the law, ordinance, rule, or order;
- 308 (52) the portion of the following documents that contains a candidate's residential or  
309 mailing address, if the candidate provides to the filing officer another address or phone  
310 number where the candidate may be contacted:
- 311 (a) a declaration of candidacy, a nomination petition, or a certificate of nomination,  
312 described in Section 20A-9-201, 20A-9-202, 20A-9-203, 20A-9-404, 20A-9-405,  
313 20A-9-408, 20A-9-408.5, 20A-9-502, or 20A-9-601;
- 314 (b) an affidavit of impecuniosity, described in Section 20A-9-201; or
- 315 (c) a notice of intent to gather signatures for candidacy, described in Section 20A-9-408;
- 316 (53) the name, home address, work addresses, and telephone numbers of an individual that  
317 is engaged in, or that provides goods or services for, medical or scientific research that is:
- 318 (a) conducted within the state system of higher education, as defined in Section  
319 53B-1-102; and
- 320 (b) conducted using animals;
- 321 (54) in accordance with Section 78A-12-203, any record of the Judicial Performance  
322 Evaluation Commission concerning an individual commissioner's vote, in relation to  
323 whether a judge meets or exceeds minimum performance standards under Subsection  
324 78A-12-203(4), and information disclosed under Subsection 78A-12-203(5)(e);
- 325 (55) information collected and a report prepared by the Judicial Performance Evaluation  
326 Commission concerning a judge, unless Section 20A-7-702 or Title 78A, Chapter 12,  
327 Judicial Performance Evaluation Commission Act, requires disclosure of, or makes  
328 public, the information or report;
- 329 (56) records provided or received by the Public Lands Policy Coordinating Office in  
330 furtherance of any contract or other agreement made in accordance with Section  
331 63L-11-202;
- 332 (57) information requested by and provided to the 911 Division under Section 63H-7a-302;
- 333 (58) in accordance with Section 73-10-33:
- 334 (a) a management plan for a water conveyance facility in the possession of the Division  
335 of Water Resources or the Board of Water Resources; or
- 336 (b) an outline of an emergency response plan in possession of the state or a county or

- 337 municipality;
- 338 (59) the following records in the custody or control of the Office of Inspector General of  
339 Medicaid Services, created in Section 63A-13-201:
- 340 (a) records that would disclose information relating to allegations of personal  
341 misconduct, gross mismanagement, or illegal activity of a person if the information  
342 or allegation cannot be corroborated by the Office of Inspector General of Medicaid  
343 Services through other documents or evidence, and the records relating to the  
344 allegation are not relied upon by the Office of Inspector General of Medicaid  
345 Services in preparing a final investigation report or final audit report;
- 346 (b) records and audit workpapers to the extent they would disclose the identity of a  
347 person who, during the course of an investigation or audit, communicated the  
348 existence of any Medicaid fraud, waste, or abuse, or a violation or suspected  
349 violation of a law, rule, or regulation adopted under the laws of this state, a political  
350 subdivision of the state, or any recognized entity of the United States, if the  
351 information was disclosed on the condition that the identity of the person be  
352 protected;
- 353 (c) before the time that an investigation or audit is completed and the final investigation  
354 or final audit report is released, records or drafts circulated to a person who is not an  
355 employee or head of a governmental entity for the person's response or information;
- 356 (d) records that would disclose an outline or part of any investigation, audit survey plan,  
357 or audit program; or
- 358 (e) requests for an investigation or audit, if disclosure would risk circumvention of an  
359 investigation or audit;
- 360 (60) records that reveal methods used by the Office of Inspector General of Medicaid  
361 Services, the fraud unit, or the Department of Health and Human Services, to discover  
362 Medicaid fraud, waste, or abuse;
- 363 (61) information provided to the Department of Health and Human Services or the Division  
364 of Professional Licensing under Subsections 58-67-304(3) and (4) and Subsections  
365 58-68-304(3) and (4);
- 366 (62) a record described in Section 63G-12-210;
- 367 (63) captured plate data that is obtained through an automatic license plate reader system  
368 used by a governmental entity as authorized in Section 41-6a-2003;
- 369 (64) an audio or video recording created by a body-worn camera, as that term is defined in  
370 Section 77-7a-103, that records sound or images inside a hospital or health care facility

371 as those terms are defined in Section 78B-3-403, inside a clinic of a health care provider,  
372 as that term is defined in Section 78B-3-403, or inside a human service program as that  
373 term is defined in Section 26B-2-101, except for recordings that:

- 374 (a) depict the commission of an alleged crime;
- 375 (b) record any encounter between a law enforcement officer and a person that results in  
376 death or bodily injury, or includes an instance when an officer fires a weapon;
- 377 (c) record any encounter that is the subject of a complaint or a legal proceeding against a  
378 law enforcement officer or law enforcement agency;
- 379 (d) contain an officer involved critical incident as defined in Subsection 76-2-408(1)(f);  
380 or
- 381 (e) have been requested for reclassification as a public record by a subject or authorized  
382 agent of a subject featured in the recording;

383 (65) a record pertaining to the search process for a president of an institution of higher  
384 education described in Section 53B-2-102, except for application materials for a publicly  
385 announced finalist;

386 (66) an audio recording that is:

- 387 (a) produced by an audio recording device that is used in conjunction with a device or  
388 piece of equipment designed or intended for resuscitating an individual or for treating  
389 an individual with a life-threatening condition;
- 390 (b) produced during an emergency event when an individual employed to provide law  
391 enforcement, fire protection, paramedic, emergency medical, or other first responder  
392 service:
  - 393 (i) is responding to an individual needing resuscitation or with a life-threatening  
394 condition; and
  - 395 (ii) uses a device or piece of equipment designed or intended for resuscitating an  
396 individual or for treating an individual with a life-threatening condition; and
- 397 (c) intended and used for purposes of training emergency responders how to improve  
398 their response to an emergency situation;

399 (67) records submitted by or prepared in relation to an applicant seeking a recommendation  
400 by the Research and General Counsel Subcommittee, the Budget Subcommittee, or the  
401 Audit Subcommittee, established under Section 36-12-8, for an employment position  
402 with the Legislature;

403 (68) work papers as defined in Section 31A-2-204;

404 (69) a record made available to Adult Protective Services or a law enforcement agency

- 405 under Section 61-1-206;
- 406 (70) a record submitted to the Insurance Department in accordance with Section  
407 31A-37-201;
- 408 (71) a record described in Section 31A-37-503;
- 409 (72) any record created by the Division of Professional Licensing as a result of Subsection  
410 58-37f-304(5) or 58-37f-702(2)(a)(ii);
- 411 (73) a record described in Section 72-16-306 that relates to the reporting of an injury  
412 involving an amusement ride;
- 413 (74) except as provided in Subsection 63G-2-305.5(1), the signature of an individual on a  
414 political petition, or on a request to withdraw a signature from a political petition,  
415 including a petition or request described in the following titles:
- 416 (a) Title 10, Utah Municipal Code;
- 417 (b) Title 17, Counties;
- 418 (c) Title 17B, Limited Purpose Local Government Entities - Special Districts;
- 419 (d) Title 17D, Limited Purpose Local Government Entities - Other Entities; and
- 420 (e) Title 20A, Election Code;
- 421 (75) except as provided in Subsection 63G-2-305.5(2), the signature of an individual in a  
422 voter registration record;
- 423 (76) except as provided in Subsection 63G-2-305.5(3), any signature, other than a signature  
424 described in Subsection (74) or (75), in the custody of the lieutenant governor or a local  
425 political subdivision collected or held under, or in relation to, Title 20A, Election Code;
- 426 (77) a Form I-918 Supplement B certification as described in Title 77, Chapter 38, Part 5,  
427 Victims Guidelines for Prosecutors Act;
- 428 (78) a record submitted to the Insurance Department under Section 31A-48-103;
- 429 (79) personal information, as defined in Section 63G-26-102, to the extent disclosure is  
430 prohibited under Section 63G-26-103;
- 431 (80) an image taken of an individual during the process of booking the individual into jail,  
432 unless:
- 433 (a) the individual is convicted of a criminal offense based upon the conduct for which  
434 the individual was incarcerated at the time the image was taken;
- 435 (b) a law enforcement agency releases or disseminates the image:
- 436 (i) after determining that the individual is a fugitive or an imminent threat to an  
437 individual or to public safety and releasing or disseminating the image will assist  
438 in apprehending the individual or reducing or eliminating the threat; or

- 439 (ii) to a potential witness or other individual with direct knowledge of events relevant  
440 to a criminal investigation or criminal proceeding for the purpose of identifying or  
441 locating an individual in connection with the criminal investigation or criminal  
442 proceeding;
- 443 (c) a judge orders the release or dissemination of the image based on a finding that the  
444 release or dissemination is in furtherance of a legitimate law enforcement interest; or
- 445 (d) the image is displayed to a person who is permitted to view the image under Section  
446 17-22-30[-] ;
- 447 (81) a record:
- 448 (a) concerning an interstate claim to the use of waters in the Colorado River system;
- 449 (b) relating to a judicial proceeding, administrative proceeding, or negotiation with a  
450 representative from another state or the federal government as provided in Section  
451 63M-14-205; and
- 452 (c) the disclosure of which would:
- 453 (i) reveal a legal strategy relating to the state's claim to the use of the water in the  
454 Colorado River system;
- 455 (ii) harm the ability of the Colorado River Authority of Utah or river commissioner to  
456 negotiate the best terms and conditions regarding the use of water in the Colorado  
457 River system; or
- 458 (iii) give an advantage to another state or to the federal government in negotiations  
459 regarding the use of water in the Colorado River system;
- 460 (82) any part of an application described in Section 63N-16-201 that the Governor's Office  
461 of Economic Opportunity determines is nonpublic, confidential information that if  
462 disclosed would result in actual economic harm to the applicant, but this Subsection (82)  
463 may not be used to restrict access to a record evidencing a final contract or approval  
464 decision;
- 465 (83) the following records of a drinking water or wastewater facility:
- 466 (a) an engineering or architectural drawing of the drinking water or wastewater facility;  
467 and
- 468 (b) except as provided in Section 63G-2-106, a record detailing tools or processes the  
469 drinking water or wastewater facility uses to secure, or prohibit access to, the records  
470 described in Subsection (83)(a);
- 471 (84) a statement that an employee of a governmental entity provides to the governmental  
472 entity as part of the governmental entity's personnel or administrative investigation into

- 473 potential misconduct involving the employee if the governmental entity:
- 474 (a) requires the statement under threat of employment disciplinary action, including  
475 possible termination of employment, for the employee's refusal to provide the  
476 statement; and
- 477 (b) provides the employee assurance that the statement cannot be used against the  
478 employee in any criminal proceeding;
- 479 (85) any part of an application for a Utah Fits All Scholarship account described in Section  
480 53F-6-402 or other information identifying a scholarship student as defined in Section  
481 53F-6-401;
- 482 (86) a record:
- 483 (a) concerning a claim to the use of waters in the Great Salt Lake;
- 484 (b) relating to a judicial proceeding, administrative proceeding, or negotiation with a  
485 person concerning the claim, including a representative from another state or the  
486 federal government; and
- 487 (c) the disclosure of which would:
- 488 (i) reveal a legal strategy relating to the state's claim to the use of the water in the  
489 Great Salt Lake;
- 490 (ii) harm the ability of the Great Salt Lake commissioner to negotiate the best terms  
491 and conditions regarding the use of water in the Great Salt Lake; or
- 492 (iii) give an advantage to another person including another state or to the federal  
493 government in negotiations regarding the use of water in the Great Salt Lake; ~~and~~
- 494 (87) a consumer complaint described in Section 13-2-11, unless the consumer complaint is  
495 reclassified as public as described in Subsection 13-2-11(4)[-] ;
- 496 (88) a record of the Utah water agent, appointed under Section 73-10g-702:
- 497 (a) concerning a claim to the use of waters;
- 498 (b) relating to a judicial proceeding, administrative proceeding, or negotiation with a  
499 representative from another state, a tribe, the federal government, or other  
500 government entity as provided in Title 73, Chapter 10g, Part 6, Utah Water Agent;  
501 and
- 502 (c) the disclosure of which would:
- 503 (i) reveal a legal strategy relating to the state's claim to the use of the water;
- 504 (ii) harm the ability of the Utah water agent to negotiate the best terms and conditions  
505 regarding the use of water; or
- 506 (iii) give an advantage to another state, a tribe, the federal government, or other

507 government entity in negotiations regarding the use of water[-] ; and  
 508 (89) a complaint, or a document obtained in relation to a complaint, submitted to the  
 509 Prosecutorial Misconduct Commission, unless Title 78A, Chapter 9, Part 2,  
 510 Prosecutorial Misconduct Commission, requires disclosure of, or makes public, the  
 511 complaint or document.

512 Section 2. Section **78A-9-201** is enacted to read:

513 **Part 2. Prosecutorial Misconduct Commission**

514 **78A-9-201 . Definitions for part.**

515 As used in this part:

- 516 (1) "Commission" means the Prosecutorial Misconduct Commission created in Section  
 517 78A-9-202.
- 518 (2) "Complaint" means:
- 519 (a) a written complaint against a prosecution team member; or  
 520 (b) an allegation based on reliable information received in any form, from any source,  
 521 that alleges, or from which a reasonable inference can be drawn, that a prosecution  
 522 team member has committed prosecutorial misconduct.
- 523 (3) "Investigation" means an inquiry into an allegation of prosecutorial misconduct.
- 524 (4) "Prosecuting attorney" means:
- 525 (a) the attorney general and an assistant attorney general;  
 526 (b) a district attorney or deputy district attorney;  
 527 (c) a county attorney or assistant county attorney; or  
 528 (d) an attorney authorized to commence an action on behalf of the state.
- 529 (5) "Prosecution team member" means:
- 530 (a) a prosecuting attorney; or  
 531 (b) an employee of the office of the prosecuting attorney.
- 532 (6) "Prosecutorial misconduct" means conduct committed in the course of a prosecution of  
 533 a felony or class A misdemeanor offense that potentially violates:
- 534 (a) a statute, a court rule, or a provision of the Utah Constitution;  
 535 (b) an ordinance or policy of a county or municipality; or  
 536 (c) the legal rights of an individual.

537 Section 3. Section **78A-9-202** is enacted to read:

538 **78A-9-202 . Prosecutorial Misconduct Commission -- Members -- Terms --**  
 539 **Compensation -- Staff and expenses.**

- 540 (1) There is created an independent commission called the Prosecutorial Misconduct

- 541 Commission.
- 542 (2) The commission is composed of 11 members as follows:
- 543 (a) two members of the House of Representatives, appointed by the speaker of the
- 544 House of Representatives;
- 545 (b) two members of the Senate, appointed by the president of the Senate;
- 546 (c) two members who are active or retired defense attorneys, who have prosecutorial
- 547 experience, and who are in good standing with the Utah State Bar, appointed by the
- 548 governor;
- 549 (d) two individuals who are not members of the Utah State Bar, appointed by the
- 550 governor;
- 551 (e) an active or retired prosecuting attorney who is in good standing with the Utah State
- 552 Bar, appointed by the governor;
- 553 (f) a retired judge, appointed by the governor; and
- 554 (g) an assistant attorney general, appointed by the attorney general.
- 555 (3)(a) Except as provided in Subsection (4), a member appointed under Subsection (2)
- 556 shall serve a four-year term.
- 557 (b) A member may serve no more than eight years.
- 558 (4) At the time of appointment, the terms of commission members shall be staggered so that
- 559 approximately half of commission members' terms expire every two years.
- 560 (5) When a vacancy occurs in the membership for any reason, the replacement shall be
- 561 appointed for the unexpired term by the same appointing authority that appointed the
- 562 member creating the vacancy.
- 563 (6)(a) A majority of the members of the commission constitutes a quorum.
- 564 (b) If a quorum is present, the action of a majority of the voting members present
- 565 constitutes the action of the commission.
- 566 (7)(a) The commission shall elect annually a chair and a vice chair from the
- 567 commission's membership to serve a two-year term.
- 568 (b) A commission member may not serve as chair of the commission for more than three
- 569 consecutive terms.
- 570 (8) The commission shall establish guidelines and procedures for the disqualification of
- 571 any member from consideration of any matter.
- 572 (9) A member may not receive compensation or benefits for the member's service, but may
- 573 receive per diem and travel expenses in accordance with:
- 574 (a) Section 63A-3-106;

- 575 (b) Section 63A-3-107; and  
576 (c) rules made by the Division of Finance in accordance with Sections 63A-3-106 and  
577 63A-3-107.
- 578 (10) Upon a majority vote of the commission, the commission may:  
579 (a) employ an executive director, legal counsel, investigators, and other staff to assist the  
580 commission; and  
581 (b) incur other reasonable and necessary expenses within the authorized budget of the  
582 commission and consistent with the duties of the commission.

583 Section 4. Section **78A-9-203** is enacted to read:

584 **78A-9-203 . Functions and duties of the commission.**

- 585 (1) The commission may:  
586 (a) request that members of the public report instances of prosecutorial misconduct to  
587 the commission;  
588 (b) receive, initiate, investigate, or hear complaints;  
589 (c) recommend the action that should be taken to address prosecutorial misconduct by a  
590 prosecution team member; and  
591 (d) gather and publish data on claims of prosecutorial misconduct in this state.
- 592 (2) To enforce the provisions of this part, the commission may:  
593 (a) administer an oath or affirmation;  
594 (b) issue a subpoena, in accordance with the Utah Rules of Civil Procedure, that requires:  
595 (i) the attendance and testimony of a witness; or  
596 (ii) the production of evidence relevant to the investigation; and  
597 (c) take evidence.
- 598 (3) A court shall enforce a subpoena issued by the commission.
- 599 (4) The commission shall pay any witness fee, travel expense, mileage, or any other fee  
600 required by the service statutes of the state where the witness or evidence is located.

601 Section 5. Section **78A-9-204** is enacted to read:

602 **78A-9-204 . Complaint and investigation process.**

- 603 (1) An individual may submit a complaint to the commission alleging that a prosecution  
604 team member has committed prosecutorial misconduct.
- 605 (2) The commission may, on a motion, initiate an investigation of alleged prosecutorial  
606 misconduct by a prosecution team member if:  
607 (a) an individual submits a complaint and the commission determines that the complaint  
608 has merit; or

- 609 (b) the commission submits a complaint on behalf of the commission.
- 610 (3) The commission may decline to investigate any complaint that is received five or more  
611 years after the alleged prosecutorial misconduct occurred.
- 612 (4)(a) The commission may dismiss a complaint at any time if the commission  
613 determines that the complaint lacks merit.
- 614 (b) If a complaint submitted by an individual is dismissed, the commission shall notify  
615 the individual who submitted the complaint.
- 616 (5) If the commission moves to initiate an investigation of alleged prosecutorial misconduct  
617 by a prosecution team member, the commission shall:
- 618 (a) notify the prosecution team member of the investigation; and
- 619 (b) provide the prosecution team member with all information necessary to prepare an  
620 adequate response or defense, including the identity of the complainant.
- 621 (6) If the committee dismisses an investigation after notifying the prosecution team member  
622 as described in Subsection (4), the commission shall notify the prosecuting attorney of  
623 the dismissal.
- 624 (7)(a) In the course of an investigation, the commission may request that the prosecution  
625 team member testify before the commission.
- 626 (b) The prosecution team member's counsel may be present during the prosecution team  
627 member's testimony.
- 628 (c) The prosecution team member may present evidence and material relevant to the  
629 complaint.

630 Section 6. Section **78A-9-205** is enacted to read:

631 **78A-9-205 . Hearing process.**

- 632 (1) The commission shall hold a hearing on a complaint before a quorum of the commission.
- 633 (2) The commission shall notify the prosecution team member and the complainant of the  
634 hearing.
- 635 (3) At the hearing, the commission may take the testimony of witnesses and receive  
636 evidence and material relevant to the complaint.
- 637 (4) The prosecution team member:
- 638 (a) may have counsel present during the hearing; and
- 639 (b) cross-examine any witnesses and present evidence to the commission.
- 640 (5) The commission shall keep a transcript of the proceedings and of the testimony of  
641 witnesses at the hearing.

642 Section 7. Section **78A-9-206** is enacted to read:

643 **78A-9-206 . Action by the commission.**

644 (1) If the commission determines after an investigation that a prosecution team member has  
645 committed prosecutorial misconduct:

646 (a) the commission shall notify the prosecution team member and the complainant of the  
647 commission's decision; and

648 (b) the commission may:

649 (i) notify the proper law enforcement agency if the prosecutorial misconduct is  
650 criminal conduct; or

651 (ii) notify the Office of Professional Conduct of the Utah State Bar if the prosecution  
652 team member is a prosecuting attorney.

653 (2) If the commission determines that a prosecution team member has not committed  
654 prosecutorial misconduct, the commission shall notify the prosecution team member and  
655 the complainant of the commission's decision.

656 (3) The commission shall issue a report regarding the commission's investigation and  
657 decision and make the report available to the public.

658 (4) The commission may not discipline or sanction a prosecuting attorney for any  
659 prosecutorial misconduct.

660 Section 8. Section **78A-9-207** is enacted to read:

661 **78A-9-207 . Confidentiality of records.**

662 (1) A complaint, and any document obtained in connection with the complaint, becomes a  
663 public record under Title 63G, Chapter 2, Government Records Access and  
664 Management Act, on the day following the issuance of a report by the commission under  
665 Section 78A-9-206.

666 (2) A complaint, or a document obtained in connection with the complaint, that is not  
667 public under Subsection (1) is a protected record under Title 63G, Chapter 2,  
668 Government Records Access and Management Act.

669 Section 9. **Effective Date.**

670 This bill takes effect on May 7, 2025.