

2019 Legislative Changes

Government Records Access and Management Act (GRAMA)

Utah Code 63G-2

Public Records Management Act (PRMA)

Utah Code 63A-12

63G-2-103 Definitions

Senate Bill 25

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

~~[(24) "Records committee" means the State Records Committee created in Section [63G-2-501](#).]~~

Senate Bill 197

(11)(b) "Governmental entity" also means:

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

(53-1-102 says that a law enforcement agency means an entity of the federal, state, political subdivision, including a university, that exists primarily to prevent and detect crime and enforce criminal laws, statutes, and ordinances.)

(53-13-103 says that law enforcement officer means certified peace officer who is an employee of a law enforcement agency... (many requirements))

63G-2-201 Right to inspect records and receive copies of records

Senate Bill 108

(1)(a) [Every] Except as provided in Subsection (1)(b), a person has the right to inspect a public record free of charge, and the right to take a copy of a public record during normal working hours, subject to Sections [63G-2-203](#) and [63G-2-204](#).

(b) A right under Subsection (1)(a) does not apply with respect to a record:

(i) a copy of which the governmental entity has already provided to the person;

(ii) that is the subject of a records request that the governmental entity is not required to fill under Subsection (8)(e); or

(iii) (A) that is accessible only by a computer or other electronic device owned or controlled by the governmental entity;

(B) that is part of an electronic file that also contains a record that is private, controlled, or protected; and

(C) that the governmental entity cannot readily segregate from the part of the electronic file that contains a private, controlled, or protected record.

(8) ~~[(a)]~~ In response to a request, a governmental entity is not required to:
~~[(i)]~~ (a) create a record;
~~[(ii)]~~ (b) compile, format, manipulate, package, summarize, or tailor information;
~~[(iii)]~~ (c) provide a record in a particular format, medium, or program not currently maintained by the governmental entity; not currently maintained by the governmental entity;
~~[(iv)]~~ (d) fulfill a person's records request if the request unreasonably duplicates prior records requests from that person; or
~~[(v)]~~ (e) fill a person's records request if:
~~[(A)]~~ (i) the record requested is:
(A) publicly accessible ~~[in the identical physical form and content]~~ online; or
(B) included in a public publication or product produced by the governmental entity receiving the request; and
~~[(B)]~~ (ii) the governmental entity:
(A) specifies to the person requesting the record where the record is accessible online; or
(B) provides the person requesting the record with the public publication or product~~;~~ and ~~[(C) the governmental entity]~~ specifies where the record can be found in the public publication or product. ~~[(b) Upon request,]~~

(9) (a) Although not required to do so, a governmental entity may, upon request from the person who submitted the records request, compile, format, manipulate, package, summarize, or tailor information or provide a record in a [particular form under Subsection (8)(a)(ii) or (iii) if:] format, medium, or program not currently maintained by the governmental entity.
~~[(i) the]~~ (b) In determining whether to fulfill a request described in Subsection (9)(a), a governmental entity ~~[determines it is able to do so]~~ may consider whether the governmental entity is able to fulfill the request without unreasonably interfering with the governmental entity's duties and responsibilities~~;~~ and~~].~~
~~[(ii) the requester agrees]~~
(c) A governmental entity may require a person who makes a request under Subsection (9)(a) to pay the governmental entity, in accordance with Section 63G-2-203, for providing the information or record [in the requested form in accordance with Section 63G-2-203] as requested.

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

Senate Bill 25 changes the name records committee to State Records Committee.

Senate Bill 203

(1)(a) Upon request, a governmental entity shall disclose a controlled record to:
(i) a physician, physician assistant, psychologist, certified social worker, insurance provider or producer, or a government public health agency upon submission of:
(A) a release from the subject of the record that is dated no more than 90 days prior to the date the request is made; and
(B) a signed acknowledgment of the terms of disclosure of controlled information as provided by Subsection (2)(b); and
(ii) any person to whom the record must be disclosed pursuant to:

- (A) a court order as provided in Subsection (7); or
 - (B) a legislative subpoena as provided in Title 36, Chapter 14, Legislative Subpoena Powers.
- (b) A person who receives a record from a governmental entity in accordance with Subsection (2)(a)(i) may not disclose controlled information from that record to any person, including the subject of the record.

63G-2-204 Requests – Time limit for response and extraordinary circumstances

Senate Bill 108

- (1) (a) A person making a request for a record shall ~~furnish~~ submit to the governmental entity ~~with~~ that ~~possesses~~ retains the record a written request containing:
- ~~(a)~~ (i) the person's:
 - (A) name_[7];
 - (B) mailing address_[7];
 - (C) email address, if the person has an email address and is willing to accept communications by email relating to the person's records request; and
 - (D) daytime telephone number_[7], if available; and ~~(b)~~ (ii) a description of the record requested that identifies the record with reasonable specificity.
- ~~(2) (a) Subject to Subsection (2)(b), a person making a request for a record shall submit the request to the governmental entity that prepares, owns, or retains the record.]~~
- (b) (i) A single record request may not be submitted to multiple governmental entities.
 - (ii) Subsection (1)(b)(i) may not be construed to prevent a person from submitting a separate record request to each of multiple governmental entities, even if each of the separate requests seeks access to the same record.

- ~~(b) (2) (a) In response to a request for a record, a governmental entity may not provide a record that it has received under Section 63G-2-206 as a shared record ~~if~~ if ~~the record was shared for the purpose of auditing, if, and (ii) the governmental entity is authorized by state statute to conduct an audit.~~ if~~
- ~~(c) (b) If a governmental entity is prohibited from providing a record under Subsection ~~(2)(b)~~, ~~(2)(a)~~, the governmental entity shall:~~
- (i) deny the records request; and
 - (ii) inform the person making the request ~~that records requests must be submitted to the governmental entity that prepares, owns, or retains the record~~ of the identity of the governmental entity from which the shared record was received.

- (8) (a) If a request for access is submitted to an office of a governmental entity other than that specified by rule in accordance with Subsection ~~(2)(3)~~, the office shall promptly forward the request to the appropriate office.
- (b) If the request is forwarded promptly, the time limit for response begins when the [record] request is received by the office specified by rule.

63G-2-206 Sharing records

Senate Bill 108

- (8) (a) The following records may not be shared under this section:
- ~~(a)~~ (i) records held by the Division of Oil, Gas, and Mining that pertain to any person and that

are gathered under authority of Title 40, Chapter 6, Board and Division of Oil, Gas, and Mining: ~~[(b)]~~ (ii) except as provided in Subsection (8)(b), records of publicly funded libraries as described described in Subsection 63G-2-302(1)(c); and

~~[(c)]~~ (iii) a record described in Section 63G-12-210.

(b) A publicly funded library may share a record that is a private record under Subsection 63G-2-302(1)(c) with a law enforcement agency, as defined in Section 53-1-102, if:

(i) the record is a video surveillance recording of the library premises; and

(ii) the law enforcement agency certifies in writing that:

(A) the law enforcement agency believes that the record will provide important information for a

pending investigation into criminal or potentially criminal behavior; and (B) the law enforcement

agency's receipt of the record will assist the agency to prevent imminent harm to an individual or imminent and substantial damage to property.

63G-2-303 Private information concerning certain government employees

House Bill 444

(1) As used in this section:

(a) "At-risk government employee" means a current or former:

(i) peace officer as specified in Section 53-13-102;

~~[(ii) supreme court justice;]~~

~~[(iii)]~~ (ii) state or federal judge of an appellate, district, justice, or juvenile court, or [a] court commissioner;

~~[(iv) justice court judge;]~~

~~[(v)]~~ (iii) judge authorized by Title 39, Chapter 6, Utah Code of Military Justice;

~~[(vi) federal judge;]~~

~~[(vii) federal magistrate judge;]~~

~~[(viii)]~~ (iv) judge authorized by Armed Forces, Title 10, United States Code;

~~[(ix) United States Attorney;]~~

~~[(x) Assistant United States Attorney;]~~

(v) federal prosecutor;

~~[(xi)]~~ (vi) [a] prosecutor appointed pursuant to Armed Forces, Title 10, United States Code;

~~[(xii)]~~ (vii) [a] law enforcement official as defined in Section 53-5-711; [or]

~~[(xiii)]~~ (viii) [a] prosecutor authorized by Title 39, Chapter 6, Utah Code of Military Justice[-]; or

(ix) state or local government employee who, because of the ~~§~~→**unique** ←~~§~~ nature of the employee's ~~§~~→**regular** ←~~§~~ work ~~§~~→**assignments or because of one or more recent credible threats directed to or against the employee** ←~~§~~, would be at immediate and substantial risk of physical harm if the employee's personal information is disclosed.

(b) "Family member" means the spouse, child, sibling, parent, or grandparent of an at-risk government employee who is living with the employee.

(c) "Personal information" means the employee's or the employee's family member's home address, home telephone number, personal mobile telephone number, personal pager number, personal email address, social security number, insurance coverage, marital status, or payroll deductions.

(2) (a) Pursuant to Subsection [63G-2-302](#)(1)(h), an at-risk government employee may file a written application that:

(i) gives notice of the employee's status as an at-risk government employee to each agency of a government entity holding a record or a part of a record that would disclose the employee's [~~or the employee's family member's home address, home telephone number, Social Security number, insurance coverage, marital status, or payroll deductions~~] personal information; and

(ii) requests that the government agency classify those records or parts of records as private.

(b) An at-risk government employee desiring to file an application under this section may request assistance from the government agency to identify the individual records containing [~~the private~~] personal information [~~specified in Subsection (2)(a)(i)~~].

(c) Each government agency shall develop a form that:

(i) ~~requires the at-risk government employee to [provide evidence of qualifying employment; (ii) requires the at-risk government employee to]~~ designate each specific record or part of a record

containing the employee's [~~home address, home telephone number, Social Security number,~~

~~insurance coverage, marital status, or payroll deductions~~] personal information that the applicant desires to be classified as private; [~~and~~] [(iii)] (ii) affirmatively requests that the government entity holding those records classify them as private[-];

(iii) informs the employee that by submitting a completed form the employee may not receive official announcements affecting the employee's property, including notices about proposed municipal annexations, incorporations, or zoning modifications; and

(iv) contains a place for the signature required under Subsection (2)(d).

(d) A form submitted by an employee under Subsection (2)(c) shall be signed by the highest ranking elected or appointed official in the employee's chain of command certifying that the employee submitting the form is an at-risk government employee.

(6) (a) Except as provided in Subsection (6)(b), a form submitted under this section remains in effect until the earlier of:

(i) four years after the date the employee signs the form, whether or not the employee's employment terminates before the end of the four-year period; and (ii) one year after the government agency receives official notice of the death of the employee.

(b) A form submitted under this section may be rescinded at any time by:

(i) the at-risk government employee who submitted the form; or

(ii) if the at-risk government employee is deceased, a member of the employee's

63G-2-305 Protected records

House Bill 55

The following records are protected:

(71) a record submitted to the Insurance Department in accordance with Section [31A-37-201](#); and

(72) a record described in Section [31A-37-503](#).

(This deals with the process of obtaining certification to conduct insurance business in the state – 503 includes examination, analysis, and licensing application reports; preliminary examination, analysis, and licensing application reports, working papers for an examination, analysis, or licensing application review; working papers of the above, and any other records acquired in the licensing application process.)

House Bill 186

The following records are protected:

(71) any record created by the Division of Occupational and Professional Licensing as a result of Subsection [58-37f-304\(5\)](#) or [58-37f-702\(2\)\(a\)\(ii\)](#).

(304 is a database of that manages prescriptions or controlled substances. 702 deals with DOPL visits associated with deaths caused by an overdose or prescribed controlled substance poisoning.)

House Bill 381

The following records are protected:

(71) a record described in ~~§~~ → ~~[Subsection 72-15-306(4)]~~ **Section 72-16-306** ← ~~§~~ that relates to the reporting of an injury involving an amusement ride.

(306 describes the responsibility of owners to report serious injuries cause by amusement rides)

Senate Bill 163

The following records are protected:

(52) the portion of the following documents that contains a candidate's residential or mailing address, if the candidate provides to the filing officer another address or phone number where the candidate may be contacted:

(a) a declaration of candidacy, a nomination petition, or a certificate of nomination, described in Section [20A-9-201](#), [20A-9-202](#), [20A-9-203](#), [20A-9-404](#), [20A-9-405](#), [20A-9-408](#), [20A-9-408.5](#), [20A-9-502](#), or [20A-9-601](#);

(b) an affidavit of impecuniosity, described in Section [20A-9-201](#); or

(c) a notice of intent to gather signatures for candidacy, described in Section [20A-9-408](#);

63G-2-308 Segregation of records

Senate Bill 108

Notwithstanding any other provision in this chapter, if a governmental entity receives a request for access to a record that contains both information that the requester is entitled to inspect and information that the requester is not entitled to inspect under this chapter, and, if the information the requester is entitled to inspect is intelligible, the governmental entity:

(1) shall, except as provided in Subsection [63G-2-201\(1\)\(b\)\(iii\)](#), allow access to information in the record that the requester is entitled to inspect under this chapter; and

(2) may deny access to information in the record if the information is exempt from disclosure to the requester, issuing a notice of denial as provided in Section [63G-2-205](#).

63G-2-309 Confidentiality claims

Senate Bill 25

(2) (a) Except as provided in Subsection (2)(b) or by court order, the governmental entity to whom the request for a record is made may not disclose a record claimed to be protected under a provision listed in Subsection (1)(b)(i) but which the governmental entity or ~~[records committee]~~ State Records Committee determines should be disclosed until the period in which to bring an appeal expires or the end of the appeals process, including judicial appeal.

(b) ~~[This]~~ Subsection (2)(a) does not apply where the claimant, after notice, has waived the claim by not appealing or intervening before the ~~[records committee]~~ State Records Committee.

63G-2-401 Appeal to chief administrative officer – Notice of the decision of the appeal

Senate Bill 25 changes the name records committee to State Records Committee.

63G-2-402 Appealing a decision of a chief administrative officer

Senate Bill 25 changes the name records committee to State Records Committee.

63G-2-403 Appeals to the records committee

Senate Bill 25

(6) (a) No later than 10 business days after the day on which the executive secretary sends the notice of appeal ~~[is sent by the executive secretary]~~, a person whose legal interests may be substantially affected by the proceeding may file a request for intervention ~~[before]~~ with the ~~[records committee]~~ State Records Committee.

(b) Any written statement of facts, reasons, and legal authority in support of the intervener's position shall be filed with the request for intervention.

(c) The person seeking intervention shall provide copies of the statement described in Subsection (6)(b) to all parties to the proceedings before the ~~[records committee]~~ State Records Committee.

63G-2-404 Judicial review

Senate Bill 25 changes the name records committee to State Records Committee.

63G-2-501 State Records Committee created – Membership – Terms – Vacancies -- Expenses

Senate Bill 25

- (1) There is created the State Records Committee within the Department of Administrative Services ~~[to consist]~~ consisting of the following seven individuals:
- (a) an individual in the private sector whose profession requires the individual to create or manage records that, if created by a governmental entity, would be private or controlled; ~~[(b) the director of the Division of State History or the director's designee;]~~ [(c) the governor or the governor's designee;] (b) an individual with experience with electronic records and databases, as recommended by a statewide technology advocacy organization that represents the public, private, and nonprofit sectors;
 - (c) the director of the Division of Archives and Records Services or the director's designee;
 - (d) two citizen members;
 - (e) one person representing political subdivisions, as recommended by the Utah League of Cities and Towns; and
 - (f) one individual representing the news media.

(2) The governor shall appoint the members ~~[specified]~~ described in subsections (1)(a), (b), (d), (e), and (f) ~~[shall be appointed by the governor]~~ with the consent of the Senate.

- (3) (a) Except as ~~[required by]~~ provided in Subsection (3)(b), ~~[as terms of current committee members expire,]~~ the governor shall appoint each ~~[new member or reappointed]~~ member to a four-year term.
- (b) Notwithstanding ~~[the requirements of]~~ Subsection (3)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of committee members are staggered so that approximately half of the committee is appointed every two years.
- (c) Each appointed member is eligible for reappointment for one additional term.

63G-2-502 State Records Committee -- Duties

Senate Bill 25

- (1) The ~~[records committee]~~ State Records Committee shall: ~~[(a) meet at least once every three months;]~~ ~~[(b) review and approve schedules for the retention and disposal of records;]~~ ~~[(c)]~~ (a) hear appeals from determinations of access [as provided under Section 63G-2-403; ~~[(d)]~~ (b) determine disputes submitted by the state auditor under Subsection 67-3-1(17)(d); and ~~[(e)]~~ (c) appoint a [chairman] chair from among [its] the committee's members.
- (2) The ~~[records committee]~~ State Records Committee may:
- (a) make rules ~~[to govern its own proceedings as provided by],~~ in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to govern the committee's proceedings; and
 - (b) by order, after notice and hearing, reassign classification and designation for any record series by a governmental entity if the governmental entity's classification or designation is inconsistent with this chapter.

- (3) (a) The ~~[records committee]~~ State Records Committee shall annually appoint an executive secretary to provide administrative support to the [records] committee.
- (b) The executive secretary ~~[may not serve as]~~ is not a voting member of the committee.
- (7) The Office of the Attorney General shall provide counsel to the ~~[records committee and shall review proposed retention schedules]~~ State Records Committee.

63G-2-604 Retention and disposition of records

Senate Bill 25

- (1) (a) Except for a governmental entity that is permitted to maintain ~~[its]~~ the governmental entity's own retention schedules under Part 7, Applicability to Political Subdivisions, the Judiciary, and the Legislature, each governmental entity shall file with the [State Records Committee] Records Management Committee created in Section 63A-12-112 a proposed schedule for the retention and disposition of each type of material that is defined as a record under this chapter.
- (b) After a retention schedule is reviewed and approved by the ~~[State Records Committee]~~ Records Management Committee under Subsection ~~[63G-2-502(1)(b)]~~ 63A-12-113(1)(b), the governmental entity shall maintain and destroy records in accordance with the retention schedule.
- (c) If a governmental entity subject to the provisions of this section has not received an approved retention schedule from the Records Management Committee for a specific type of material that is classified as a record under this chapter, the model retention schedule maintained by the state archivist shall govern the retention and destruction of that type of material.
- (2) A retention schedule that is filed with or approved by the ~~[State Records Committee]~~ Records Management Committee under the requirements of this section is a public record.

63G-2-701 Political subdivisions may adopt ordinances in compliance with chapter – Appeals process.

Senate Bill 25 changes the name records committee to State Records Committee.

63G-2-801 Criminal penalties

Senate Bill 25 changes the name records committee to State Records Committee.

63G-2-802 Injunction – Attorney fees

Senate Bill 108

- (2) (a) A district court may assess against any governmental entity or political subdivision reasonable attorney fees and other litigation costs reasonably incurred in connection with a judicial appeal ~~[of a denial of]~~ to determine whether a requester is entitled to access to records under a records request, if the requester substantially prevails.

63A-12-101 Division of Archives and Records Service created -- duties

Senate Bill 25

(2) The state archives shall:

(g) provide staff and support services to the ~~[records committee]~~ Record Management Committee created in Section 63A-12-112 and the State Records Committee created in Section 63G-2-501;

63A-12-103 Duties of governmental entities

Senate Bill 25

The chief administrative officer of each governmental entity shall:

(1) establish and maintain an active, continuing program for the economical and efficient management of the governmental entity's records as provided by this chapter and Title 63G, Chapter 2, Government Records Access and Management Act; ...

(5) submit to the state archivist proposed schedules of records for final approval by the ~~[records committee]~~ Records Management Committee created in Section 63A-12-112;

63A-12-106 Certified and microphotographed copies

Senate Bill 25

(1) Upon demand, the state archives shall furnish certified copies of a record in ~~[its]~~ the state archives's exclusive custody that is classified public or that is otherwise determined to be public under this chapter by the originating governmental entity, the ~~[records committee]~~ State Records Committee created in Section 63G-2-501, or a court of law. When certified by the state archivist under the seal of the state archives, ~~[the]~~ a copy has the same legal force and effect as if certified by the originating governmental entity.

(2) The state archives may microphotograph records when ~~[it]~~ the state archives determines that microphotography is an efficient and economical way to care, maintain, and preserve the record. A transcript, exemplification, or certified copy of a microphotograph has the same legal force and effect as the original. Upon review and approval of the microphotographed film by the state archivist, the source documents may be destroyed.

63A-12-111 Government records ombudsman

Senate Bill 25 changes the name records committee to State Records Committee

63A-12-112 Records Management Committee – Creation – Membership -- Administration

Senate Bill 25

Section **63A-12-112** is enacted to read:

63A-12-112. Records Management Committee -- Creation -- Membership -- Administration.

(1) There is created the Records Management Committee composed of the following seven members:

(a) the director of the Division of State History or the director's designee;

(b) the director of the Division of Archives and Records Services or the director's designee; and

(c) five members appointed by the governor as follows:

(i) a member of the Utah State Bar who understands public records keeping under Title 63G, Chapter 2, Government Records Access and Management Act;

(ii) a member with experience in public finance;

(iii) an individual from the private sector whose principal professional responsibilities are to create or manage records;

(iv) a member representing political subdivisions, recommended by the Utah League of Cities and Towns; and

(v) a member representing the news media.

(2) (a) Except as provided in Subsection (2)(b), the governor shall appoint each member to a four-year term.

(b) Notwithstanding Subsection (2)(a), the governor shall, at the time of appointment or reappointment, adjust the length of committee members' terms to ensure that the terms of members appointed by the governor are staggered so that approximately half of the committee members appointed by the governor are appointed every two years.

(c) Each appointed member of the committee is eligible for reappointment for one additional term.

(3) When a vacancy occurs in the membership of the committee for any reason, the applicable appointing authority shall appoint a replacement for the unexpired term.

(4) A member of the Records Management Committee may not receive compensation or benefits for the member's service on the committee, but may receive per diem and travel expenses in accordance with:(a) Section [63A-3-106](#); (b) Section [63A-3-107](#); and

(c) rules made by the Division of Finance under Sections [63A-3-106](#) and [63A-3-107](#).

63A-12-113 Records Management Committee -- Duties

Senate Bill 25

Section **63A-12-113** is enacted to read:

63A-12-113. Records Management Committee -- Duties.

(1) The Records Management Committee shall: (a) appoint a chair from among the committee's members; and

(b) review and determine whether to approve each schedule for the retention and disposal of records, including a proposed schedule submitted to the committee under Section [63G-2-604](#), within three months after the day on which the proposed schedule is submitted to the committee.

(2) The Records Management Committee may make recommendations to a governmental entity regarding the entity's management of records.

(3) Four members of the Records Management Committee are a quorum for the transaction of

business.

(4) The state archivist shall provide staff and support services for the Records Management Committee.

(5) The Office of the Attorney General shall provide counsel to the Records Management Committee.