

Representative Curtis Oda proposes the following substitute bill:

GUN OWNERS PRIVACY PROTECTION ACT

2016 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Curtis Oda

Senate Sponsor: _____

LONG TITLE

General Description:

This bill enacts provisions to protect the privacy of persons involved in the transfer of a firearm.

Highlighted Provisions:

This bill:

- requires a law enforcement officer who receives a certain notification relating to the transfer of a firearm to destroy and delete the notification, and information gathered from the notification, within a certain period of time; and

- classifies as a private record the notification and information described in the preceding paragraph.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63G-2-302, as last amended by Laws of Utah 2015, Chapters 43 and 130

ENACTS:



26 **53-5-801**, Utah Code Annotated 1953



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

29 Section 1. Section **53-5-801** is enacted to read:

30 **Part 8. Gun Owners Privacy Protection Act**

31 **53-5-801. Gun owners privacy protection.**

32 (1) As used in this section, "chief law enforcement officer" means the same as that
33 term is described in 27 C.F.R. Sec. 479.84(c).

34 (2) A chief law enforcement officer who receives the notification described in 27
35 C.F.R. Sec. 479.84(c), relating to the transfer of a firearm, shall destroy and delete the
36 notification and any information obtained from the notification within 30 days after the day on
37 which the chief law enforcement officer receives the notification.

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

39 **63G-2-302. Private records.**

40 (1) The following records are private:

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

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

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

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

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

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

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

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

53 (e) records received by, or generated by or for, the Independent Executive Branch
54 Ethics Commission, except as otherwise expressly provided in Title 63A, Chapter 14, Review
55 of Executive Branch Ethics Complaints;

56 (f) records received or generated for a Senate confirmation committee concerning

- 57 character, professional competence, or physical or mental health of an individual:
- 58 (i) if, prior to the meeting, the chair of the committee determines release of the records:
- 59 (A) reasonably could be expected to interfere with the investigation undertaken by the
- 60 committee; or
- 61 (B) would create a danger of depriving a person of a right to a fair proceeding or
- 62 impartial hearing; and
- 63 (ii) after the meeting, if the meeting was closed to the public;
- 64 (g) employment records concerning a current or former employee of, or applicant for
- 65 employment with, a governmental entity that would disclose that individual's home address,
- 66 home telephone number, Social Security number, insurance coverage, marital status, or payroll
- 67 deductions;
- 68 (h) records or parts of records under Section [63G-2-303](#) that a current or former
- 69 employee identifies as private according to the requirements of that section;
- 70 (i) that part of a record indicating a person's Social Security number or federal
- 71 employer identification number if provided under Section [31A-23a-104](#), [31A-25-202](#),
- 72 [31A-26-202](#), [58-1-301](#), [58-55-302](#), [61-1-4](#), or [61-2f-203](#);
- 73 (j) that part of a voter registration record identifying a voter's:
- 74 (i) driver license or identification card number;
- 75 (ii) Social Security number, or last four digits of the Social Security number;
- 76 (iii) email address; or
- 77 (iv) date of birth;
- 78 (k) a voter registration record that is classified as a private record by the lieutenant
- 79 governor or a county clerk under Subsection [20A-2-104\(4\)\(f\)](#) or [20A-2-101.1\(5\)\(a\)](#);
- 80 (l) a record that:
- 81 (i) contains information about an individual;
- 82 (ii) is voluntarily provided by the individual; and
- 83 (iii) goes into an electronic database that:
- 84 (A) is designated by and administered under the authority of the Chief Information
- 85 Officer; and
- 86 (B) acts as a repository of information about the individual that can be electronically
- 87 retrieved and used to facilitate the individual's online interaction with a state agency;

- 88 (m) information provided to the Commissioner of Insurance under:
- 89 (i) Subsection [31A-23a-115\(2\)\(a\)](#);
- 90 (ii) Subsection [31A-23a-302\(3\)](#); or
- 91 (iii) Subsection [31A-26-210\(3\)](#);
- 92 (n) information obtained through a criminal background check under Title 11, Chapter
- 93 40, Criminal Background Checks by Political Subdivisions Operating Water Systems;
- 94 (o) information provided by an offender that is:
- 95 (i) required by the registration requirements of Title 77, Chapter 41, Sex and Kidnap
- 96 Offender Registry; and
- 97 (ii) not required to be made available to the public under Subsection [77-41-110\(4\)](#);
- 98 (p) a statement and any supporting documentation filed with the attorney general in
- 99 accordance with Section [34-45-107](#), if the federal law or action supporting the filing involves
- 100 homeland security;
- 101 (q) electronic toll collection customer account information received or collected under
- 102 Section [72-6-118](#) and customer information described in Section [17B-2a-815](#) received or
- 103 collected by a public transit district, including contact and payment information and customer
- 104 travel data;
- 105 (r) an email address provided by a military or overseas voter under Section
- 106 [20A-16-501](#);
- 107 (s) a completed military-overseas ballot that is electronically transmitted under Title
- 108 20A, Chapter 16, Uniform Military and Overseas Voters Act;
- 109 (t) records received by or generated by or for the Political Subdivisions Ethics Review
- 110 Commission established in Section [11-49-201](#), except for:
- 111 (i) the commission's summary data report that is required in Section [11-49-202](#); and
- 112 (ii) any other document that is classified as public in accordance with Title 11, Chapter
- 113 49, Political Subdivisions Ethics Review Commission;
- 114 (u) a record described in Subsection [53A-11a-203\(3\)](#) that verifies that a parent was
- 115 notified of an incident or threat; ~~and~~
- 116 (v) a criminal background check or credit history report conducted in accordance with
- 117 Section [63A-3-201](#)~~[?]~~; and
- 118 (w) a notification described in Subsection [53-5-801\(2\)](#), and any information obtained

119 from the notification.

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

121 (a) records concerning a current or former employee of, or applicant for employment
122 with a governmental entity, including performance evaluations and personal status information
123 such as race, religion, or disabilities, but not including records that are public under Subsection
124 63G-2-301(2)(b) or 63G-2-301(3)(o) or private under Subsection (1)(b);

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

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

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

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

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

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

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

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

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

143 (b) Medical records in the possession of the University of Utah Hospital, its clinics,
144 doctors, or affiliated entities are not private records or controlled records under Section
145 63G-2-304 when the records are sought:

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

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

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