

1                                   **AMENDMENTS TO WHISTLE BLOWERS**

2   **STATUTE**

3   2002 GENERAL SESSION

4   STATE OF UTAH

5   **Sponsor: Neil A. Hansen**

6 **This act modifies the Utah Protection of Public Employees Act by removing the requirement**  
7 **that the employee establish that the adverse action by an employer was taken because of the**  
8 **protected conduct of the employee and creating an affirmative defense for the employer to**  
9 **establish that the adverse action against the employee was the result of separate conduct by**  
10 **the employee.**

11 This act affects sections of Utah Code Annotated 1953 as follows:

12 AMENDS:

13                   **67-21-4**, as last amended by Chapter 177, Laws of Utah 1999

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

15                   Section 1. Section **67-21-4** is amended to read:

16                   **67-21-4. Remedies for employee bringing action -- Proof required.**

17                   (1) As used in this section, "damages" means damages for injury or loss caused by each  
18 violation of this chapter.

19                   (2) An employee who alleges a violation of this chapter may bring a civil action for  
20 appropriate injunctive relief or actual damages, or both, within 180 days after the occurrence of  
21 the alleged violation of this chapter.

22                   (3) An action begun under this section may be brought in the district court for the county  
23 where the alleged violation occurred, the county where the complainant resides, or the county  
24 where the person against whom the civil complaint is filed resides or has his principal place of  
25 business.

26                   (4) To prevail in an action brought under the authority of this section, the employee shall  
27 establish, by a preponderance of the evidence, that the employee has ~~suffered an adverse action~~



28 ~~because the employee, or a person acting on his behalf engaged or intended to engage];~~

29 (a) engaged in an activity protected under Section 67-21-3[-]; and

30 (b) subsequently suffered an adverse action by the employer of the employee.

31 (5) Upon a showing by the employee that the elements of Subsection (4) have been  
32 satisfied, an employer may assert as an affirmative defense that the adverse action taken against  
33 the employee was:

34 (a) not connected to the activity by the employee protected under Section 67-21-3; and

35 (b) was taken because of separate actions or conduct of the employee that warranted the  
36 adverse action taken by the employer.

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**Legislative Review Note**  
**as of 12-19-01 9:05 AM**

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

**Office of Legislative Research and General Counsel**