

SANCTUARY CITY LIABILITY AMENDMENTS

2016 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Steve Eliason

Senate Sponsor: _____

LONG TITLE

General Description:

This bill waives governmental immunity for a governmental entity that releases an undocumented individual without checking with ICE first.

Highlighted Provisions:

This bill:

- ▶ waives governmental immunity for a governmental entity that releases an undocumented individual without checking with ICE first and the individual commits a crime causing substantial bodily injury or property damage.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63G-7-301, as last amended by Laws of Utah 2015, Chapter 342

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

Section 1. Section **63G-7-301** is amended to read:

63G-7-301. Waivers of immunity.

(1) (a) Immunity from suit of each governmental entity is waived as to any contractual



28 obligation.

29 (b) Actions arising out of contractual rights or obligations are not subject to the
30 requirements of Sections 63G-7-401, 63G-7-402, 63G-7-403, or 63G-7-601.

31 (c) The Division of Water Resources is not liable for failure to deliver water from a
32 reservoir or associated facility authorized by Title 73, Chapter 26, Bear River Development
33 Act, if the failure to deliver the contractual amount of water is due to drought, other natural
34 condition, or safety condition that causes a deficiency in the amount of available water.

35 (2) Immunity from suit of each governmental entity is waived:

36 (a) as to any action brought to recover, obtain possession of, or quiet title to real or
37 personal property;

38 (b) as to any action brought to foreclose mortgages or other liens on real or personal
39 property, to determine any adverse claim on real or personal property, or to obtain an
40 adjudication about any mortgage or other lien that the governmental entity may have or claim
41 on real or personal property;

42 (c) as to any action based on the negligent destruction, damage, or loss of goods,
43 merchandise, or other property while it is in the possession of any governmental entity or
44 employee, if the property was seized for the purpose of forfeiture under any provision of state
45 law;

46 (d) subject to Subsection 63G-7-302(1), as to any action brought under the authority of
47 Utah Constitution, Article I, Section 22, for the recovery of compensation from the
48 governmental entity when the governmental entity has taken or damaged private property for
49 public uses without just compensation;

50 (e) subject to Subsection 63G-7-302(2), as to any action brought to recover attorney
51 fees under Sections 63G-2-405 and 63G-2-802;

52 (f) for actual damages under Title 67, Chapter 21, Utah Protection of Public Employees
53 Act;

54 (g) as to any action brought to obtain relief from a land use regulation that imposes a
55 substantial burden on the free exercise of religion under Title 63L, Chapter 5, Utah Religious
56 Land Use Act;

57 (h) except as provided in Subsection 63G-7-201(3), as to any injury caused by:

58 (i) a defective, unsafe, or dangerous condition of any highway, road, street, alley,

59 crosswalk, sidewalk, culvert, tunnel, bridge, viaduct, or other structure located on them; or
60 (ii) any defective or dangerous condition of a public building, structure, dam, reservoir,
61 or other public improvement; [~~and~~]
62 (i) subject to Subsection [63G-7-201\(4\)](#), as to any injury proximately caused by a
63 negligent act or omission of an employee committed within the scope of employment[-]; and
64 (j) for a violation of Subsection [76-9-1006\(1\)](#) if the violation results in the release of an
65 undocumented individual, as that term is defined in Section [63G-12-102](#), who is being sought
66 by the United States Immigration and Customs Enforcement, and the undocumented individual
67 commits a criminal act that causes substantial bodily injury or property damage before being
68 apprehended again.

Legislative Review Note
Office of Legislative Research and General Counsel