

# SB0340S04 compared with SB0340

~~{Omitted text}~~ shows text that was in SB0340 but was omitted in SB0340S04

inserted text shows text that was not in SB0340 but was inserted into SB0340S04

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## Protected Person Amendments

2025 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Don L. Ipson**

House Sponsor: Tyler Clancy

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### LONG TITLE

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#### General Description:

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This bill enacts provisions relating to the construction of a security improvement to real property belonging to an individual who is certified to be at risk of harm.

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#### Highlighted Provisions:

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This bill:

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- defines terms;

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- establishes a process for an individual at risk of harm to apply to the commissioner of public safety for certification to construct a security improvement on the individual's property;

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- requires a land use authority to approve an individual's land use application to construct a ~~{certified}~~ security improvement on the individual's real property if the application complies with the state's construction and fire codes;

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- exempts an individual's ~~{certified}~~ security improvement from county or municipal land use regulations;

18

- describes remedies available to an individual if a municipality or county unlawfully conditions, delays, or denies the individual's building permit for a ~~{certified}~~ security improvement; and

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▸ provides for the confidentiality of records relating to certification of a security improvement or security improvement construction.

### Money Appropriated in this Bill:

None

### Other Special Clauses:

None

### AMENDS:

**63G-2-302** , as last amended by Laws of Utah 2024, Chapter 234 , as last amended by Laws of Utah 2024, Chapter 234

**63G-7-301 , as last amended by Laws of Utah 2024, Chapter 234 , as last amended by Laws of Utah 2024, Chapter 234**

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### ENACTS:

**53-29-101** , Utah Code Annotated 1953 , Utah Code Annotated 1953

**53-29-201** , Utah Code Annotated 1953 , Utah Code Annotated 1953

**53-29-301** , Utah Code Annotated 1953 , Utah Code Annotated 1953

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

Section 1. Section **1** is enacted to read:

#### **53-29-101. Definitions.**

#### **29. SECURITY IMPROVEMENTS ACT**

##### **1. General Provisions**

As used in this chapter:

(1) "Applicant" means an individual who submits an application for certification.

(2) "Application for certification" means an application described in Subsection 53-29-201(1).

~~{(3) }~~

~~{(a) {"Certified improvement" means an improvement that:}}~~

~~{(i) {is intended to provide protection for a protected person or a member of the protected person's immediate family from the risk of death of serious bodily injury caused by an individual who made a credible threat or caused physical harm to the protected person;}}~~

~~{(ii) {is constructed within or leading to the boundaries of protected property; and}}~~

~~{(iii) {does not interfere with a property right of another property owner.}}~~

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- 51 {~~(b)~~ } "~~Certified improvement~~" includes an improvement described in Subsection (3)(a) that provides  
safe egress from, or safety within, the protected property, including an underground improvement or  
an improvement that runs below an easement or other non-estate interest in land if the improvement  
does not interfere with the purpose of the easement or other non-estate interest in land. } }
- 56 {~~(4)~~ } (3) "Certifying officer" means the commissioner or an individual { ~~designated by~~ } the  
commissioner designates to certify an application for certification.
- 58 {~~(5)~~ } (4) "Credible threat" means a threat to cause death or serious bodily injury that a state or federal  
law enforcement agency has confirmed to be authentic.
- 49 (5) "Easement holder" means the same as that term is defined in Section 57-13c-101.
- 60 (6) "Improvement" means the same as that term is defined in Section 78B-2-225.
- 61 (7) "Land use authority" means:
- 62 (a) with respect to protected property located within a municipality, the same as that term is defined in  
Section 10-9a-103; or
- 64 (b) with respect to protected property located within an unincorporated area of a county, the same as  
that term is defined in Section 17-27a-103.
- 66 (8) "Protected person" means an individual who:
- 67 (a) within the { ~~five~~ } four years preceding the day on which the individual submits an application for  
certification:
- 69 (i) received a credible threat; or
- 70 (ii) was physically harmed; and
- 71 (b) is at risk of serious bodily injury or death caused by:
- 72 (i) the individual who made the credible threat described in Subsection (8)(a)(i) or caused the physical  
harm described in Subsection (8)(a)(ii); or
- 74 (ii) an individual affiliated with the individual who made the credible threat described in Subsection (8)  
(a)(i) or caused the physical harm described in Subsection (8)(a)(ii).
- 77 (9) "Protected property" means real property that is owned or occupied by a protected person.
- 79 (10) "Protection certificate" means a written determination described in Subsection 53-29-201(4).
- 71 (11)
- (a) "Security improvement" means an improvement that:
- 72 (i) is intended to provide protection for a protected person, or a protected person's immediate family  
member living at the same residence as the protected person, from the risk of death or serious

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bodily injury caused by an individual who made a credible threat or caused physical harm to the protected person;

(ii) is constructed within the boundaries of protected property; and

(iii) does not interfere with another property owner's property right.

(b) "Security improvement" includes an improvement described in Subsection (11)(a) that provides safe egress from, or safety within, the protected property, including an underground improvement or an improvement that runs below an easement if the improvement does not damage or interfere with the purpose or use of the easement.

Section 2. Section 2 is enacted to read:

### **53-29-201. Certification process.**

#### 2. Certification

(1)

(a) In accordance with the provisions of this section, an individual may submit an application to a certifying officer for a written determination that each improvement the applicant identifies in the application is a {certified} security improvement.

(b) An applicant shall include in an application for certification:

(i) the applicant's name; and

(ii) evidence supporting the applicant's assertion that the applicant is a protected person and that each proposed improvement is a {certified} security improvement, including:

(A) a legal description of the real property that the applicant asserts is protected property;

(B) building plans for each proposed security improvement; {and}

(C) if the applicant intends to construct the proposed security improvement beneath an easement, evidence that the applicant provided written notice of the security improvement to each easement holder; and

{(C)} (D) any other information the department requires.

(2) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department shall make rules {establishing} :

(a) establishing:

{(a)} (i) a process for receiving and evaluating applications for certification; and

{(b)} (ii) the required contents of an application for certification{-} ; and

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(b) requiring that a certifying officer consult confidentially with a municipal or county building official regarding potential mitigation of any material adverse effects a proposed security improvement would cause if the proposed security improvement would be visible to an individual standing within 500 feet of the protected property.

99 (3) Within 45 days after the day on which a certifying officer receives an application for certification, the certifying officer shall approve or deny the application for certification.

110 (4) If the certifying officer approves the application for certification, the certifying officer shall:

101 {(4)} (a) {If the certifying officer approves the application for certification, the certifying officer shall}  
provide the applicant with a protection certificate that identifies the protected person, the protected property, and each {certified improvement.} security improvement; and

114 (b) within 30 days after the day on which the certifying officer approves the application for certification, notify the applicable police chief or sheriff of the threat made against the protected person.

117 Section 3. Section 3 is enacted to read:

119 **53-29-301. Improvements -- Legal remedies.**

### 3. Security Improvements

107 (1) No later than {three} two years after the day on which a certifying officer issues a protection certificate, the protected person may submit to the applicable land use authority a copy of the protection certificate, together with a building permit application, for the construction of one or more {certified} security improvements identified in the protection certificate.

125 (2)

112 {(2)} (a) Upon receipt of a building permit application for the construction of a {certified} security improvement, the land use authority shall:

114 {(a)} (i) review the building permit application for the sole purpose of determining compliance with Title 15A, State Construction and Fire Codes Act; and

116 {(b)} (ii) issue a building permit authorizing the construction if the application complies with Title 15A, State Construction and Fire Codes Act.

131 (b) If a building permit application for the construction of a security improvement complies with Title 15A, State Construction and Fire Codes Act, the land use authority shall authorize construction.

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(3) A ~~{certified-}~~ security improvement is not subject to county or municipal land use regulations, except for regulations regarding the exterior of a building that are imposed under Subsection 53-29-201(2)(b).

(4)

(a) If a municipality or county unlawfully conditions, delays, or denies a building permit for a ~~{certified}~~ security improvement, the protected person may challenge the municipality's or county's action in court.

~~{(b) {If the protected person prevails in an action filed under this Subsection (4), the court shall:} }~~

~~{(i) {award reasonable attorney fees and court costs to the protected person; and} }~~

~~{(ii) {require the municipality or county to pay the protected person damages of \$250 per day, beginning on the day on which the unlawful condition, delay, or denial occurs, and ending the day on which the municipality or county allows construction of the certified improvement to begin or proceed.} }~~

~~{(e)}~~ (b) In an action under this Subsection (4), the court shall allow a party to file documents under seal to preserve the confidentiality of the ~~{certified-}~~ security improvement.

(c) A building permit application for the construction of a security improvement is not subject to Section 10-6-160 or 17-36-55.

Section 4. Section **63G-2-302** is amended to read:

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

(1) The following records are private:

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

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

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

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

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

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

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

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- (ii) a Senate or House Ethics Committee in relation to the review of ethics complaints, unless the record is classified as public under legislative rule;
- 147 (e) records received by, or generated by or for, the Independent Executive Branch Ethics Commission, except as otherwise expressly provided in Title 63A, Chapter 14, Review of Executive Branch Ethics Complaints;
- 150 (f) records received or generated for a Senate confirmation committee concerning character, professional competence, or physical or mental health of an individual:
  - 152 (i) if, prior to the meeting, the chair of the committee determines release of the records:
    - 154 (A) reasonably could be expected to interfere with the investigation undertaken by the committee; or
    - 156 (B) would create a danger of depriving a person of a right to a fair proceeding or impartial hearing; and
  - 158 (ii) after the meeting, if the meeting was closed to the public;
- 159 (g) employment records concerning a current or former employee of, or applicant for employment with, a governmental entity that would disclose that individual's home address, home telephone number, social security number, insurance coverage, marital status, or payroll deductions;
- 163 (h) records or parts of records under Section 63G-2-303 that a current or former employee identifies as private according to the requirements of that section;
- 165 (i) that part of a record indicating a person's social security number or federal employer identification number if provided under Section 31A-23a-104, 31A-25-202, 31A-26-202, 58-1-301, 58-55-302, 61-1-4, or 61-2f-203;
- 168 (j) that part of a voter registration record identifying a voter's:
  - 169 (i) driver license or identification card number;
  - 170 (ii) social security number, or last four digits of the social security number;
  - 171 (iii) email address;
  - 172 (iv) date of birth; or
  - 173 (v) phone number;
- 174 (k) a voter registration record that is classified as a private record by the lieutenant governor or a county clerk under Subsection 20A-2-101.1(5)(a), 20A-2-104(4)(h), or 20A-2-204(4)(b);
- 177 (l) a voter registration record that is withheld under Subsection 20A-2-104(7);
- 178 (m) a withholding request form described in Subsections 20A-2-104(7) and (8) and any verification submitted in support of the form;
- 180 (n) a record that:

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- 181 (i) contains information about an individual;
- 182 (ii) is voluntarily provided by the individual; and
- 183 (iii) goes into an electronic database that:
  - 184 (A) is designated by and administered under the authority of the Chief Information Officer; and
  - 186 (B) acts as a repository of information about the individual that can be electronically retrieved and used  
to facilitate the individual's online interaction with a state agency;
- 189 (o) information provided to the Commissioner of Insurance under:
  - 190 (i) Subsection 31A-23a-115(3)(a);
  - 191 (ii) Subsection 31A-23a-302(4); or
  - 192 (iii) Subsection 31A-26-210(4);
- 193 (p) information obtained through a criminal background check under Title 11, Chapter 40, Criminal  
Background Checks by Political Subdivisions Operating Water Systems;
- 195 (q) information provided by an offender that is:
  - 196 (i) required by the registration requirements of Title 77, Chapter 41, Sex, Kidnap, and Child Abuse  
Offender Registry; and
  - 198 (ii) not required to be made available to the public under Subsection 77-41-110(4);
- 199 (r) a statement and any supporting documentation filed with the attorney general in accordance with  
Section 34-45-107, if the federal law or action supporting the filing involves homeland security;
- 202 (s) electronic toll collection customer account information received or collected under Section 72-6-118  
and customer information described in Section 17B-2a-815 received or collected by a public transit  
district, including contact and payment information and customer travel data;
- 206 (t) an email address provided by a military or overseas voter under Section 20A-16-501;
- 207 (u) a completed military-overseas ballot that is electronically transmitted under Title 20A, Chapter 16,  
Uniform Military and Overseas Voters Act;
- 209 (v) records received by or generated by or for the Political Subdivisions Ethics Review Commission  
established in Section 63A-15-201, except for:
  - 211 (i) the commission's summary data report that is required in Section 63A-15-202; and
  - 212 (ii) any other document that is classified as public in accordance with Title 63A, Chapter 15, Political  
Subdivisions Ethics Review Commission;
- 214 (w) a record described in Section 53G-9-604 that verifies that a parent was notified of an incident or  
threat;



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- 216 (x) a criminal background check or credit history report conducted in accordance with Section  
63A-3-201;
- 218 (y) a record described in Subsection 53-5a-104(7);
- 219 (z) on a record maintained by a county for the purpose of administering property taxes, an individual's:
- 221 (i) email address;
- 222 (ii) phone number; or
- 223 (iii) personal financial information related to a person's payment method;
- 224 (aa) a record submitted by a taxpayer to establish the taxpayer's eligibility for an exemption, deferral,  
abatement, or relief under:
- 226 (i) Title 59, Chapter 2, Part 11, Exemptions;
- 227 (ii) Title 59, Chapter 2, Part 12, Property Tax Relief;
- 228 (iii) Title 59, Chapter 2, Part 18, Tax Deferral and Tax Abatement; or
- 229 (iv) Title 59, Chapter 2, Part 19, Armed Forces Exemptions;
- 230 (bb) a record provided by the State Tax Commission in response to a request under Subsection  
59-1-403(4)(y)(iii);
- 232 (cc) a record of the Child Welfare Legislative Oversight Panel regarding an individual child welfare  
case, as described in Subsection 36-33-103(3);~~[-and]~~
- 234 (dd) a record relating to drug or alcohol testing of a state employee under Section 63A-17-1004;
- 236 (ee) a record relating to a request by a state elected official or state employee who has been threatened  
to the Division of Technology Services to remove personal identifying information from the open  
web under Section 63A-16-109;~~[-and]~~
- 239 (ff) a record including confidential information as that term is defined in Section  
~~[67-27-105.]~~ 67-27-106; and
- 241 (gg) a record or notice received or generated under Title 53, Chapter 29, Security Improvements Act,  
relating to:
- 243 (i) an application for certification described in Section 53-29-201; or
- 244 (ii) a {~~certified~~} security improvement, including a building permit application or building permit for a  
{~~certified improvement,~~} security improvement described in Section 53-29-301.
- 246 (2) The following records are private if properly classified by a governmental entity:
- 247 (a) records concerning a current or former employee of, or applicant for employment with a  
governmental entity, including performance evaluations and personal status information such

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as race, religion, or disabilities, but not including records that are public under Subsection 63G-2-301(2)(b) or 63G-2-301(3)(o) or private under Subsection (1)(b);

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

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

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

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

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

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

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

(f) any portion of a record in the custody of the Division of Aging and Adult Services, created in Section 26B-6-102, that may disclose, or lead to the discovery of, the identity of a person who made a report of alleged abuse, neglect, or exploitation of a vulnerable adult; and

(g) audio and video recordings created by a body-worn camera, as defined in Section 77-7a-103, that record sound or images inside a home or residence except for recordings that:

(i) depict the commission of an alleged crime;

(ii) record any encounter between a law enforcement officer and a person that results in death or bodily injury, or includes an instance when an officer fires a weapon;

(iii) record any encounter that is the subject of a complaint or a legal proceeding against a law enforcement officer or law enforcement agency;

(iv) contain an officer[-] involved critical incident as defined in Subsection 76-2-408(1)(f); or

(v) have been requested for reclassification as a public record by a subject or authorized agent of a subject featured in the recording.

(3)

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

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

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

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

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

### Section 5. 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 obligation.

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

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

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

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

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

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

(d) subject to Section 63G-7-302, as to any action brought under the authority of Utah Constitution, Article I, Section 22, for the recovery of compensation from the governmental entity when

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the governmental entity has taken or damaged private property for public uses without just compensation;

- (e) as to any claim for attorney fees or costs under Section 63G-2-209, 63G-2-405, or 63G-2-802;
- (f) for actual damages under Title 67, Chapter 21, Utah Protection of Public Employees Act;
- (g) as to any action brought to obtain relief from a land use regulation that imposes a substantial burden on the free exercise of religion under Title 63L, Chapter 5, Utah Religious Land Use Act;
- (h) except as provided in Subsection 63G-7-201(3), as to any injury caused by:
  - (i) a defective, unsafe, or dangerous condition of any highway, road, street, alley, crosswalk, sidewalk, culvert, tunnel, bridge, viaduct, or other structure located on them; or
  - (ii) any defective or dangerous condition of a public building, structure, dam, reservoir, or other public improvement;
- (i) subject to Subsections 63G-7-101(4) and 63G-7-201(4), as to any injury proximately caused by a negligent act or omission of an employee committed within the scope of employment;
- (j) notwithstanding Subsection 63G-7-101(4), as to a claim for an injury resulting from a sexual battery, as provided in Section 76-9-702.1, committed:
  - (i) against a student of a public elementary or secondary school, including a charter school; and
  - (ii) by an employee of a public elementary or secondary school or charter school who:
    - (A) at the time of the sexual battery, held a position of special trust, as defined in Section 76-5-404.1, with respect to the student;
    - (B) is criminally charged in connection with the sexual battery; and
    - (C) the public elementary or secondary school or charter school knew or in the exercise of reasonable care should have known, at the time of the employee's hiring, to be a sex offender, kidnap offender, or child abuse offender as defined in Section 77-41-102, required to register under Title 77, Chapter 41, Sex, Kidnap, and Child Abuse Offender Registry, whose status as a sex offender, kidnap offender, or child abuse offender would have been revealed in a background check under Section 53G-11-402;
- (k) as to any action brought under Section 78B-6-2303~~[-and]~~
- (l) as to any action brought to obtain relief under Title 53B, Chapter 27, Part 6, Student Legal Representation~~[-]~~ ; and
- (m) as to any action brought under Section 53-29-301.
- (3)

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(a) As used in this Subsection (3):

(i) "Code of conduct" means a code of conduct that:

(A) is not less stringent than a model code of conduct, created by the State Board of Education, establishing a professional standard of care for preventing the conduct described in Subsection (3) (a)(i)(D);

(B) is adopted by the applicable local education governing body;

(C) regulates behavior of a school employee toward a student; and

(D) includes a prohibition against any sexual conduct between an employee and a student and against the employee and student sharing any sexually explicit or lewd communication, image, or photograph.

(ii) "Local education agency" means:

(A) a school district;

(B) a charter school; or

(C) the Utah Schools for the Deaf and the Blind.

(iii) "Local education governing board" means:

(A) for a school district, the local school board;

(B) for a charter school, the charter school governing board; or

(C) for the Utah Schools for the Deaf and the Blind, the state board.

(iv) "Public school" means a public elementary or secondary school.

(v) "Sexual abuse" means the offense described in Subsection 76-5-404.1(2).

(vi) "Sexual battery" means the offense described in Section 76-9-702.1, considering the term "child" in that section to include an individual under ~~age 18~~ 18 years old.

(b) Notwithstanding Subsection 63G-7-101(4), immunity from suit is waived as to a claim against a local education agency for an injury resulting from a sexual battery or sexual abuse committed against a student of a public school by a paid employee of the public school who is criminally charged in connection with the sexual battery or sexual abuse, unless:

(i) at the time of the sexual battery or sexual abuse, the public school was subject to a code of conduct; and

(ii) before the sexual battery or sexual abuse occurred, the public school had:

(A) provided training on the code of conduct to the employee; and

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(B) required the employee to sign a statement acknowledging that the employee has read and understands the code of conduct.

(4)

(a) As used in this Subsection (4):

(i) "Higher education institution" means an institution included within the state system of higher education under Section 53B-1-102.

(ii) "Policy governing behavior" means a policy adopted by a higher education institution or the Utah Board of Higher Education that:

(A) establishes a professional standard of care for preventing the conduct described in Subsections (4)(a)(ii)(C) and (D);

(B) regulates behavior of a special trust employee toward a subordinate student;

(C) includes a prohibition against any sexual conduct between a special trust employee and a subordinate student; and

(D) includes a prohibition against a special trust employee and subordinate student sharing any sexually explicit or lewd communication, image, or photograph.

(iii) "Sexual battery" means the offense described in Section 76-9-702.1.

(iv) "Special trust employee" means an employee of a higher education institution who is in a position of special trust, as defined in Section 76-5-404.1, with a higher education student.

(v) "Subordinate student" means a student:

(A) of a higher education institution; and

(B) whose educational opportunities could be adversely impacted by a special trust employee.

(b) Notwithstanding Subsection 63G-7-101(4), immunity from suit is waived as to a claim for an injury resulting from a sexual battery committed against a subordinate student by a special trust employee, unless:

(i) the institution proves that the special trust employee's behavior that otherwise would constitute a sexual battery was:

(A) with a subordinate student who was at least 18 years old at the time of the behavior; and

(B) with the student's consent; or

(ii)

(A) at the time of the sexual battery, the higher education institution was subject to a policy governing behavior; and

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430 (B) before the sexual battery occurred, the higher education institution had taken steps to implement  
and enforce the policy governing behavior.

432 Section 6. **Effective date.**

Effective Date.

This bill takes effect on May 7, 2025.

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