

1 **Governmental Immunity Amendments**

2025 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Kay J. Christofferson

Senate Sponsor:

3 **LONG TITLE**

4 **General Description:**

5 This bill amends the Governmental Immunity Act of Utah (act).

6 **Highlighted Provisions:**

7 This bill:

8 ▶ provides that, for purposes of the act, an independent contractor of a governmental entity
9 is an employee of the governmental entity if the independent contractor:

- 10 • is a law firm or attorney hired by the governmental entity; and
11 • performs legal work related to a governmental function on behalf of the governmental

12 entity; and

13 ▶ makes technical changes.

14 **Money Appropriated in this Bill:**

15 None

16 **Other Special Clauses:**

17 None

18 **Utah Code Sections Affected:**

19 AMENDS:

20 **63G-7-102**, as last amended by Laws of Utah 2023, Chapter 16

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

23 Section 1. Section **63G-7-102** is amended to read:

24 **63G-7-102 . Definitions.**

25 As used in this chapter:

26 (1) "Arises out of or in connection with, or results from," when used to describe the
27 relationship between conduct or a condition and an injury, means that:

- 28 (a) there is some causal relationship between the conduct or condition and the injury;
29 (b) the causal relationship is more than any causal connection but less than proximate
30 cause; and

31 (c) the causal relationship is sufficient to conclude that the injury originates with, flows
32 from, or is incident to the conduct or condition.

33 (2) "Claim" means any asserted demand for or cause of action for money or damages,
34 whether arising under the common law, under state constitutional provisions, or under
35 state statutes, against a governmental entity or against an employee in the employee's
36 personal capacity.

37 (3)(a) "Employee" includes:

38 (i)(A) a governmental entity's officers, employees, servants, trustees, or
39 commissioners; or

40 (B) an independent contractor of a governmental entity, if the independent
41 contractor is a law firm or attorney hired by the governmental entity to perform
42 legal work related to a governmental function on behalf of the governmental
43 entity;

44 (ii) a member of a governing body;

45 (iii) a member of a government entity board;

46 (iv) a member of a government entity commission;

47 (v) members of an advisory body, officers, and employees of a Children's Justice
48 Center created in accordance with Section 67-5b-102;

49 (vi) a student holding a license issued by the State Board of Education;

50 (vii) an educational aide;

51 (viii) a student engaged in an internship under Section 53B-16-402 or 53G-7-902;

52 (ix) a volunteer, as defined in Section 67-20-2; [~~and~~] or

53 (x) a tutor.

54 (b) "Employee" includes all of the positions identified in Subsection (3)(a), whether or
55 not the individual holding that position receives compensation.

56 (c) [~~"Employee"~~] Except as provided in Subsection (3)(a)(i)(B), "employee" does not
57 include an independent contractor.

58 (4) "Governmental entity" means:

59 (a) the state and its political subdivisions; and

60 (b) a law enforcement agency, as defined in Section 53-1-102, that employs one or more
61 law enforcement officers, as defined in Section 53-13-103.

62 (5)(a) "Governmental function" means each activity, undertaking, or operation of a
63 governmental entity.

64 (b) "Governmental function" includes each activity, undertaking, or operation performed

- 65 by a department, agency, employee, agent, or officer of a governmental entity.
- 66 (c) "Governmental function" includes a governmental entity's failure to act.
- 67 (6) "Injury" means death, injury to a person, damage to or loss of property, or any other
68 injury that a person may suffer to the person or estate, that would be actionable if
69 inflicted by a private person or the private person's agent.
- 70 (7) "Personal injury" means an injury of any kind other than property damage.
- 71 (8) "Political subdivision" means any county, city, town, school district, community
72 reinvestment agency, special improvement or taxing district, special district, special
73 service district, an entity created by an interlocal agreement adopted under Title 11,
74 Chapter 13, Interlocal Cooperation Act, or other governmental subdivision or public
75 corporation.
- 76 (9) "Property damage" means injury to, or loss of, any right, title, estate, or interest in real
77 or personal property.
- 78 (10) "State" means the state of Utah, and includes each office, department, division, agency,
79 authority, commission, board, institution, hospital, college, university, Children's Justice
80 Center, or other instrumentality of the state.
- 81 (11) "Willful misconduct" means the intentional doing of a wrongful act, or the wrongful
82 failure to act, without just cause or excuse, where the actor is aware that the actor's
83 conduct will probably result in injury.

84 Section 2. **Effective Date.**

85 This bill takes effect on May 7, 2025.