

**Kay J. Christofferson** proposes the following substitute bill:

**Governmental Immunity Amendments**

2025 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Kay J. Christofferson**

Senate Sponsor:

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**LONG TITLE**

**General Description:**

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

**Highlighted Provisions:**

This bill:

- defines terms;
- provides that, under the act, an independent contractor of a municipality is entitled to the same immunity as an employee of a municipality if the independent contractor:
  - is a law firm or attorney hired by the municipality; and
  - performs legal work related to a governmental function on behalf of the municipality;
- clarifies that an independent contract described above is not entitled to any employment-related benefits; and
- makes technical changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

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

ENACTS:

**63G-7-102.5**, Utah Code Annotated 1953

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

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

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

As used in this chapter:

- (1) "Arises out of or in connection with, or results from," when used to describe the relationship between conduct or a condition and an injury, means that:
  - (a) there is some causal relationship between the conduct or condition and the injury;
  - (b) the causal relationship is more than any causal connection but less than proximate cause; and
  - (c) the causal relationship is sufficient to conclude that the injury originates with, flows from, or is incident to the conduct or condition.
- (2) "Claim" means any asserted demand for or cause of action for money or damages, whether arising under the common law, under state constitutional provisions, or under state statutes, against a governmental entity or against an employee in the employee's personal capacity.
- (3)(a) "Employee" includes:
  - (i)~~(A)~~ a governmental entity's officers, employees, servants, trustees, or commissioners; or
  - ~~(B)~~ an independent contractor of a municipality, if the independent contractor is a law firm or attorney hired by the municipality to perform legal work related to a governmental function on behalf of the municipality;
  - (ii) a member of a governing body;
  - (iii) a member of a government entity board;
  - (iv) a member of a government entity commission;
  - (v) members of an advisory body, officers, and employees of a Children's Justice Center created in accordance with Section 67-5b-102;
  - (vi) a student holding a license issued by the State Board of Education;
  - (vii) an educational aide;
  - (viii) a student engaged in an internship under Section 53B-16-402 or 53G-7-902;
  - (ix) a volunteer, as defined in Section 67-20-2; ~~[and]~~ or
  - (x) a tutor.
- (b) "Employee" includes all of the positions identified in Subsection (3)(a), whether or not the individual holding that position receives compensation.
- (c) ~~["Employee"]~~ Except as provided in Subsection (3)(a)(i)(B), "employee" does not include an independent contractor.
- (4) "Governmental entity" means:
  - (a) the state and its political subdivisions; and

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

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

(b) "Governmental function" includes each activity, undertaking, or operation performed by a department, agency, employee, agent, or officer of a governmental entity.

(c) "Governmental function" includes a governmental entity's failure to act.

(6) "Injury" means death, injury to a person, damage to or loss of property, or any other injury that a person may suffer to the person or estate, that would be actionable if inflicted by a private person or the private person's agent.

(7) "Personal injury" means an injury of any kind other than property damage.

(8) "Political subdivision" means any county, city, town, school district, community reinvestment agency, special improvement or taxing district, special district, special service district, an entity created by an interlocal agreement adopted under Title 11, Chapter 13, Interlocal Cooperation Act, or other governmental subdivision or public corporation.

(9) "Property damage" means injury to, or loss of, any right, title, estate, or interest in real or personal property.

(10) "State" means the state of Utah, and includes each office, department, division, agency, authority, commission, board, institution, hospital, college, university, Children's Justice Center, or other instrumentality of the state.

(11) "Willful misconduct" means the intentional doing of a wrongful act, or the wrongful failure to act, without just cause or excuse, where the actor is aware that the actor's conduct will probably result in injury.

Section 2. Section **63G-7-102.5** is enacted to read:

**63G-7-102.5 . Independent contractors.**

The definition of an employee in Section 63G-7-102 as including an independent contractor described in Subsection 63G-7-102(3)(a)(i)(B) does not have the effect of making the independent contractor entitled to any seniority, status, benefits, insurance, salary, minimum wage, overtime pay, workers' compensation, or tax-related withholding from the municipality that hires the independent contractor.

Section 3. **Effective Date.**

This bill takes effect on May 7, 2025.