

Todd Weiler proposes the following substitute bill:

Governmental Immunity Act Amendments

2025 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Todd Weiler

House Sponsor: Anthony E. Loubet

LONG TITLE

General Description:

This bill amends the Governmental Immunity Act.

Highlighted Provisions:

This bill:

▸ requires a governmental entity to file a statement with Division of Corporations and

Commercial Code containing:

- any doing-business-as name the governmental entity utilizes;
- the office or agent designated to receive service of a summons and complaint; and
- the physical address to which service of a summons and complaint is to be delivered

by hand or transmitted by mail; and

▸ prohibits a governmental entity that fails to file or update the statement described above from challenging the sufficiency of service of the summons and complaint.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63G-7-401, as last amended by Laws of Utah 2023, Chapter 16

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

Section 1. Section **63G-7-401** is amended to read:

63G-7-401 . When a claim arises -- Notice of claim requirements --

Governmental entity statement -- Limits on challenging validity or timeliness of notice of claim.

(1)(a) Except as provided in Subsection (1)(b), a claim arises when the statute of

- 30 limitations that would apply if the claim were against a private person begins to run.
- 31 (b) The statute of limitations does not begin to run until a claimant knew, or with the
32 exercise of reasonable diligence should have known:
- 33 (i) that the claimant had a claim against the governmental entity or the governmental
34 entity's employee; and
- 35 (ii) the identity of the governmental entity or the name of the employee.
- 36 (c) The burden to prove the exercise of reasonable diligence is upon the claimant.
- 37 (2) Any person having a claim against a governmental entity, or against the governmental
38 entity's employee for an act or omission occurring during the performance of the
39 employee's duties, within the scope of employment, or under color of authority shall file
40 a written notice of claim with the entity before maintaining an action, regardless of
41 whether or not the function giving rise to the claim is characterized as governmental.
- 42 (3)(a) The notice of claim shall set forth:
- 43 (i) a brief statement of the facts;
- 44 (ii) the nature of the claim asserted;
- 45 (iii) the damages incurred by the claimant so far as the damages are known; and
- 46 (iv) if the claim is being pursued against a governmental employee individually as
47 provided in Subsection 63G-7-202(3)(c), the name of the employee.
- 48 (b) The notice of claim shall be:
- 49 (i) signed by the person making the claim or that person's agent, attorney, parent, or
50 legal guardian, using any form of signature recognized by law as binding; and
- 51 (ii) delivered, transmitted, or sent, as provided in Subsection (3)(c), to the office of:
- 52 (A) the city or town clerk, when the claim is against an incorporated city or town;
- 53 (B) the county clerk, when the claim is against a county;
- 54 (C) the superintendent or business administrator of the board, when the claim is
55 against a school district or board of education;
- 56 (D) the presiding officer or secretary or clerk of the board, when the claim is
57 against a special district or special service district;
- 58 (E) the attorney general, when the claim is against the state;
- 59 (F) a member of the governing board, the executive director, or executive
60 secretary, when the claim is against any other public board, commission, or
61 body; or
- 62 (G) the agent authorized by a governmental entity to receive the notice of claim by
63 the governmental entity under Subsection (5)(e).

- 64 (c) A notice of claim shall be:
- 65 (i) delivered by hand to the physical address provided under Subsection [~~(5)(a)(iii)(A)~~]
- 66 (5)(a)(iv)(A);
- 67 (ii) transmitted by mail to the physical address provided under Subsection [
- 68 ~~(5)(a)(iii)(A)~~ (5)(a)(iv)(A), according to the requirements of Section 68-3-8.5; or
- 69 (iii) sent by electronic mail to the email address provided under Subsection [
- 70 ~~(5)(a)(iii)(B)~~ (5)(a)(iv)(B).
- 71 (d) A claimant who submits a notice of claim by electronic mail under Subsection
- 72 (3)(c)(iii) shall contemporaneously send a copy of the notice of claim by electronic
- 73 mail to the city attorney, district attorney, county attorney, attorney general, or other
- 74 attorney, as the case may be, who represents the governmental entity.
- 75 (4)(a) If an injury that may reasonably be expected to result in a claim against a
- 76 governmental entity is sustained by a claimant who is under the age of majority or
- 77 mentally incompetent, that governmental entity may file a request with the court for
- 78 the appointment of a guardian ad litem for the potential claimant.
- 79 (b) If a guardian ad litem is appointed, the time for filing a claim under Section
- 80 63G-7-402 begins when the order appointing the guardian ad litem is issued.
- 81 (5)(a) A governmental entity subject to suit under this chapter shall file a statement with
- 82 the Division of Corporations and Commercial Code within the Department of
- 83 Commerce containing:
- 84 (i) the name and address of the governmental entity;
- 85 (ii) any doing-business-as name the governmental entity utilizes;
- 86 [~~(ii)~~] (iii) the office or agent designated to receive a notice of claim and service of a
- 87 summons and complaint; and
- 88 [~~(iii)~~] (iv)(A) the physical address to which a notice of claim is to be delivered by
- 89 hand or transmitted by mail, for a notice of claim that a claimant chooses to
- 90 hand deliver or transmit by mail; [and]
- 91 (B) the email address to which a notice of claim is to be sent, for a notice of claim
- 92 that a claimant chooses to send by email, and the email address of the city
- 93 attorney, district attorney, county attorney, attorney general, or other attorney,
- 94 as the case may be, who represents the governmental entity[-]; and
- 95 (C) the physical address to which service of a summons and complaint is to be
- 96 delivered by hand or transmitted by mail.
- 97 (b) A governmental entity shall update the governmental entity's statement as necessary

98 to ensure that the information is accurate.

99 (c) The Division of Corporations and Commercial Code shall develop a form for
100 governmental entities to complete that provides the information required by
101 Subsection (5)(a).

102 (d)(i) A newly incorporated municipality shall file the statement required by
103 Subsection (5)(a) promptly after the lieutenant governor issues a certificate of
104 incorporation under Section 67-1a-6.5.

105 (ii) A newly incorporated special district shall file the statement required by
106 Subsection (5)(a) at the time that the written notice is filed with the lieutenant
107 governor under Section 17B-1-215.

108 (e) A governmental entity may, in the governmental entity's statement, identify an agent
109 authorized to accept notices of claim on behalf of the governmental entity.

110 (6) The Division of Corporations and Commercial Code shall:

111 (a) maintain an index of the statements required by this section arranged both
112 alphabetically by entity and by county of operation; and

113 (b) make the indices available to the public both electronically and via hard copy.

114 (7) A governmental entity may not challenge the validity of a notice of claim [~~on the~~
115 ~~grounds that it]~~ or the sufficiency of service of a summons and complaint on the grounds
116 that the notice of claim or the summons and complaint was not directed and delivered to
117 the proper office or agent if the error is caused by the governmental entity's failure to file
118 or update the statement required by Subsection (5).

119 (8) A governmental entity may not challenge the timeliness, under Section 63G-7-402, of a
120 notice of claim if:

121 (a)(i) the claimant files a notice of claim with the governmental entity:

122 (A) in accordance with the requirements of this section; and

123 (B) within 30 days after the expiration of the time for filing a notice of claim
124 under Section 63G-7-402;

125 (ii) the claimant demonstrates that the claimant previously filed a notice of claim:

126 (A) in accordance with the requirements of this section;

127 (B) with an incorrect governmental entity;

128 (C) in the good faith belief that the claimant was filing the notice of claim with the
129 correct governmental entity;

130 (D) within the time for filing a notice of claim under Section 63G-7-402; and

131 (E) no earlier than 30 days before the expiration of the time for filing a notice of

- 132 claim under Section 63G-7-402; and
- 133 (iii) the claimant submits with the notice of claim:
- 134 (A) a copy of the previous notice of claim that was filed with a governmental
- 135 entity other than the correct governmental entity; and
- 136 (B) proof of the date the previous notice of claim was filed; or
- 137 (b)(i) the claimant delivers by hand, transmits by mail, or sends by email a notice of
- 138 claim:
- 139 (A) to an elected official or executive officer of the correct governmental entity
- 140 but not to the correct office under Subsection (3)(b)(ii); and
- 141 (B) that otherwise meets the requirements of Subsection (3); and
- 142 (ii)(A) the claimant contemporaneously sends a hard copy or electronic copy of
- 143 the notice of claim to the office of the city attorney, district attorney, county
- 144 attorney, attorney general, or other attorney, as the case may be, representing
- 145 the correct governmental entity; or
- 146 (B) the governmental entity does not, within 60 days after the claimant delivers
- 147 the notice of claim under Subsection (8)(b)(i), provide written notification to
- 148 the claimant of the delivery defect and of the identity of the correct office to
- 149 which the claimant is required to deliver the notice of claim.

150 **Section 2. Effective Date.**

151 This bill takes effect on May 7, 2025.