

SB0316 compared with SB0316S02

~~where the quashing or dismissal occurs more than 45 days after the day on which the charges are bound over for trial as a result of a preliminary hearing;~~

20 ▸ ~~{ makes the modification described in the preceding paragraph only in relation to charges brought by filing an information; and }~~

22 ▸ ~~{ makes technical changes. }~~

15 Money Appropriated in this Bill:

16 None

17 Other Special Clauses:

18 None

19 Utah Code Sections Affected:

20 REPEALS AND REENACTS:

21 **52-6-201 , as last amended by Laws of Utah 2023, Chapter 444**

AMENDS:

29 ~~{52-6-201 , as last amended by Laws of Utah 2023, Chapter 444}~~

22

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

24 Section 1. Section **52-6-201** is repealed and reenacted to read:

25 **52-6-201. Indictment or information against officer or employee -- Reimbursement of attorney fees and court costs incurred in defense.**

27 (1) Except as provided in Subsection (2), a court in which a criminal charge is, by indictment or information, brought against an officer or employee for violation of a state law may order a public entity described in Subsection (3) to pay the reasonable attorney fees and court costs necessarily incurred by the officer or employee in defense of the charge, if:

32 (a) the charge is brought in connection with, or arising out of, an alleged act or omission of the officer or employee:

34 (i) during the performance of the officer's or employee's duties;

35 (ii) within the scope of the officer's or employee's employment; or

36 (iii) under color of the officer's or employee's authority;

37 (b) the charge, or the entire indictment or information, is quashed, dismissed, or results in a judgment of acquittal; and

39 (c) the court finds that the public entity acted in bad faith in relation to the charge.

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- 40 (2) An officer or employee is not entitled to recover attorney fees or court costs under Subsection (1) if
the officer or employee is found guilty of another violation of law for substantially the same act or
omission that formed the basis for the charge described in Subsection (1).
- 44 (3) The court may order the following public entities to pay the reasonable attorney fees and court costs
described in Subsection (1) if the court finds, under Subsection (1)(c), that the public entity acted in
bad faith in relation to the charge:
- 47 (a) the public entity for which the officer or employee, in relation to the alleged violation:
- 49 (i) was engaged in performing a duty described in Subsection (1)(a)(i);
- 50 (ii) acted, or failed to act, within the scope of the officer's or employee's employment; or
- 52 (iii) acted, or failed to act, under color of the officer's or employee's authority; or
- 53 (b) the municipal prosecutor's office, the county attorney's office, the district attorney's office, or the
attorney general's office that pursued the charges.
- 55 (4) If the court finds that the entity described in Subsection (3)(a) and the entity described in Subsection
(3)(b) both acted in bad faith, the court may order each public entity to pay half of the reasonable
court costs and attorney fees.

32 ~~{Section 1. Section 52-6-201 is amended to read: }~~

33 **52-6-201. Indictment or information against officer or employee -- Reimbursement of** **attorney fees and court costs incurred in defense.**

- 35 [(1) Except as provided in Subsection (3), and subject to Subsection (2), if a state grand jury indicts,
or if an information is filed against, an officer or employee, in connection with or arising out of
any act or omission of that officer or employee during the performance of the officer or employee's
duties, within the scope of the officer or employee's employment, or under color of the officer or
employee's authority, and that indictment or information is quashed or dismissed or results in a
judgment of acquittal, unless the indictment or information is quashed or dismissed upon application
or motion of the prosecuting attorney, that officer or employee is entitled to recover reasonable
attorney fees and court costs necessarily incurred in the defense of that indictment or information
from the public entity, unless the officer or employee is found guilty of substantially the same
misconduct that formed the basis for the indictment or information.]
- 47 [(2) Except as provided in Subsection (3), if the officer or employee is acquitted of some of the charges
or counts, or portions of the indictment or information are quashed or dismissed, that officer or
employee is entitled to recover from the public entity reasonable attorney fees and court costs

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necessarily incurred in the defense of those charges, counts, or portions of the indictment or information that were quashed, dismissed, or resulted in a judgment of acquittal, unless the alleged misconduct covered by those charges, counts, or portions of the indictment or information that were quashed, dismissed, or resulted in a judgment of acquittal is substantially the same alleged misconduct that formed the basis for charges, counts, or portions of the indictment or information of which the officer or employee was found guilty.]

- 57 (1) Except as provided in Subsection (2), an officer or employee who is indicted, or against whom an
information is filed, for violation of a state law is entitled to recover from the public entity described
in Subsection (3) reasonable attorney fees and court costs necessarily incurred in defense of a charge
in the indictment or information, if:
- 61 (a) the charge is brought in connection with, or arising out of, an alleged act or omission of the officer
or employee:
- 63 (i) during the performance of the officer's or employee's duties;
- 64 (ii) within the scope of the officer's or employee's employment; or
- 65 (iii) under color of the officer's or employee's authority; and
- 66 (b) the charge, or the entire indictment or information, is quashed, dismissed, or results in a judgment of
acquittal.
- 68 (2) An officer or employee is not entitled to recover attorney fees or court costs under Subsection (1):
- 70 (a) if the officer or employee is found guilty of another violation of law for substantially the same act or
omission that formed the basis for the charge described in Subsection (1);
- 73 (b) in relation to a charge in an indictment, if the charge, or the entire indictment, is quashed or
dismissed upon application or motion of the prosecuting attorney; or
- 75 (c) in relation to a charge in an information, if the charge, or the entire information, is, no later than 45
days after the day on which the charge is bound over for trial as a result of a preliminary hearing,
quashed or dismissed upon application or motion of the prosecuting attorney.
- 79 (3) ~~[An]~~ The following public entity shall pay the reasonable attorney fees and court costs that an
officer or employee is entitled to recover~~[-reasonable attorney fees and court costs]~~ under Subsection
(1)~~[or (2)]~~ in connection with the officer's or employee's position within a political subdivision, is
entitled to recover all fees and costs from the state rather than the political subdivision, if] :
- 84 (a) except as provided in Subsection (3)(b), the public entity for which the officer or employee, in
relation to the alleged violation:

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- 86 (i) was engaged in performing a duty described in Subsection (1)(a)(i);
87 (ii) acted, or failed to act, within the scope of the officer's or employee's employment; or
89 (iii) acted, or failed to act, under color of the officer's or employee's authority; or
90 (b) the state, if:
91 (i) the public entity described in Subsection (3)(a) is a political subdivision of the state;
93 (ii)
[~~(a)~~] after the local attorney declines to pursue an indictment, or file an information, against the officer
or employee, the attorney general obtains an indictment, or files an information, against the officer
or employee;
96 [~~(b)~~] (iii) the alleged misconduct forming the basis of the indictment or information against the officer
or employee is substantially similar to the facts or investigation results upon which the local
attorney relied in deciding not to pursue an indictment, or file an information, against the officer or
employee; and
100 [~~(c)~~] (iv) the attorney general pursued the indictment, or filed the information, against the officer or
employee, for a reason other than that:
102 [~~(i)~~] (A) the local attorney requested the attorney general's involvement in the prosecution of the officer
or employee due to a conflict of interest; or
104 [~~(ii)~~] (B) the local attorney lacked the resources or subject matter expertise to initiate or proceed with
the prosecution of the officer or employee.
106 (4) An officer or employee who [~~recovers~~] is entitled to recover reasonable attorney fees and court
costs under [this section shall also be] Subsection (1) from a public entity described in Subsection
(3) is also entitled to recover from that public entity reasonable attorney fees and costs necessarily
incurred by the officer or employee in recovering the attorney fees and court costs [allowed under
this section] to which the officer or employee is entitled under Subsection (1), including attorney
fees and court costs incurred on appeal.
112 [~~(5) Notwithstanding any other provision of this section, an officer or employee may not recover for~~
~~the costs incurred in defense of any charge, count, or portion of the indictment or information that is~~
~~quashed or dismissed upon application or motion of the prosecuting attorney.]~~

58 Section 2. **Effective date.**

Effective Date.

This bill takes effect on May 6, 2026.

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