

Matthew H. Gwynn proposes the following substitute bill:

Governmental Immunity Amendments

2026 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Matthew H. Gwynn

Senate Sponsor: Brady Brammer

LONG TITLE

General Description:

This bill amends the Governmental Immunity Act of Utah.

Highlighted Provisions:

This bill:

- defines terms;
- provides that a governmental entity and the governmental entity's employees are immune from suit for engaging in the following activities:
 - responding to a disaster or potential disaster; or
 - if the employee is a first responder, providing emergency medical services;
- clarifies that immunity from suit for providing emergency medical services is not limited to providing medical services resulting from emergencies of a certain type; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

This bill provides retrospective operation.

Utah Code Sections Affected:

AMENDS:

63G-7-102, as last amended by Laws of Utah 2025, First Special Session, Chapter 9

63G-7-201, as last amended by Laws of Utah 2025, First Special Session, Chapter 15

63H-1-209, as enacted by Laws of Utah 2023, Chapter 12

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) "Emergency medical services" means the same as that term is defined in Section 53-2d-101.
- ~~[(3)]~~ (4)(a) "Employee" includes:
 - (i) a governmental entity's officers, employees, servants, trustees, or commissioners;
 - (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 53H-3-1002 or 53G-7-902;
 - (ix) a volunteer, as defined in Section 67-20-2; and
 - (x) a tutor.
- (b) "Employee" includes all of the positions identified in Subsection ~~[(3)(a)]~~ (4)(a), whether or not the individual holding that position receives compensation.
- (c) "Employee" does not include an independent contractor.
- (5) "First responder" means the same as that term is defined in Section 34A-2-102.
- ~~[(4)]~~ (6) "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)]~~ (7)(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)]~~ (8) "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)]~~ (9) "Personal injury" means an injury of any kind other than property damage.

~~[(8)]~~ (10) "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)]~~ (11) "Property damage" means injury to, or loss of, any right, title, estate, or interest in real or personal property.

~~[(10)]~~ (12) "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)]~~ (13) "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-7-201** is amended to read:

63G-7-201 . Immunity of governmental entities and employees from suit.

(1) Except as otherwise provided in this chapter, each governmental entity and each employee of a governmental entity are immune from suit for any injury that results from the exercise of a governmental function.

(2) Notwithstanding the waiver of immunity provisions of Section 63G-7-301, a governmental entity, its officers, and its employees are immune from suit:

(a) as provided in Section 78B-4-517; and

(b) for any injury or damage resulting from the implementation of or the failure to implement measures to:

(i) control the causes of epidemic and communicable diseases and other conditions

- 97 significantly affecting the public health or necessary to protect the public health as
98 set out in Title 26A, Chapter 1, Local Health Departments;
- 99 (ii) investigate and control suspected bioterrorism and disease as set out in Sections
100 26B-7-316 through 26B-7-324;
- 101 (iii) respond to a national, state, or local emergency, a public health emergency as
102 defined in Section 26B-7-301, or a declaration by the President of the United
103 States or other federal official requesting public health related activities, including
104 the use, provision, operation, and management of:
- 105 (A) an emergency shelter;
- 106 (B) housing;
- 107 (C) a staging place; or
- 108 (D) a medical facility; and
- 109 (iv) adopt methods or measures, in accordance with Section 26B-1-202, for health
110 care providers, public health entities, and health care insurers to coordinate among
111 themselves to verify the identity of the individuals they serve.
- 112 (3)(a) A governmental entity, its officers, and its employees are immune from suit, and
113 immunity is not waived, for any injury if the injury arises out of or in connection
114 with, or results from:
- 115 (i) a latent dangerous or latent defective condition of:
- 116 (A) any highway, road, street, alley, crosswalk, sidewalk, culvert, tunnel, bridge,
117 or viaduct; or
- 118 (B) another structure located on any of the items listed in this Subsection (3)(a)(i);
119 or
- 120 (ii) a latent dangerous or latent defective condition of any public building, structure,
121 dam, reservoir, or other public improvement.
- 122 (b)(i) As used in this Subsection (3)(b):
- 123 (A) "Contaminated land" means the same as that term is defined in Section
124 11-58-102.
- 125 (B) "Contamination" means the condition of land that results from the placement,
126 disposal, or release of hazardous matter on, in, or under the land, including any
127 seeping or escaping of the hazardous matter from the land.
- 128 (C) "Damage" means any property damage, personal injury, or other injury or any
129 loss of any kind, however denominated.
- 130 (D) "Environmentally compliant" means, as applicable, obtaining a certificate of

completion from the Department of Environmental Quality under Section 19-8-111 following participation in a voluntary cleanup under Title 19, Chapter 8, Voluntary Cleanup Program, obtaining an administrative letter from the Department of Environmental Quality for a discrete phase of a voluntary cleanup that is conducted under a remedial action plan as defined in Section 11-58-605, or complying with the terms of an environmental covenant, as defined in Section 57-25-102, signed by an agency, as defined in Section 57-25-102, and duly recorded in the office of the recorder of the county in which the contaminated land is located.

(E) "Government owner" means a governmental entity, including an independent entity, as defined in Section 63E-1-102, that acquires an ownership interest in land that was contaminated land before the governmental entity or independent entity acquired an ownership interest in the land.

(F) "Hazardous matter" means hazardous materials, as defined in Section 19-6-302, hazardous substances, as defined in Section 19-6-302, or landfill material, as defined in Section 11-58-102.

(G) "Remediation" means the same as that term is defined in Section 11-58-102.

(ii)(A) A government owner and the government owner's officers and employees are immune from suit, and immunity is not waived, for any claim for damage that arises out of or in connection with, or results from, contamination of contaminated land.

(B) A government owner's ownership of contaminated land may not be the basis of a claim against the government owner for damage that arises out of or in connection with, or results from, contamination of contaminated land.

(iii) Subsection (3)(b)(ii) does not limit or affect:

(A) the liability of a person that placed, disposed of, or released hazardous matter on, in, or under the land; or

(B) a worker compensation claim of an employee of an entity that conducts work on or related to contaminated land.

(iv) Immunity under Subsection (3)(b)(ii)(A) is not affected by a government owner's remediation of contaminated land if the government owner is environmentally compliant.

(4) A governmental entity, its officers, and its employees are immune from suit, and immunity is not waived, for any injury proximately caused by a negligent act or

omission of an employee committed within the scope of employment, if the injury arises out of or in connection with, or results from:

- (a) the exercise or performance, or the failure to exercise or perform, a discretionary function, whether or not the discretion is abused;
- (b) except as provided in Subsections 63G-7-301(2)(j), (3), and (4), assault, battery, false imprisonment, false arrest, malicious prosecution, intentional trespass, abuse of process, libel, slander, deceit, interference with contract rights, infliction of mental anguish, or violation of civil rights;
- (c) the issuance, denial, suspension, or revocation of, or the failure or refusal to issue, deny, suspend, or revoke, any permit, license, certificate, approval, order, or similar authorization;
- (d) a failure to make an inspection or making an inadequate or negligent inspection;
- (e) the institution or prosecution of any judicial or administrative proceeding, even if malicious or without probable cause;
- (f) a misrepresentation by an employee whether or not the misrepresentation is negligent or intentional;
- (g) a riot, unlawful assembly, public demonstration, mob violence, or civil disturbance;
- (h) the collection or assessment of taxes;
- (i) an activity of the Utah National Guard;
- (j) the incarceration of a person in a state prison, county or city jail, or other place of legal confinement;
- (k) a natural condition on publicly owned or controlled land;
- (l) a condition existing in connection with an abandoned mine or mining operation;
- (m) an activity authorized by the School and Institutional Trust Lands Administration or the Division of Forestry, Fire, and State Lands;
- (n) the operation or existence of a trail that is along a water facility, as defined in Section 73-1-8, stream, or river, regardless of ownership or operation of the water facility, stream, or river, if:
 - (i) the trail is designated under a general plan adopted by a municipality under Section 10-20-401 or by a county under Section 17-79-401;
 - (ii) the trail right-of-way or the right-of-way where the trail is located is open to public use as evidenced by a written agreement between:
 - (A) the owner or operator of the trail right-of-way or of the right-of-way where the trail is located; and

- (B) the municipality or county where the trail is located; and
- (iii) the written agreement:
- (A) contains a plan for operation and maintenance of the trail; and
- (B) provides that an owner or operator of the trail right-of-way or of the right-of-way where the trail is located has, at a minimum, the same level of immunity from suit as the governmental entity in connection with or resulting from the use of the trail;
- (o) research or implementation of cloud management or seeding for the clearing of fog;
- (p) the management of flood waters, earthquakes, or natural disasters;
- (q) the construction, repair, or operation of flood or storm systems;
- (r) the operation of an emergency vehicle, while being driven in accordance with the requirements of Section 41-6a-212;
- (s) the activity of:
- ~~[(i) providing emergency medical assistance;]~~
- ~~[(ii)] (i) fighting fire;~~
- ~~[(iii)] (ii) regulating, mitigating, or handling hazardous materials or hazardous wastes;~~
- ~~[(iv)] (iii) an emergency evacuation;~~
- ~~[(v)] (iv) transporting or removing an injured person to a place where emergency medical assistance can be rendered or where the person can be transported by a licensed ambulance service; or~~
- ~~[(vi)] (v) intervening during a dam emergency;~~
- (t) responding to a disaster or potential disaster;
- (u) a first responder providing emergency medical services;
- ~~[(t)] (v) the exercise or performance, or the failure to exercise or perform, any function in accordance with Title 73, Chapter 10, Board of Water Resources - Division of Water Resources;~~
- ~~[(t)] (w) an unauthorized access to government records, data, or electronic information systems by any person or entity;~~
- ~~[(v)] (x) an activity of wildlife, as defined in Section 23A-1-101, that arises during the use of a public or private road;~~
- ~~[(w)] (y) a communication between employees of one or more law enforcement agencies related to the employment, disciplinary history, character, professional competence, or physical or mental health of a peace officer, or a former, current, or prospective employee of a law enforcement agency, including any communication made in~~

- 233 accordance with Section 53-14-103; or
- 234 [(*)] (z) providing or failing to provide information under Section 53-27-102 or
- 235 Subsection 41-1a-213(6), (7), or (8), 53-3-207(4), or 53-3-805(5).
- 236 (5) The following are immune from suit, and immunity is not waived for an action or
- 237 failure to act within the scope of duties or employment, if the injury arises out of, in
- 238 connection with, or results from the implementation of Section 17E-7-401 to the extent
- 239 it addresses evaluating and classifying high risk wildland urban interface property,
- 240 Section 31A-22-1310, or Title 65A, Chapter 8, Part 4, Wildland Urban Interface
- 241 Property:
- 242 (a) the Division of Forestry, Fire, and State Lands;
- 243 (b) an officer, employee, or consultant of the Division of Forestry, Fire, and State Lands;
- 244 (c) a county;
- 245 (d) a wildland urban interface coordinator, as defined in Section 65A-8-401;
- 246 (e) the Insurance Department; or
- 247 (f) an officer, employee, or consultant of the Insurance Department.

248 Section 3. Section **63H-1-209** is amended to read:

249 **63H-1-209 . Immunity from contaminated property claims.**

- 250 (1) As used in this section:
- 251 (a) "Agency" means the same as that term is defined in Section 57-25-102.
- 252 (b) "Claim" means an action, suit, claim, demand, allegation, or cause of action, whether
- 253 grounded in law or equity, made in a court of competent jurisdiction, mediation,
- 254 arbitration, before a regulatory body, or in another dispute resolution forum.
- 255 (c) "Contaminated property" means real property in a project area that is:
- 256 (i) affected by historical contamination; and
- 257 (ii) owned by a governmental entity.
- 258 (d) "Environmental covenant" means the same as that term is defined in Section
- 259 57-25-102.
- 260 (e) "Governmental entity" means the same as that term is defined in Section 63G-7-102.
- 261 (f) "Hazardous materials" means the same as that term is defined in Section 19-6-302.
- 262 (g) "Hazardous substances" means the same as that term is defined in Section 19-6-302.
- 263 (h) "Historical contamination" means the placement, disposal, or release of hazardous
- 264 materials or hazardous substances onto, into, under, or in a way that affects real
- 265 property, and which placement, disposal, or release of hazardous materials or
- 266 hazardous substances occurred prior to ownership of the real property by a

governmental entity.

(i) "Ownership," "own," "owned," "owns," or "acquires" means to have an ownership or other established interest in real property, including holding title to, leasing, operating on, or maintaining real property.

(2) In addition to the liability protection provided by Subsections 63G-7-201(4)(l) and [63G-7-201(4)(s)(iii)] 63G-7-201(4)(s)(ii) and the other provisions of Title 63G, Chapter 7, Governmental Immunity Act of Utah, the protections of Subsection (3) apply to a governmental entity that owns or approves the use of contaminated property.

(3)(a) Ownership of contaminated property by a governmental entity, or a governmental entity's approval of the use of contaminated property does not subject a governmental entity, its agents, or its officers or employees to any liability for or related to a claim arising from, proximately caused by, or related to historical contamination.

(b) No governmental entity waives immunity from suit or liability by this section.

(c) A claim made against a governmental entity, its agents, or its officers or employees in violation of this section shall subject the claimant to the payment of double the attorney fees and costs incurred by the governmental entity related to the claim.

(d) This Subsection (3) does not limit or alter:

(i) claims against or the liability of the party that placed, disposed of, or released the hazardous materials or hazardous substances onto, into, under, or in a way that affects contaminated property; or

(ii) a workers' compensation claim made by an employee of an entity that works on contaminated property or conducts work related to contaminated property.

(4) If a governmental entity that owns contaminated property develops the contaminated property for public or governmental purposes, including recreation, government offices, parking, or related uses, then Subsection (3) extends to that governmental entity, regardless of whether the governmental entity had a role in approving use of the contaminated property, if the governmental entity:

(a) obtains a certificate of completion from the Utah Department of Environmental Quality following participation in the voluntary cleanup program, as set forth in Section 19-8-111; or

(b) complies with the terms of an environmental covenant signed by an agency and properly recorded in the county records against the property.

Section 4. **Effective Date.**

This bill takes effect:

301 (1) except as provided in Subsection (2), May 6, 2026; or
302 (2) if approved by two-thirds of all members elected to each house:
303 (a) upon approval by the governor;
304 (b) without the governor's signature, the day following the constitutional time limit of
305 Utah Constitution, Article VII, Section 8; or
306 (c) in the case of a veto, the date of veto override.
307 Section 5. **Retrospective operation.**
308 This bill has retrospective operation to March 18, 1985.