

Melissa G. Ballard proposes the following substitute bill:

Public Assistance Amendments

2026 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Trevor Lee

Senate Sponsor:

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LONG TITLE

General Description:

This bill addresses lawful presence for receipt of public benefits.

Highlighted Provisions:

This bill:

- provides an exception to governmental immunity;
- removes authority for an agency or political subdivision of the state to skip verification of lawful presence for receipt of a state or local public benefit or a federal public benefit the state administers;
- prohibits an agency or political subdivision of the state from providing state or local public benefits to an individual who is unlawfully present in the United States;
- requires an agency or department to conduct certain audits;
- provides that the Office of the Legislative Auditor General may conduct a certain audit under certain circumstances;
- allows a certain individual a private right of action against a certain governmental employee under certain circumstances;
- provides for criminal or civil penalties under certain circumstances; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63G-7-301, as last amended by Laws of Utah 2025, First Special Session, Chapter 9

63G-12-402, as last amended by Laws of Utah 2025, First Special Session, Chapter 9

29 **76-14-207**, as renumbered and amended by Laws of Utah 2025, Chapter 173

30

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

32 Section 1. Section **63G-7-301** is amended to read:

33 **63G-7-301 . Waivers of immunity.**

34 (1)(a) Immunity from suit of each governmental entity is waived as to any contractual
35 obligation.

36 (b) Actions arising out of contractual rights or obligations are not subject to the
37 requirements of Section 63G-7-401, 63G-7-402, 63G-7-403, or 63G-7-601.

38 (c) The Division of Water Resources is not liable for failure to deliver water from a
39 reservoir or associated facility authorized by Title 73, Chapter 26, Bear River
40 Development Act, if the failure to deliver the contractual amount of water is due to
41 drought, other natural condition, or safety condition that causes a deficiency in the
42 amount of available water.

43 (2) Immunity from suit of each governmental entity is waived:

44 (a) as to any action brought to recover, obtain possession of, or quiet title to real or
45 personal property;

46 (b) as to any action brought to foreclose mortgages or other liens on real or personal
47 property, to determine any adverse claim on real or personal property, or to obtain an
48 adjudication about any mortgage or other lien that the governmental entity may have
49 or claim on real or personal property;

50 (c) as to any action based on the negligent destruction, damage, or loss of goods,
51 merchandise, or other property while it is in the possession of any governmental
52 entity or employee, if the property was seized for the purpose of forfeiture under any
53 provision of state law;

54 (d) subject to Section 63G-7-302, as to any action brought under the authority of Utah
55 Constitution, Article I, Section 22, for the recovery of compensation from the
56 governmental entity when the governmental entity has taken or damaged private
57 property for public uses without just compensation;

58 (e) as to any claim for attorney fees or costs under Section 63G-2-209, 63G-2-405, or
59 63G-2-802;

60 (f) for actual damages under Title 67, Chapter 21, Utah Protection of Public Employees
61 Act;

62 (g) as to any action brought to obtain relief from a land use regulation that imposes a

- 63 substantial burden on the free exercise of religion under Title 63L, Chapter 5, Utah
64 Religious Land Use Act;
- 65 (h) except as provided in Subsection 63G-7-201(3), as to any injury caused by:
- 66 (i) a defective, unsafe, or dangerous condition of any highway, road, street, alley,
67 crosswalk, sidewalk, culvert, tunnel, bridge, viaduct, or other structure located on
68 them; or
- 69 (ii) any defective or dangerous condition of a public building, structure, dam,
70 reservoir, or other public improvement;
- 71 (i) subject to Subsections 63G-7-101(4) and 63G-7-201(4), as to any injury proximately
72 caused by a negligent act or omission of an employee committed within the scope of
73 employment;
- 74 (j) notwithstanding Subsection 63G-7-101(4), as to a claim for an injury resulting from a
75 sexual battery, as provided in Section 76-5-418, committed:
- 76 (i) against a student of a public elementary or secondary school, including a charter
77 school; and
- 78 (ii) by an employee of a public elementary or secondary school or charter school who:
- 79 (A) at the time of the sexual battery, held a position of special trust, as defined in
80 Section 76-5-404.1, with respect to the student;
- 81 (B) is criminally charged in connection with the sexual battery; and
- 82 (C) the public elementary or secondary school or charter school knew or in the
83 exercise of reasonable care should have known, at the time of the employee's
84 hiring, to be a sex offender, a kidnap offender, or a child abuse offender as
85 described in Section 53-29-202, required to register under Title 53, Chapter 29,
86 Sex, Kidnap, and Child Abuse Offender Registry, whose status as a sex
87 offender, kidnap offender, or child abuse offender would have been revealed in
88 a background check under Section 53G-11-402;
- 89 (k) as to any action brought under Section 78B-6-2303;
- 90 (l) as to any action brought to obtain relief under Title 53H, Chapter 7, Part 7, Student
91 Legal Representation;
- 92 (m) as to any action brought under Section 53-30-301; [~~and~~]
- 93 (n) as to any action or suit brought under Section 20A-19-301 and as to any
94 compensation or expenses awarded under Subsection 20A-19-301(5)[-] ; and
- 95 (o) as to any action brought under Section 63G-12-402.
- 96 (3)(a) As used in this Subsection (3):

- 97 (i) "Code of conduct" means a code of conduct that:
- 98 (A) is not less stringent than a model code of conduct, created by the State Board
- 99 of Education, establishing a professional standard of care for preventing the
- 100 conduct described in Subsection (3)(a)(i)(D);
- 101 (B) is adopted by the applicable local education governing body;
- 102 (C) regulates behavior of a school employee toward a student; and
- 103 (D) includes a prohibition against any sexual conduct between an employee and a
- 104 student and against the employee and student sharing any sexually explicit or
- 105 lewd communication, image, or photograph.
- 106 (ii) "Local education agency" means:
- 107 (A) a school district;
- 108 (B) a charter school; or
- 109 (C) the Utah Schools for the Deaf and the Blind.
- 110 (iii) "Local education governing board" means:
- 111 (A) for a school district, the local school board;
- 112 (B) for a charter school, the charter school governing board; or
- 113 (C) for the Utah Schools for the Deaf and the Blind, the state board.
- 114 (iv) "Public school" means a public elementary or secondary school.
- 115 (v) "Sexual abuse" means the offense described in Subsection 76-5-404.1(2).
- 116 (vi) "Sexual battery" means the offense described in Section 76-5-418, considering
- 117 the term "child" in that section to include an individual under 18 years old.
- 118 (b) Notwithstanding Subsection 63G-7-101(4), immunity from suit is waived as to a
- 119 claim against a local education agency for an injury resulting from a sexual battery or
- 120 sexual abuse committed against a student of a public school by a paid employee of
- 121 the public school who is criminally charged in connection with the sexual battery or
- 122 sexual abuse, unless:
- 123 (i) at the time of the sexual battery or sexual abuse, the public school was subject to a
- 124 code of conduct; and
- 125 (ii) before the sexual battery or sexual abuse occurred, the public school had:
- 126 (A) provided training on the code of conduct to the employee; and
- 127 (B) required the employee to sign a statement acknowledging that the employee
- 128 has read and understands the code of conduct.
- 129 (4)(a) As used in this Subsection (4):
- 130 (i) "Institution of higher education" means the same as that term is defined in Section

- 131 53H-1-101.
- 132 (ii) "Policy governing behavior" means a policy adopted by a higher education
 133 institution or the Utah Board of Higher Education that:
- 134 (A) establishes a professional standard of care for preventing the conduct
 135 described in Subsections (4)(a)(ii)(C) and (D);
- 136 (B) regulates behavior of a special trust employee toward a subordinate student;
- 137 (C) includes a prohibition against any sexual conduct between a special trust
 138 employee and a subordinate student; and
- 139 (D) includes a prohibition against a special trust employee and subordinate student
 140 sharing any sexually explicit or lewd communication, image, or photograph.
- 141 (iii) "Sexual battery" means the offense described in Section 76-5-418.
- 142 (iv) "Special trust employee" means an employee of an institution of higher education
 143 who is in a position of special trust, as defined in Section 76-5-404.1, with a
 144 higher education student.
- 145 (v) "Subordinate student" means a student:
- 146 (A) of an institution of higher education; and
- 147 (B) whose educational opportunities could be adversely impacted by a special
 148 trust employee.
- 149 (b) Notwithstanding Subsection 63G-7-101(4), immunity from suit is waived as to a
 150 claim for an injury resulting from a sexual battery committed against a subordinate
 151 student by a special trust employee, unless:
- 152 (i) the institution of higher education proves that the special trust employee's
 153 behavior that otherwise would constitute a sexual battery was:
- 154 (A) with a subordinate student who was at least 18 years old at the time of the
 155 behavior; and
- 156 (B) with the student's consent; or
- 157 (ii)(A) at the time of the sexual battery, the institution of higher education was
 158 subject to a policy governing behavior; and
- 159 (B) before the sexual battery occurred, the higher education institution had taken
 160 steps to implement and enforce the policy governing behavior.

161 Section 2. Section **63G-12-402** is amended to read:

162 **63G-12-402 . Receipt of state, local, or federal public benefits -- Verification --**
 163 **Fraudulently obtaining benefits -- Penalties -- Audit requirement -- Annual report.**

164 (1)[(a) Except as provided in Subsection (3) or when exempted by federal law, an] An

165 agency or political subdivision of the state shall verify the lawful presence in the
 166 United States of an individual at least 18 years old who applies for:

167 [(+)] (a) a state or local public benefit as defined in 8 U.S.C. Sec. 1621; or
 168 [(+)] (b) a federal public benefit as defined in 8 U.S.C. Sec. 1611, that is administered by
 169 an agency or political subdivision of this state.

170 [(b)] (2) For purpose of a license issued under Title 58, Chapter 55, Utah Construction
 171 Trades Licensing Act, to an applicant that is an unincorporated entity, the Department of
 172 Commerce shall verify in accordance with this Subsection [(+)] (2) the lawful presence
 173 in the United States of each individual who:

174 [(+)] (a) owns an interest in the contractor that is an unincorporated entity; and
 175 [(+)] (b) engages, or will engage, in a construction trade in Utah as an owner of the
 176 contractor described in Subsection [(+)](b)(+)] (2)(a).

177 [(2)] (3) This section shall be enforced without regard to race, religion, gender, ethnicity, or
 178 national origin.

179 [~~(3) Verification of lawful presence under this section is not required for:]~~

180 ~~[(a) any purpose for which lawful presence in the United States is not restricted by law,~~
 181 ~~ordinance, or regulation;]~~

182 ~~[(b) assistance for health care items and services that:]~~

183 ~~[(i) are necessary for the treatment of an emergency medical condition, as defined in~~
 184 ~~42 U.S.C. Sec. 1396b(v)(3), of the individual involved; and]~~

185 ~~[(ii) are not related to an organ transplant procedure;]~~

186 ~~[(e) short-term, noneash, in-kind emergency disaster relief;]~~

187 ~~[(d) public health assistance for immunizations with respect to immunizable diseases~~
 188 ~~and for testing and treatment of symptoms of communicable diseases whether or not~~
 189 ~~the symptoms are caused by the communicable disease;]~~

190 ~~[(e) programs, services, or assistance such as soup kitchens, crisis counseling and~~
 191 ~~intervention, and short-term shelter, specified by the United States Attorney General,~~
 192 ~~in the sole and unreviewable discretion of the United States Attorney General after~~
 193 ~~consultation with appropriate federal agencies and departments, that:]~~

194 ~~[(i) deliver in-kind services at the community level, including through public or~~
 195 ~~private nonprofit agencies;]~~

196 ~~[(ii) do not condition the provision of assistance, the amount of assistance provided,~~
 197 ~~or the cost of assistance provided on the income or resources of the individual~~
 198 ~~recipient; and]~~

- 199 ~~[(iii) are necessary for the protection of life or safety;]~~
- 200 ~~[(f) the exemption for paying the nonresident portion of total tuition as set forth in~~
- 201 ~~Section 53H-11-203;]~~
- 202 ~~[(g) an applicant for a license under Section 61-1-4, if the applicant:]~~
- 203 ~~[(i) is registered with the Financial Industry Regulatory Authority; and]~~
- 204 ~~[(ii) files an application with the state Division of Securities through the Central~~
- 205 ~~Registration Depository;]~~
- 206 ~~[(h) a state public benefit to be given to an individual under Title 49, Utah State~~
- 207 ~~Retirement and Insurance Benefit Act;]~~
- 208 ~~[(i) a home loan that will be insured, guaranteed, or purchased by:]~~
- 209 ~~[(i) the Federal Housing Administration, the Veterans Administration, or any other~~
- 210 ~~federal agency; or]~~
- 211 ~~[(ii) an enterprise as defined in 12 U.S.C. Sec. 4502;]~~
- 212 ~~[(j) a subordinate loan or a grant that will be made to an applicant in connection with a~~
- 213 ~~home loan that does not require verification under Subsection (3)(i);]~~
- 214 ~~[(k) an applicant for a license issued by the Department of Commerce or individual~~
- 215 ~~described in Subsection (1)(b), if the applicant or individual provides the Department~~
- 216 ~~of Commerce:]~~
- 217 ~~[(i) certification, under penalty of perjury, that the applicant or individual is:]~~
- 218 ~~[(A) a United States citizen;]~~
- 219 ~~[(B) a qualified alien as defined in 8 U.S.C. Sec. 1641; or]~~
- 220 ~~[(C) lawfully present in the United States; and]~~
- 221 ~~[(ii)(A) the number assigned to a driver license or identification card issued under~~
- 222 ~~Title 53, Chapter 3, Uniform Driver License Act; or]~~
- 223 ~~[(B) the number assigned to a driver license or identification card issued by a state~~
- 224 ~~other than Utah if, as part of issuing the driver license or identification card,~~
- 225 ~~the state verifies an individual's lawful presence in the United States; and]~~
- 226 ~~[(l) an applicant for:]~~
- 227 ~~[(i) an Opportunity scholarship described in Section 53H-11-402;]~~
- 228 ~~[(ii) a New Century scholarship described in Section 53H-11-407;]~~
- 229 ~~[(iii) a promise grant described in Section 53H-11-414; or]~~
- 230 ~~[(iv) a scholarship:]~~
- 231 ~~[(A) for an individual who is a graduate of a high school located within Utah; and]~~
- 232 ~~[(B) administered by an institution of higher education as defined in Section~~

- 233 ~~53H-1-101.]~~
- 234 (4)(a) An agency or political subdivision required to verify the lawful presence in the
235 United States of an applicant under this section shall require the applicant to certify
236 under penalty of perjury that:
- 237 (i) the applicant is a United States citizen; or
238 (ii) the applicant is:
- 239 (A) a qualified alien as defined in 8 U.S.C. Sec. 1641; and
240 (B) lawfully present in the United States.
- 241 (b) The certificate required under this Subsection (4) shall include a statement advising
242 the signer that providing false information subjects the signer to penalties for perjury.
- 243 (5) An agency or political subdivision shall verify a certification required under Subsection
244 (4)(a)(ii) through the federal SAVE program.
- 245 (6)(a) An individual who knowingly and willfully makes a false, fictitious, or fraudulent
246 statement or representation in a certification under Subsection ~~[(3)(k) or]~~(4) is
247 subject to the criminal penalties applicable in this state for:
- 248 (i) making a written false statement under Section 76-8-504; and
249 (ii) fraudulently obtaining:
- 250 (A) public assistance program benefits under Section 76-8-1203.1; or
251 (B) unemployment compensation under Section 76-8-1301, 76-8-1302, 76-8-1303,
252 or 76-8-1304.
- 253 (b) If the certification constitutes a false claim of United States citizenship under 18
254 U.S.C. Sec. 911, the agency or political subdivision shall file a complaint with the
255 United States Attorney General for the applicable district based upon the venue in
256 which the application was made.
- 257 (c) If an agency or political subdivision receives verification that a person making an
258 application for a benefit, service, or license is not a qualified alien, the agency or
259 political subdivision shall immediately deny the application and provide the
260 information to the Office of the Attorney General unless prohibited by federal
261 mandate.
- 262 (7)(a) An agency or political subdivision may adopt variations to the requirements of
263 this section that:
- 264 ~~[(a)]~~ (i) clearly improve the efficiency of or reduce delay in the verification process; or
265 ~~[(b)]~~ (ii) provide for adjudication of unique individual circumstances where the
266 verification procedures in this section would impose an unusual hardship on a

267 legal resident of Utah.

268 (b) An agency or political subdivision may not adopt variations under Subsection (7)(a)
 269 that expand eligibility of public benefits to individuals without lawful presence in the
 270 United States.

271 (8)(a) Notwithstanding any other provision of state law, an agency or political
 272 subdivision of the state may not provide a state or local public benefit that is funded
 273 by state or local funds, including non-emergency medical health care, local- or
 274 state-administered health care or health insurance, housing assistance, food
 275 assistance, cash benefits, tuition assistance, or other state or locally funded public
 276 assistance programs, to an individual who is not a qualified alien or who is without
 277 lawful presence in the United States.

278 (b) ~~[It is unlawful for an-]~~ An agency or a political subdivision of this state [tø] may not
 279 provide a state, local, or federal benefit, as defined in 8 U.S.C. [See-] Secs. 1611 and
 280 1621, in violation of this section.

281 (9) A state agency or department that administers a program of state or local public benefits
 282 shall:

283 (a) provide an annual report to the governor, the president of the Senate, and the speaker
 284 of the House of Representatives regarding~~[-its-]~~ :

285 (i) the state agency's or department's compliance with this section; and

286 (ii) the number and type of the state or local public benefit for which an applicant
 287 applied and was denied, if the agency or department denied the applicant benefits
 288 because the applicant was not a qualified alien or lawfully present in the United
 289 States;

290 (b)(i) monitor the federal SAVE program for application verification errors and
 291 significant delays;

292 (ii) provide an annual report on the errors and delays to ensure that the application of
 293 the federal SAVE program is not erroneously denying a state or local benefit to a
 294 legal resident of the state; and

295 (iii) report delays and errors in the federal SAVE program to the United States
 296 Department of Homeland Security~~[-]~~ ; and

297 (c) beginning on January 1, 2027, conduct a quarterly audit of each public assistance
 298 program for compliance with this section.

299 (10) Subject to prioritization of the Legislative Audit Subcommittee, the Office of the
 300 Legislative Auditor General established under Section 36-12-15 shall in any fiscal year

- 301 conduct a biennial audit of each state agency or department described in Subsection (9)
 302 to determine if the state agency or department is compliant with this section.
- 303 (11)(a) An employee of a state agency or political subdivision who knowingly fails to
 304 verify lawful presence or who fails to maintain records regarding the verification of
 305 lawful presence, as required under this section, is guilty of a class B misdemeanor.
- 306 (b) The penalties in this section are in addition to existing law.
- 307 (12) An executive director of a state agency or department who is vested with responsibility
 308 to administer or make policy for a state agency, and who knowingly violates or allows
 309 an employee to violate this section, shall be subject to removal from office in
 310 accordance with the state agency's or department's procedures.
- 311 (13) An individual taxpayer who is injured by a violation of this section has a private right
 312 of action against an employee or executive director described in Subsection (11)(a) or
 313 (12) if:
- 314 (a) the action is brought in accordance with Section 78B-3-101.3; and
 315 (b) the taxpayer's alleged damages are reasonable, foreseeable, and proximately caused
 316 by the violation of this section.
- 317 (14) An employee or executive director described in Subsection (11)(a) or (12) may not
 318 assert the defense of governmental immunity under Title 63G, Chapter 7, Governmental
 319 Immunity Act of Utah, in an action brought under this section.

320 Section 3. Section **76-14-207** is amended to read:

321 **76-14-207 . Proof of immigration status required to receive public benefits.**

- 322 (1)(a) An agency that provides state or local public benefits as defined in 8 U.S.C. Sec.
 323 1621 shall comply with Section 63G-12-402 and shall also comply with this section[;
 324 except:]
- 325 [(i) as provided in Subsection 63G-12-402(3)(g) or (k); or]
 326 [(ii) when compliance is exempted by federal law or when compliance could
 327 reasonably be expected to be grounds for the federal government to withhold
 328 federal Medicaid funding].
- 329 (b) The agency shall verify an individual's lawful presence in the United States by
 330 requiring that the applicant under this section sign a certificate under penalty of
 331 perjury, stating that the applicant:
- 332 (i) is a United States citizen; or
 333 (ii) is a qualified alien as defined by 8 U.S.C. Sec. 1641.
- 334 (c) The certificate under Subsection (1)(b) shall include a statement advising the signer

- 335 that providing false information subjects the signer to penalties for perjury.
- 336 (d) The signature under this Subsection (1) may be executed in person or electronically.
- 337 (e) When an applicant who is a qualified alien has executed the certificate under this
- 338 section, the applicant's eligibility for benefits shall be verified by the agency through
- 339 the federal SAVE program or an equivalent program designated by the United States
- 340 Department of Homeland Security.
- 341 (2) An individual who knowingly and willfully makes a false, fictitious, or fraudulent
- 342 statement of representation in a certificate executed under this section is guilty of public
- 343 assistance fraud by an applicant for public assistance under Section 76-8-1203.1.
- 344 (3) If the certificate constitutes a false claim of United States citizenship under 18 U.S.C.
- 345 Sec. 911, the agency requiring the certificate shall file a complaint with the United
- 346 States Attorney for the applicable federal judicial district based upon the venue in which
- 347 the certificate was executed.
- 348 (4) Agencies may, with the concurrence of the Utah Attorney General, adopt variations to
- 349 the requirements of the provisions of this section that provide for adjudication of unique
- 350 individual circumstances in which the verification procedures in this section would
- 351 impose unusual hardship on a legal resident of this state.
- 352 (5) If an agency under Subsection (1) receives verification that an individual making an
- 353 application for a benefit, service, or license is not a qualified alien, the agency shall
- 354 immediately deny the application and provide the information to the local law
- 355 enforcement agency for enforcement of public assistance fraud by an applicant for
- 356 public assistance under Section 76-8-1203.1 unless prohibited by federal mandate.

357 Section 4. **Effective Date.**

358 This bill takes effect on May 6, 2026.