

Free Exercise of Religion Revisions

2026 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Keven J. Stratton

House Sponsor:

LONG TITLE**General Description:**

This bill amends provisions relating to an action brought for a violation of the free exercise of religion.

Highlighted Provisions:

This bill:

- amends the Governmental Immunity Act of Utah to clarify that the government waives immunity in relation to a cause of action described in Title 63G, Chapter 33, Free Exercise of Religion; and

- amends Title 63G, Chapter 33, Free Exercise of Religion, to clarify that a cause of action described in that chapter makes multiple types of relief available to a person that brings the action, including:

- damages;
- declaratory relief;
- injunctive relief; and
- all other types of legal relief.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

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

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

63G-33-201, as last amended by Laws of Utah 2025, Chapter 326

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

Section 1. 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 significantly affecting the public health or necessary to protect the public health as set out in Title 26A, Chapter 1, Local Health Departments;
 - (ii) investigate and control suspected bioterrorism and disease as set out in Sections 26B-7-316 through 26B-7-324;
 - (iii) respond to a national, state, or local emergency, a public health emergency as defined in Section 26B-7-301, or a declaration by the [President] president of the United States or other federal official requesting public health related activities, including the use, provision, operation, and management of:
 - (A) an emergency shelter;
 - (B) housing;
 - (C) a staging place; or
 - (D) a medical facility; and
 - (iv) adopt methods or measures, in accordance with Section 26B-1-202, for health care providers, public health entities, and health care insurers to coordinate among themselves to verify the identity of the individuals they serve.
- (3)(a) A governmental entity, its officers, and its employees are immune from suit, and immunity is not waived, for any injury if the injury arises out of or in connection with, or results from:
- (i) a latent dangerous or latent defective condition of:
 - (A) any highway, road, street, alley, crosswalk, sidewalk, culvert, tunnel, bridge, or viaduct; or
 - (B) another structure located on any of the items listed in this Subsection (3)(a)(i); or
 - (ii) a latent dangerous or latent defective condition of any public building, structure,

dam, reservoir, or other public improvement.

(b)(i) As used in this Subsection (3)(b):

(A) "Contaminated land" means the same as that term is defined in Section 11-58-102.

(B) "Contamination" means the condition of land that results from the placement, disposal, or release of hazardous matter on, in, or under the land, including any seeping or escaping of the hazardous matter from the land.

(C) "Damage" means any property damage, personal injury, or other injury or any loss of any kind, however denominated.

(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 ~~duy~~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, regardless of whether~~or not~~ the discretion is abused;

(b) except as provided in Subsections ~~[63G-7-301(2)(j), (3), and (4)]~~ 63G-7-301(2)(k), (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) fighting fire;
- (iii) regulating, mitigating, or handling hazardous materials or hazardous wastes;
- (iv) an emergency evacuation;
- (v) 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) intervening during a dam emergency;
- (t) 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;

- 167 (u) an unauthorized access to government records, data, or electronic information
168 systems by any person or entity;
- 169 (v) an activity of wildlife, as defined in Section 23A-1-101, that arises during the use of
170 a public or private road;
- 171 (w) a communication between employees of one or more law enforcement agencies
172 related to the employment, disciplinary history, character, professional competence,
173 or physical or mental health of a peace officer, or a former, current, or prospective
174 employee of a law enforcement agency, including any communication made in
175 accordance with Section 53-14-103; or
- 176 (x) providing or failing to provide information under Section 53-27-102 or Subsection
177 41-1a-213(6), (7), or (8), 53-3-207(4), or 53-3-805(5).
- 178 (5) The following are immune from suit, and immunity is not waived for an action or
179 failure to act within the scope of duties or employment, if the injury arises out of, in
180 connection with, or results from the implementation of Section 17E-7-401 to the extent
181 it addresses evaluating and classifying high risk wildland urban interface property,
182 Section 31A-22-1310, or Title 65A, Chapter 8, Part 4, Wildland Urban Interface
183 Property:
- 184 (a) the Division of Forestry, Fire, and State Lands;
- 185 (b) an officer, employee, or consultant of the Division of Forestry, Fire, and State Lands;
- 186 (c) a county;
- 187 (d) a wildland urban interface coordinator, as defined in Section 65A-8-401;
- 188 (e) the Insurance Department; or
- 189 (f) an officer, employee, or consultant of the Insurance Department.

190 Section 2. Section **63G-7-301** is amended to read:

191 **63G-7-301 . Waivers of immunity.**

- 192 (1)(a) Immunity from suit of each governmental entity is waived as to any contractual
193 obligation.
- 194 (b) Actions arising out of contractual rights or obligations are not subject to the
195 requirements of Section 63G-7-401, 63G-7-402, 63G-7-403, or 63G-7-601.
- 196 (c) The Division of Water Resources is not liable for failure to deliver water from a
197 reservoir or associated facility authorized by Title 73, Chapter 26, Bear River
198 Development Act, if the failure to deliver the contractual amount of water is due to
199 drought, other natural condition, or safety condition that causes a deficiency in the
200 amount of available water.

- (2) Immunity from suit of each governmental entity is waived:
- (a) as to any action brought to recover, obtain possession of, or quiet title to real or personal property;
 - (b) as to any action brought to foreclose mortgages or other liens on real or personal property, to determine any adverse claim on real or personal property, or to obtain an adjudication about any mortgage or other lien that the governmental entity may have or claim on real or personal property;
 - (c) as to any action based on the negligent destruction, damage, or loss of goods, merchandise, or other property while it is in the possession of any governmental entity or employee, if the property was seized for the purpose of forfeiture under any provision of state law;
 - (d) subject to Section 63G-7-302, as to any action brought under the authority of Utah Constitution, Article I, Section 22, for the recovery of compensation from the governmental entity when the governmental entity has taken or damaged private property for public uses without just compensation;
 - (e) as to any claim for attorney fees or costs under Section 63G-2-209, 63G-2-405, or 63G-2-802;
 - (f) for actual damages under Title 67, Chapter 21, Utah Protection of Public Employees Act;
 - (g) as to any action brought to obtain relief from a land use regulation that imposes a substantial burden on the free exercise of religion under Title 63L, Chapter 5, Utah Religious Land Use Act;
 - (h) as to any action brought to obtain relief from a government action, as defined in Section 63G-33-101, that substantially burdens, as defined in Section 63G-33-101, the free exercise of religion under Title 63G, Chapter 33, Utah Religious Freedom Restoration Act;
- [~~h~~] (i) except as provided in Subsection 63G-7-201(3), as to any injury caused by:
- (i) a defective, unsafe, or dangerous condition of any highway, road, street, alley, crosswalk, sidewalk, culvert, tunnel, bridge, viaduct, or other structure located on them; or
 - (ii) any defective or dangerous condition of a public building, structure, dam, reservoir, or other public improvement;
- [~~i~~] (j) subject to Subsections 63G-7-101(4) and 63G-7-201(4), as to any injury proximately caused by a negligent act or omission of an employee committed within

- the scope of employment;
- ~~[(j)]~~ (k) notwithstanding Subsection 63G-7-101(4), as to a claim for an injury resulting from a sexual battery, as provided in Section 76-5-418, committed:
- (i) against a student of a public elementary or secondary school, including a charter school; and
- (ii) by an employee of a public elementary or secondary school or charter school who:
- (A) at the time of the sexual battery, held a position of special trust, as defined in Section 76-5-404.1, with respect to the student;
- (B) is criminally charged in connection with the sexual battery; and
- (C) the public elementary or secondary school or charter school knew or in the exercise of reasonable care should have known, at the time of the employee's hiring, to be a sex offender, a kidnap offender, or a child abuse offender as described in Section 53-29-202, required to register under Title 53, Chapter 29, Sex, Kidnap, and Child Abuse Offender Registry, whose status as a sex offender, kidnap offender, or child abuse offender would have been revealed in a background check under Section 53G-11-402;
- ~~[(k)]~~ (l) as to any action brought under Section 78B-6-2303;
- ~~[(l)]~~ (m) as to any action brought to obtain relief under Title 53H, Chapter 7, Part 7, Student Legal Representation;
- ~~[(m)]~~ (n) as to any action brought under Section 53-30-301; and
- ~~[(n)]~~ (o) as to any action or suit brought under Section 20A-19-301 and as to any compensation or expenses awarded under Subsection 20A-19-301(5).
- (3)(a) As used in this Subsection (3):
- (i) "Code of conduct" means a code of conduct that:
- (A) is not less stringent than a model code of conduct, created by the State Board of Education, establishing a professional standard of care for preventing the conduct described in Subsection (3)(a)(i)(D);
- (B) is adopted by the applicable local education governing body;
- (C) regulates behavior of a school employee toward a student; and
- (D) includes a prohibition against any sexual conduct between an employee and a student and against the employee and student sharing any sexually explicit or lewd communication, image, or photograph.
- (ii) "Local education agency" means:
- (A) a school district;

- 269 (B) a charter school; or
270 (C) the Utah Schools for the Deaf and the Blind.
- 271 (iii) "Local education governing board" means:
272 (A) for a school district, the local school board;
273 (B) for a charter school, the charter school governing board; or
274 (C) for the Utah Schools for the Deaf and the Blind, the state board.
- 275 (iv) "Public school" means a public elementary or secondary school.
276 (v) "Sexual abuse" means the offense described in Subsection 76-5-404.1(2).
277 (vi) "Sexual battery" means the offense described in Section 76-5-418, considering
278 the term "child" in that section to include an individual under 18 years old.
- 279 (b) Notwithstanding Subsection 63G-7-101(4), immunity from suit is waived as to a
280 claim against a local education agency for an injury resulting from a sexual battery or
281 sexual abuse committed against a student of a public school by a paid employee of
282 the public school who is criminally charged in connection with the sexual battery or
283 sexual abuse, unless:
284 (i) at the time of the sexual battery or sexual abuse, the public school was subject to a
285 code of conduct; and
286 (ii) before the sexual battery or sexual abuse occurred, the public school had:
287 (A) provided training on the code of conduct to the employee; and
288 (B) required the employee to sign a statement acknowledging that the employee
289 has read and understands the code of conduct.
- 290 (4)(a) As used in this Subsection (4):
291 (i) "Institution of higher education" means the same as that term is defined in Section
292 53H-1-101.
293 (ii) "Policy governing behavior" means a policy adopted by a higher education
294 institution or the Utah Board of Higher Education that:
295 (A) establishes a professional standard of care for preventing the conduct
296 described in Subsections (4)(a)(ii)(C) and (D);
297 (B) regulates behavior of a special trust employee toward a subordinate student;
298 (C) includes a prohibition against any sexual conduct between a special trust
299 employee and a subordinate student; and
300 (D) includes a prohibition against a special trust employee and subordinate student
301 sharing any sexually explicit or lewd communication, image, or photograph.
302 (iii) "Sexual battery" means the offense described in Section 76-5-418.

(iv) "Special trust employee" means an employee of an institution of higher education who is in a position of special trust, as defined in Section 76-5-404.1, with a higher education student.

(v) "Subordinate student" means a student:

(A) of an institution of higher education; and

(B) whose educational opportunities could be adversely impacted by a special trust employee.

(b) Notwithstanding Subsection 63G-7-101(4), immunity from suit is waived as to a claim for an injury resulting from a sexual battery committed against a subordinate student by a special trust employee, unless:

(i) the institution of higher education proves that the special trust employee's behavior that otherwise would constitute a sexual battery was:

(A) with a subordinate student who was at least 18 years old at the time of the behavior; and

(B) with the student's consent; or

(ii)(A) at the time of the sexual battery, the institution of higher education was subject to a policy governing behavior; and

(B) before the sexual battery occurred, the higher education institution had taken steps to implement and enforce the policy governing behavior.

Section 3. Section **63G-33-201** is amended to read:

Part 2. Utah Religious Freedom Restoration Act

63G-33-201 . Free exercise of religion -- Limitations on burdens imposed by government -- Claims or defenses -- Attorney fees and costs.

(1) The free exercise of religion is a fundamental right and applies to all government action, including action that is facially neutral.

(2) Except as provided in Subsection (3):

(a) a government entity may not substantially burden the free exercise of religion of a person, regardless of whether the burden results from a rule of general applicability; and

(b) a person other than a government entity may not seek to apply or enforce government action against another person that substantially burdens the free exercise of religion of the other person, regardless of whether the burden results from a rule of general applicability.

(3) A government entity or government action may substantially burden a person's free

exercise of religion only if the government entity, or any other person seeking to enforce government action, demonstrates that the burden on the person's free exercise of religion is:

- (a) essential to furthering a compelling governmental interest; and
- (b) the least restrictive means of furthering the compelling governmental interest.

(4) A person whose free exercise of religion is burdened in violation of this section:

- (a) may assert the violation as a claim or defense in a judicial or administrative proceeding to obtain relief, regardless of whether a government entity is a party to the proceeding; and
- (b) is not required to exhaust administrative remedies before bringing a claim, or raising a defense, described in this Subsection (4).

(5) The relief available to a person under Subsection (4)(a) includes:

- (a) damages;
- (b) declaratory relief;
- (c) injunctive relief; and
- (d) all other types of legal relief.

~~[(5)]~~ (6)(a) Except as provided in Subsection ~~[(5)(b)]~~ (6)(b), a person may not bring an action under this section against a government entity described in Subsections 63G-33-101(4)(a)(i) through (iii) unless, at least 60 days before the day on which the person brings the action, the person provides written notice to the government entity, in accordance with Subsections 63G-7-401(4)(b) through (d), that:

- (i) states that the person intends to bring an action against the entity for a violation of this section;
- (ii) describes the government action that has burdened or will burden the person's free exercise of religion; and
- (iii) describes the manner in which the government action burdens or will burden the person's free exercise of religion.

(b) Subsection ~~[(5)(a)]~~ (6)(a) does not apply if the government action alleged in the action:

- (i) is ongoing, and complying with Subsection ~~[(5)(a)]~~ (6)(a) will place an undue hardship on the person or increase the harm suffered by the person; or
- (ii) is likely to occur or reoccur before the end of the 60-day period described in Subsection ~~[(5)(a)]~~ (6)(a).

~~[(6)]~~ (7) A person who prevails in an action to enforce the provisions of this section against

371 a government entity is entitled to recover reasonable attorney fees and costs.

372 Section 4. **Effective Date.**

373 This bill takes effect on May 6, 2026.