

Matt MacPherson proposes the following substitute bill:

Public Employee Attorney Fee Recovery Amendments

2026 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Stephanie Pitcher

House Sponsor: Andrew Stoddard

LONG TITLE

General Description:

This bill amends a provision of law relating to the recovery of reasonable attorney fees and court costs incurred by an officer or employee of a public entity, under certain circumstances, to defend against criminal charges brought against the officer or employee in relation to the officer's or employee's public employment.

Highlighted Provisions:

This bill:

- clarifies and restates an existing provision of law entitling an officer or employee of a public entity to recover reasonable attorney fees and courts costs, under certain circumstances, for defending against criminal charges arising out of the officer's or employee's service or employment;
- requires the municipal prosecutor's office, the county attorney's office, the district attorney's office, or the attorney general's office that pursues the charges described in the preceding paragraph to pay a percentage of the reasonable attorney fees and court costs that an officer or employee is entitled to recover under the preceding paragraph;
- modifies an exception under current law that prohibits the recovery of attorney fees and court costs described in the preceding paragraph if the charges are quashed or dismissed upon application or motion of the prosecuting attorney, by limiting the exception to circumstances 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;
- makes the modification described in the preceding paragraph only in relation to charges brought by filing an information; and
- makes technical changes.

Money Appropriated in this Bill:

None

29 **Other Special Clauses:**

30 None

31 **Utah Code Sections Affected:**

32 AMENDS:

33 **52-6-201**, as last amended by Laws of Utah 2023, Chapter 444

34

35 *Be it enacted by the Legislature of the state of Utah:*36 Section 1. Section **52-6-201** is amended to read:37 **52-6-201 . Indictment or information against officer or employee --**38 **Reimbursement of attorney fees and court costs incurred in defense.**

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

51 [~~(2) Except as provided in Subsection (3), if the officer or employee is acquitted of some of~~
52 ~~the charges or counts, or portions of the indictment or information are quashed or~~
53 ~~dismissed, that officer or employee is entitled to recover from the public entity~~
54 ~~reasonable attorney fees and court costs necessarily incurred in the defense of those~~
55 ~~charges, counts, or portions of the indictment or information that were quashed,~~
56 ~~dismissed, or resulted in a judgment of acquittal, unless the alleged misconduct covered~~
57 ~~by those charges, counts, or portions of the indictment or information that were quashed,~~
58 ~~dismissed, or resulted in a judgment of acquittal is substantially the same alleged~~
59 ~~misconduct that formed the basis for charges, counts, or portions of the indictment or~~
60 ~~information of which the officer or employee was found guilty.]~~

61 (1) Except as provided in Subsection (2), an officer or employee who is indicted, or against
62 whom an information is filed, for violation of a state law is entitled to recover from the

63 public entities described in Subsections (3) and (4) reasonable attorney fees and court
 64 costs necessarily incurred in defense of a charge in the indictment or information, if:

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

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

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

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

70 (b) the charge, or the entire indictment or information, is quashed, dismissed, or results
 71 in a judgment of acquittal.

72 (2) An officer or employee is not entitled to recover attorney fees or court costs under
 73 Subsection (1):

74 (a) if the officer or employee is found guilty of another violation of law for substantially
 75 the same act or omission that formed the basis for the charge described in Subsection
 76 (1):

77 (b) in relation to a charge in an indictment, if the charge, or the entire indictment, is
 78 quashed or dismissed upon application or motion of the prosecuting attorney; or

79 (c) in relation to a charge in an information, if the charge, or the entire information, is,
 80 no later than 45 days after the day on which the charge is bound over for trial as a
 81 result of a preliminary hearing, quashed or dismissed upon application or motion of
 82 the prosecuting attorney.

83 (3) [A~~n~~] The following public entity shall pay 50% of the reasonable attorney fees and court
 84 costs that an officer or employee is entitled to recover[~~-reasonable attorney fees and~~
 85 court costs] under Subsection (1)[~~-or (2) in connection with the officer's or employee's~~
 86 position within a political subdivision, is entitled to recover all fees and costs from the
 87 state rather than the political subdivision, if] :

88 (a) except as provided in Subsection (3)(b), the public entity for which the officer or
 89 employee, in relation to the alleged violation:

90 (i) was engaged in performing a duty described in Subsection (1)(a)(i);

91 (ii) acted, or failed to act, within the scope of the officer's or employee's employment;
 92 or

93 (iii) acted, or failed to act, under color of the officer's or employee's authority; or

94 (b) the state, if:

95 (i) the public entity described in Subsection (3)(a) is a political subdivision of the
 96 state;

97 (ii)~~(a)~~ after the local attorney declines to pursue an indictment, or file an information,
98 against the officer or employee, the attorney general obtains an indictment, or files an
99 information, against the officer or employee;

100 ~~(b)~~ (iii) the alleged misconduct forming the basis of the indictment or information
101 against the officer or employee is substantially similar to the facts or investigation
102 results upon which the local attorney relied in deciding not to pursue an
103 indictment, or file an information, against the officer or employee; and

104 ~~(c)~~ (iv) the attorney general pursued the indictment, or filed the information, against
105 the officer or employee, for a reason other than that:

106 ~~(i)~~ (A) the local attorney requested the attorney general's involvement in the
107 prosecution of the officer or employee due to a conflict of interest; or

108 ~~(ii)~~ (B) the local attorney lacked the resources or subject matter expertise to
109 initiate or proceed with the prosecution of the officer or employee.

110 (4) The municipal prosecutor's office, the county attorney's office, the district attorney's
111 office, or the attorney general's office that pursues the charges for which an officer or
112 employee is entitled to recover reasonable attorney fees and court costs under
113 Subsection (1) shall pay 50% of the attorney fees and court costs.

114 ~~(4)~~ (5) An officer or employee who ~~recovers~~ is entitled to recover reasonable attorney
115 fees and court costs under ~~this section shall also be~~ Subsection (1) from a public entity
116 described in Subsection (3) or (4) is also entitled to recover from that public entity
117 reasonable attorney fees and costs necessarily incurred by the officer or employee in
118 recovering the attorney fees and court costs ~~allowed under this section~~ to which the
119 officer or employee is entitled under Subsection (1), including attorney fees and court
120 costs incurred on appeal.

121 ~~(5) Notwithstanding any other provision of this section, an officer or employee may not~~
122 ~~recover for the costs incurred in defense of any charge, count, or portion of the~~
123 ~~indictment or information that is quashed or dismissed upon application or motion of the~~
124 ~~prosecuting attorney.]~~

125 Section 2. **Effective Date.**

126 This bill takes effect on May 6, 2026.