

62A-4a-410 Immunity from liability -- Exceptions.

- (1) Except as provided in Subsection (3), any person, official, or institution participating in good faith in making a report, taking photographs or X-rays, assisting an investigator from the division, serving as a member of a child protection team, or taking a child into protective custody pursuant to this part, is immune from any liability, civil or criminal, that otherwise might result by reason of those actions.
- (2) This section does not provide immunity with respect to acts or omissions of a governmental employee except as provided in Title 63G, Chapter 7, Governmental Immunity Act of Utah.
- (3) The immunity described in Subsection (1) does not apply if the person, official, or institution:
 - (a) acted or failed to act through fraud or willful misconduct;
 - (b) in a judicial or administrative proceeding, intentionally or knowingly gave, upon a lawful oath or in any form allowed by law as a substitute for an oath, false testimony material to the issue or matter of inquiry in the proceeding; or
 - (c) intentionally or knowingly:
 - (i) fabricated evidence; or
 - (ii) except as provided in Subsection (4), with a conscious disregard for the rights of others, failed to disclose evidence that:
 - (A) was known to the person, official, or institution; and
 - (B)
 - (I) was known by the person, official, or institution to be relevant to a material issue or matter of inquiry in a pending judicial or administrative proceeding if the person, official, or institution knew of the pending judicial or administrative proceeding; or
 - (II) was known by the person, official, or institution to be relevant to a material issue or matter of inquiry in a judicial or administrative proceeding, if disclosure of the evidence was requested of the employee by a party to the proceeding or counsel for a party to the proceeding.
- (4) Immunity is not lost under Subsection (3)(c)(ii), if the person, official, or institution:
 - (a) failed to disclose evidence described in Subsection (3)(c)(ii), because the person, official, or institution is prohibited by law from disclosing the evidence; or
 - (b)
 - (i) pursuant to the provisions of 45 CFR 164.502(g)(5), refused to disclose evidence described in Subsection (3)(c)(ii) to a person who requested the evidence; and
 - (ii) after refusing to disclose the evidence under Subsection (4)(b)(i), complied with or responded to a valid court order or valid subpoena received by the person, official, or institution to disclose the evidence described in Subsection (3)(c)(ii).

Amended by Chapter 382, 2008 General Session

Amended by Chapter 395, 2008 General Session