

GOVERNMENTAL IMMUNITY - NOTICE OF CLAIM

1998 GENERAL SESSION

STATE OF UTAH

Sponsor: Michael G. Waddoups

AN ACT RELATING TO GOVERNMENTAL IMMUNITY; MODIFYING PROVISIONS FOR CLAIMS AGAINST GOVERNMENT ENTITIES; AND MAKING TECHNICAL CORRECTIONS.

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

63-30-11, as last amended by Chapter 76, Laws of Utah 1991

63-30-12, as last amended by Chapter 75, Laws of Utah 1987

63-30-13, as last amended by Chapter 75, Laws of Utah 1987

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

Section 1. Section **63-30-11** is amended to read:

63-30-11. Claim for injury -- Notice -- Contents -- Service -- Legal disability.

(1) A claim arises when the statute of limitations that would apply if the claim were against a private person begins to run.

(2) Any person having a claim for injury against a governmental entity, or against [an] its employee for an act or omission occurring during the performance of [his] the employee's duties, within the scope of employment, or under color of authority shall file a written notice of claim with the entity before maintaining an action, regardless of whether or not the function giving rise to the claim is characterized as governmental.

(3) (a) The notice of claim shall set forth:

(i) a brief statement of the facts;

(ii) the nature of the claim asserted; and

(iii) the damages incurred by the claimant so far as they are known.

(b) The notice of claim shall be:

(i) signed by the person making the claim or that person's agent, attorney, parent, or legal guardian; and

(ii) directed and delivered to ~~[the responsible governmental entity according to the requirements of Section 63-30-12 or 63-30-13.];~~

(A) the city or town recorder, when the claim is against an incorporated city or town;

(B) the county clerk, when the claim is against a county;

(C) the superintendent or business administrator of the board, when the claim is against a school district or board of education;

(D) the president or secretary of the board, when the claim is against a special district;

(E) the attorney general, when the claim is against the State of Utah; or

(F) a member of the governing board, the executive director, or executive secretary, when the claim is against any other public board, commission, or body.

(4) (a) If the claimant is under the age of majority, or mentally incompetent and without a legal guardian at the time the claim arises, the claimant may apply to the court to extend the time for service of notice of claim.

(b) (i) After hearing and notice to the governmental entity, the court may extend the time for service of notice of claim.

(ii) The court may not grant an extension that exceeds the applicable statute of limitations.

(c) In determining whether or not to grant an extension, the court shall consider whether the delay in serving the notice of claim will substantially prejudice the governmental entity in maintaining its defense on the merits.

Section 2. Section **63-30-12** is amended to read:

63-30-12. Claim against state or its employee -- Time for filing notice.

A claim against the state, or against its employee for an act or omission occurring during the performance of ~~[his]~~ the employee's duties, within the scope of employment, or under color of authority, is barred unless notice of claim is filed with the attorney general ~~[and the agency concerned]~~ within one year after the claim arises, or before the expiration of any extension of time granted under Section 63-30-11, regardless of whether or not the function giving rise to the claim is characterized as governmental.

Section 3. Section **63-30-13** is amended to read:

63-30-13. Claim against political subdivision or its employee -- Time for filing notice.

A claim against a political subdivision, or against its employee for an act or omission occurring during the performance of [his] the employee's duties, within the scope of employment, or under color of authority, is barred unless notice of claim is filed with the governing body of the political subdivision according to the requirements of Section 63-30-11 within one year after the claim arises, or before the expiration of any extension of time granted under Section 63-30-11, regardless of whether or not the function giving rise to the claim is characterized as governmental.