

1st Sub. H.B. 337
STUDENT RIGHT TO ACTIVE COUNSEL

Representative **Kim Coleman** proposes the following amendments:

1. *Page 1, Lines 16 through 21:*

- 16 representation at a disciplinary proceeding;
- 17 • governing the exchange of evidence at a disciplinary proceeding; and
- 18 • prohibiting certain conflicts of interest in a disciplinary proceeding . {~~;~~ and
- 19 ~~authorizing a cause of action; and~~
- 20 ~~amends applicable governmental immunity provisions.}~~
- 21 Money Appropriated in this Bill:

2. *Page 1, Line 25 through Page 2, Line 39:*

- 25 Utah Code Sections Affected:
- 26 {~~AMENDS:~~
- 27 ~~63G-7-301, as last amended by Laws of Utah 2015, Chapter 342}~~
- 28 ENACTS:
- 29 53B-26-101, Utah Code Annotated 1953
- 30 53B-26-102, Utah Code Annotated 1953
- 31 53B-26-201, Utah Code Annotated 1953
- 32 53B-26-203, Utah Code Annotated 1953
- 33 53B-26-204, Utah Code Annotated 1953
- 34 53B-26-205, Utah Code Annotated 1953
- 35 53B-26-206, Utah Code Annotated 1953
- 36 53B-26-207, Utah Code Annotated 1953
- 37 {~~53B-26-208, Utah Code Annotated 1953}~~
-
- 39 *Be it enacted by the Legislature of the state of Utah:*

3. *Page 7, Line 185 through Page 9, Line 247:*

- 185 party first to a hearing officer.
- 186 {~~Section 9. Section 53B-26-208 is enacted to read:~~
- 187 ~~53B-26-208. Cause of action:~~
- 188 ~~(1) An accused student, accused student organization, or alleged victim may bring an~~
- 189 ~~action in a court of competent jurisdiction for an alleged violation of this part by an institution.~~
- 190 ~~(2) If the court finds that an institution committed a violation under Subsection (1), the~~

191 ~~court may award, as applicable, the accused student, accused student organization, or alleged~~
192 ~~victim:~~
193 ~~—— (a) compensatory damages;~~
194 ~~—— (b) reasonable court costs incurred;~~
195 ~~—— (c) reasonable attorney fees incurred;~~
196 ~~—— (d) monetary damages;~~
197 ~~—— (i) in an amount equal to or more than the cost of tuition paid by or on behalf of the~~
198 ~~accused student or alleged victim to the institution for the academic period in which the~~
199 ~~violation occurred; and~~
200 ~~—— (ii) in an amount equal to or more than the amount of scholarship funding an accused~~
201 ~~student has lost as a result of the outcome of a student disciplinary proceeding; and~~
202 ~~—— (e) any other relief the court determines just.~~
203 ~~—— (3) An action based upon a cause of action under this part shall be commenced within~~
204 ~~one year after the date that an accused student, accused student organization, or alleged victim~~
205 ~~receives final notice of the outcome of the student or student organization disciplinary~~
206 ~~proceeding.~~
207 ~~—— Section 10. Section 63G-7-301 is amended to read:~~
208 ~~—— 63G-7-301. Waivers of immunity.~~
209 ~~—— (1) (a) Immunity from suit of each governmental entity is waived as to any contractual~~
210 ~~obligation.~~
211 ~~—— (b) Actions arising out of contractual rights or obligations are not subject to the~~
212 ~~requirements of Sections 63G-7-401, 63G-7-402, 63G-7-403, or 63G-7-601.~~
213 ~~—— (c) The Division of Water Resources is not liable for failure to deliver water from a~~
214 ~~reservoir or associated facility authorized by Title 73, Chapter 26, Bear River Development~~
215 ~~Act, if the failure to deliver the contractual amount of water is due to drought, other natural~~
216 ~~condition, or safety condition that causes a deficiency in the amount of available water.~~
217 ~~—— (2) Immunity from suit of each governmental entity is waived:~~
218 ~~—— (a) as to any action brought to recover, obtain possession of, or quiet title to real or~~
219 ~~personal property;~~
220 ~~—— (b) as to any action brought to foreclose mortgages or other liens on real or personal~~
221 ~~property, to determine any adverse claim on real or personal property, or to obtain an~~
222 ~~adjudication about any mortgage or other lien that the governmental entity may have or claim~~
223 ~~on real or personal property;~~
224 ~~—— (c) as to any action based on the negligent destruction, damage, or loss of goods,~~
225 ~~merchandise, or other property while it is in the possession of any governmental entity or~~
226 ~~employee, if the property was seized for the purpose of forfeiture under any provision of state~~
227 ~~law;~~
228 ~~—— (d) subject to Subsection 63G-7-302(1), as to any action brought under the authority of~~
229 ~~Utah Constitution, Article I, Section 22, for the recovery of compensation from the~~
230 ~~governmental entity when the governmental entity has taken or damaged private property for~~

231 public uses without just compensation;
232 ~~—— (e) subject to Subsection 63G-7-302(2), as to any action brought to recover attorney~~
233 ~~fees under Sections 63G-2-405 and 63G-2-802;~~
234 ~~—— (f) for actual damages under Title 67, Chapter 21, Utah Protection of Public Employees~~
235 ~~Act;~~
236 ~~—— (g) as to any action brought to obtain relief from a land use regulation that imposes a~~
237 ~~substantial burden on the free exercise of religion under Title 63L, Chapter 5, Utah Religious~~
238 ~~Land Use Act;~~
239 ~~—— (h) except as provided in Subsection 63G-7-201(3), as to any injury caused by:~~
240 ~~—— (i) a defective, unsafe, or dangerous condition of any highway, road, street, alley,~~
241 ~~crosswalk, sidewalk, culvert, tunnel, bridge, viaduct, or other structure located on them; or~~
242 ~~—— (ii) any defective or dangerous condition of a public building, structure, dam, reservoir,~~
243 ~~or other public improvement; [and]~~
244 ~~—— (i) subject to Subsection 63G-7-201(4), as to any injury proximately caused by a~~
245 ~~negligent act or omission of an employee committed within the scope of employment[.]; and~~
246 ~~—— (j) as to any action brought to obtain relief under Title 53B, Chapter 26, Part 2, Student~~
247 ~~Legal Representation.}~~