

367 special trust employee, unless:

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

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

372 (B) with the student's consent; or

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

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

377 ~~§→ [(5) Notwithstanding Subsection 63G-7-101(4), immunity from suit is waived if:~~

378 ~~—— (a) in response to a suit filed on or after May 1, 2024, by a government employee in the~~
379 ~~government employee's personal capacity, the defendant files a suit or counterclaim against the~~
380 ~~government employee:~~

381 ~~—— (i) that arises out of the transaction or occurrence that is the subject matter of the~~
382 ~~government employee's cause of action against the defendant; and~~

383 ~~—— (ii) for which the government employee would be immune under this chapter if the~~
384 ~~defendant had filed suit against the government employee without the government employee~~
385 ~~first filing suit against the defendant; or~~

386 ~~—— (b) in a suit filed on or after May 1, 2024, by a plaintiff against a government employee~~
387 ~~asserting a cause of action for which the government employee is immune under this chapter;~~
388 ~~the government employee files a suit or counterclaim against the plaintiff, in the government~~
389 ~~employee's personal capacity, that arises out of the transaction or occurrence that is the subject~~
390 ~~matter of the plaintiff's cause of action against the government employee.] ←§~~

391 Section 11. Section 67-5-1 is amended to read:

392 **67-5-1. General duties.**

393 (1) The attorney general shall:

394 (a) perform all duties in a manner consistent with the attorney-client relationship under
395 Section 67-5-17;

396 (b) except as provided in Sections 10-3-928 and 17-18a-403, attend the Supreme Court
397 and the Court of Appeals of this state, and all courts of the United States, and prosecute or