

AMENDMENTS TO GOVERNMENTAL IMMUNITY

2013 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Derek E. Brown

Senate Sponsor: _____

LONG TITLE

General Description:

This bill modifies Title 63G, Chapter 7, Governmental Immunity Act of Utah.

Highlighted Provisions:

This bill:

- ▶ modifies the definition of an "employee";
- ▶ defines the term "service provider"; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63G-7-102, as renumbered and amended by Laws of Utah 2008, Chapter 382

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

Section 1. Section **63G-7-102** is amended to read:

63G-7-102. Definitions.

As used in this chapter:

- (1) "Claim" means any asserted demand for or cause of action for money or damages,



28 whether arising under the common law, under state constitutional provisions, or under state
29 statutes, against a governmental entity or against an employee in the employee's personal
30 capacity.

31 (2) (a) "Employee" includes:

32 (i) a governmental entity's officers, employees, servants, trustees, or commissioners;

33 (ii) members of a governing body;

34 (iii) members of a government entity board;

35 (iv) members of a government entity commission;

36 (v) members of an advisory body, officers, and employees of a Children's Justice
37 Center created in accordance with Section 67-5b-104;

38 (vi) student teachers holding a letter of authorization in accordance with Sections
39 53A-6-103 and 53A-6-104;

40 (vii) educational aides;

41 (viii) students engaged in providing services to members of the public in the course of
42 an approved medical, nursing, or other professional health care clinical training program;

43 (ix) volunteers as defined by Subsection 67-20-2(3); [~~and~~]

44 (x) tutors[-]; and

45 (xi) a service provider for a county, city, or town.

46 (b) "Employee" includes all of the positions identified in Subsection (2)(a), whether or
47 not the individual holding that position receives compensation.

48 (c) "Employee" does not include an independent contractor.

49 (3) "Governmental entity" means the state and its political subdivisions as both are
50 defined in this section.

51 (4) (a) "Governmental function" means each activity, undertaking, or operation of a
52 governmental entity.

53 (b) "Governmental function" includes each activity, undertaking, or operation
54 performed by a department, agency, employee, agent, or officer of a governmental entity.

55 (c) "Governmental function" includes a governmental entity's failure to act.

56 (5) "Injury" means death, injury to a person, damage to or loss of property, or any other
57 injury that a person may suffer to the person or estate, that would be actionable if inflicted by a
58 private person or the private person's agent.

59 (6) "Personal injury" means an injury of any kind other than property damage.

60 (7) "Political subdivision" means any county, city, town, school district, community
61 development and renewal agency, special improvement or taxing district, local district, special
62 service district, an entity created by an interlocal agreement adopted under Title 11, Chapter 13,
63 Interlocal Cooperation Act, or other governmental subdivision or public corporation.

64 (8) "Property damage" means injury to, or loss of, any right, title, estate, or interest in
65 real or personal property.

66 (9) "Service provider" means:

67 (a) a person, partnership, limited liability company, corporation, or other entity,
68 whether public or private, performing a governmental function:

69 (i) on behalf of a county, city, or town; and

70 (ii) pursuant to a written contract expressly delegating the performance of the
71 governmental function to that entity; and

72 (b) any officer, employee, agent, or subcontractor of an entity described in Subsection
73 (9)(a), if the officer, employee, agent, or subcontractor is acting in furtherance of the written
74 contract described in Subsection (9)(a)(ii).

75 [~~9~~] (10) "State" means the state of Utah, and includes each office, department,
76 division, agency, authority, commission, board, institution, hospital, college, university,
77 Children's Justice Center, or other instrumentality of the state.

78 [~~10~~] (11) "Willful misconduct" means the intentional doing of a wrongful act, or the
79 wrongful failure to act, without just cause or excuse, where the actor is aware that the actor's
80 conduct will probably result in injury.

Legislative Review Note
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Office of Legislative Research and General Counsel