

Representative Michael J. Petersen proposes the following substitute bill:

GOVERNMENT EMPLOYEE CONSCIENCE PROTECTION

AMENDMENTS

2024 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Michael J. Petersen

Senate Sponsor: Todd D. Weiler

LONG TITLE

General Description:

This bill addresses required reasonable accommodations for government employees in certain circumstances.

Highlighted Provisions:

This bill:

- ▶ defines terms;
 - ▶ requires a governmental entity to grant an employee's request to be relieved from performing a certain task if granting the request would not place an undue hardship on the governmental entity;
 - ▶ creates protections for employees who request to be relieved from a certain task;
- and
- ▶ creates a cause of action for a government employee whose request to be relieved from performing a certain task was denied.

Money Appropriated in this Bill:

None

Other Special Clauses:

None



26 **Utah Code Sections Affected:**

27 ENACTS:

28 [67-27-105](#), Utah Code Annotated 1953

29

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

31 Section 1. Section **67-27-105** is enacted to read:

32 **67-27-105. Reasonable accommodations for government employees.**

33 (1) As used in this section:

34 (a) "Conscience" means a sincerely held belief as to the rightness or wrongness of an
35 action or inaction that guides all aspects of an individual's choices.

36 (b) (i) "Employee" means an individual employed by a governmental entity.

37 (ii) "Employee" does not include:

38 (A) an elected official;

39 (B) an individual employed by the Legislature; or

40 (C) an individual who is appointed or employed to be on an elected official's personal
41 staff to assist the elected official in fulfilling the elected official's duties.

42 (c) "First responder" means:

43 (i) a law enforcement officer, as that term is defined in Section [53-13-103](#);

44 (ii) an emergency medical technician, as that term is defined in Section [53-2e-101](#);

45 (iii) an advanced emergency medical technician, as that term is defined in Section
46 [53-2e-101](#);

47 (iv) a paramedic, as that term is defined in Section [53-2e-101](#);

48 (v) a firefighter, as that term is defined in Section [53B-8c-102](#); or

49 (vi) a dispatcher, as that term is defined in Section [53-6-102](#).

50 (d) "Governmental entity" means:

51 (i) the state;

52 (ii) a political subdivision of the state, including a county, city, town, school district,
53 special district, institution of higher education, or special service district; or

54 (iii) an entity created by the state, including an agency, board, bureau, commission,
55 committee, department, division, institution, instrumentality, or office.

56 (e) "Retaliatory action" means any of the following actions taken by a governmental

57 entity against an employee:

58 (i) a dismissal;

59 (ii) a reduction of compensation;

60 (iii) a failure to increase compensation by an amount that the employee is otherwise
61 entitled to or was promised;

62 (iv) a failure to promote if the employee would otherwise be promoted; or

63 (v) a threat to take an action described in Subsections (1)(e)(i) through (iv).

64 (f) "Task" means a specific job, duty, or function.

65 (g) "Undue hardship" means $\hat{H} \rightarrow$, given the overall context of the governmental entity's

65a **business or operations:**

65b (i) $\leftarrow \hat{H}$ a substantial increase in costs to a governmental entity's

66 budget, $\hat{H} \rightarrow$ **that would result from an employee being relieved from performing a certain**

66a **task; $\leftarrow \hat{H}$ or**

66b $\hat{H} \rightarrow$ (ii) $\leftarrow \hat{H}$ a substantial disruption of a governmental entity's operations, that would result from
67 an employee being relieved from performing a certain task.

68 (2) (a) Except as provided in Subsection (2)(b), a governmental entity may not deny an
69 employee's $\hat{H} \rightarrow$ **reasonable** $\leftarrow \hat{H}$ request to be relieved from performing a certain task if:

70 (i) performing the task would conflict with the employee's sincerely held religious
71 beliefs or conscience;

72 (ii) the employee's asserted religious beliefs or conscience described in Subsection
73 (2)(a)(i) is not asserted for an improper purpose;

74 (iii) the employee has complied with the requirements of Subsection (3); and

75 (iv) relieving the employee from the task would not impose an undue hardship on the
76 governmental entity.

77 (b) A governmental entity is not required to grant an employee's request under
78 Subsection (2)(a) if:

79 (i) the request is to be relieved from performing a task that is part of training or safety
80 instructions directly related to the employee's employment;

81 (ii) granting the request would result in a deficit in the amount of work for which the
82 employee is compensated;

83 (iii) granting the request would create a conflict with an existing legal obligation and
84 the governmental entity cannot avoid the conflict if the governmental entity grants the
85 employee's request under Subsection (3); or

86 (iv) the employee is a first responder and the request by the employee under Subsection
87 (2)(a) is to be relieved from performing a task that involves protecting the safety of the public.

88 (c) In making a determination as to whether an employee's request under Subsection
89 (2) will cause undue hardship to the governmental entity through a substantial disruption of a
90 governmental entity's operations, the governmental entity may take into account the number of
91 previous requests the employee has made in the preceding 12 months from the day on which
92 the employee submitted the request.

93 (3) (a) Except as provided in Subsection (3)(b), an employee seeking to be relieved
94 from performing a certain task under Subsection (2) shall, within at least two business days
95 after the day on which the employee received the assignment to perform the task, submit a
96 written request to the employee's supervisor providing an explanation as to why the task would
97 conflict with the employee's sincerely held religious beliefs or conscience.

98 (b) If an employee receives an assignment to perform a task that is to be performed
99 within two business days after the day on which the employee received the assignment and
100 seeks to be relieved from performing the task under Subsection (2), the employee shall orally
101 or in writing immediately request to be relieved from performing the task.

102 (4) (a) Except as provided in Subsection (4)(c), a governmental entity that receives a
103 request under Subsection (3) shall respond to the request:

- 104 (i) within 10 business days after the day on which the request was received; or
- 105 (ii) before the assigned task is required to be performed if the assigned task is to be
106 performed within 10 business days after the day on which the employee received the
107 assignment to perform the task.

108 (b) If a governmental entity denies an employee's request submitted under Subsection
109 (3), the governmental entity shall include in the response required under Subsection (4)(a):

- 110 (i) an explanation of the governmental entity's decision and why granting the request
111 would impose an undue hardship on the governmental entity; and
- 112 (ii) that the employee may seek redress in a court as described in Subsection (6).

113 (c) An employee and governmental entity may agree in writing to waive or extend the
114 time limits described in Subsection (4)(a).

115 (5) (a) A governmental entity may adopt a policy detailing the requirements of this
116 section.

117 (b) A policy adopted under Subsection (5)(a) shall:

- 118 (i) provide the governmental entity's employees a process for making a request under

119 this section;

120 (ii) designate an individual to receive an employee request described in Subsection (3);

121 (iii) outline the information an employee is required to provide to the governmental
122 entity in a request described in Subsection (3); and

123 (iv) outline the process the governmental entity will use to evaluate a request received
124 under Subsection (3) in determining if the request will impose an undue hardship on the
125 governmental entity.

126 (c) A governmental entity establishing a policy under this Subsection (5) shall ensure
127 that:

128 (i) the governmental entity's employees receive notice of the policy and access to a
129 copy of the policy when the policy is adopted or when an employee begins working for the
130 governmental entity, whichever occurs first; and

131 (ii) if the governmental agency receives a request under Subsection (3), the
132 governmental entity includes a reference to the governmental entity's policy in the
133 governmental entity's response.

134 (6) (a) An employee has a right of action against the governmental entity that employs
135 the employee if:

136 (i) the employee has complied with Subsection (3) in good faith;

137 (ii) the employee has complied with any policy created under Subsection (5) after
138 receiving notice and a reference of the policy as described in Subsection (5)(c);

139 (iii) the employee's asserted religious beliefs or conscience described in Subsection
140 (2)(a)(i) is not asserted for an improper purpose; and

141 (iv) granting the request would not have imposed an undue hardship on the
142 governmental entity.

143 (b) An employee seeking to assert a right of action under this section shall bring the
144 action in a court within 180 calendar days after the day on which the employee received the
145 governmental entity's response described in Subsection (4).

146 (c) If an employee establishes, by a preponderance of the evidence, that the employee
147 meets the requirements described in Subsection (6)(a), the court shall grant the employee relief
148 by:

149 (i) (A) issuing an injunction ordering the governmental entity to relieve the employee

150 from the specific task if the task is still to be performed; or

151 (B) ordering the governmental entity to reinstate or rehire the employee if the employee
152 resigned, was demoted, or was terminated as a direct result of the governmental entity's
153 violation of Subsection (2); and

154 (ii) awarding the employee back pay, reasonable attorney fees, and court costs.

155 (7) (a) Unless required by another provision of the Utah Code and subject to
156 Subsections (7)(b) and (c), a governmental entity may not make public comments about an
157 employee's request to be relieved from performing a certain task or about the dispute between
158 the governmental entity and employee after:

159 (i) the employee has submitted the employee's request described in Subsection (3) and
160 the employee has not yet brought the employee's right of action in court and before the time for
161 the employee to bring a right of action has expired under Subsection (6);

162 (ii) the employee has brought a right of action in court under Subsection (6) ~~H~~→ **and**
162a **during the pendency of court proceedings related to the asserted right of action** ←~~H~~ ; or

163 (iii) the employee successfully establishes the employee's right of action under
164 Subsection (6).

165 (b) A governmental entity that receives request under Subsection (3) may only publicly
166 comment that the governmental entity does not comment on an ongoing personnel matter.

167 (c) A court shall impose a fine on a governmental entity of at least \$5,000 for each
168 violation of Subsection (7)(a).

169 (8) A governmental entity may not take retaliatory action against an employee for
170 submitting a request under Subsection (3).

171 (9) Nothing in this section:

172 (a) limits the employee's right to bring any other claim the employee may have against
173 the governmental entity; or

174 (b) prevents a governmental entity from implementing a policy required by state or
175 federal law.

176 **Section 2. Effective date.**

177 This bill takes effect on May 1, 2024.