

Part 5 Utah Office for Victims of Crime

63M-7-501 Title.

This part is known as the "Utah Office for Victims of Crime" and may be abbreviated as the "UOVC."

Amended by Chapter 131, 2011 General Session

63M-7-502 Definitions.

As used in this chapter:

- (1) "Accomplice" means a person who has engaged in criminal conduct as defined in Section 76-2-202.
- (2) "Board" means the Crime Victim Reparations and Assistance Board created under Section 63M-7-504.
- (3) "Bodily injury" means physical pain, illness, or any impairment of physical condition.
- (4) "Claim" means:
 - (a) the victim's application or request for a reparations award; and
 - (b) the formal action taken by a victim to apply for reparations pursuant to this chapter.
- (5) "Claimant" means any of the following claiming reparations under this chapter:
 - (a) a victim;
 - (b) a dependent of a deceased victim;
 - (c) a representative other than a collateral source; or
 - (d) the person or representative who files a claim on behalf of a victim.
- (6) "Child" means an unemancipated person who is under 18 years of age.
- (7) "Collateral source" means the definition as provided in Section 63M-7-513.
- (8) "Contested case" means a case which the claimant contests, claiming the award was either inadequate or denied, or which a county attorney, a district attorney, a law enforcement officer, or other individual related to the criminal investigation proffers reasonable evidence of the claimant's lack of cooperation in the prosecution of a case after an award has already been given.
- (9)
 - (a) "Criminally injurious conduct" other than acts of war declared or not declared means conduct that:
 - (i) is or would be subject to prosecution in this state under Section 76-1-201;
 - (ii) occurs or is attempted;
 - (iii) causes, or poses a substantial threat of causing, bodily injury or death;
 - (iv) is punishable by fine, imprisonment, or death if the person engaging in the conduct possessed the capacity to commit the conduct; and
 - (v) does not arise out of the ownership, maintenance, or use of a motor vehicle, aircraft, or water craft, unless the conduct is intended to cause bodily injury or death, or is conduct which is or would be punishable under Title 76, Chapter 5, Offenses Against the Person, or as any offense chargeable as driving under the influence of alcohol or drugs.
 - (b) "Criminally injurious conduct" includes an act of terrorism, as defined in 18 U.S.C. Sec. 2331 committed outside of the United States against a resident of this state. "Terrorism" does not include an "act of war" as defined in 18 U.S.C. Sec. 2331.

- (10) "Dependent" means a natural person to whom the victim is wholly or partially legally responsible for care or support and includes a child of the victim born after the victim's death.
- (11) "Dependent's economic loss" means loss after the victim's death of contributions of things of economic value to the victim's dependent, not including services the dependent would have received from the victim if the victim had not suffered the fatal injury, less expenses of the dependent avoided by reason of victim's death.
- (12) "Dependent's replacement services loss" means loss reasonably and necessarily incurred by the dependent after the victim's death in obtaining services in lieu of those the decedent would have performed for the victim's benefit if the victim had not suffered the fatal injury, less expenses of the dependent avoided by reason of the victim's death and not subtracted in calculating the dependent's economic loss.
- (13) "Director" means the director of the Utah Office for Victims of Crime.
- (14) "Disposition" means the sentencing or determination of penalty or punishment to be imposed upon a person:
 - (a) convicted of a crime;
 - (b) found delinquent; or
 - (c) against whom a finding of sufficient facts for conviction or finding of delinquency is made.
- (15) "Economic loss" means economic detriment consisting only of allowable expense, work loss, replacement services loss, and if injury causes death, dependent's economic loss and dependent's replacement service loss. Noneconomic detriment is not loss, but economic detriment is loss although caused by pain and suffering or physical impairment.
- (16) "Elderly victim" means a person 60 years of age or older who is a victim.
- (17) "Fraudulent claim" means a filed claim based on material misrepresentation of fact and intended to deceive the reparations staff for the purpose of obtaining reparation funds for which the claimant is not eligible as provided in Section 63M-7-510.
- (18) "Fund" means the Crime Victim Reparations Fund created in Section 51-9-404.
- (19) "Law enforcement officer" means a law enforcement officer as defined in Section 53-13-103.
- (20) "Medical examination" means a physical examination necessary to document criminally injurious conduct but does not include mental health evaluations for the prosecution and investigation of a crime.
- (21) "Mental health counseling" means outpatient and inpatient counseling necessitated as a result of criminally injurious conduct. The definition of mental health counseling is subject to rules promulgated by the board pursuant to Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- (22) "Misconduct" as provided in Subsection 63M-7-512(1)(b) means conduct by the victim which was attributable to the injury or death of the victim as provided by rules promulgated by the board pursuant to Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- (23) "Noneconomic detriment" means pain, suffering, inconvenience, physical impairment, and other nonpecuniary damage, except as provided in this chapter.
- (24) "Pecuniary loss" does not include loss attributable to pain and suffering except as otherwise provided in this chapter.
- (25) "Offender" means a person who has violated the criminal code through criminally injurious conduct regardless of whether the person is arrested, prosecuted, or convicted.
- (26) "Offense" means a violation of the criminal code.
- (27) "Perpetrator" means the person who actually participated in the criminally injurious conduct.
- (28) "Reparations officer" means a person employed by the office to investigate claims of victims and award reparations under this chapter, and includes the director when the director is acting as a reparations officer.

- (29) "Replacement service loss" means expenses reasonably and necessarily incurred in obtaining ordinary and necessary services in lieu of those the injured person would have performed, not for income but the benefit of the injured person or the injured person's dependents if the injured person had not been injured.
- (30) "Representative" means the victim, immediate family member, legal guardian, attorney, conservator, executor, or an heir of a person but does not include service providers.
- (31) "Restitution" means money or services an appropriate authority orders an offender to pay or render to a victim of the offender's conduct.
- (32) "Secondary victim" means a person who is traumatically affected by the criminally injurious conduct subject to rules promulgated by the board pursuant to Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- (33) "Service provider" means a person or agency who provides a service to crime victims for a monetary fee except attorneys as provided in Section 63M-7-524.
- (34) "Utah Office for Victims of Crime" or "office" means the director, the reparations and assistance officers, and any other staff employed for the purpose of carrying out the provisions of this chapter.
- (35)
 - (a) "Victim" means a person who suffers bodily or psychological injury or death as a direct result of criminally injurious conduct or of the production of pornography in violation of Section 76-5b-201 if the person is a minor.
 - (b) "Victim" does not include a person who participated in or observed the judicial proceedings against an offender unless otherwise provided by statute or rule.
 - (c) "Victim" includes a resident of this state who is injured or killed by an act of terrorism, as defined in 18 U.S.C. 2331, committed outside of the United States.
- (36) "Work loss" means loss of income from work the injured victim would have performed if the injured victim had not been injured and expenses reasonably incurred by the injured victim in obtaining services in lieu of those the injured victim would have performed for income, reduced by any income from substitute work the injured victim was capable of performing but unreasonably failed to undertake.

Amended by Chapter 369, 2012 General Session

63M-7-503 Restitution -- Reparations not to supplant restitution -- Assignment of claim for restitution judgment to Reparations Office.

- (1) A reparations award may not supplant restitution as established under Title 77, Chapter 38a, Crime Victims Restitution Act, or as established by any other provisions.
- (2) The court may not reduce an order of restitution based on a reparations award.
- (3) If, due to reparation payments to a victim, the Utah Office for Victims of Crime is assigned under Section 63M-7-519 a claim for the victim's judgment for restitution or a portion of the restitution, the office may file with the sentencing court a notice of restitution listing the amounts or estimated future amounts of payments made or anticipated to be made to or on behalf of the victim. The Utah Office for Victims of Crime may provide a restitution notice to the victim or victim's representative prior to or at sentencing. The amount of restitution sought by the office may be updated at any time, subject to the right of the defendant to object. Failure to provide the notice may not invalidate the imposition of the judgment or order of restitution provided the defendant is given the opportunity to object and be heard as provided in this chapter. Any objection by the defendant to the imposition or amount of restitution shall be made at the time of sentencing or in writing within 20 days of the receipt of notice, to be filed with the court and

- a copy mailed to the Utah Office for Victims of Crime. Upon the filing of the objection, the court shall allow the defendant a full hearing on the issue as provided by Subsection 77-38a-302(4).
- (4) If no objection is made or filed by the defendant, then upon conviction and sentencing, the court shall enter a judgment for complete restitution pursuant to the provisions of Subsections 76-3-201(4)(c) and (d) and identify the office as the assignee of the assigned portion of the judgment and order of restitution.
 - (5) If the notice of restitution is filed after sentencing but during the term of probation or parole, the court or Board of Pardons shall modify any existing civil judgment and order of restitution to include expenses paid by the office on behalf of the victim and identify the office as the assignee of the assigned portion of the judgment and order of restitution. If no judgment or order of restitution has been entered, the court shall enter a judgment for complete restitution and court-ordered restitution pursuant to the provisions of Sections 77-38a-302 and 77-38a-401.

Amended by Chapter 147, 2015 General Session

63M-7-504 Crime Victim Reparations and Assistance Board -- Members.

- (1)
 - (a) A Crime Victim Reparations and Assistance Board is created, consisting of seven members appointed by the governor with the consent of the Senate.
 - (b) The membership of the board shall consist of:
 - (i) a member of the bar of this state;
 - (ii) a victim of criminally injurious conduct;
 - (iii) a licensed physician;
 - (iv) a representative of law enforcement;
 - (v) a mental health care provider;
 - (vi) a victim advocate; and
 - (vii) a private citizen.
 - (c) The governor may appoint a chair of the board who shall serve for a period of time prescribed by the governor, not to exceed the length of the chair's term. The board may elect a vice chair to serve in the absence of the chair.
 - (d) The board may hear appeals from administrative decisions as provided in rules adopted pursuant to Section 63M-7-515.
- (2)
 - (a) Except as required by Subsection (2)(b), as terms of current board members expire, the governor shall appoint each new member or reappointed member to a four-year term.
 - (b) Notwithstanding the requirements of Subsection (2)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of board members are staggered so that approximately half of the board is appointed every two years.
 - (c) A member may be reappointed to one successive term in addition to a member's initial full-term appointment.
- (3)
 - (a) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.
 - (b) A member resigning from the board shall serve until the member's successor is appointed and qualified.
- (4) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

- (a) Section 63A-3-106;
 - (b) Section 63A-3-107; and
 - (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.
- (5) The board shall meet at least once quarterly but may meet more frequently as necessary.

Amended by Chapter 131, 2011 General Session

63M-7-505 Board and office within Commission on Criminal and Juvenile Justice.

- (1) The Crime Victim Reparations and Assistance Board and the Utah Office for Victims of Crime are placed within the Commission on Criminal and Juvenile Justice for the provision by the commission of administrative and support services.
- (2) The board or the director may request assistance from the Commission on Criminal and Juvenile Justice, the Department of Public Safety, and other state agencies in conducting research or monitoring victims' programs.

Amended by Chapter 131, 2011 General Session

63M-7-506 Functions of board.

- (1) The Crime Victim Reparations and Assistance Board shall:
 - (a) adopt a description of the organization and prescribe the general operation of the board;
 - (b) prescribe policy for the Utah Office for Victims of Crime;
 - (c) adopt rules to implement and administer this chapter pursuant to Title 63G, Chapter 3, Utah Administrative Rulemaking Act, which may include setting of ceilings on reparations, defining of terms not specifically stated in this chapter, and establishing of rules governing attorney fees;
 - (d) prescribe forms for applications for reparations;
 - (e) review all awards made by the reparations staff, although the board may not reverse or modify awards authorized by the reparations staff;
 - (f) render an annual report to the governor and the Legislature regarding the staff's and the board's activities;
 - (g) cooperate with the director and the director's staff in formulating standards for the uniform application of Section 63M-7-509, taking into consideration the rates and amounts of reparation payable for injuries and death under other laws of this state and the United States;
 - (h) allocate money available in the Crime Victim Reparations Fund to victims of criminally injurious conduct for reparations claims;
 - (i) allocate money available to other victim services as provided by administrative rule once a sufficient reserve has been established for reparation claims; and
 - (j) approve the allocation and disbursement of funds made available to the office by the United States, the state, foundations, corporations, or other entities or individuals to subgrantees from private, non-profit, and governmental entities operating qualified statewide assistance programs.
- (2) All rules, or other statements of policy, along with application forms specified by the board, are binding upon the director, the reparations officers, assistance officers, and other staff.

Amended by Chapter 131, 2011 General Session

63M-7-507 Director -- Appointment and functions.

The executive director of the Commission on Criminal and Juvenile Justice, after consulting with the board, shall appoint a director to carry out the provisions of this chapter. The director shall be an experienced administrator with a background in at least one of the following fields: social work, psychology, criminal justice, law, or a related field. The director shall demonstrate an understanding of the needs of crime victims and of services to victims. The director shall devote the director's time and capacity to the director's duties. The director shall:

- (1) hire staff, including reparations and assistance officers, as necessary;
- (2) act when necessary as a reparations officer in deciding initial claims;
- (3) possess the same investigation and decision-making authority as the reparations officers;
- (4) hear appeals from the decisions of the reparations officers, unless the director acted as a reparations officer on the initial claim;
- (5) serve as a liaison between the Utah Office for Victims of Crime and the board;
- (6) serve as the public relations representative of the office;
- (7) provide for payment of all administrative salaries, fees, and expenses incurred by the staff of the board, to be paid out of appropriations from the fund;
- (8) cooperate with the state treasurer and the state Division of Finance in causing the funds in the trust fund to be invested and its investments sold or exchanged and the proceeds and income collected;
- (9) apply for, receive, allocate, disburse, and account for, subject to approval and in conformance with policies adopted by the board, all grant funds made available by the United States, the state, foundations, corporations, and other businesses, agencies, or individuals;
- (10) obtain and utilize the services of other governmental agencies upon request; and
- (11) act in any other capacity or perform any other acts necessary for the office or board to successfully fulfill its statutory duties and objectives.

Amended by Chapter 131, 2011 General Session

63M-7-508 Reparations officers.

The reparations officers shall in addition to any assignments made by the director of the Utah Office for Victims of Crime:

- (1) hear and determine all matters relating to claims for reparations and reinvestigate or reopen claims without regard to statutes of limitation or periods of prescription;
- (2) obtain from prosecuting attorneys, law enforcement officers, and other criminal justice agencies, investigations and data to enable the reparations officer to determine whether and to what extent a claimant qualifies for reparations;
- (3) as determined necessary by the reparations officers, hold hearings, administer oaths or affirmations, examine any person under oath or affirmation, issue subpoenas requiring the attendance and giving of testimony of witnesses, require the production of any books, papers, documents, or other evidence which may contribute to the reparations officer's ability to determine particular reparation awards;
- (4) determine who is a victim or dependent;
- (5) award reparations or other benefits determined to be due under this chapter and the rules of the board;
- (6) take notice of judicially recognized facts and general, technical, and scientific facts within their specialized knowledge;
- (7) advise and assist the board in developing policies recognizing the rights, needs, and interests of crime victims;
- (8) render periodic reports as requested by the board concerning:

- (a) the officers' activities; and
- (b) the manner in which the rights, needs, and interests of crime victims are being addressed by the state's criminal justice system;
- (9) establish priorities for assisting elderly victims of crime or those victims facing extraordinary hardships;
- (10) cooperate with the Commission on Criminal and Juvenile Justice to develop information regarding crime victims' problems and programs; and
- (11) assist the director in publicizing the provisions of the Utah Office for Victims of Crime, including the procedures for obtaining reparation, and in encouraging law enforcement agencies, health providers, and other related officials to take reasonable care to ensure that victims are informed about the provisions of this chapter and the procedure for applying for reparation.

Amended by Chapter 131, 2011 General Session

63M-7-509 Grounds for eligibility.

In order to be eligible for a reparations award under this chapter:

- (1) The claimant shall be:
 - (a) a victim of criminally injurious conduct;
 - (b) a dependent of a deceased victim of criminally injurious conduct; or
 - (c) a representative acting on behalf of one of the above.
- (2)
 - (a) The criminally injurious conduct shall have occurred in Utah, except as provided in Subsection (2)(b).
 - (b) If a Utah resident suffers injury or death as a result of criminally injurious conduct inflicted in a state, territory, or country which does not provide a crime victims' compensation program, that person shall receive the same consideration under this chapter as if the criminally injurious conduct occurred in this state.
- (3) The application shall be made in writing in a form that conforms substantially to that prescribed by the board.
- (4) The criminally injurious conduct shall be reported to a law enforcement officer, in the law enforcement officer's capacity as a law enforcement officer, or other federal or state investigative agencies.
- (5)
 - (a) The claimant or victim shall cooperate with the appropriate law enforcement agencies and prosecuting attorneys in their efforts to apprehend or convict the perpetrator of the alleged offense.
 - (b) An award to a victim may be made whether any person is arrested, prosecuted, or convicted of the criminally injurious conduct giving rise to the claim.
- (6) The criminally injurious conduct shall have occurred after December 31, 1986.

Amended by Chapter 339, 2008 General Session

Renumbered and Amended by Chapter 382, 2008 General Session

63M-7-510 Ineligible persons -- Fraudulent claims -- Penalties.

- (1) The following individuals are not eligible to receive an award of reparations:
 - (a) persons who do not meet all of the provisions set forth in Section 63M-7-509;
 - (b) the offender;

- (c) an accomplice of the offender;
 - (d) any person whose receipt of an award would unjustly benefit the offender, accomplice, or other person reasonably suspected of participating in the offense;
 - (e) the victim of a motor vehicle injury who was the owner or operator of the motor vehicle and was not at the time of the injury in compliance with the state motor vehicle insurance laws;
 - (f) any convicted offender serving a sentence of imprisonment in any prison or jail or residing in any other correctional facility;
 - (g) all persons who are on probation or parole if the circumstances surrounding the offense of which they are victims constitute a violation of their parole or probation; and
 - (h) any person whose injuries are the result of criminally injurious conduct that occurred in a prison, jail, or any other correctional facility while the person was incarcerated.
- (2) A person who knowingly submits a fraudulent claim for reparations or who knowingly misrepresents material facts in making a claim, and who receives an award based on that claim, is guilty of an offense, based on the following award amounts:
- (a) for value under \$500, a class B misdemeanor;
 - (b) for value equal to or greater than \$500, but less than \$1,500, a class A misdemeanor;
 - (c) for value equal to or greater than \$1,500, but less than \$5,000, a third degree felony; and
 - (d) for value equal to or greater than \$5,000, a second degree felony.
- (3) A person who submits a claim described in Subsection (2) but receives no award based on that claim is guilty of a class B misdemeanor.
- (4) The state attorney general may prosecute violations under this section or may make arrangements with county attorneys for the prosecution of violations under this section when the attorney general cannot conveniently prosecute.
- (5) The state may also bring a civil action against a claimant who receives reparation payments that are later found to be unjustified and who does not return to the Crime Victim Reparations Fund the unjustified amount.

Amended by Chapter 118, 2013 General Session

63M-7-511 Compensable losses and amounts.

A reparations award under this chapter may be made if:

- (1) the reparations officer finds the claim satisfies the requirements for the award under the provisions of this chapter and the rules of the board;
- (2) money is available in the fund;
- (3) the person for whom the award of reparations is to be paid is otherwise eligible under this part; and
- (4) the claim is for an allowable expense incurred by the victim, as follows:
 - (a) reasonable and necessary charges incurred for products, services, and accommodations;
 - (b) inpatient and outpatient medical treatment and physical therapy, subject to rules promulgated by the board pursuant to Title 63G, Chapter 3, Utah Administrative Rulemaking Act;
 - (c) mental health counseling which:
 - (i) is set forth in a mental health treatment plan which has been approved prior to any payment by a reparations officer; and
 - (ii) qualifies within any further rules promulgated by the board pursuant to Title 63G, Chapter 3, Utah Administrative Rulemaking Act;
 - (d) actual loss of past earnings and anticipated loss of future earnings because of a death or disability resulting from the personal injury at a rate not to exceed 66-2/3% of the person's

weekly gross salary or wages or the maximum amount allowed under the state workers' compensation statute;

- (e) care of minor children enabling a victim or spouse of a victim, but not both of them, to continue gainful employment at a rate per child per week as determined under rules established by the board;
- (f) funeral and burial expenses for death caused by the criminally injurious conduct, subject to rules promulgated by the board pursuant to Title 63G, Chapter 3, Utah Administrative Rulemaking Act;
- (g) loss of support to the dependent or dependents not otherwise compensated for a pecuniary loss for personal injury, for as long as the dependence would have existed had the victim survived, at a rate not to exceed 66-2/3% of the person's weekly salary or wages or the maximum amount allowed under the state workers' compensation statute, whichever is less;
- (h) personal property necessary and essential to the health or safety of the victim as defined by rules promulgated by the board pursuant to Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and
- (i) medical examinations as defined in Section 63M-7-502, subject to rules promulgated by the board pursuant to Title 63G, Chapter 3, Utah Administrative Rulemaking Act, which may allow for exemptions from Sections 63M-7-509, 63M-7-512, and 63M-7-513.

Amended by Chapter 342, 2011 General Session

63M-7-511.5 Limitation of awards.

- (1)
 - (a) Except as provided in Subsection (1)(b), an award of reparations may not exceed \$25,000 in the aggregate.
 - (b)
 - (i) In claims involving homicide, attempted homicide, aggravated assault, or DUI offenses, an award of reparations may not exceed \$50,000 in the aggregate.
 - (ii) Reparations for nonmedical expenses incurred as a result of the homicide, attempted homicide, aggravated assault, or DUI may not exceed \$25,000.
- (2)
 - (a) Awards of reparations to secondary victims shall be paid from the victims' maximum award amount provided in Subsection (1).
 - (b) When it appears that allowable expenses for the victim and secondary victims will exceed the maximum award amount provided in Subsection (1), the expenses of the victim shall be paid first unless otherwise requested by the claimant.
 - (c) Priority of payment among multiple secondary victims on a single claim shall be determined by the reparations officer.

Enacted by Chapter 339, 2008 General Session

63M-7-512 Reparations reduction.

- (1) Reparations otherwise payable to a claimant may be reduced or denied as follows:
 - (a) the economic loss upon which the claim is based has been or could be recouped from other persons, including collateral sources;
 - (b) the reparations officer considers the claim unreasonable because of the misconduct of the claimant or of a victim through whom the claimant claims; or

- (c) the victim did not use a facility or health care provider which would be covered by a collateral source.
- (2) When two or more dependents are entitled to an award as a result of a victim's death, the award shall be apportioned by the reparations officer among the dependents.

Amended by Chapter 339, 2008 General Session

Renumbered and Amended by Chapter 382, 2008 General Session

63M-7-513 Collateral sources.

- (1) Collateral source shall include any source of benefits or advantages for economic loss otherwise reparable under this chapter which the victim or claimant has received, or which is readily available to the victim from:
 - (a) the offender;
 - (b) the insurance of the offender;
 - (c) the United States government or any of its agencies, a state or any of its political subdivisions, or an instrumentality of two or more states, except in the case on nonobligatory state-funded programs;
 - (d) social security, Medicare, and Medicaid;
 - (e) state-required temporary nonoccupational income replacement insurance or disability income insurance;
 - (f) workers' compensation;
 - (g) wage continuation programs of any employer;
 - (h) proceeds of a contract of insurance payable to the victim for the loss the victim sustained because of the criminally injurious conduct;
 - (i) a contract providing prepaid hospital and other health care services or benefits for disability; or
 - (j) veteran's benefits, including veteran's hospitalization benefits.
- (2)
 - (a) An order of restitution shall not be considered readily available as a collateral source.
 - (b) Receipt of an award of reparations under this chapter shall be considered an assignment of the victim's rights to restitution from the offender.
- (3) The victim shall not discharge a claim against a person or entity without the state's written permission and shall fully cooperate with the state in pursuing its right of reimbursement, including providing the state with any evidence in the victim's possession.
- (4) The state's right of reimbursement applies regardless of whether the victim has been fully compensated for the victim's losses.
- (5) Notwithstanding the collateral source provisions in Subsection (1) and Subsection 63M-7-512(1)(a), a victim of a sexual offense who requests testing of himself may be reimbursed for the costs of the HIV test only as provided in Subsection 76-5-503(4).

Renumbered and Amended by Chapter 382, 2008 General Session

63M-7-514 Notification of claimant -- Suspension of proceedings.

- (1) The Utah Office for Victims of Crime shall immediately notify the claimant in writing of any award and shall forward to the Division of Finance a certified copy of the award and a warrant request for the amount of the award. The Division of Finance shall pay the claimant the amount submitted to the division, out of the fund. If money in the fund is temporarily depleted, claimants approved to receive awards shall be placed on a waiting list and shall receive their awards as funds are available in the order in which their awards were approved.

- (2) The reparations officer may suspend the proceedings pending disposition of a criminal prosecution that has been commenced or is imminent.

Amended by Chapter 131, 2011 General Session

Amended by Chapter 342, 2011 General Session

63M-7-515 Rules for contested claims -- Exemption from Administrative Procedures Act.

- (1) Rules for procedures for contested determinations by a reparations officer shall be adopted pursuant to Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- (2) The Utah Office for Victims of Crime is exempt from Title 63G, Chapter 4, Administrative Procedures Act.

Amended by Chapter 131, 2011 General Session

63M-7-516 Waiver of privilege.

- (1) A victim filing a claim under the provisions of this chapter shall be considered to have waived any privilege as to communications or records relevant to an issue of the physical, mental, or emotional conditions of the victim except for the attorney-client privilege. The waiver shall apply only to reparations officers, the director, the board, and legal counsel.
- (2) The claimant may be required to supply any additional medical or psychological reports available relating to the injury or death for which compensation is claimed.
- (3) The reparations officer hearing a claim or an appeal from a claim shall make available to the claimant a copy of the report. If the victim is deceased, the director or the director's appointee, on request, shall furnish the claimant a copy of the report unless dissemination of that copy is prohibited by law.

Amended by Chapter 131, 2011 General Session

63M-7-517 Additional testing.

- (1) If the mental, physical, or emotional condition of a victim is material to a claim, the reparations officer, director, or chair of the board who hears the claim or the appeal may order the claimant to submit to a mental or physical examination by a physician or psychologist and may recommend to the court to order an autopsy of a deceased victim.
- (2) Any order for additional examination shall be for good cause shown and shall provide notice to the person to be examined and the person's representative.
- (3) All reports from additional examinations shall set out findings, including results of all tests made, diagnoses, prognoses, other conclusions, and reports of earlier examinations of the same conditions.
- (4) A copy of the report shall be made available to the victim or the representative of the victim unless dissemination of that copy is prohibited by law.

Renumbered and Amended by Chapter 382, 2008 General Session

63M-7-518 Failure to comply.

If a person refuses to comply with an order under this chapter or asserts a privilege, except privileges arising from the attorney-client relationship, to withhold or suppress evidence relevant to a claim, the director or reparations officer may make any appropriate determination including denial of the claim.

Renumbered and Amended by Chapter 382, 2008 General Session

63M-7-519 Assignment of recovery -- Reimbursement.

- (1) By accepting an award of reparations, the victim automatically assigns to the state, subject to the provisions of Subsection (2), all claims against any third party to the lesser of:
 - (a) the amount paid by the state; or
 - (b) the amount recovered from the third party.
- (2) The board, with the concurrence of the director, may reduce the state's right of reimbursement if it is determined that:
 - (a) the reduction will benefit the fund; or
 - (b) the victim has ongoing expenses related to the offense upon which the claim is based and the benefit to the victim of reducing the state's right of reimbursement exceeds the benefit to the state of receiving full reimbursement.
- (3) The state reserves the right to make a claim for reimbursement on behalf of the victim and the victim may not impair the state's claim or the state's right of reimbursement.

Amended by Chapter 339, 2008 General Session

Renumbered and Amended by Chapter 382, 2008 General Session

63M-7-521 Award -- Payment methods -- Claims against the award.

- (1) The reparations officer may provide for the payment of an award in a lump sum or in installments. The part of an award equal to the amount of economic loss accrued to the date of the award shall be paid in a lump sum. An award of allowable expense that would accrue after an initial award is made may not be paid in a lump sum. Except as provided in Subsection (2), the part of an award that may not be paid in a lump sum shall be paid in installments.
- (2) At the request of the claimant, the reparations officer may convert future economic loss installment payments, other than allowable expense, to a lump sum payment, discounted to present value, but only upon a finding by the officer that the award in a lump sum will promote the interests of the claimant.
- (3) An award for future economic loss payable in installments may be made only for a period for which the reparations officer can reasonably determine future economic loss. The reparations officer may reconsider and modify an award for future economic loss payable in installments, upon the reparations officer's finding that a material and substantial change of circumstances has occurred.
- (4) An award is not subject to execution, attachment, or garnishment, except that an award for allowable expense is not exempt from a claim of a creditor to the extent that the creditor provided products, services, or accommodations, the costs of which are included in the award.
- (5) An assignment or agreement to assign an award of reparations for loss accruing in the future is unenforceable, except:
 - (a) an assignment of an award of reparations for work loss to secure payment of alimony, maintenance, or child support;
 - (b) an assignment of an award of reparations for allowable expense to the extent that the benefits are for the cost of products, services, or accommodations necessitated by the injury or death on which the claim is based and are provided or to be provided by the assignee; or
 - (c) an assignment to repay a loan obtained to pay for the obligations or expenses described in Subsection (5)(a) or (b).

Amended by Chapter 339, 2008 General Session
Renumbered and Amended by Chapter 382, 2008 General Session

63M-7-521.5 Payments to medical providers.

- (1) Except as provided in Subsection (2), a medical service provider who accepts payment from the office shall agree to accept payments as payment in full on behalf of the victim or claimant. The medical service provider may not attempt to collect further payment from the victim or the claimant for services for which the office has made payment.
- (2) In the event the office is unable to make full payment in accordance with its rules, the medical service provider may collect from the victim or claimant, but not more than the amount the provider would have received from the office.
- (3) The office may:
 - (a) use the fee schedule utilized by the Utah Public Employees Health Plan or any other fee schedule adopted by the board; and
 - (b) make rules necessary to implement the fee schedule adopted in accordance with this section.

Enacted by Chapter 339, 2008 General Session

63M-7-522 Emergency award.

If the reparations officer determines that the claimant will suffer financial hardship unless an emergency award is made, and it appears likely that a final award will be made, an amount may be paid to the claimant, to be deducted from the final award or repaid by and recoverable from the claimant to the extent that it exceeds the final award. The board may limit emergency awards to any amount it considers necessary.

Renumbered and Amended by Chapter 382, 2008 General Session

63M-7-523 Review of award decision.

The reparations officer shall review at least annually every award being paid in installments. An order on review of an award does not require refund of amounts previously paid unless the award was obtained by fraud or a material mistake of fact.

Renumbered and Amended by Chapter 382, 2008 General Session

63M-7-524 Attorney fees.

- (1) The claims procedures shall be sufficiently simple that the assistance of an attorney is unnecessary, and no attorney fees shall be paid for the assistance of an attorney or any other representative in filing the claim or providing information to the reparations officer.
- (2) Attorney fees may be granted in the following circumstances and shall be paid out of the reparations award not to exceed 15% of the amount of the reparations award:
 - (a) when an award has been denied and, after a hearing, the decision to deny is overturned; or
 - (b) when minor dependents of a deceased victim require assistance in establishing a trust or determining a guardian.
- (3) An attorney or any other person providing assistance in a reparations claim, who contracts for or receives sums not allowed under this chapter, is guilty of a class B misdemeanor. This provision shall not extend to attorneys who assist the victim in filing a civil action against the perpetrator.

Renumbered and Amended by Chapter 382, 2008 General Session

63M-7-525 Purpose -- Not entitlement program.

- (1) The purpose of the Utah Office for Victims of Crime is to assist victims of criminally injurious conduct who may be eligible for assistance from the Crime Victim Reparations Fund. Reparation to a victim is limited to the money available in the fund.
- (2) This program is not an entitlement program. Awards may be limited or denied as determined appropriate by the board. Failure to grant an award does not create a cause of action against the Utah Office for Victims of Crime, the state, or any of its subdivisions. There is no right to judicial review over the decision whether or not to grant an award.
- (3) A cause of action based on a failure to give or receive the notice required by this chapter does not accrue to any person against the state, any of its agencies or local subdivisions, any of their law enforcement officers or other agents or employees, or any health care or medical provider or its agents or employees. The failure does not affect or alter any requirement for filing or payment of a claim.

Amended by Chapter 131, 2011 General Session